



DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

July 27, 2017

Curtis Heintz, President  
Curtis Heintz Excavating, Inc.  
P.O. Box 1105  
Sherwood, OR 97140

Debra Heintz, Registered Agent  
Curtis Heintz Excavating, Inc.  
21100 SW Oregon Street  
Sherwood, OR 97140

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860140-GB0372-17 / Docket No. NC 366

**PLEASE READ ALL DOCUMENTS CAREFULLY –  
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On June 6, 2017, a representative from your company participated in a telephone conference with the Enforcement Committee to discuss an alleged rule violation. At that conference, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the Enforcement Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the Enforcement Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the Enforcement Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

**Public Utility Commission of Oregon  
Administrative Hearings Division  
201 High Street SE, Suite 100  
Salem OR 97308-1088**

Curtis Heintz Excavating, Inc.

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The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation within 20 days, or a default order may be issued.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Kevin Hennessy (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider  
Senior Assistant Attorney General  
Business Activities Section

JMR:pjr/#8325570  
Enclosures

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 366

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 CURTIS HEINTZ EXCAVATING, INC.,

9 Defendant.

COMPLAINT

10 1.

11 This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter  
12 “Commission”) to determine whether civil monetary penalties should be assessed as provided in  
13 ORS 757.993. The Commission maintains its offices at:

14 201 High Street SE, Suite 100, Salem, Oregon 97301.

15 2.

16 At all times herein relevant, Defendant was doing business in this state.

17 3.

18 Under ORS 757.993, the Commission has discretion to seek penalties for violations of  
19 rules adopted by the Oregon Utility Notification Center (OUNC).

20 4.

21 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for  
22 notification to OUNC of excavation activity and marking of underground facilities for the  
23 purpose of preventing damage to such facilities. “Excavation” and other relevant definitions are  
24 contained in OAR 952-001-0010.

25 ///

26 ///

1 5.  
2 OUNC adopted OAR 952-001-0050, which was in effect at all times herein relevant. The  
3 rule provides in relevant part:

4 (1) \* \* \* [A]t least 2 business days, but not more than 10 business days  
5 before beginning an excavation, the excavator must notify the Oregon Utility  
6 Notification Center of the date and location of the proposed excavation, and the  
7 type of work to be performed.

8 6.  
9 On or about November 3, 2016, Defendant violated OAR 952-001-0050, in that  
10 Defendant failed to notify the Oregon Utility Notification Center of a proposed excavation  
11 before commencing an excavation at or near 14111 SE Harold Street, Portland, Oregon.

12 7.  
13 ORS 757.993 provides, in relevant part, that:  
14 “\* \* \* every person who violates or who procures, aids or abets in the violation of  
15 any rule of the Oregon Utility Notification Center shall incur a penalty of not  
16 more than \$1,000 for the first violation and not more than \$5,000 for each  
17 subsequent violation.”

18 8.  
19 Defendant has not violated OUNC rules in the past.

20 9.  
21 WHEREFORE, the Commission directs Defendant to file a verified answer to this  
22 Complaint within twenty (20) days from the date this Complaint is mailed to Defendant. If no  
23 verified answer or other written appearance raising a question of fact or law is filed with the  
24 Commission at its office in Salem, Oregon, within the 20-day period, the allegations of the

25 ///  
26 ///

1 Complaint are deemed admitted, and a penalty will be imposed by default order in the amount of  
2 \$1,000 for each violation alleged, for a total of \$1,000.

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DATED this 27<sup>th</sup> day of July 2017.

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Respectfully submitted,

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ELLEN F. ROSENBLUM  
Attorney General

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Johanna M. Riemenschneider, #990083

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Senior Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 366

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

CURTIS HEINTZ EXCAVATING, INC.,

Defendant.

STIPULATION FOR ENTRY OF ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and Curtis Heintz Excavating, Inc., the Defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the Defendant with one violation of law, OAR 952-001-0050.

2.

Both parties to this proceeding are willing to forego further processing of that Complaint and further are willing to resolve this matter on the basis of this Stipulation.

3.

The Defendant admits that the violation was committed as alleged in the Complaint and is willing for the Commission to enter an order finding that the violation was committed as alleged in the Complaint.

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The parties further agree that the Commission may enter an order assessing civil monetary penalties against Defendant in the amount of \$1,000 under the following terms and conditions:

- A. Defendant must sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. Payment of the penalty (\$1,000) is suspended and will be waived with no further penalties imposed for the violation alleged in the Complaint unless Defendant fails to comply with all of the terms of this Stipulation and all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period following the date of the Commission's entry of an order.
- C. Defendant must contact the OUNC Speakers Bureau online at [www.digsafelyoregon.com](http://www.digsafelyoregon.com) or by calling (503) 232-1987 to arrange for and ensure that all of Defendant's employees that engage in excavation activity as part of their job duties, including but not limited to notifying the Oregon Utility Notification Center of proposed excavations, attend a training session on Oregon excavation laws within 45 days following the entry of the Commission's order.
- D. Defendant must take a blank copy of the Training Verification form attached to this Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.C. above. Defendant must ensure that all of its employees attending a required training sign a Training Verification form to verify attendance. A representative of the organization providing the training (Instructor) must sign the Training Verification form to verify each person listed on the form completed the training. Defendant must return all completed Training Verification forms to Complainant at the address on the Form within 10 days of the date of the last training session and in no event later than 55 days following the date of the Commission's entry of an order in this docket.


1 E. In the event that Complainant contends that Defendant has not complied with all of  
2 the terms of this Stipulation and all OUNC rules for that one-year period,  
3 Complainant may reopen this proceeding and petition for imposition of all or a  
4 portion of the suspended penalties. In such case, Defendant is entitled to a notice and  
5 hearing on the basis upon which Complainant contends that compliance has not  
6 occurred.

7 F. Complainant's failure to enforce any provision of this Stipulation, or decision to  
8 waive any violation or nonperformance of this Stipulation in one instance, will not  
9 constitute a waiver by the Complainant of that provision, any other provision, or any  
10 other violation or nonperformance in another instance.

11 5.

12 This Stipulation is conditioned upon final approval of its terms by the Commission. If  
13 the Stipulation is not accepted in its entirety, it is deemed withdrawn.

14 DATED this 27 day of July 2017.

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17   
18 Johanna M. Riemenschneider, #990083  
19 Senior Assistant Attorney General  
20 Of Attorneys for the Public Utility Commission  
21 of Oregon

22 DATED this \_\_\_\_\_ day of July 2017.

23 \_\_\_\_\_  
24 Defendant / Representative (signature)

25 \_\_\_\_\_  
26 (Print Name)





Oregon Public Utility Commission Training Verification

Docket NC 366

Instructions:

- Defendant:
- Schedule training(s) outlined in Stipulation
- Complete the Training Verification form on the day of the training
- All attendees must print and sign their name on the Training Verification form
- Have instructor date and sign the Training Verification form upon completion of training
- Defendant must mail completed Training Verification form to the address below (retain a copy for your records)
Instructor:
- Date and sign the Training Verification form upon completion of training

Type of Training: (To be filled out by the instructor)

OUNC - Oregon Excavation Laws Operator Safety Presentation Other:

Instructor Print Name:

Instructor Signature: Date:

Table with 2 columns: Name (Printed), Name (Signed). Multiple empty rows for data entry.

Mail Completed form to:

Public Utility Commission of Oregon
Administrative Hearings Division
201 High St. SE, Ste. 100
PO Box 1088
Salem OR 97308-1088