

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 312

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

EDWARD WREN, dba PACIFIC PAVING
PARTNERS,

Defendant.

ORDER

**DISPOSITION: ORDER NO. 12-012 RESCINDED; STIPULATION
ADOPTED; REQUEST FOR MITIGATION OF PENALTIES
GRANTED; PENALTIES REDUCED; TRAINING DUE.**

On August 23, 2011, the Public Utility Commission of Oregon served a complaint charging defendant with a violation of OAR 952-001-0050, Failure to Call for Locates. With the complaint, the Commission included a stipulation proposing that the matter be resolved by assessing defendant a \$1,000 penalty with \$200 due and payable, and \$800 suspended. In the filings, the Commission notified defendant that failure to answer the complaint or enter the stipulation within 20 days would be deemed a default, and all material allegations would be deemed admitted, hearing waived, full penalties imposed, and the matter disposed of by appropriate order without further notice.

Defendant failed to file an answer or otherwise plead or appear within the specified time. Consequently, on January 19, 2012, the Commission issued Order No. 12-012, assessing monetary penalties of \$1,000 on defendant.

Following the order assessing penalties, defendant made two filings with the Commission. First, on January 24, 2012, the defendant filed an executed stipulation together with a check in the amount of \$200. In doing so, defendant admitted to committing the violation alleged in the complaint. Second, on February 3, 2012, defendant submitted a request for a reduction in penalties.

On February 17, 2012, the Staff of the Commission filed a response to defendant's filing. Staff supports the request to wave the collection of the total civil penalty imposed in Order No. 12-012, and recommends the Commission impose the terms of the original stipulation that required payment of \$200 and suspension the remainder unless defendant violate any portion of the agreement.

Commission Resolution

We grant defendant's request to reduce penalties. Under ORS 757.993(5), the Commission may reduce any penalty if (a) the defendant admits to the alleged violation in the complaint and makes a timely request for reduction of the penalty, or (b) the defendant submits to the Commission a written request for reduction of the penalty within 15 days from the date of the penalty order. Here, defendant's request was timely filed within 15 days of January 19, 2012, the date of the order assessing penalties.

Accordingly, we adopt Staff's recommendation and reduce the \$1,000 penalty to \$200, as specified and subject to the conditions contained in the stipulation. We further recognize that defendant has paid the \$200 of the assess penalty, and adopt the stipulation entered into by the parties in these proceedings, which is attached as Appendix A. Defendant must complete the unsatisfied terms of the stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, within 45 days of the entry of this order.

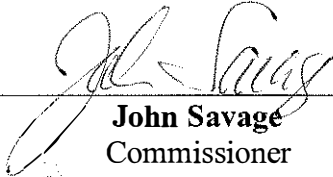
ORDER

IT IS ORDERED that:

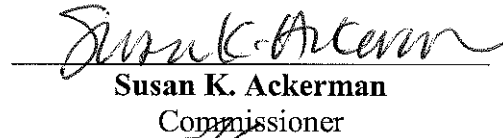
1. Order No. 12-012 is rescinded and replaced with this order.
2. Civil monetary penalties shall be assessed against Edward Wren, dba Pacific Paving Partners, in the amount of \$1,000 due and payable for one violation of law, and \$800 suspended according to the terms of the stipulation. The Commission acknowledges receipt of the amount of \$200 from defendant on January 24, 2012.
3. Defendant must complete the unsatisfied terms of the stipulation by attending a training session on Oregon excavation laws with the Oregon Utility Notification Center Speakers Bureau, within 45 days of the entry of this order.

4. Payment of the unpaid balance of the amount assessed in paragraph 2 shall be suspended, unless defendant fails to comply with paragraph 3 above or a showing is made that defendant has violated, within one year of the date of this order, any rules administered by the Oregon Utility Notification Center.

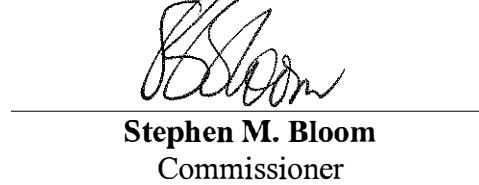
Made, entered, and effective MAR 06 2012.



John Savage
Commissioner



Susan K. Ackerman
Commissioner



Stephen M. Bloom
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

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Defendant.

STIPULATION FOR ENTRY OF FINAL
ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham,
Assistant Attorney General, and Edward Wren, dba Pacific Paving Partners, 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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4.

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

- A. Defendant shall sign and return this stipulation within 20 days of the date it was served upon (mailed to) defendant.
- B. \$200 shall become due and payable on or before the 30th day following the Commission's entry of a final order in this case.
- C. Payment shall be by money order made out to the Public Utility Commission of Oregon, and the memo line of the money order shall state the "NC" docket number in the caption of this stipulation.
- D. Payment of the balance of the penalties (\$800) shall be permanently suspended and no further penalties shall be 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 a final order.
- E. Defendant shall contact the OUNC Speakers Bureau online at www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and attend a training session on Oregon excavation laws within 45 days following the entry of a final order.
- F. In the event that complainant contends that the defendant has not complied with all of the terms of this stipulation and all OUNC rules for that one year period, complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties. In such case defendant shall be entitled to a hearing and to be notified of the basis upon which complainant contends that compliance has not occurred.

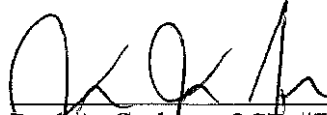
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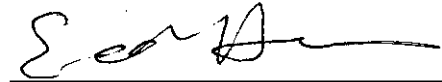
This stipulation is conditioned upon final approval of its terms by the Commission. If the stipulation is not accepted in its entirety, it shall be deemed withdrawn.

DATED this 23rd day of August, 2011.



Paul A. Graham, OSB #77190
Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

DATED this 26 day of Dec., 2011.



Representative for Defendant (signature)
Ed. Wren

(Print name)