

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-250556

PENALTY AMOUNT: \$5,000

Investigation # 9115

EMAIL SERVICE

Doug Konold
1805 Sunshine Way
Chewelah, WA 99109
DAKonold@hotmail.com
Doug@delphi_darkhorse.com

YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE

The Washington Utilities and Transportation Commission (Commission) believes that Doug and Justin Konold (Konolds or Company) violated Revised Code of Washington (RCW) 19.122.055(1)(a) by failing to notify the one-number locate service and causing damage to an underground gas facility.

RCW 19.122.055(1)(a) states, in part, that excavators who fail to notify a one-number locator service and cause damage to an underground gas facility are 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, investigation reports, the One Call Center database, and communications with the Konolds. The documents reviewed identified a natural gas event that involved the Konolds damaging a natural gas facility while excavating without a valid locate ticket.

The Commission reviewed findings and recommendations made by Staff and hereby notifies you that it is assessing a \$5,000 penalty (Penalty Assessment) against you on the following grounds:

1. Alleged Violation:

On June 3, 2025, Doug and Justin Konold were excavating at 1805 Sunshine Way, Chewelah, Washington. While excavating, Justin Konold struck and damaged an underground Avista Corporation (Avista) natural gas facility. The 30-Day report submitted by Avista on June 30, 2025, indicated that the Konolds were excavating without a valid request to locate underground utilities.

2. Analysis:

The alleged violations concern RCW 19.122.055(1)(a), which states, in part, that an excavator must contact the one-number locate center before beginning excavation. On June 3, 2025, an Avista natural gas transmission line was damaged at 1805 Sunshine Way, Chewelah, WA. In the Incident Report submitted by Avista, it states that the homeowner

was digging on the property with no locates and hit an 8" transmission line with an excavator. The damage caused a puncture in the line, release of gas and loss of service to 29 customers. The Avista gas responder noted in the report that the property owner was aware of the gas lines on their property and still did not call for locates prior to excavating on June 3, 2025.

On July 9, 2025, Staff spoke with Avista by phone and they explained they had been out to the same address in April 2025 and had lengthy conversations with Doug and Justin Konold about the gas lines on their property. Avista reiterated that it explained to the Konolds the Dig Law and the requirements to request locates before excavating. Avista explained that on June 3, 2025, when it arrived on site, Doug explained that he and his son Justin had been moving piles of dirt. He further explained that Justin was operating the backhoe to scoop up and move the piles. Doug said that Justin was not very experienced with the bucket and when he was scooping down, he dug down too deep with the excavator bucket and hit the gas line. Avista reported that it observed the backhoe parked on site but did not see Justin on the premises.

On July 9, 2025, Staff spoke with Doug Konold by phone and he explained that he thought he knew where the property line was because Avista had been out there in the past to show him where the line was. Doug explained that the yellow pipeline markers were a far distance away and that he realized only after his neighbor cut the tall grass that his line of sight was off significantly. Doug was regretful that he miscalculated and that he was not doing a better job supervising his son.

Staff reviewed the One Call Center ticket database and found one ticket request submitted by Doug Konold for 1805 Sunshine Way over the past 12 months. Doug and Justin Konold did not have a valid locate request for this address at the time the damage occurred.

The Commission considered the following factors in determining the appropriate penalty amount for the violation:

1. **How serious or harmful the violation is to the public.**
This incident could have been significantly more harmful to the Konolds, workers, utility technicians, nearby homeowners, and the public, and it could have resulted in severe injury and/or loss of property. As a result of the incident, 29 residents lost service.
2. **Whether the violation is intentional.**
This violation appears to be due to negligence by the Konolds rather than a lack of knowledge regarding Washington State's dig law. Doug Konold has submitted a locate request for this address previously and acknowledged he is aware of the Dig Law requirements. Doug Konold believed he already knew where the gas line was on his property and therefore did not believe it was necessary to submit another locate request.
3. **Whether the company self-reported the violation.**
The likelihood of recurrence depends on the Konolds actions going forward and its willingness to notify the one-call location service every time prior to excavation.

4. **The likelihood of recurrence.**

The likelihood of recurrence depends on the Konold's actions going forward and its willingness to notify the one-number locate service every time before beginning excavation.

5. **The Company's previous violations and penalties.**

The Konolds have no previous warning letters or penalties regarding the Dig Law.

The Commission has considered these factors and determined that it should penalize Doug and Justin Konolds as follows:

- \$5,000 penalty for one violation of RCW 19.122.055(1)(a) with an offer to suspend an \$4,000 portion of the penalty for one year, and then waive it, subject to the conditions that:
 - 1) The Konolds complete Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 90 days of this Penalty Assessment;
 - 2) The Konolds must submit documentation of training completion to the Commission; and
 - 3) The Konolds must not commit any further violations of RCW 19.122 within 12 months of the date of this Penalty Assessment.

These facts, if proven 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 violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for a hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation or for mitigation of the penalty 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* RCW 81.04.405.

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 their decision.

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

- Pay the \$5,000 penalty amount due; or
- Pay \$1,000 and notify the Commission that you accept the offer to suspend an \$4,000 portion of the penalty amount subject to the following conditions:
 - Each individual responsible for excavation must complete NUCA Dig Safe Training (<https://utc-9183.quickbase.com/db/bpkt6vndh>) within 90 days of service of this Penalty Assessment; and

- **The Konolds must submit documentation of training completion to the Commission (see attachment); and**
- The Company must not incur any additional violations of RCW 19.122 within 12 months of the date of this Penalty Assessment; or
- Request a hearing to contest the occurrence of the violations; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you wish to make your payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).¹

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective August 25, 2025.

/s/Connor Thompson
CONNOR THOMPSON
Director, Administrative Law Division

¹ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-250556 Investigation # 9115

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, 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:
[] Enclose \$5,000 in payment of the penalty.
OR [] Attest that I have paid the penalty in full through the Commission's payment portal.
- [] 2. **Accept conditions.** I admit that the violation occurred and enclose \$1,000 toward the payment of the penalty. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$4,000 penalty amount subject to the following conditions:
- o Each individual responsible for excavation must complete Dig Safe training provided through NUCA within 90 days of service of this Penalty Assessment; and
 - o The Konolds must submit documentation of training completion to the Commission; and
 - o The Konolds must not commit any further violations of RCW 19.122 within twelve (12) months of the date of this Notice.
- [] 3. **Contest the violation.** I believe that the alleged violation 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.
- [] 4. **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: _____ [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 or she makes a materially false statement which he or she 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 or her 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.