ELLEN F. ROSENBLUM Attorney General



LISA M. UDLAND Deputy Attorney General

DEPARTMENT OF JUSTICE GENERAL COUNSEL DIVISION

February 4, 2022

Sarah Hendren, Registered Agent and Member Hendren Construction LLC 5515 Serenity Drive SE Salem, OR 97317

Re: Violation of Oregon Utility Notification Center Rules DOJ File No. 860140-GB0108-22 / Docket No. NC 399

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

On January 21, 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.

Sarah Hendren, Registered Agent February 4, 2022 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 /#334386747 Enclosures

1	BEFORE THE PUBLIC UTILITY COMMISSION	
2	<b>OF OREGON</b>	
3	NC 399	
4	PUBLIC UTILITY COMMISSION OF OREGON,	
5	Complainant,	COMPLANT
6	Ϋ,	COMPLAINT
7	HENDREN CONSTRUCTION LLC,	
8 9	Defendant.	
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, P.O. Box 1088, Salem, Oregon 97308-1088	
15	2.	
16	At all times herein relevant, Defendant w	as doing business in this state.
17	3	
18	Under ORS 757.993, the Commission ha	s 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	///	

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2       OUNC adopted OAR 952-001-0090 which was in effect at all times herein relevant. The         3       rule provides in relevant part:         4       (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.         7       6.         8       On or about September 23, 2021, Defendant violated OAR 952-001-0090(9), in that         9       Defendant continued excavating without having underground facilities remarked while         10       performing an excavation at or near 990 Broadway Street NE in Salem, Oregon.         11       7.         12       ORS 757.993 provides, in relevant part, that:         13       "** * * 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 mot more than \$5,000 for each subsequent violation."         16       8.         17       Defendant has not violated OUNC rules in the past.         18       9.         19       WHEREFORE, the Commission directs Defendant to file a verified answer to this         10       Complaint within twenty (20) days from the date this Complaint is mailed to Defendant.      <	1	5.	
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24     ///       25     ///	22	with the Commission at its office in Salem, Oregon, within the 20-day period, the	
25 ///	23	///	
	24	///	
26 ///	25		
	26	///	

1	allegations of the Complaint are deemed admitt	ed, 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
7		11 D. L.
8		Johanna M. Riemenschneider, OSB No. 990083
9		Sr. Assistant Attorney General Of Attorneys for the Public Utility Commission
10		of Oregon
11		
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1	<b>BEFORE THE PUBLIC UTILITY COMMISSION</b>		
2	<b>OF OREGON</b>		
3	NC 399		
4	PUBLIC UTILITY COMMISSION OF OREGON,		
5	Complainant,	STIPULATION FOR ENTRY OF FINAL ORDER	
6	v.		
7	HENDREN CONSTRUCTION LLC,		
8	Defendant.		
9			
10	The Public Utility Commission of Oregon, appearing by and through Johanna M.		
11	Riemenschneider, Sr. Assistant Attorney General, and Hendren Construction LLC, the defendant		
12	herein, hereby stipulate as follows:		
13	1.		
14	A Complaint in this case is pending before the Commission charging the Defendant with		
15	two violations of law, OAR 952-001-0090(9).		
16	2.		
17	Both parties to this proceeding are willing to forego further processing of that Complaint		
18	and further are willing to resolve this matter on t	he basis of this Stipulation.	
19	3.		
20	The Defendant admits that the violation v	vas committed as alleged in the Complaint and	
21	is willing for the Commission to enter an order finding that the violation was committed as		
22	alleged in the Complaint.		
23	4.		
24	The parties further agree that the Commission may enter an order assessing a civil		
25	monetary penalty against Defendant in the amount of \$1,000 under the following terms and		
26	conditions:		
Page 1 - STIPULATION FOR ENTRY OF FINAL ORDER (NC 399)			
	JMR/pjr/#334386747 Department of Justice 1162 Court Street NE Salem, OR 97301-4096 (503) 947-4342 / Fax: (503) 378-3784		

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

Page 2 - STIPULATION FOR ENTRY OF FINAL ORDER (NC 399) JMR/pjr/#334386747 Department of Justice

1	portion of the suspended penalties. In such case, Defendant is entitled to a notice and
2	hearing on the basis upon which Complainant contends that compliance has not
3	occurred.
4	H. Complainant's failure to enforce any provision of this Stipulation, or decision to
5	waive any violation or nonperformance of this Stipulation in one instance, will not
6	constitute a waiver by the Complainant of that provision, any other provision, or any
7	other violation or nonperformance in another instance.
8	I. If Defendant fails to comply with any of the conditions outlined above or the
9	Defendant is found to have violated any rule within Chapter 952, Division 1 within
10	12 months, the suspended amount of \$800 is forfeited.
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	
15	DATED this 4 <sup>th</sup> day of February 2022.
16	And Ringham
17	Johanna M. Riemenschneider, OSB No. 990083 Sr. Assistant Attorney General
18	Of Attorneys for the Public Utility Commission of Oregon
19	of Oregon
20	DATED this day of February 2022.
21	
22	Representative for Defendant (signature)
23	(Print name)
24	(1 mit name)
25	
26	
Paga	2 STIDLIL ATION FOR ENTRY OF FINIAL ORDER (NC 200)

Page 3 - STIPULATION FOR ENTRY OF FINAL ORDER (NC 399) JMR/pjr/#334386747 Department of Justice