



CONSTRUCTION CONTRACTORS BULLETIN BOARD

HELPING TO PREVENT AND RESOLVE PROBLEMS IN THE CONSTRUCTION INDUSTRY

October 2006

Inside:

- ▶ Monitoring your license (2)
- ▶ Working in Wetlands and Waterways (3)
- ▶ Mobile website launched (8)

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Who is your Responsible Managing Individual (RMI)?

The purpose of the CCB Responsible Managing Individual (RMI) requirement should be to ensure that an individual owning or managing an Oregon construction business has the knowledge (either by taking the mandated 16 hours of education and passing the test or by experience outlined in Oregon Administrative Rule (OAR)) to run a successful business. It is intended that the RMI will understand the laws that govern such business activity. This experience or education is vitally important to help protect consumers and promote economic growth in Oregon.

If an RMI on record is not actually involved with operating the CCB licensed business, the testing and experience requirement that qualifies

the business for licensure is, at best, not achieving the goal of ensuring that the individual responsible for the business has the knowledge needed to obtain a CCB license.

The 2005 Oregon Legislature defined who can legally be the RMI for an Oregon construction business.

The RMI must be the owner or an employee. It is necessary to understand who is defined as an owner and who is defined as an employee for the purpose of appointing an RMI. These definitions are set out in Oregon Revised Statute (ORS) 701.077 and 701.078.

An owner can be a sole proprietor,

Continued on page 2

Rule Amendment Update

During the August 22, 2006 board meeting, the CCB policy board held rule hearings and passed amendments to Oregon Administrative Rules (OAR) 812.

The following became effective with the September 5, 2006 filing and include:

- Clarifying the CCB per occurrence insurance requirements. (812-003-0200)
- Clarifying the CCB request of social security numbers for owners of sole proprietorships and partners. (812-003-0260)

Continued on page 5

RMI*Continued from page 1*

partner, joint venturer, general partner of a Limited Partnership (LP), member of a member-managed LLC, manager in a manager-managed LLC, or an individual that holds controlling interest in the business. This individual may or may not be a corporate officer. The key is the controlling interest in the business.

An employee is normally thought of as an individual who is hired and paid wages. But an employee can also be a corporate officer who holds a minority of the shares in the business or no shares at all.

If the business chooses to appoint an employee as the RMI, then it must verify that the employee qualifies. ORS

701.078 (1) (a) (B) specifies that in order for an employee to be designated the RMI, the employee must exercise management or supervisory control over the construction activities of the business.

The RMI is an important part of the business. The RMI is important enough that it can affect the CCB license. If a CCB license lists an RMI that is also the RMI of one or more other licenses, and one of those CCB licenses is suspended due to an unpaid construction debt, all the CCB licenses associated with that RMI are suspended. The consequences for both contractors and consumers can be enormous.

The box on the right may help you identify if the designated RMI qualifies.

Checking the RMI**Owner:**

- Sole Proprietor
- Partner; joint venturer; or general partner of a LP
- Member of a member-managed LLC
- Manager of a manager-managed LLC
- Individual that holds controlling interest in the business*

Employee:

- An employee
- Corporate Officer*

*Often times the confusion is understanding when a corporate officer can be the RMI. If a corporate officer holds controlling interest in the business, they qualify under the definition of an owner. If a corporate officer is a minority shareholder, or doesn't hold any shares they can qualify under the employee definition as long as they exercise management or supervisory control over the construction activities of the business.

Construction Contractors Bulletin Board, Issue #66

This newsletter, an official publication of the Oregon Construction Contractors Board, gives Oregon contractors information on laws, policies and activities of the CCB and better business practices.

CCB mission:

The CCB protects the public's interest relating to improvements to real property. The Board regulates construction contractors and promotes a competitive business environment through education, contractor licensing, dispute resolution and law enforcement.

Board members:

*Tom Skaar, Portland
 **Walt Gamble, West Linn
 Chuck Crump, Salem
 Jim Fairchild, Dallas
 Cliff Harkins, Canby
 Dennis Schad, Coos Bay
 Sandy Trainor, Sherwood
 *Chair, **Vice-chair

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In compliance with the Americans with Disabilities Act, this publication is available in alternative formats by contacting the editor.

Monitoring Your License

By Kristie Patton, CCB Licensing Manager

I often have to relay the news to a contractor that because their license has been lapsed for two or more years, they now have to reapply for a new license, including taking the training and exam.

I recently had a case involving a contractor who relied upon his agent to provide us with his insurance and bonding information that he had paid for. That didn't happen. His license lapsed for more than two years.

The result?

1) Any work that the contractor performed for the last two years was performed illegally;

2) The contractor had to start completely over to get his license; and
 3) The contractor was not eligible to get his previous license number back.

Needless to say, the contractor was extremely unhappy.

Is there a lesson to be learned from this?

Absolutely. Two-year lapse and you start over. Period. There are no exceptions. It doesn't matter whether you had good intentions. It doesn't matter whether you had coverage and it was your agent's fault that the documentation did not reach us. It

Continued on page 3

Monitoring-
Continued from page 2

doesn't matter whether there was an illness or even a death in the family. The Construction Contractors Board has no authority to grant a waiver or consider any extenuating circumstances.

Does this sound tough?

Yes. The *law* is very tough and clear on this issue.

What's the bottom line?

It is important to pay attention to your license status. It's important to pay

attention to the notices you receive. The CCB will notify you prior to and up to the time in which your license lapses. Ultimately, you are responsible to make certain proper documentation is received by the agency and your license is active and in good standing before the two-year period is up.

How can you easily monitor your license status?

The CCB has developed a web-based application called *CCB My License* which allows licensed contractors to conduct certain business actions on-

line. *e-Watch* is a license monitoring tool within *CCB My License*. *e-Watch* allows you to not only monitor the status of your own license, but anyone else's license that you are interested in. If the license status changes on a licensee that you have on your list, you are automatically notified by email of that status change.

If you are interested in *e-Watch*, you can register for *CCB My License* by going to our website at www.oregon.gov/ccb and click on on-line services. There is no charge for these services.

Working in Wetlands and Waterways

By Julie Curtis, Oregon Department of State Lands

Oregon's removal-fill law, enacted in 1967 and administered by the Oregon Department of State Lands (DSL), requires people who plan to fill, remove or alter materials in waters of the state to obtain a permit from DSL.

The law was passed to protect and conserve water resources for public navigation, fisheries, commerce and recreation; minimize flooding; improve water quality; provide fish and wildlife habitat; and ensure that activities of one landowner don't adversely affect another.

Waterways affected by the law include:

- Natural waterways including bays and estuaries.
- Constantly flowing streams; some intermittent streams.
- Wetlands, lakes and other bodies of water.
- The Pacific Ocean within three miles of shore.

- Certain ditches, artificially created wetlands, ponds and channels.

When a project is located in a waterway designated as Essential Salmon Habitat or in any State Scenic Waterway, the removal or fill of any amount of material requires a permit. In all other waters of the state, projects removing or filling more than 50 cubic yards of material require a permit.

Contractors working in Oregon should familiarize themselves with the removal-fill law to ensure that construction projects affecting waters of the state are authorized by DSL. There also are federal standards with which many projects must comply (Section 404 of the Clean Rivers Act or Section 10 of the Rivers and Harbors Act) that are regulated by the U.S. Army Corps of Engineers.

DSL resource coordinators, who are assigned to counties, can provide more information on Oregon's removal-fill law, and help you determine if your project requires a permit. They also



can discuss mitigation options, and refer you to other resources, including consultants that routinely prepare permit applications on behalf of property owners.

The DSL Web site – www.oregonstatelands.us - provides a wealth of information about the permit

Continued on page 4

Certified Home Inspectors Needed

The Oregon Construction Contractors Board (CCB) is accepting applications for a committee member position on its Home Inspector Advisory Committee (HIAC). HIAC advises the CCB on its statutorily mandated home inspector certification program.



The committee consists of five certified home inspectors, one public representative and the CCB chairperson or designee. Committee members are appointed to three-year terms by the CCB chairperson with advice from agency staff and consent of the board.

Committee members are volunteers.

Currently, the CCB is accepting applications for one certified home inspector committee member.

People who are interested in serving on the committee should send a letter stating why he or she is interested in serving on the CCB Home Inspector Advisory committee, a resume or summary of work history, and contact information including e-mail address to:

Construction Contractors Board
Attn: Kristie Patton, Licensing Manager
PO Box 14140
Salem, Oregon 97309-5052
Fax: 503-373-2007
E-mail: kristie.k.patton@state.or.us

Applications must be received by December 1, 2006. Applicants will be notified in January of the appointments. The committee usually meets four times a year in Salem.

CCB: By the Numbers

April - June 30, 2006

Licensing:

Number of licensed contractors: 44,008

Number of new applications: 1,617
Number of renewals: 5,082

Dispute Resolution:

Number of complaints: 526
Number of settlements on site: 162
Number of final orders issued: 155

Enforcement:

Civil penalties issued: 61
Job site inspections: 833
Complaints of illegal activity: 565

Education:

Number of candidates tested: 1,166
Number of candidates that passed on first attempt: 992

Working in Wetlands *Continued from page 3*

process, and also includes lists of resource coordinators and consultants. Click on "Removal-Fill Permits" on the left-hand side of the DSL homepage. Links to information on Essential Salmon Habitat and State Scenic Waters are available from the removal-fill page.

You may also call the DSL office (503-378-3805) to obtain the Removal-Fill Application Supplement that contains pertinent materials. In addition, DSL recently updated the removal-fill permit brochure, which is available online, or by calling DSL's main phone line: 503-378-3805, ext. 221.

The State Land Board consists of Governor Theodore Kulongoski,

Secretary of State Bill Bradbury and State Treasurer Randall Edwards. The Department of State Lands administers diverse natural and fiscal resources. Many of the resources generate revenue for the Common School Fund, such as state-owned rangelands and timberlands, waterway leases, estates for which no will or heirs exist, and unclaimed property. Twice a year, the agency distributes fund investment earnings to support K-12 public schools. The agency also administers Oregon's Removal-Fill Law, which requires people removing or filling certain amounts of material in waters of the state to obtain a permit.

CCB Board News

During the August 22, 2006 board meeting, CCB board members elected Tom Skaar to serve as Chair and Walt Gamble as Vice Chair of the CCB policy board.

Tom Skaar, of Portland, was appointed to the board by Governor Kulongoski in January 2005. He also serves on the Construction Claims Task Force.

Walt Gamble, of West Linn, was appointed to the board in 1999 and is serving his fourth year as Vice Chair.

Rules

Continued from page 1

- Implementing HB2200 by changing the term licensing fee to an application fee.

Newly adopted rules include:

- Requiring sole proprietors and partners to notify the CCB if convicted for crimes specified in 701.135 (1) (h).
- Adopting the temporary rule which established increased bond amounts for unresolved construction debts and establishes the conditions requiring the increased bond. (812-003-0175 and 812-003-0210).
- Establishing a procedure for applicants or licensees who have

been required to carry higher than the normal amount, to petition the board for a reduced bond amount. (812-005-0250)

The board also filed rules renumbering, reorganizing and implementing HB 2200 into Division 6— Responsible Managing Individual, Training and Testing— which becomes effective October 1, 2006.

Highlights of those changes include:

- Clarifying the responsible managing individual as defined in statute. (812-006-0100)
- Adopting rules that establish training requirements. (812-006-0150)

- Allows the use of a translation book during the test for individuals whose primary language is not English. (812-006-0300)
- Implements the training and testing period as required by HB2200. (812-006-0400)

To view all the changes from the August rule hearing visit the CCB website: www.oregon.gov/CCB Click on "Statutes and Rules"

Green from the Ground Up – a Metro seminar series on nature-friendly design practices

By Karen Kane, Metro

Builders and contractors already know how to build developments for energy efficiency, indoor air quality and resource efficiency, but do they offer “green” community features? We know that people move to our region for its natural beauty and quality of life, and we now know that they are willing to spend money on features that are nature-friendly.

Nature-friendly development practices can add value to a development and make it easier to market. Added value includes lot premiums, faster sales, increased sales volume, and reduced costs and maintenance in some cases, not to mention improved public image.

Metro, the regional government that serves 1.3 million people who live in the 25 cities and three counties of the Portland metropolitan area, along with

the Clackamas River Basin Council and the Clackamas Soil & Water Conservation District, invite builders and contractors to attend a series of seminars planned for the region’s developers, contractors and builders. Experts will share their expertise in implementing land development that treads lighter on the landscape and adds value to our communities.

The seminars, to run from November 2006 through March 2007, are part of Metro’s Nature in Neighborhoods initiative, a long-term effort to conserve and restore nature throughout the urban area. The seminars will educate participants on resources available and practices that have been implemented in the region to reduce stormwater flows, protect water quality and conserve wildlife habitat.

If you are interested in learning how you might be able to reduce your

infrastructure costs and create a product that has higher value, then you should definitely attend these seminars, which have been developed in response to two goals: protecting the livability of the Metro region and helping developers learn about practices intended to meet statewide planning laws and an upcoming regional ordinance.

Developers that have green infrastructure built into their communities are seeing profits from buyers willing to pay premium dollars for their products. And State Land Use Planning Rules that will require a more sustainable approach to development are rolling down the pike.

Learn how upfront, careful site planning to implement these practices can result in cost savings and the long-term

Continued on page 8

Civil Penalties Issued April 1, 2006 – June 30, 2006

Submitted by Rich Blank, Enforcement Manager

The Oregon Construction Contractors Board (CCB) announced final orders assessing civil penalties issued to contractors working in Oregon for violations of the Construction Contractor Law (ORS 701). Oregon law requires all construction contractors to be licensed with the CCB before they advertise, bid on or perform construction, remodeling or repair work.

The CCB issued 61 civil penalties from April 1, 2006 through June 30, 2006. Contractors receiving final orders include:

* Currently licensed status as of July 13, 2006

Contractor	Doing Business	City Where Violation Occurred	Penalty Amount	Violation	Currently Licensed? (CL)
<u>Central Oregon</u>					
Award Construction & Restoration, Inc.		Bend	\$1,000	Operated as a contractor while not licensed	
Blackrock Construction, Inc.		Bend	\$1,000	Had employees while licensed as an exempt contractor	CL
Clem, Michael Gene		Prineville	\$1,000	Operated as a contractor while not licensed	
Cram, Bryon Deroy		Bend	\$1,000	Operated as a contractor while not licensed	
Desert Sage Construction LLC		Bend	\$5,000	Operated as a contractor while not licensed	
Fieldcrest Investments LLC		Culver	\$1,000	Hired an unlicensed subcontractor	CL
Humphrey, Paul J.		Bend	\$1,000	Had employees while licensed as an exempt contractor	CL
Johnson, Lloyd Mathew		Redmond	\$1,000	Operated as a contractor while not licensed	
Kraft, Clarence Jackson		Culver	\$1,000	Operated as a contractor while not licensed	
Leach, Brian Todd		Bend	\$1,000	Operated as a contractor while not licensed	
Lewis, Sharon K.		Sisters	\$5,000	Operated as a contractor while not licensed	
Signature Builders LLC		Bend	\$1,000	Hired an unlicensed subcontractor	CL
Van Hiatt, Scott		Lapine	\$5,000	Operated as a contractor while not licensed	CL
Wedwick, Keith			\$5,000	Operated as a contractor while not licensed	
Wellman, Charrish Ryder		Bend	\$1,000	Operated as a contractor while not licensed	
<u>Central Oregon Valley</u>					
Boyechko, Nazar		Salem	\$5,000	Operated as a contractor while not licensed	
Fortner, Nathan		Salem	\$5,000	Operated as a contractor while not licensed	
Huffaker, Craig Lyle		Salem	\$5,000	Operated as a contractor while not licensed	
Jaques, John Rodney		Sweet Home	\$600	Advertised as a contractor while not licensed	
Tri State Carports, Inc.		Salem	\$1,000	Operated as a contractor while not licensed	
Vandehey, William Anthony		Corvallis	\$1,000	Hired an unlicensed subcontractor	
<u>Coastal Oregon</u>					
Page Construction, Inc.		Neskowin	\$1,000	Had employees while licensed as an exempt contractor	CL
<u>Eastern Oregon</u>					
Atlas Mobile Welding, Inc.		LaGrande	\$1,000	Operated as a contractor while not licensed	
Cartwright, Patrick Scott		Halfway	\$5,000	Operated as a contractor while not licensed	
Cunningham, Jess Erwin		Nyssa	\$1,000	Operated as a contractor while not licensed	
Eckstein, Richard Lee		Elgin	\$1,000	Operated as a contractor while not licensed	CL
Jensen Homes, Inc.		Nyssa	\$1,000	Operated as a contractor while not licensed	CL
Sletten Construction Co.		LaGrande	\$1,000	Hired an unlicensed subcontractor	CL
Weatherbee, Paul W.		John Day & Mt. Vernon	\$10,000	Operated as a contractor while not licensed	

Eugene/Lane County area

Bowen, Shelley L.	Creswell	\$1,200	Had employees while licensed as an exempt contractor	
Johnson, Paul Wesley	Lowell	\$1,000	Operated as a contractor while not licensed	
La Bau, Vincent Michael	Eugene	\$600	Advertised as a contractor while not licensed	
Lofy, Inc.	Florence	\$1,000	Operated as a contractor while not licensed	CL
Paul Gates & Ken Gates	Walton	\$5,000	Operated as a contractor while not licensed	
Sisler, Dora Irene	Eugene	\$1,000	Operated as a contractor while not licensed	CL
Thomas Philip & Glory Thomas Philip	Eugene	\$10,000	Operated as a contractor while not licensed	
Woodard, Bernard J.	Lowell	\$5,000	Operated as a contractor while not licensed	

Northern Oregon

Conlon, Michael Brian	Pendleton	\$5,000	Operated as a contractor while not licensed	
Davis, Cris	Umatilla	\$5,000	Operated as a contractor while not licensed	
Gill, Tim	Ukiah	\$1,000	Operated as a contractor while not licensed	
Hageman, John Phillip	The Dalles	\$5,000	Operated as a contractor while not licensed	
Hageman, John Phillip	The Dalles	\$5,000	Operated as a contractor while not licensed	
McKee, Michael Bryan	Molalla	\$10,000	Operated as a contractor while not licensed	

Portland Metro Area

Armstrong, Daniel T.	Portland	\$1,000	Operated as a contractor while not licensed	CL
Barrett, Jeffrey A.	Portland	\$5,000	Operated as a contractor while not licensed	
Duvall, Jonathan Robert	Portland	\$5,000	Operated as a contractor while not licensed	CL
Hautau, Saia	Portland	\$5,000	Operated as a contractor while not licensed	
Huynh, Vinh	Lake Oswego	\$1,000	Operated as a contractor while not licensed	
Lay, Kelly Eugene	Tigard	\$5,000	Operated as a contractor while not licensed	
Martin, Michael Sr.	Beaverton	\$5,000	Operated as a contractor while not licensed	
Mattsen, Anthony J.	Portland	\$5,000	Operated as a contractor while not licensed	
McKee, Michael Bryan	Wilsonville	\$5,000	Operated as a contractor while not licensed	
Moala, Javier	Portland	\$700	Advertised as a contractor while not licensed	
Proctor, Sean Michael	Portland	\$5,000	Operated as a contractor while not licensed	
Shadetree Mechanical, Inc.	Forest Grove	\$1,000	Operated as a contractor while not licensed	CL
Small, James Robert	Oregon City	\$1,000	Operated as a contractor while not licensed	
Wilson, Jeffrey Ray	Portland	\$5,000	Operated as a contractor while not licensed	

Southern Oregon

Adams, Brent Stearns	Lakeview	\$1,000	Operated as a contractor while not licensed	
Martinson, Thomas V.	Central Point	\$1,000	Operated as a contractor while not licensed	CL
Nutting, Jack	Grants Pass	\$5,000	Operated as a contractor while not licensed	CL
Tamayo, Fred Victor	Central Point	\$1,000	Had employees while licensed as an exempt contractor	CL

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*Green-
Continued from page 5*

enhancement of our natural areas and our entire community.

Contact Lyn Bonyhadi at Metro or look for seminar dates and registration details on the Metro Nature in Neighborhoods webpage at www.metro-region.org/nature.

Funding for the Nature in Neighborhoods nature-friendly development practices seminars is provided by an Oregon Department of Environmental Quality Section 319 Grant.

What's the buzz? CCB Launches "Mobile Web Site"



The CCB has made it easier for industry related professionals including contractors, permitting authorities, building inspectors and governmental officials to check a contractor's license while in the field.

"The mobile site is designed for use with wireless and cellular handheld devices that are internet accessible," says Shelly Wiles, CCB Information Systems Manager. "The information on the mobile site is more limited than our regular web

site because it was designed to be easy to read on a very small screen with the information useful to officials in construction-related agencies."

The information available includes current license status, the contractor's current address and phone number, as well as links to a summary page of dispute resolution information and enforcement actions.

Clicking the phone number on a cellular phone will automatically place a call to

the contractor's phone number on record.

Wiles emphasized the general public should use the CCB website to get complete information concerning the full history of a contractor's license, and full information concerning disputes and enforcement actions.

"We see this as tool for those in the field, away from their computer, who want to get up-to-date, targeted information quickly," Wiles said.

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The web address is https://ccbed.ccb.state.or.us/ccb_frames/mobile/mobile_search.asp.