

BEFORE THE WORKERS' COMPENSATION BOARD

STATE OF OREGON

HEARINGS DIVISION

Oregon Occupational Safety & Health Division	)	Docket No. 15-00029SH
	)	
Plaintiff,	)	
	)	
vs.	)	Citation No.: H0545-044-15
	)	
PARKER EXCAVATION & UNDERGROUND LLC,	)	
	)	
Defendant.	)	ORDER OF DISMISSAL

On January 6, 2016, the undersigned Administrative Law Judge (ALJ) issued an Order Compelling Discovery requiring Parker Excavation & Underground LLC (Parker) to provide OR-OSHA, no later than January 19, 2016, any an all copies of non-privileged documents in its possession pertaining to the above-listed citation. The Order Compelling Discovery advised that failure to comply could result in the dismissal of Defendant's Request for Hearing.

To date, Parker has not complied with my January 6, 2016, order. Nor has Parker indicated to either the ALJ or OR-OSHA that it intends to comply with the January 6, 2016, order. In such circumstances, dismissal of a request for hearing is an appropriate sanction for a defendant's failure to comply with the discovery provisions of OAR 438-085-0740. OAR 438-085-0740(9). Accordingly, Parker's May 20, 2015, Request for Hearing is dismissed.

ORDER

Parker Excavation & Underground LLC's May 20, 2015, Request for Hearing is dismissed.

**NOTICE TO ALL PARTIES:** If you disagree with this Order, you have the right to obtain judicial review in the manner provided for contested cases in accordance with the provisions of ORS Chapter 183.480 and 183.482. The petition for judicial review must be filed with the Court of Appeals within sixty (60) days following the date of this Order. **IF YOU FAIL TO FILE SUCH PETITION FOR JUDICIAL REVIEW WITHIN SIXTY (60) DAYS, THE ORDER AS ISSUED SHALL BE FINAL.**

Entered at Portland, Oregon on January 21, 2016 , with copies mailed to:

Workers' Compensation Board

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Emerson G. Fisher  
Administrative Law Judge