

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-190628  
PENALTY AMOUNT: \$5,000  
Investigation # 7982

UBI: 603-520-006  
Phone: (509) 374-6138

Javier Serratos  
Tropical Dew LLC  
131 S. Hugo Ave  
Pasco, WA 99301

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to provide the required notice to facility operators through a one-number locator service before excavating. RCW 19.122.055 states, in part, that any excavator who fails to notify a one-number locator service and causes damage to an underground hazardous liquid or gas facility is subject to a civil penalty of not more than \$10,000 for each violation.

Commission staff (Staff) conducted an investigation that included reviewing damage reports submitted by Cascade Natural Gas Company (CNGC) that identified a natural gas damage event involving Tropical Dew LLC (Tropical Dew or Company). Accordingly, the Commission hereby notifies you that it is assessing a penalty against you for \$5,000 on the following grounds:

On March 21, 2019, the Commission assessed a \$1,000 penalty against Tropical Dew for one violation of RCW 19.122.030(2) for causing damage to an underground natural gas facility while excavating without first providing the required notice to a one-number locator service. Tropical Dew accepted the Commission's offer to suspend the entire \$1,000 penalty on the condition that it incur no additional violations within 12 months of the Notice.

On January 22, 2019, while excavating at 4501 Kitimat Ln, Pasco, Washington, Tropical Dew workers struck and damaged an underground CNGC gas facility. The Damage Information Reporting Tool report submitted by CNGC on March 5, 2019, indicated that Tropical Dew was excavating without a valid request to locate underground utilities. Staff's investigation found that Tropical Dew had failed to submit a valid locate request for this location for the date of the damage incident.

Staff recommends the Commission assess a \$5,000 penalty against Tropical Dew for one violation of RCW 19.122.030(2) for failing to provide the required notice to a one-number locator service before excavating. Staff further recommends that the previous penalty issued on March 21, 2019, which was suspended on the condition that Tropical Dew incur no dig law violations within 12 months of the Notice date, remain suspended because this violation occurred before the penalty was ordered. The recommended penalty is as follows:

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT DG-190628, Investigation # 7982

**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 \$5,000 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violations did not occur for the reasons I describe below (if you do not include reasons supporting your contest here, your request will be denied):

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.

3. **Request mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application here, your request will be denied):

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: 8/14/19 [Month/Day/Year], at Pasco, WA [City, State]

Javier Serratos/Tropical Dew LLC  
Name of Respondent (Company) – please print

[Signature]  
Signature of Applicant

August 14, 2019

Washington Utilities &  
Transportation Commission  
621 Woodland Sq. Loop S.E.  
Lacey, WA 98503

We write to you to requesting the mitigation of the penalty assessment DG-190628 in the amount of \$5000. We, Tropical Dew LLC, understand that we have been found at fault for this incident and have been given this penalty due to a failure to notify locator services. Please consider the following when making your decision:

On March 21, 2019, Tropical Dew LLC was granted a suspension of a \$1000 penalty on the condition that we incur no additional violations within 12 months of the Notice given. From that date forward, we have made sure to make every effort possible to call a locator service before beginning to excavate. Since that date, we have not had a single incident or violation.

When we at Tropical Dew were granted this offer to suspend the penalty, we were very happy to accept. Unfortunately, we were under the impression that it included the incident on January 22, 2019 since it had occurred two months before the offer to suspend the \$1000 penalty.

Hopefully this is enough information for you to consider mitigating our penalty to a lower amount than originally set.

Respectfully,  
Tropical Dew LLC

