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**NEVADA OCCUPATIONAL SAFETY AND HEALTH
REVIEW BOARD**

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**CHIEF ADMINISTRATIVE OFFICER
OF THE OCCUPATIONAL SAFETY
AND HEALTH ADMINISTRATION OF
THE DIVISION OF INDUSTRIAL
RELATIONS OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY, STATE
OF NEVADA,**

Complainant,

vs.

SIERRA NEVADA EXCAVATION, LLC,

Respondent.

Docket No. RNO 25-2333
Inspection No. 1744813

FILED
April 14, 2026
OSH REVIEW BOARD
By: K Kennedy

**ORDER DENYING THE
RESPONDENT'S JURY REQUEST**

On or about April 30, 2024, the employees of Sierra Nevada Excavation, LLC, (“Sierra Nevada” or “Respondent”) were working in an open trench located at 1245 Fremont Street, Fernley, Nevada, on the project identified as “Lickety Split Express Car Wash.” Three of Sierra Nevada’s employees were installing a pour-in-place manhole base section. The trench measured 12 feet, 1/ 2 inch in length, and 7 feet, 8 inches in width. The north end of the trench was measured at 5 feet, 4 inches in depth to the top of freshly poured concrete. The south end of the trench was measured at 7 feet in depth. One of the horizontal walls of the trench contained cracking. An undercut was located under the asphalt and above the cracking. The trench was dug in class C soil. It is alleged that employees inside the excavation were not protected from cave-ins by any type of protection system.

It is further alleged that the Respondent failed to instruct these employees in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment. Additionally, Sierra Nevada’s competent person allowed the three employees to work in proximity to vibrations from traffic, undermined asphalt and the cracking of the horizontal side wall of the trench.

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1 Sierra Nevada allegedly had not provided its employers with documents or videos
2 setting forth the rights and responsibilities of the employers and employees to promote
3 workplace safety. Lastly, the Respondent had not established a written safety program.

4 As a result of these alleged conditions, Sierra Nevada was cited for serious violations of
5 29 CFR 1926.652(a)(1), 29 CFR 1926.21(b)(2) and 29 CFR 1926.651(k)(2). Further, the
6 Respondent was cited for other than serious violations of NRS 618.376(1) and NRS
7 618.383(1). On December 4, 2024, the Complainant filed its summons and complaint based
8 on the alleged violations of the aforementioned Federal Regulations and Nevada statutes. On
9 December 19, 2024, the Respondent Answered the Complaint.

10 On December 14, 2025, Sierra Nevada made a demand for a jury on the contested
11 hearing pursuant to the Seventh Amendment of the United States Constitution. This demand
12 constituted a novel issue for the Board of Review. Therefore, the Board sought the parties input
13 on this issue. On December 19, 2025, the Board issued a *sua sponte* order compelling the
14 Complainant and the Respondent to file simultaneous briefs on the issue by January 30, 2026.
15 Additionally, the Order set oral arguments on the issue for February 18, 2026.

16 The Complainant filed its brief on the jury demand on January 30, 2026, as ordered.
17 Sierra Nevada did not supply a corresponding brief, either by January 30th or afterwards. The
18 Complainant appeared before the Board for oral argument on February 18, 2026. Sierra Nevada
19 neither appeared to participate in oral arguments nor requested that the matter be continued.

20 At the February 18, 2026, Board Meeting, Board Member Chambers moved to reject the
21 Respondent's demand for a jury trial under the 7th Amendment to the United States Constitution
22 by reason of Respondent's failure to submit, as ordered by the Board, with Complainant,
23 simultaneous briefs on Respondent's demand for a jury trial and to waive Respondent's further
24 participation in this case for failure to appear before the Board on the demand for a jury trial as
25 ordered and duly notice by the Board. See, NAC 618.743. The Motion was seconded by Tyson
26 Hollis. The Motion was adopted on a Vote of 4-0. The Respondent's demand for a Jury trial,
27 IS HEREBY DENIED.

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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Law Offices of Charles R. Zeh, Esq., and that on
3 this date I served the attached document, *Order Denying the Respondents' Jury Request*, on
4 those parties identified below by e-mailing the same to the following:

4 Salli Ortiz, Esq. - sortiz@dir.nv.gov
5 Anthony Hall, Esq. - ahall@shjnevada.com

6 Dated this 14th day of April, 2026.

7
8 Karen Kennedy
9 Employee of
The Law Offices of Charles R. Zeh, Esq.

10 S:\Clients\OSHA\RNO 25-2333, Sierra Nevada Excavation\ADA Final Order Denying Jury.wpd

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