

ORDER NO. 22-067

ENTERED Mar 08 2022

**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.

ORDER

DISPOSITION: STIPULATION ADOPTED

In this order, the Public Utility Commission of Oregon adopts a stipulation between the Commission Staff and defendant and imposes civil monetary penalties under the terms and conditions of the stipulation.

I. COMPLAINT AND STIPULATION

On February 4, 2022, the Commission filed a complaint against defendant. The complaint charged defendant with one violation of law, OAR 952-001-0090(9), and requested a penalty of \$1,000. On February 4, 2022, a copy of the complaint was served.

On February 17, 2022, the parties in these proceedings entered into a stipulation, which is attached as Appendix A.

Under the terms of the stipulation, defendant:

- (1) Admits committing the alleged violation and agrees that the Commission may enter an order assessing civil monetary penalties; and
- (2) Agrees to update its company policy and procedures for giving notice to the OUNC, including but not limited to registering with the OUNC's ITICnxt provider, and reviewing tool resource information; and
- (3) Agrees to complete the OUNC online course, Excavation Safety 101, and to provide the Commission with a certificate of completion on or before the 60th day following the entry of a final order.

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. In addition, the suspended amount of \$800 is forfeited if defendant fails to comply with any provision of the stipulation or is found to violate any rule within Chapter 952, Division 1 within 12 months following the date of the Commission's final order in these proceedings.

II. DISCUSSION

The stipulation is adopted. 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.

III. ORDER

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties are assessed against INTERSTATE CONCRETE AND ASPHALT COMPANY dba AMERICAN ROCK PRODUCTS in the amount of \$1,000 for one violation of law.
3. Defendant must pay the sum of \$1,000, 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 February 22, 2022.

4. Defendant must:
- (a) Update its company policy and procedures for giving notice to the OUNC, including but not limited to registering with the OUNC's ITICnxt provider, contacting the OUNC's provider to register at this email address: nwitic@occinc.com, and reviewing tool resource information at <http://or.tryitic.com>; and
 - (b) Timely complete the OUNC online course, Excavation Safety 101, registration for which is found at: [Excavation Safety IO I - Oregon Utility Notification Center \(digsafelyoregon.com\)](http://digsafelyoregon.com); and
 - (c) File a completed certificate of completion for all required training with the Public Utility Commission of Oregon on or before the 60th day following the entry of a final order.
5. Payment of the balance of the penalties (\$800) will be suspended, unless defendant fails to comply with any term of the stipulation. If the defendant has not met the requirements and time periods set forth in paragraphs 3 and 4 above, the unpaid balance of the amount assessed in paragraph 2 will be due immediately following the expiration of the time periods.

Made, entered, and effective Mar 8, 2022.



A handwritten signature in blue ink, appearing to read "Nolan Moser".

Nolan Moser
Chief Administrative Law Judge
Administrative Hearings Division

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**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.

///
///
///

4.

1
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:

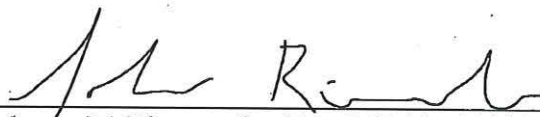
- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was
6 served upon (mailed to) Defendant.
- 7 B. \$200 becomes due and payable on or before the 30th day following the Commission's
8 entry of its order in this case.
- 9 C. Payment must be by money order made out to 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 60th 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
18 DATED this 4th day of February 2022.

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

24 DATED this 17 day of February 2022.

25 
 26 Representative for Defendant (signature)
 Tyrel Burns
 (Print name)