

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

NC 186

PUBLIC UTILITY COMMISSION OF)
OREGON,)
)
Complainant,)
)
v.)
)
BRIAN CLOPTON EXCAVATING, INC.)
(an Oregon corporation),)
)
Defendant.)

ORDER

DISPOSITION: STIPULATION ADOPTED

On July 26, 2006, the Public Utility Commission of Oregon filed a complaint against Defendant. The complaint charged Defendant with two new violations of law, OAR 952-001-0050(1) and OAR 952-001-0090(4). Also, Defendant committed the violations described in the complaint within one year from the date a prior order was issued. *See* Order No. 05-1145. A penalty shall be imposed in the amount of \$5,000 for each violation alleged, and the \$800 penalty that was suspended in Order No. 05-1145 entered against Defendant shall be reinstated, for a total penalty of \$10,800. On July 28, 2006, a copy of the complaint was served.

On August 2, 2006, the parties to this proceeding entered into a stipulation, which is attached as Appendix A. Under the terms of the stipulation, Defendant admits committing the violations alleged in the complaint. 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 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 Oregon Administrative Rule(s) as alleged. Pursuant to the provisions of ORS 757.993, penalties should be assessed against Defendant under the terms and conditions of the stipulation.

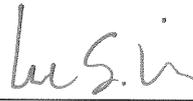
ORDER

IT IS ORDERED that:

1. The stipulation, attached as Appendix A, is adopted.
2. Civil monetary penalties shall be assessed against Brian Clopton Excavating, Inc. (an Oregon corporation) in the total amount of \$10,800, for two new violations of law and the payment of the balance of the penalties (\$800) which is reinstated from Order No. 05-1145 entered against Defendant.
3. Defendant shall pay the sum of \$5,800, due and payable within 30 days from the date of service of this order. Payment shall be by cashier's check or money order made out to the **Public Utility Commission of Oregon**, and the memo line of the cashier's check or money order shall state the "NC" docket number in the caption of this order. (Mail payment to: Public Utility Commission of Oregon, PO Box 2153, Salem, OR 97308.)
4. Payment of the balance of the penalties (\$5,000) shall be suspended, unless:
 - (a) Defendant fails to comply with paragraph 3 above;
 - (b) A showing is made that Defendant has violated, within three years of the date of this order, any rules administered by the Oregon Utility Notification Center; or
 - (c) 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 Facility Operator Safety Presentation (during which the Defendant shall develop procedures to ensure that Defendant and its entire company comply with Oregon excavation laws) within 45 days of the entry of this order.

5. If Defendant has not paid the amount assessed in paragraph 3 above within 30 days from the date of service of this order, or has not timely completed a training session on Oregon excavation laws within 45 days of the entry of this order, the unpaid balance of the amount assessed in paragraph 2 shall be due immediately following the expiration of either time period.

Made, entered, and effective AUG 18 2006.



Lee Sparling
Director
Utility Program



A party may request rehearing or reconsideration of this order pursuant to 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 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

NC 186

PUBLIC UTILITY COMMISSION OF
OREGON,

Complainant,

v.

BRIAN CLOPTON EXCAVATING, INC. (an
Oregon corporation),

Defendant.

STIPULATION FOR ENTRY OF FINAL ORDER

The Public Utility Commission of Oregon, appearing by and through Paul A. Graham, Assistant Attorney General, and Brian Clopton Excavating, Inc., the defendant herein, hereby stipulate as follows:

1.

A Complaint in this case is pending before the Commission charging the defendant with three violations of law, as set out in the attached Complaint on file herein.

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 violations were committed as alleged in the Complaint and is willing for the Commission to enter an order finding that the violations were committed as alleged in the Complaint.

4.

The parties further agree that the Commission may enter an order assessing civil monetary penalties against the defendant in the amount of \$10,800 under the following terms and conditions:

DOCKETED

- 1 A. \$5,800 shall become due and payable on or before the 30th day following the
2 Commission's entry of a final order in this case.
- 3 B. Payment shall be by cashier's check or money order made out to the Public Utility
4 Commission of Oregon, and the memo line of the cashier's check or money order shall
5 state the "NC" docket number in the caption of this stipulation. Payment of the balance
6 of the penalties \$5,000 be permanently suspended and no further penalties shall be
7 imposed for the violation alleged in the Complaint unless defendant fails to comply with
8 all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS
9 757.552 for a three year period following date of the Commission's entry of a final order.
- 10 C. Defendant shall contact the OUNC Speakers Bureau at (503) 232-1987 to arrange for and
11 attend a Facility Operator Safety Presentation (during which the defendant shall develop
12 procedures to ensure that defendant and entire company comply with Oregon excavation
13 laws) within 45 days following the entry of a final order.
- 14 D. In the event that complainant contends that the defendant has not complied with all
15 OUNC rules for that one year period, complainant may reopen this proceeding and
16 petition for imposition of all or a portion of the suspended penalties. In such case
17 defendant shall be entitled to a hearing and to be notified of the basis upon which
18 complainant contends that compliance has not occurred.

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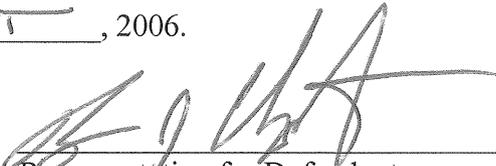
5.

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 26th day of July, 2006.


Paul A. Graham, OSB #77190
Assistant Attorney General
Of Attorneys for PUC Staff

DATED this 2nd day of AUGUST, 2006.


Representative for Defendant

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