

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 NC 351

4 PUBLIC UTILITY COMMISSION OF  
OREGON,

5 Complainant,

6 v.

7 JR FAULKNER EXCAVATION II, INC.,  
8 (An Oregon corporation),

9 Defendant.

STIPULATION FOR ENTRY  
OF FINAL ORDER

10  
11 The Public Utility Commission of Oregon, appearing by and through Johanna M.  
12 Riemenschneider, Assistant Attorney General, and JR Faulkner Excavation II, Inc., the  
13 Defendant herein, hereby stipulate as follows:

14 1.

15 A Complaint in this case is pending before the Commission charging the Defendant with  
16 five violations of law, specifically three violations of OAR 952-001-0050(1) and two violations  
17 of OAR 952-001-0090(2).

18 2.

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

21 3.

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

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1 4.

2 The parties further agree that the Commission may enter an order assessing civil  
3 monetary penalties against Defendant in the amount of \$5,000 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. \$1,000 becomes due and payable on or before the 30<sup>th</sup> day following the  
8 Commission's 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 penalties (\$4,000) are suspended and the suspended  
13 penalties will be waived and no further penalties will be imposed for the violations  
14 alleged in the Complaint unless Defendant fails to comply with all of the terms of this  
15 stipulation and all of the rules adopted by the Oregon Utility Notification Center  
16 (OUNC) under ORS 757.552 for a one-year period following the date of the  
17 Commission's entry of an order.
- 18 E. Defendant must contact the OUNC Speakers Bureau online at  
19 www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and ensure  
20 that all of defendant's employees that engage in excavation activity as a part of their  
21 job duties, including but not limited to notifying the Oregon Utility Notification  
22 Center of proposed excavations, attend a training session on Oregon excavation laws  
23 within 45 days following the entry of the Commission's order.
- 24 F. Defendant must contact Bill Walker at Cascade Natural Gas (CNG) by email  
25 William.Walker@cngc.com or by calling (541) 706-6290 and arrange for and ensure  
26 that all of defendant's employees that engage in excavation activity as a part of their

1 job duties attend an operator safety presentation provided by CNG within 45 days  
2 following the entry of a final order.

3 G. Defendant must take a blank copy of the Training Verification form attached to this  
4 Stipulation as Attachment 1 to all required trainings scheduled under paragraphs 4.E.  
5 and 4.F. above. Defendant must ensure that all of its employees attending a required  
6 training sign a Training Verification form to verify attendance. A representative of  
7 the organization providing the training (Instructor) must sign the Training  
8 Verification Form to verify that each person listed on the form completed the training.  
9 Defendant must return all completed training verification forms to Complainant at the  
10 address on the Form within 10 days of the date of the last training session and in no  
11 event later than 55 days following the date of the Commission's entry of an order in  
12 this docket.

13 H. In the event that Complainant contends that Defendant has not complied with all of  
14 the terms of this Stipulation and all OUNC rules for that one-year period,  
15 Complainant may reopen this proceeding and petition for imposition of all or a  
16 portion of the suspended penalties. In such case, Defendant is entitled to a hearing  
17 and to be notified of the basis upon which Complainant contends that compliance has  
18 not occurred.

19 I. Complainant's failure to enforce any provision of this stipulation, or decision to  
20 waive any violation or nonperformance of this stipulation in one instance, will not  
21 constitute a waiver by the Complainant of that provision, any other provision, or any  
22 other violation or nonperformance in another instance.

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

DATED this 5<sup>th</sup> day of August 2016.

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

DATED this 25<sup>th</sup> day of August 2016.

  
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Defendant / Representative (signature)

Kenneth Faulkner Jr  
\_\_\_\_\_  
(Print Name)