



BEFORE THE BOARD OF BOILER RULES OF THE STATE OF OREGON JUN 12 2014

Received

IN THE MATTER OF:

CONSENT ORDER

MCCLURE AND SONS, INC.,  
A FOREIGN CORPORATION

CASE NO. 2013-0043

RESPONDENT

The Board of Boiler Rules (Board) has conducted an investigation and determined that Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

Respondent and the Board desire to settle this matter informally by the entry of this consent order. Respondent understands that it has the right to a hearing under the Administrative Procedures Act (chapter 183, Oregon Revised Statutes), and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing and entry of this order in the Board's record. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules, and specialty codes. Respondent understands that, once final, this order is a public record.

FINDINGS OF FACT

1. During or about the period of February 2013, at 400 Schemmel Lane, Silverton, Oregon, Respondent installed an expansion tank boiler and two heat exchanger vessels, for the account of another, without an Oregon boiler business license.
2. During or about the period of February 2013, at 400 Schemmel Lane, Silverton, Oregon, Respondent allowed an unlicensed employee to install an expansion tank boiler and two heat exchanger vessels, for the account of another.
3. During or about February 2013, at 400 Schemmel Lane, Silverton, Oregon, Respondent installed an expansion tank boiler and two heat exchanger vessels, for the account of another, without first obtaining a valid installation permit.

WHAT THE LAW SAYS

1. Pursuant to Oregon Revised Statutes (ORS) 480.630(1), a person engaging in the business of installing, repairing, or altering boilers or pressure vessels must possess a boiler contractor licensed issued by the Oregon Department of Consumer and Business Services (department).
2. Pursuant to ORS 480.632, a person licensed, or required to be licensed, or required to be licensed under ORS 480.630 to engage in the business of installing, repairing, or altering

1 boilers or pressure vessels may not employ any person to work on a boiler or pressure  
2 vessel unless the employed person has a valid license issued under ORS 480.630.

- 3 3. Pursuant to ORS 480.630(5), a person required to be licensed under this section may not  
4 install, alter or repair a boiler or pressure vessel unless an install, alter or repair permit is  
5 first secured from the department.
- 6 4. ORS 480.515(3)(a) defines boiler as a closed vessel or vessels intended for the heating or  
7 vaporizing of liquids to be used externally to such vessel or vessels by the application of  
8 heat from combustible fuels, electricity or nuclear energy.
- 9 5. ORS 480.515(12) defines pressure vessel as containers for the containment of pressure,  
10 either internal or external. This pressure may be obtained from an external source or by  
11 the application of heat from a direct or indirect source, or any combination thereof.

### 12 CONCLUSIONS OF LAW

- 13 1. An expansion tank boiler is a boiler as defined in ORS 480.513(3)(a).
- 14 2. A heat exchanger pressure vessel is a pressure vessel as defined in ORS 480.515(12).
- 15 3. By engaging in the business of installing an expansion tank boiler and two heat  
16 exchanger pressure vessels, without a valid Oregon boiler/pressure business license,  
17 Respondent violated ORS 480.630(1).
- 18 4. By allowing an unlicensed individual to install an expansion tank boiler and two heat  
19 exchanger pressure vessels, Respondent violated ORS 480.632.
- 20 5. By engaging in the business of installing an expansion tank boiler and two heat  
21 exchanger pressure vessels, without first obtaining a valid installation permit, Respondent  
22 violated ORS 480.630(5).

### 23 STIPULATED AGREEMENT

24 Respondent and the Board of Boiler Rules agree to resolve this matter without a hearing  
25 with the entry of this consent order subject to the following terms and conditions:

1. The Board hereby assesses a civil penalty of \$6,000 for violating ORS 480.630(1),  
480.632, and 480.630(5), of which \$3,000 will be suspended for a period of five years  
under the following term:

Respondent agrees to pay the remaining \$3,000 of the civil penalty.

*(The invoice will be included with your copy of the Final Order after it is signed  
by the Board.)*

2. Respondent agrees if a final order is issued by a board or the Director finding Respondent  
violated any of Building Codes Division's statutes or rules, within five years from the  
date this order was signed by the Board, Respondent will pay any subsequent penalty and  
the suspended penalty from this order.

- 1 3. Respondent agrees not to commit further violations of Building Codes Division's statutes  
2 or rules.
- 3 4. Respondent understands that if it fails to comply with any of the terms of this stipulated  
4 agreement, then the entire civil penalty, including the amount suspended, will be  
5 immediately due and payable. Failure to comply includes failure to pay the civil penalty  
6 amount on the Final Demand Notice by the due date, or failure to make payments  
7 according to the terms of any payment arrangement or Final Demand Notice.
- 8 5. Respondent understands and agrees any violation of the terms of this consent order will  
9 result in further enforcement action.
- 10 6. Respondent understands and agrees that any violations of Building Code Division's  
11 ~~statutes or rules not alleged in this order, whether committed before or after the execution~~  
12 ~~of this consent order, may be the basis for further enforcement action.~~
- 13 7. Respondent understands the suspended civil penalty will be waived five years after the  
14 execution of this consent order, provided Respondent complies with the consent order's  
15 terms and has not committed any further violations of Building Codes Division's statutes  
16 or rules.
- 17 8. Respondent has read and fully understands the terms of this consent order, freely and  
18 voluntarily consents to the entry of this order without further hearing, without any force  
19 or duress, and expressly waives all rights to a hearing or appeal in this matter.
- 20 9. Respondent understands that, upon signature of all parties, this consent order will be a  
21 FINAL ORDER.
- 22 10. You further agree by signing this consent order that you are the Respondent or authorized  
23 representative for the Respondent in this matter.

24 **FOR THE RESPONDENT**

25   
McClure & Sons, Inc.

Date: 6-12-14, 2014

26 **FOR THE BOARD**

27  for  
28 Chair  
29 Board of Boiler Rules  
30 State of Oregon

Date: 6-16-, 2014