

ELLEN F. ROSENBLUM  
Attorney General



LISA M. UDLAND  
Deputy Attorney General

DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

February 4, 2022

Corporation Service Company, Registered Agent  
1127 Broadway Street NE  
Salem, OR 97301

Ricardo Linares, President  
Interstate Concrete and Asphalt Company  
dba American Rock Products  
8849 W. Wyoming Avenue  
Rathdrum, ID 83858

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860140-GB0105-22 / Docket No. NC 398

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

On January 18, 2022, a representative from your company met with the Public Utility Commission of Oregon's 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  
P.O. Box 1088  
Salem, OR 97308-1088**

**You do not need to make payment until the Commission has approved the Stipulation.** 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.

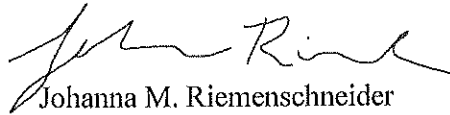
1162 Court Street NE, Salem, OR 97301-4096  
Telephone: (503) 947-4342 Fax: (503) 378-3784 TTY: (800) 735-2900 [www.doj.state.or.us](http://www.doj.state.or.us)

Corporation Service Company, Registered Agent  
Ricardo Linares, President  
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Page 2

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, 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 at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider  
Sr. Assistant Attorney General  
Business Activities Section

JMR:pjr #323744498  
Enclosures

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

3 NC 398

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 INTERSTATE CONCRETE AND ASPHALT  
9 COMPANY dba AMERICAN ROCK  
10 PRODUCTS,

11 Defendant.

COMPLAINT

1.

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

15 201 High Street SE, P.O. Box 1088, Salem, Oregon 97308-1088

16 2.

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

18 3.

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

21 4.

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

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OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The rule provides in relevant part:

(9) An excavator must not begin an excavation more than 10 business days after providing notice to the Oregon Utility Notification Center of the excavation, or continue excavating at a location following expiration of its ticket life unless the excavator has re-notified the Oregon Utility Notification Center of the excavation as provided in OAR 952-001-0050.

6.

On or about November 15, 2021, Defendant violated OAR 952-001-0090(9), in that Defendant continued excavating without having underground facilities remarked while performing an excavation at or near 100 W. Coe Avenue in Stanfield, Oregon.

7.

ORS 757.993 provides, in relevant part, that:

“\* \* \* every person who violates or who procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.”

8.

Defendant has not violated OUNC rules in the past.

9.

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


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

3 DATED this 4<sup>th</sup> day of February 2022.

4 Respectfully submitted,

5 ELLEN F. ROSENBLUM  
6 Attorney General

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8   
9 Johanna M. Riemenschneider, OSB No. 990083  
10 Sr. Assistant Attorney General  
11 Of Attorneys for the Public Utility Commission  
12 of Oregon  
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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 398

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

INTERSTATE CONCRETE AND ASPHALT  
COMPANY dba AMERICAN ROCK  
PRODUCTS,

Defendant.

STIPULATION FOR ENTRY OF FINAL  
ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Sr. Assistant Attorney General, and Interstate Concrete and Asphalt Company dba American Rock Products, 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 OAR 952-001-0090(9).

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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1 4.

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

- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was  
6 served upon (mailed to) Defendant.
- 7 B. \$200 becomes due and payable on or before the 30<sup>th</sup> day following the Commission's  
8 entry of its order in this case.
- 9 C. Payment must be by money order made out to the Public Utility Commission of  
10 Oregon, and the memo line of the money order must state the "NC" docket number  
11 in the caption of this Stipulation.
- 12 D. Payment of the balance of the penalty (\$800) is suspended and will be waived with no  
13 further penalties imposed for the violation alleged in the Complaint unless Defendant  
14 fails to comply with all of the terms of this Stipulation and all of the rules adopted by  
15 the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year  
16 period following the date of the Commission's entry of an order.
- 17 E. Defendant must update company policy and procedures for giving notice to the  
18 OUNC. This includes but not limited to registering with the OUNC's ITICnxt  
19 provider. Contact the OUNC's provider to register at this email address:  
20 nwtic@occinc.com. This also includes reviewing tool resource information at  
21 http://or.tryitic.com.
- 22 F. Defendant must complete, and provide a certificate of completion for, the OUNC  
23 online course, Excavation Safety 101, registration for which is found at: Excavation  
24 Safety 101 – Oregon Utility Notification Center (digsafelyoregon.com). Defendant  
25 must provide Complainant with a certificate of completion on or before the 60<sup>th</sup> day  
26 following the Commission's entry of its order in this case.

1 G. 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.

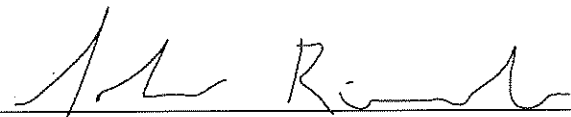
7 H. Complainant's failure to enforce any provision of this Stipulation, or decision to  
8 waive any violation or nonperformance of this Stipulation in one instance, will not  
9 constitute a waiver by the Complainant of that provision, any other provision, or any  
10 other violation or nonperformance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

11 I. If Defendant fails to comply with any of the conditions outlined above or the  
12 Defendant is found to have violated any rule within Chapter 952, Division 1 within  
13 12 months, the suspended amount of \$800 is forfeited.

14 5.

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

17 DATED this 4<sup>th</sup> day of February 2022.

18   
19 Johanna M. Riemenschneider, OSB No. 990083  
20 Sr. Assistant Attorney General  
21 Of Attorneys for the Public Utility Commission  
22 of Oregon

23 DATED this \_\_\_\_\_ day of February 2022.

24 \_\_\_\_\_  
25 Representative for Defendant (signature)

26 \_\_\_\_\_  
(Print name)