

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-144090

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 violation occurred and enclose \$2,000 in payment of the penalty.

2. **Request for a hearing.** I believe that the alleged violation 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:

*Job was Permitted and Done by Filco Co, Inc,
Not Tank Wise at 121 W. Mercer Street,
attached Permit copies FROM FIRE Dept.*

3. **Application for mitigation.** I admit the violation, 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: 3/5/15 [Month/Day/Year], at Seattle Wa [City, State]

Tank Wise LLC
Name of Respondent (company) – please print

[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.”

STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

2015 MAR 19 AM 8:03

RECEIVED
RECORDS MANAGEMENT

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 violation; or
- 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. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective February 26, 2015.



GREGORY J. KOPTA
Director, Administrative Law Division

SERVICE DATE

FEB 26 2015

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-144090
PENALTY AMOUNT: \$2,000

Tim Wise
Tank Wise, LLC
5405 West Marginal Way South West
Seattle, WA 98106

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(1)(a) by failing to request a dig ticket prior to performing an excavation. RCW 19.122.055(1)(a) states, in part, that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

Commission staff (Staff) conducted an investigation in which it reviewed damage reports submitted by Puget Sound Energy (PSE) and identified two natural gas damage events involving Tim Wise, d/b/a Tank Wise, LLC (Tank Wise), where buried utilities were not located prior to excavation. Accordingly, the Commission hereby notifies you that it is assessing a penalty against you in the amount of \$2,000 on the following grounds:

(First Violation)

On August 21, 2013, Tank Wise performed an excavation removing an oil tank at 121 Mercer Street, Seattle, Washington. Prior to beginning excavation, Tank Wise, LLC failed to request a locate ticket from a one-number locator service to have the underground utilities located.

On October 2, 2013, PSE submitted a Damage Incident Reporting Tool (DIRT) report identifying Tank Wise as the party responsible for damaging PSE's natural gas service line at 121 West Mercer Street, Seattle, Washington, on August 21, 2013, without first obtaining a ticket number to have utilities located prior to excavation.

On October 9, 2013, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tank Wise, informing the company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation of the law.

(Second Violation)

On October 16, 2013, Tank Wise performed an excavation to remove an oil tank at 1316 North 34th Street, Renton, Washington. Prior to beginning excavation, Tank Wise failed to request a locate ticket from a one-number locator service to have the underground utilities located.

On December 3, 2013, PSE submitted a DIRT report identifying Tank Wise as the party responsible for damaging PSE's natural gas service line at 1316 North 34th Street, Renton, Washington, on October 16, 2013, without first obtaining a locate ticket number to have utilities located prior to excavation.

On January 23, 2014, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tank Wise, LLC, informing the company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.130. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation of the law.

Based on the results of Staff's investigation, the Commission finds that Tank Wise, LLC violated RCW 19.122.030(1)(a) twice, by failing to request a dig tickets prior to performing an excavation, and assesses a \$1,000 penalty for each violation. These facts, if not contested or if proved at a hearing and not rebutted or explained, are sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations 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. Failure to provide such a statement will result in denial of the request.

If you admit the violation but believe there is a reason for the violation that should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or through a written statement. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for mitigation, either in a hearing or through a written statement, must include a written explanation of the reasons supporting that request. Failure to provide such an explanation will result in denial of the request.

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.

Wed 8/21/13 8:11 AM

Your Seattle Fire Department



APPLICATION FOR TEMPORARY PERMIT

Code 7908

Commercial Tank Removal/Decommissioning

Permit Fee: \$208.00

Date Issued: 8/21/13

Tank(s) must be removed from site same day as permit issued!

TO BE COMPLETED BY PERMIT APPLICANT (PLEASE PRINT)

| | | | |
|-------------------------------------|---|-------------------------------------|--|
| FIRM NAME | Filco Company, Inc | | |
| MAILING ADDRESS | PO Box 31228 | SUITE | |
| CITY | Seattle | STATE | WA ZIP 98103 |
| OPERATION ADDRESS | 121 W MERCER ST | | |
| CONTACT PERSON | NATE MONTGOMERY | PHONE NUMBER | (206) 423-1791 |
| Number of Tank(s): | ONE | Tank Size(s): | 300 |
| | | <input type="checkbox"/> | Aboveground tank |
| Product(s) Previously Contained: | HEATING OIL | <input checked="" type="checkbox"/> | Underground tank |
| <input checked="" type="checkbox"/> | Removal (Marine Chemist inspection and certificate required for all tanks regardless of size or contents) | | |
| <input type="checkbox"/> | Abandonment-in-Place (Marine Chemist certificate required for tanks previously containing Class I flammable liquids and unknowns) | | |
| Hot work being conducted?: | <input checked="" type="checkbox"/> No | <input type="checkbox"/> | Yes (If yes, a separate hot work permit is required) |

Please include a check made payable to the CITY OF SEATTLE with this application.

Permit applications may be submitted in person weekdays from 8:00 a.m. to 4:30 p.m., or mailed to:

Seattle Fire Department
Fire Marshal's Office—Permits
220 Third Avenue South, Second Floor
Seattle, WA 98104-2608

Permit processing: (206) 386-1450
www.seattle.gov/fire

Call 386-1450, at least 24 hours prior to needed inspection time to arrange for an appointment.

TANKS MAY BE REMOVED/DECOMMISSIONED ONLY AFTER FIRE DEPARTMENT INSPECTION

No hot work is allowed on a tank system prior to issuance of this Fire Department permit!

Permission is hereby granted to remove or decommission the tank(s) identified in this permit in accordance with the attached conditions, all noted special conditions, and all applicable provisions of the Seattle Fire Code, federal, state and local regulations. THIS PERMIT IS NULL AND VOID IF PERMIT CONDITIONS ARE NOT ATTACHED

Special permit conditions: _____

| | | | |
|------------------------|---------------------------------------|---------------------|------|
| FMO USE | APPROVED BY | | |
| Receipt No.: 5-22654 | Inspector: [Signature] | SFD ID# 1523 | |
| Check No.: 3544723657 | Name of Marine Chemist: Craig Tschick | Certificate # 46160 | #688 |
| Application ID#: 93967 | Date: 8/21/13 | | |

COMMERCIAL TANK REMOVAL/DECOMMISSIONING PERMIT CONDITIONS

1. Two (2) portable fire extinguishers each having a minimum rating of 40 BC shall be on site within 50 feet of the operation. Fire extinguishers shall be inspected, approved and certified annually.
2. Rope or ribbon barricades located at least 10 feet from the tank shall surround every outdoor storage tank removal or decommissioning operation or the operation shall be enclosed in a fenced yard.
3. "No Smoking" signs shall be posted in readily visible locations.
4. No hot work is allowed on a tank system prior to issuance of this permit and the tank is certified "Safe for Hot Work" by a Certified Marine Chemist. Hot work means any activities involving riveting, welding, burning, brazing, soldering, heating, chopping, grinding, ripping, drilling, cutting with a chop saw or "Sawzall", abrasive blasting, use of powder-actuated tools or similar spark-producing operations, crushing or mechanically shearing to facilitate opening for cleaning, disposal, scrapping for recycling purposes.
5. A separate temporary Seattle Fire Department permit (Code 4913) or a validation number assigned in conjunction with an annual hot work permit (Code 4911 or 4912) is required prior to any hot work operations.
6. Permits may cover multiple tanks located at the same address. If additional tanks are to be removed or abandoned at later dates, separate permits shall be obtained. Each address location requires a separate permit application regardless of whether multiple address locations are physically next to one another.
7. Additional fees will be charged if inspectors are required to work other than normal business hours. (Normal business hours are Monday through Friday, 8:00 a.m. to 4:30 p.m.)
8. No excavation of an underground tank is permitted prior to inspection by the Seattle Fire Marshal's Office.
Exception: Removal of the top layer of asphalt or concrete only with no removal of dirt, pea gravel or soil over the underground storage tank. Further excavation may be allowed by a Seattle Fire Department Special Hazards Unit Inspector prior to the initial inspection depending on conditions and if the tank has been inerted by a Marine Chemist who is present on site. The name of the inspector and the time permission was given shall be made available at time of inspection.
9. Prior to inspection, to ensure tanks and connected piping are completely free of all flammable or combustible liquids, a receipt or certificate must be on site indicating the tanks have been pumped and rinsed by an approved company. Product and rinse water must be disposed of in an approved manner.
10. For tanks being decommissioned in place that previously contained Class I liquids, a Certified Marine Chemist certificate must be issued and available on site for inspection certifying that the tank has been properly inerted prior to filling.
11. No tank shall be filled prior to an inspection by the Seattle Fire Marshal's Office.
12. Tanks being decommissioned in place must be filled with a lean concrete mixture. Filling with foam is prohibited.
13. A Marine Chemist's certificate verifying the tank has been properly inerted or is otherwise certified "Safe for Hot Work" shall be issued and available on site for inspection for each underground and aboveground tank being removed regardless of the product previously contained.
14. If tanks are being removed, the tanks' atmosphere must be inert using one of the following approved methods:
 - Dry ice (pellets or chunks of solid CO₂). Minimum 40 lbs per 1000 gallons of tank capacity is recommended.
 - Compressed CO₂ gas in cylinders (Note: This method may only be performed by a Certified Marine Chemist).
 - Purging with air (gas-freeing) using Venturi tube apparatus, with proper bonding and grounding and after the tank has been pumped and rinsed by an approved company.
15. A maximum reading of less than 6% of oxygen must be obtained prior to the removal of the tanks if CO₂ or another inert gas, as approved by the Marine Chemist, is used to inert the tank or, a reading of 0% LEL must be obtained prior to removal of the tank if the air-purging (Venturi air moving devices) method is used.
16. All local, state and federal regulations for confined space entry shall be complied with prior to entering an underground storage tank.
17. Tanks with baffles to prevent movement of liquid must be certified gas-freed or inerted by a Certified Marine Chemist or a Petroleum Industry Safety Engineer regularly engaged in that business prior to removal.
18. Tanks being removed must be removed from the site and relocated to a remote, approved facility on the same day that the permit is issued.
19. During the hot work operations, digging, excavating, hauling or transport of petroleum storage tanks that have not been cleaned and gas-freed, tanks must be inerted to less than 6% oxygen. All openings are to be cap closed and secured except for one 1/8" hole drilled through a cap. These tanks are to be sprayed painted with "INERTED, DO NOT ENTER" or "INERTED WITH CO₂, NOT SAFE FOR WORKERS".

SOUND TESTING, INC
P.O. BOX 16204 SEATTLE, WA 98116
(206) 932-0206 FAX (206) 937-3848

MARINE CHEMIST CERTIFICATE

SERIAL No 46160

Survey Requested by FILCO Vessel Owner or Agent FILCO Date 21 AUG 13
Vessel UST Type of Vessel UST Specific Location of Vessel 121 W MERCER ST
Last Three (3) Loadings (HEATING OIL) X 3 Tests Performed VISUAL O₂, LEL Time Survey Completed 0740

~ 300 gal UST

SAFE FOR ESCAVATION

SAFE FOR TRANSPORTATION

$O_2 = 19.5\% \pm 0.1\%$
 $LEL = 7\% \pm 1\%$

[METER: BW S/N SK106-002036 / CAL: 0700 - 21 AUG 13]

In the event of any physical or atmospheric changes adversely affecting the gas-free condition of the above spaces, or if in any doubt, immediately stop all work and contact the undersigned Marine Chemist.

QUALIFICATIONS: Transfer of ballast or manipulation of valves or closure equipment tending to alter conditions in pipe lines, tanks or compartments subject to gas accumulation, unless specifically approved in this Certificate, requires inspection and endorsement or reissue of Certificate for the spaces so affected. All lines, vents, heating coils, valves, and similarly enclosed appurtenances shall be considered "not safe" unless otherwise specifically designated.

STANDARD SAFETY DESIGNATIONS

SAFE FOR WORKERS. Means that in the compartment or space so designated (a) the oxygen content of the atmosphere is at least 19.5 percent by volume, and that, (b) toxic materials in the atmosphere are within permissible concentrations, and that, (c) the residues are not capable of producing toxic materials under existing atmospheric conditions while maintained as directed on the Marine Chemist's Certificate

NOT SAFE FOR WORKERS. Means that in the compartment or space so designated, the requirements of Safe for Workers has not been met.

SAFE FOR HOT WORK. Means that in the compartment or space so designated: (a) oxygen content of the atmosphere is at least 19.5 percent by volume, with the exception of inerted spaces or where external hot work is to be performed; and that, (b) the concentration of flammable materials in the atmosphere is below 10 percent of the lower flammable limit; and that, (c) the residues are not capable of producing a higher concentration than permitted by (b) above under existing atmospheric conditions in the presence of fire, and while maintained as directed on the Marine Chemist's Certificate; and further, that, (d) all adjacent spaces have been cleaned sufficiently to prevent the spread of fire, or are satisfactorily inerted, or, in the case of fuel tanks, or lube oil tanks, or engine room or fire room bilges, have been treated in accordance with the Marine Chemist's requirements.

NOT SAFE FOR HOT WORK. Means that in the compartment or space so designated, the requirements of Safe for Hot Work have not been met

CHEMIST'S ENDORSEMENT This is to certify that I have personally determined that all spaces in the foregoing list are in accordance with NFPA 306 Control of Gas Hazards on vessels and have found the condition of each to be in accordance with its assigned designation.

"The undersigned acknowledges receipt of this Certificate under Section 2-6 of NFPA 306 and understands conditions and limitations under which it was issued."

This Certificate is based on conditions existing at the time the inspection herein set forth was completed and is issued subject to compliance with all qualifications and instructions.

Signed [Signature] Name _____ Company FILCO Date 21 AUG 13 Signed [Signature] Marine Chemist Certificate No. 46160

CRNG 206-313-6933



FILCO COMPANY INC.

P.O. Box 31228 • Seattle, WA 98103 • Ph: (206) 547-8347 • Fax: (206) 548-9352
www.FilcoEnviro.com • Lic# FILCOCI080RU

TRIPLE RINSE CERTIFICATION

DATE: 8/21/13

SITE ADDRESS: 121 W. MERCER WAY
SEATTLE, WA

This is to certify that Filco Company Inc. has pumped out and triple rinsed one approximate 300 gallon underground heating oil tank at the above named property. All product and rinsate will be or was disposed of or recycled at an approved facility.

Filco Co., Inc.