



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • www.utc.wa.gov

June 6, 2014

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Petland Cemetery, Inc.*

Commission Staff's Response to Application for Mitigation of Penalties TG-141014

Dear Mr. King:

On May 22, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket TG-141014 against Petland Cemetery, Inc. for 10 violations of Washington Administrative Code (WAC) 480-70-071, which requires solid waste companies to furnish annual reports to the commission no later than May 1 each year.¹

On May 27, 2014, Petland Cemetery, Inc. wrote the commission requesting mitigation of penalties (Mitigation Request).² In its Mitigation Request, Petland Cemetery, Inc. does not dispute that the violation occurred. The company states, "There were no accidents in 2013. I do understand the space was left blank and you cannot assume the number zero. In checking our previous reports (included) please note that was not filled out in 2011 or 2012. Schedule 3 was our error. We should have checked that before the report was mailed and while I understand your request for the information, I don't feel a \$100.00 per day fine for missing mileage is fair or reasonable. Schedule 4 doesn't apply to the best of my knowledge since we don't own solid waste property. Again, please check the previous two years reports and see it was not filled out either year. In the case of both years, 2011 and 2012, there was nothing forthcoming from UTC regarding the forms being incomplete. In the future we will be sure to complete the form in its entirety and check it prior to mailing it."

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated solid waste companies. The instructions for annual report completion page of the

annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

Petland Cemetery, Inc. filed an incomplete annual report on April 30, 2014. Staff notified the company that its report was incomplete, and instructed the company to file the missing information. The company did not respond until the Penalty Assessment was served. Petland Cemetery, Inc. filed a late annual report in 2006 but has filed timely every year since that occurrence. Due to the commission prior practice of accepting annual reports without accident information and the company's acknowledgement of the requirement for future reporting, commission staff supports the company's request for mitigation. Staff recommends a reduced penalty assessment of \$200.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or aandrews@utc.wa.gov.

Sincerely,



Sondra Walsh, Director
Administrative Services

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TG-141014
PENALTY AMOUNT: \$1,000

Petland Cemetery, Inc.
PO Box 184
Aberdeen, WA 98520

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-70-071, which requires solid waste companies to file their annual report and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) §1.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-70-071 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all solid waste companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

As of May 15, 2014, Petland Cemetery, Inc. has not filed its complete 2013 annual report. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request.

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within **FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-70-071 to cancel your certificate to operate as a solid waste company in Washington.

DATED at Olympia, Washington, and effective May 22, 2014.

GREGORY J. KOPTA
Administrative Law Judge

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TG-141014

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

[] 1. Payment of penalty. I admit that the violations occurred. I have:

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ online at www.utc.wa.gov. My confirmation number is _____.

[] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

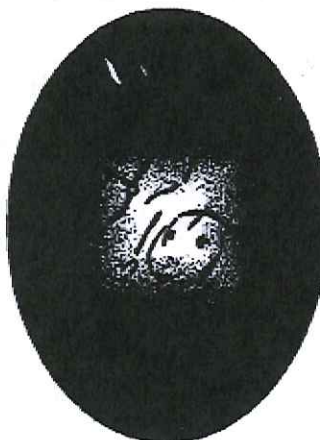
¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.’s Mitigation Request received on May 27, 2014

ATTACHMENT B

MAY-27-2014 11:12 AM Aberdeen Cemetery/Petland 360 533 8552

P. 02/09



PO Box 184
Aberdeen, WA. 98520
1-800-738-5119—fax 1-888-675-5557
www.mypetmemorialurns.com
petland@techline.com

2014 MAY 27 PM 12:30

May 27, 2014

TO: Utilities & Transportation
RE: Mitigation of penalties

Dear Sir/Madam,

I am requesting mitigation of the penalty Petland Cemetery, Inc., #TG-141014 for the following reasons:

There were no accidents in 2013. I do understand the space was left blank and you cannot assume the number zero. In checking our previous reports (included) please note that was not filled out in 2011 or 2012.

Schedule 3 was our error. We should have checked that before the report was mailed and while I understand your request for the information, I don't feel a \$100.00 per day fine for missing mileage is fair or reasonable.

Schedule 4 doesn't apply to the best of my knowledge since we don't own solid waste property. Again, please check the previous two years reports and see it was not filled out either year.

In the case of both years, 2011 and 2012, there was nothing forthcoming from UTC regarding the forms being incomplete. In the future we will be sure to complete the form in its entirety and check it prior to mailing it. Thank you for your consideration.

David E. Bielski, President
Petland Cemetery Inc.

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

2014 MAY 27 PM 12:31

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TG-141014

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

[] 1. Payment of penalty. I admit that the violations occurred. I have:

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ online at www.utc.wa.gov. My confirmation number is _____.

[] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[X] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[X] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [X] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: May 27, 2014 [month/day/year], at Aberdeen, WA [city, state]

Portland Cemetery David [Signature] Signature of Applicant

RCW 9A.72.020: "Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

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May. 27. 2014 10:28AM

No. 0016 P. 5

SCHEDULE 1

(complete all information for the year 2013)

Annual Report / Accounting Contact Person

Name: Cheri Boyer Title: OFFICE ASSISTANT
 Mailing Address: P.O. Box 184 Phone: 360-533-2931
Aberdeen, WA 98520 Fax: 360-533-1353
 Physical Address: 2212 Roosevelt St. Email: info@pettem.comcastbiz.net
Aberdeen, WA 98520 Website: _____

Recordable Intrastate and Interstate Accidents

Recordable Accidents	Intrastate	Interstate
A fatality	0	0
An injury to a person requiring immediate treatment away from the scene of the accident	0	0
Disabling damage to a vehicle, requiring it to be towed from the accident scene	0	0
Total number of recordable accidents	0	0

Operating Miles

Mileage Information	
Total Operating Miles	
Intrastate	35000
Interstate	5500

Intrastate: Trips that operate exclusive within WA

Interstate: Trips that operate outside of WA

2013

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

May. 27. 2014 10:29AM

No. 0016 P. 1

**SCHEDULE 3
SOLID WASTE CUSTOMER REVENUES AND STATISTICS**

Customer Classification (1)	Annual Miles Operated (2)	Number of Customers at Year End (3)	Annual Solid Waste Revenue (4)
Residential			
Commercial			
Drop Box / Compactor			
Other	3456010	140	
TOTALS	3456000	140	

**SCHEDULE 4
SOLID WASTE COLLECTION PROPERTY OWNED AT YEAR END**

Description of Property (1)	Cost (2)	Accumulated Depreciation at Year End (3)	Net Book Value at year End (4) = (2) - (3)
Land & Structures			
Solid Waste Collection Equipment			
Bins, Containers, Drop Boxes, etc.			
Other	0	0	0
TOTALS	0	0	0

2.043

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

May 27 14 11:51a PetLand

6331353

p.1

SCHEDULE 1

TYPE OF MOTOR CARRIER Individual Partnership Corporation, Other (LP, LLP, LLC, etc.)
 List the name, title, and percentage of partner's share or stock distribution for major stockholders. If LLC, list members and percentage of ownership.

Name: David Bielski Title: President/CEO Percent/Shares/Stock/Ownership: 50%
 Name: Sandra Bielski Title: Sen Percent/Shares/Stock/Ownership: 50%
 Name: _____ Title: _____ Percent/Shares/Stock/Ownership: _____

Number of recordable intrastate and interstate accidents in 2011:
 Please include the total recordable accidents for both intrastate and interstate operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:		
A. A fatality.		
B. An injury to a person requiring immediate treatment away from the scene of the accident.		
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.		
Total number of recordable accidents		

Total operating miles for the year 2011:

Intrastate 33500 Interstate 6000

Intrastate: Trips that operate exclusively within the state of Washington.
Interstate: Trips that operate outside the state of Washington.

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²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

**SCHEDULE 3
SOLID WASTE CUSTOMER REVENUES AND STATISTICS**

Customer Classification (1)	Annual Miles Operated (2)	Number of Customers at Year End (3)	Annual Solid Waste Revenue (4)
Residential			
Commercial			
Drop Box/Compactor			
Other	341,000	140	8,517
TOTALS	341,000	140	8,517

**SCHEDULE 4
SOLID WASTE COLLECTION PROPERTY OWNED AT YEAR END**

Description of Property (1)	Cost (2)	Accumulated Depreciation at Year End (3)	Net Book Value at Year End (4) = (2) - (3)
Land & Structures			
Solid Waste Collection Equipment			
Bins, Containers, Drop Boxes, etc.			
Other			
TOTALS			

2011

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

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SCHEDULE 1

TYPE OF MOTOR CARRIER Individual Partnership Corporation, Other (LP, LLP, LLC, etc.)

List the name, title, and percentage of partner's share or stock distribution for major stockholders. If LLC, list members and percentage of ownership.

Name: DAVID Bielski Title: CEO Percent/Shares/Stock/Ownership: 50%
 Name: Sandra Bielski Title: President Percent/Shares/Stock/Ownership: 50%
 Name: _____ Title: _____ Percent/Shares/Stock/Ownership: _____

Number of recordable intrastate and interstate accidents in 2012.
 (Please include the total recordable accidents for both intrastate and interstate operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:		
A. A fatality.		
B. An injury to a person requiring immediate treatment away from the scene of the accident.		
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.		
Total number of recordable accidents		

Total operating miles for the year 2012:

Intrastate 35000 Interstate 6000

Intrastate: Trips that operate exclusively within the state of Washington.
Interstate: Trips that operate outside the state of Washington.

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**SCHEDULE 3
SOLID WASTE CUSTOMER REVENUES AND STATISTICS**

Customer Classification (1)	Annual Miles Operated (2)	Number of Customers at Year End (3)	Annual Solid Waste Revenue (4)
Residential			
Commercial			
Drop Box/Compactor			
Other	350,000	140	9330
TOTALS	350,000	140	9330

**SCHEDULE 4
SOLID WASTE COLLECTION PROPERTY OWNED AT YEAR END**

Description of Property (1)	Cost (2)	Accumulated Depreciation at Year End (3)	Net Book Value at Year End (4) = (2) - (3)
Land & Structures			
Solid Waste Collection Equipment			
Bins, Containers, Drop Boxes, etc.			
Other			
TOTALS			

2012

¹See attachment A for a copy of the penalty assessment sent on May 22, 2014

²See attachment B for a copy of Petland Cemetery, Inc.'s Mitigation Request received on May 27, 2014

