

1 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS
2 SERVICE OF THE STATE OF OREGON

3 BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF
4 OREGON

5 IN THE MATTER OF:)

6 EIDE ELECTRIC AND IRRIGATION, LLC,)
7 A LIMITED LIABILITY COMPANY)

8 RESPONDENT)

) NOTICE OF PROPOSED ASSESSMENT
) OF A CIVIL PENALTY AND FINAL
) ORDER ON DEFAULT

FINAL ORDER
As of: Sept. 5, 2013

9 CASE NO. 2012-0194

10 Under ORS 455.895(2), ORS 455.895(1)(b) and OAR 918-001-0036, the Director
11 of the Department of Consumer and Business Services (Director) and the Oregon
12 Electrical and Elevator Board (Board) proposes disciplinary action against Respondent
13 in the form of civil penalties totaling \$12,000, in addition to collecting a \$1,250 stayed
14 penalty pursuant to a Consent Order executed in BCD case number 2010-0234,
15 because Respondent violated Building Codes Division statutes or rules as follows:

14 **BACKGROUND**

15 On September 11, 2012, Quinten Swank, employee at Bell "A" Land and Cattle Ranch,
16 was injured attempting to replace a contactor inside a 12"x12" electrical junction box.
17 The junction box and contactors acted as a disconnect switch for an irrigation Lutz pivot.
18 The pivot had been inoperable for about three days and the ranch needed water on the
19 fields. When it was found that the electrician could not do the job for about a week,
20 Swank decided to attempt the repair himself. Swank purchased a replacement
21 contactor at a hardware store. Since there was no disconnect on the box, Swank
22 turned off a switch that he thought turned the power off for the whole pumping station.
23 The switch did not disconnect power feeding the 12"x12" electrical junction box. When
24 he installed the new contactor there was an arc flash that caused injuries.

21 **FINDINGS OF FACT and CONCLUSIONS OF LAW**

22 (1) On or about April 20, 2011, at Bell "A" Land and Cattle Ranch located at
23 65325 Highway 31, Silver Lake, Oregon, Respondent modified and installed a 12" by
24 12" electrical junction box with contactors as a non-approved disconnecting means, for
25 the account of another, without first obtaining a valid electrical permit, violating ORS
479.550(1).

1 (2) On or about April 20, 2011, at Bell "A" Land and Cattle Ranch located at
2 65325 Highway 31, Silver Lake, Oregon, Respondent modified and installed a 12"x12"
3 electrical junction box with contactors as a non-approved disconnecting means, in
violation of National Electric Code (NEC) 675.8(C) and ORS 479.710(1).

4 (3) On or about April 20, 2011, at Bell "A" Land and Cattle Ranch located at
5 65325 Highway 31, Silver Lake, Oregon, Respondent modified and installed a 12"x12"
6 electrical junction box that was not listed for a means of disconnect it was used for, in
violation of OAR 918-251-0090(25).

7 (4) On or about April 20, 2011, at Bell "A" Land and Cattle Ranch located at
8 65325 Highway 31, Silver Lake, Oregon, Respondent modified and installed a 12"x12"
9 electrical junction box that did not bear a product certification mark, in violation of OAR
10 918-251-0090(6) and ORS 479.610.

11 (5) On or about April 20, 2011, at Bell "A" Land and Cattle Ranch located at
12 65325 Highway 31, Silver Lake, Oregon, Respondent modified and installed a 12"x12"
13 electrical junction box that was not marked to identify it as a means of disconnecting, in
14 violation of NEC 110.22(A) and ORS 479.710(1).

15 (6) Installing the modified 12" by 12" electrical junction box with contactors, as
16 described above, is an electrical installation as defined by ORS 479.530(10).

17 (7) On January 6, 2011, in BCD case number 2010-0234, a Consent Order was
18 executed between Respondent and the Electrical and Elevator Board (Board) in which
19 Respondent was assessed civil a penalty for the violation of OAR 918-282-0120(1).
20 The Board stayed collection of \$1,250 of the civil penalty for a period of five years from
21 the date of the execution of the Consent Order provided Respondent did not, during that
22 time, violate *any* provision of Oregon Building Codes statutes, administrative rules,
23 specialty codes, or any Order issued by a Building Codes advisory board.

24 (8) The violations that occurred on or about April 20, 2011, as outlined in
25 Findings of Facts (1), (2), (4) and (5), occurred within five years of the date of the
execution of the Consent Order in BCD case number 2010-0234 and are violations of
Oregon Building Codes statutes and administrative rules.

WHAT THE LAW SAYS

(1) Under ORS 479.550(1), except as provided in ORS 479.540, no person shall
work on any new electrical installation for which a permit has not been issued.

(2) Under ORS 479.710(1), except as provided in ORS 479.540, no person shall
make, supervise or direct the making of an electrical installation which does not meet
minimum safety standards.

1 (3) Under ORS 479.530(17), minimum safety standards mean the safety
2 standards prescribed by concurrence of the board and the director under ORS 479.730.

3 (4) Under OAR 918-251-0090(25), a listed product means a product was
4 examined and accepted by a Nationally Recognized Testing Laboratory (NRTL) to meet
a particular product standard and is maintained on a list of the listing laboratory.

5 (5) Under OAR 918-251-0090(6), a certification mark is identification on an
6 electrical product indicating that the product has been certified under ORS 479.760.

7 (6) Under ORS 479.760(1), an electrical product may not be certified unless the
8 product meets electrical product safety standards established in rule by concurrence of
the Electrical and Elevator Board and the Director of the Department of Consumer and
Business Services.

9 (7) Under ORS 479.610, except as provided under ORS 579.540, a person may
10 not install an electrical product in connection with the person's business unless the
product is certified under ORS 479.760.

11 (8) Under NEC 110.22(A), each disconnecting means shall be legibly marked to
12 indicate its purpose unless located and arranged so the purpose is evident. The
marking shall be of sufficient durability to withstand the environment involved.

13 (9) Under NEC 675.8(c), a disconnecting means shall be provided to
14 simultaneously disconnect all ungrounded conductors for each motor and controller and
shall be located as required by Article 430, Part IX.

16 ORDER

17 Under ORS 455.895(1)(b), ORS 455.895(2) and OAR 918-001-0036, the Director
18 and the Board assesses the following sanctions:

- 19 (1) a \$2,000 civil penalty for violating ORS 479.550(1)
- 20 (2) a \$5,000 civil penalty for violating ORS 479.710(1)
- 21 (3) a \$5,000 civil penalty for violating ORS 479.610
- (4) pursuant to the executed settlement agreement in BCD case number 2010-
0234, the Board collects the stayed amount of \$1,250

22 The assessed civil penalties total \$13,250.

1
2

NOTICE OF RIGHT TO HEARING

3 Respondent is entitled to a hearing as provided by the Administrative Procedures Act,
4 Oregon Revised Statutes, Chapter 183. If Respondent requests a hearing, the request
5 must be in writing and postmarked no later than 20 days from the service date. If this
6 Notice was served to Respondent in person, the service date is the date Respondent
7 received this Notice. If this Notice was served through the mail, the service date is the
8 day the Notice was mailed, not the day Respondent received it.

9 If a request for hearing is not received within 20 days, Respondent's right to a hearing
10 is considered waived unless the failure to request a hearing was beyond Respondent's
11 reasonable control. Mail hearing requests to Building Codes Division, Enforcement
12 Section, P.O. Box 14470, Salem, Oregon, 97309.

13 Respondent has the right to be represented by legal counsel. ORS 183.457 provides
14 that a corporation may be represented by an authorized representative at the hearing.
15 If Respondent requests a hearing, Respondent will be notified of the time and place of
16 the hearing and be given information on procedures, right of representation, and other
17 rights of parties relating to the hearing before it begins.

18

NOTICE TO ACTIVE DUTY SERVICE MEMBERS

19 Active duty service members have a right to stay proceedings under the federal
20 Servicemembers Civil Relief Act. Contact the Oregon State Bar at (800) 452-8260 or
21 the Oregon Military Department at (800) 452-7500 for more information. If you need
22 help finding legal assistance, visit the United States Armed Forces Legal Assistance
23 Legal Services Locator website at <http://legalassistance.law.af.mil/content/locator.php>.

24

NOTICE OF FINAL ORDER

25 If Respondent does not request a hearing within 20 days, withdraw a hearing request,
notifies the Board or the administrative law judge that they will not appear, or fails to
appear at a scheduled hearing, the Board will issue a Final Order by Default. If the
Board issues a Final Order by Default, it designates the file, including any materials
submitted by Respondent that relate to this matter, as the record for purpose of proving
a prima facie case.

1 Respondent is entitled to judicial review of any final order issued in the matter of this
2 Notice of a Proposed Civil Penalty. Judicial review may be obtained by filing a petition
3 for review with the Oregon Court of Appeals within 60 days after the Final Order is
4 served. See ORS 183.482. If the Order was served in person, the service date is the
5 date Respondent received the Order. If the Order was served through the mail, the
6 service date is the day the Order was mailed, not the day it was received by
7 Respondent. If Respondent does not file a petition for judicial review within 60 days,
8 Respondent will lose the right to appeal. The informational phone number for the
9 Oregon Court of Appeals is (503) 986-5555.

10 Dated this 20 day of August, 2013

11 Andrea Simmons for
12 Chairman
13 Electrical and Elevator Board
14 State of Oregon
15
16
17
18
19
20
21
22
23
24
25