

JAN 12 2026

NC OSH Review Commission

**BEFORE THE NORTH CAROLINA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
RALEIGH, NORTH CAROLINA**

**COMMISSIONER OF LABOR OF THE  
STATE OF NORTH CAROLINA,**

**COMPLAINANT,**

**v.**

**CAROLINA CIVILWORKS, INC.,  
*and its successors,***

**RESPONDENT.**

**DOCKET NO.: OSHANC 2024-6678  
DOCKET NO.: OSHANC 2024-6688  
INSPECTION NUMBER: 318281466  
INSPECTION NUMBER: 318291945  
CSHO ID: P0118  
CSHO ID: O3122**

**CONSENT ORDER**

THIS CAUSE coming on pursuant to the Notice of Pre-Hearing Conference ("Hearing Notice") on January 8, 2026 at 10 a.m. before Hearing Examiner Mary-Ann Leon, via Lifesize teleconferencing platform and continued to January 12, 2026, at 10 a.m. before Hearing Examiner Mary-Ann Leon. Rory Agan, Special Deputy Attorney General, and Monique Nketah, Assistant Attorney General, North Carolina Department of Justice, Raleigh, North Carolina appeared for Complainant. Weldon Jones, Partner at Jordan Price appeared for Respondent.

Pursuant to the Hearing Notice a pre-hearing conference (the "Hearing") was held for the purpose of considering matters which would simplify the issues and expedite the proceedings in the above referenced case including considering such matters that may be necessary or advisable for the completion of the case, and if possible, to reach a resolution without the necessity of further hearing. No affected employee of Respondent attended to have a say in, or participate as a party in, the Hearing.

At the Hearing, Complainant and Respondent (i) notified the Undersigned that the parties agree upon certain stipulations ("Stipulations") and wish to make certain motions ("Motions"), and (ii) requested that the Stipulations and Motions be made part of the Hearing record and that a Consent Order be issued. The Stipulations and Motions are as follows:

**STIPULATIONS**

1. The Complainant as Commissioner of Labor of the State of North Carolina is charged by law with compliance with and enforcement of the provisions of the Occupational Safety and Health Act of North Carolina, Article 16, Chapter 95 of the General Statutes of North Carolina (hereinafter "the Act"), including making inspections and issuing citations and other pleadings, and brings this action pursuant to N.C.G.S. §§95-133 et seq.

2. Pursuant to N.C.G.S. §95-135 the Review Commission has jurisdiction over the parties and the subject matter of this action.
3. Respondent is a North Carolina corporation. Respondent conducts utility contracting work. Respondent is an “employer” within the meaning of N.C.G.S. Section 95-127(11); Respondent’s employees referred to in this matter are “employees” within the meaning of N.C.G.S. Section 95-127(10). Respondent is subject to the jurisdiction of this proceeding and for future proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes based on this Order.
4. During the period of February 14, 2024 and July 8, 2024, a Compliance Safety and Health Officer, employed by the North Carolina Department of Labor, conducted an inspection of Respondent’s worksite located at Blue Clay Road and N. College Road in Castle Hayne, North Carolina (the “Inspection”).

During the period of July 29, 2024 and September 12, 2024, a Compliance Safety and Health Officer, employed by the North Carolina Department of Labor, conducted an inspection of Respondent’s worksite at 2721 Northchase Parkway SE in Wilmington, NC (“Inspection 2”).

5. As a result of the Inspection, on August 5, 2024, Complainant issued the one following Citation and Notification of Penalty (herein referred to collectively as the “Original Citation”):

**CITATION 01 (Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	NCGS 95-129(01)	Immediately Upon Receipt	\$ 6,452.40
002	29 CFR 1926.21(b)(2)	Immediately Upon Receipt	\$ 6,452.40

As a result of the Inspection 2, on September 12, 2024, Complainant issued the one following Citation and Notification of Penalty (herein referred to collectively as the “Original Citation 2”):

**CITATION 01 (Serious)**

<u>Item No.</u>	<u>Standard</u>	<u>Abatement Date</u>	<u>Penalty</u>
001	29 CFR 1926.652(g)(1)(ii)	Immediately Upon Receipt	\$ 2,600.00

6. Respondent submitted a timely Notice of Contest. On or about October 1, 2024, Complainant received “Employer’s/Respondent’s Statement of Position.”

Respondent submitted a timely Notice of Contest in Inspection 2. On or about November 26, 2024, Complainant received “Employer’s/Respondent’s Statement of Position.”

7. The Hearing in this matter was scheduled pursuant to the Rules of Procedure of the Safety and Health Review Commission of North Carolina (the "Rules").
8. Complainant and Respondent have no objection, either procedural or otherwise, to this Hearing; both parties consent to the conduct of this Hearing by the Undersigned, and to entry of this Consent Order. Complainant and Respondent confirm that there has been no employee objection in this matter to the reasonableness of any abatement period.
9. Respondent posted the Original Citation and the Hearing Notice as required by the Rules. Neither Complainant nor Respondent have received notification from any affected employee that such employee, or its representative, wishes to have a say in, or participate as a party in, this matter, or has any objections in connection with this matter including without limitation objection to the reasonableness of any abatement time.
10. Respondent confirms that the violations alleged in the Original Citation and Original Citation 2 as amended pursuant to Complainant's Motion have been abated.

Complainant confirms that no additional documentation of abatement is required by Complainant.

11. The parties agree that upon granting of Complainant's Motion that the proposed penalty for the Items designated in the Original Citation has been calculated in accordance with the standard Field Operations Manual procedure; and the new proposed penalty for the Items designated in the Original Citation as amended pursuant to Complainant's Motion has been derived in consideration of the standard mitigating factors and specific factors applicable to Respondent.

12. Respondent agrees to the following:

- a) -Training on hazards, such as, but not limited to: operation and working around heavy equipment, use of ppe, fall protection, electrical safety, struck-by and caught between. As applied to any mulching equipment, this shall be completed prior to the next time the equipment is used by Respondent's employees. Such training would only be applicable to the work crew involved in Inspection #318281466 and any replacement employees to that team.
- b) Excavation and trenching safety training or retraining for all field employees to be completed within 90 days of signing the agreement. Any training of employees on these same topics within the past twelve months shall be considered completed within the time period.
- c) Send at least two field management employees to successfully complete an OSHA-30 Construction Course within 90 days of signing the agreement.
- d) Conduct and document Site inspections on a daily basis. The Employer will maintain records of these inspections and will provide them to the OSH Division upon request

during future inspections. The inspections shall be completed for a period not less than one year and the documentation shall be retained for a period not less than one year from the date of creation.

e) To pay the penalty of \$15,504.80 assessed in this matter within 30 days of the date of this Consent Order.

In the event Respondent does not pay the penalty as stated above, all unpaid amounts shall become immediately due and payable, and the Complainant retains the right to institute collection proceedings as allowed by law. Respondent agrees to pay attorney's fees to Complainant in the event that the Complainant institutes collection proceedings to collect the debt.

Payment is to be by check payable to the North Carolina Department of Labor, OSHA Division (identifying Inspection No. 318281466) and mailed to North Carolina Department of Labor Financial Services Division, ATTN: Collections Division, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101. Credit card payment may also be arranged.

13. The parties agree to bear their own fees, costs and other expenses, including attorney's fees if any, that have been incurred in connection with any stage of these proceedings up to and including the filing of this Final Order.

14. Complainant and Respondent agree that provided the respective Motion of each party is granted:

a) there are no other matters that remain to be decided, and that other than a ruling with respect to the Motions no outstanding issues remain to be resolved by an evidentiary hearing of this matter;

b) this Consent Order is a full and final resolution of the claims set out in the underlying Original Citation, as amended pursuant to Complainant's Motion;

c) the modification of any portion of the Original Citation by Complainant shall not be deemed to be an admission by Complainant that any such portion was alleged without merit;

d) none of the agreements, statements, stipulations and actions taken by Respondent shall be deemed an admission by the Respondent of any of the allegations contained in the Original Citation as amended or a waiver of any defense, provided however, that in any subsequent proceeding with respect to matters covered by this Consent Order brought directly under the Act by Complainant, this Consent Order shall have the full force and effect of a final order;

e) the agreements, statements, stipulations and actions herein by Complainant and by Respondent are solely for the purpose of resolving this matter economically and amicably without further litigation and shall not be used for any other purposes except for proceedings and matters arising under the Act and Article 21, Chapter 95 of the North Carolina General Statutes.

### **MOTIONS**

Complainant moved to do the following ("Complainant's Motion"):

With respect to the Citation in **318281466**:

- a) Modify the penalty in Citation 1, Item 1 to \$12,904.80;
- b) Change Citation 1, Item 2 to nonserious with the citation to the standard 29 CFR 1926.652(g)(1)(ii) and associated penalty to 2,600.00;
- c) Change the SAVE on Citation 1, Item 2 to read: Shields were not installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads;
- d) Change the AVD to Citation 1, Item 2 to read: a) jobsite- where the National Trench Safety trench box was installed into the ground but did not have back-filled walls to prevent lateral movement.

With respect to the Citation in **3182919454**:

- a) Delete the Citation and Penalty.

Except as set forth in this motion, the Original Citation shall remain unmodified or amended.

Respondent did not object to Complainant's Motion.

Respondent requested that upon the granting of Complainant's Motion that the Undersigned consider the following motion by the Respondent ("Respondent's Motion"):

- a) To withdraw Respondent's Notice of Contest to the Original Citation as amended pursuant to Complainant's Motion set forth above.

Complainant did not object to Respondent's Motion.

### **FINDINGS OF FACT**

Based on the Stipulations at the time of the Hearing and the record, the Undersigned makes the following Findings of Fact:

1. Complainant, Commissioner of Labor of the State of North Carolina, is an agency of the State of North Carolina charged with the administration and enforcement of the provisions of the Act.
2. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.

4. Neither party has any objection, procedural or otherwise, to this Hearing.
5. The Stipulations are incorporated by reference as Findings of Fact to the extent necessary to give effect to the provisions of this Order.

#### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.
2. Respondent is an "employer" within the meaning of N.C.G.S. §95-127(11); Respondent's employees referred to in the Complaint are "employees" within the meaning of N.C.G.S. §95-127(10).
3. This Court has jurisdiction over the parties and the subject matter of this Hearing.
4. Respondent is subject to the provisions of the Act and jurisdiction of the Safety and Health Review Commission of North Carolina.

Based on the foregoing Findings of Fact and Conclusions of law, **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. That Complainant's Motion is hereby **GRANTED**;
2. That Respondent's Motion is hereby **GRANTED**;
3. That Respondent shall meet the requirements of Stipulation 12 as set out above; and
4. That the parties shall comply with the terms and conditions set forth in the Stipulations and in this Consent Order.

Effective January 12, 2026.

**SO ORDERED**

Signature: Mary-Ann Leon

Mary-Ann Leon (Jan 13, 2025 09:32:04 CST)

Email: maleon@leonlaw.org

Mary-Ann Leon  
Hearing Examiner

CONSENTED TO:

JEFF JACKSON, Attorney General

Signature: Rory Agan

Rory Agan (Jan 13, 2025 09:46:10 EST)

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ATTORNEY FOR RESPONDENT

ATTORNEY FOR COMPLAINANT

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

H. WELDON JONES, III  
JORDAN PRICE  
wjones@jordanprice.com

RORY AGAN  
NC DEPARTMENT OF JUSTICE  
ragan@ncdoj.gov

NC DEPARTMENT OF LABOR  
LEGAL AFFAIRS DIVISION

via email.

THIS THE 13 DAY OF January 2026.

PAUL E. SMITH  
CHAIRMAN



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