

ORDER NO. 12 341  
ENTERED SEP 07 2012

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

NC 325

PUBLIC UTILITY COMMISSION OF  
OREGON,

Complainant,

v.

S & M ROCK AND LOAM, INC. (an  
Oregon corporation),

Defendant.

ORDER

**DISPOSITION: STIPULATION ADOPTED**

On August 22, 2012, the Public Utility Commission of Oregon filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0090, and requested a penalty of \$1,000. On August 24, 2012, a copy of the complaint was served.

On September 4, 2012, the parties in these proceedings entered into a stipulation, which is attached as Appendix A.

Under the terms of the stipulation, defendant admits committing the alleged violation and agrees that the Commission may enter an order assessing civil monetary penalties. Defendant also agrees to complete, within 45 days following the entry of a final order, a training session with the Oregon Utility Notification Center Speakers Bureau on Oregon excavation laws.

The parties further agree that a portion of the penalties should be suspended, unless defendant fails to comply with any provision of the stipulation or violates any rule adopted by the Oregon Utility Notification Center under ORS 757.552 for a period of one year following the date of the Commission's final order in these proceedings.

The stipulation is adopted. From the foregoing, it is concluded that no hearing is required. Under the terms of the stipulation, the allegations of the complaint are true, and defendant has violated the Oregon Administrative Rule as alleged. Under the provisions of ORS 757.993, penalties should be assessed against defendant under the terms and conditions of the stipulation.

**ORDER**

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against S & M Rock and Loam, Inc. (an Oregon corporation) in the amount of \$1,000 for one violation of law.
3. Defendant shall pay the sum of \$200, due and payable within 30 days from the date of service of this order. The Commission acknowledges receipt of the amount of \$200 from defendant on September 5, 2012.
4. Payment of the balance of the penalties (\$800) shall be suspended, unless:
  - (a) 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; or
  - (b) Defendant fails to timely complete a training session with the Oregon Utility Notification Center Speakers Bureau. Defendant shall contact the OUNC Speakers Bureau to arrange for, and attend a training session on Oregon excavation laws within 45 days of the entry of this order.
5. If defendant has not timely completed a training session on Oregon excavation laws within 45 days following the entry of this order, the unpaid balance of the amount assessed in paragraph 2 shall be due immediately following the expiration of the time period.

SEP 07 2012

Made, entered, and effective \_\_\_\_\_.



*Jason Eisdorfer*  
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**Jason Eisdorfer**  
 Director  
 Utility Program

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.

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

NC 325

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

S & M ROCK AND LOAM, INC., (an Oregon corporation),

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Johanna M. Riemenschneider, Assistant Attorney General, and S & M Rock and Loam, 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 952-001-0090.

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 civil  
3 monetary penalties against Defendant in the amount of \$1,000 under the following terms and  
4 conditions:

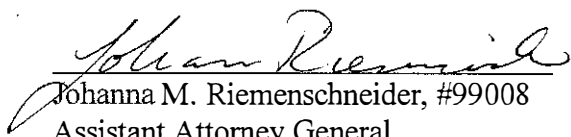
- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was  
6 served upon (mailed to) Defendant.
- 7 B. \$200 becomes due and payable on or before the 30<sup>th</sup> day following the Commission's  
8 entry of its order in this case.
- 9 C. Payment must be by money order 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 penalties (\$800) will be permanently suspended and no  
13 further penalties will be imposed for the violation alleged in the Complaint unless  
14 Defendant fails to comply with all of the terms of this Stipulation and all of the rules  
15 adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a  
16 one-year period following the date of the Commission's entry of an order.
- 17 E. Defendant must contact the OUNC Speakers Bureau online at  
18 www.digsafelyoregon.com or by calling (503) 232-1987 to arrange for and attend a  
19 ~~training session on Oregon excavation laws within 45 days following the entry of the~~  
20 Commission's order.
- 21 F. In the event that Complainant contends that Defendant has not complied with all of  
22 the terms of this Stipulation and all OUNC rules for that one-year period,  
23 ~~Complainant may reopen this proceeding and petition for imposition of all or a~~  
24 ~~portion of the suspended penalties. In such case, Defendant is entitled to a hearing~~  
25 ~~and to be notified of the basis upon which Complainant contends that compliance has~~  
26 not occurred.

1 G. Complainant's failure to enforce any provision of this Stipulation, or decision to  
2 waive any violation or nonperformance of this Stipulation in one instance, will not  
3 constitute a waiver by the Complainant of that provision, any other provision, or any  
4 other violation or nonperformance in another instance.

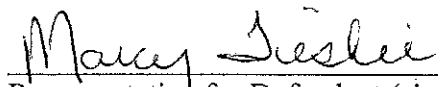
5 5.

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

8  
9 DATED this 22 day of August, 2012.

10   
11 Johanna M. Riemenschneider, #99008  
12 Assistant Attorney General  
13 Of Attorneys for the Public Utility Commission  
14 of Oregon

15 DATED this 4<sup>th</sup> day of September, 2012.

16  
17   
18 Representative for Defendant (signature)  
19 MARCY TIESKIE / VP Sec.  
20 (Print name) +treasurer