

Service Date: January 21, 2025

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-240944
PENALTY AMOUNT: \$1,000
Investigation # 9056

SERVICE VIA EMAIL

Earl Iddings
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YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE

The Washington Utilities and Transportation Commission (Commission) believes that Earl Iddings d/b/a It's Your Home, LLC (It's Your Home or Respondent) violated Revised Code of Washington (RCW) 19.122.030(2) by failing to provide notice to a one-number locator service not less than two business days before the scheduled excavation date.

RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 for each subsequent violation within a three-year period.

On December 5, 2024, the Safety Committee heard case 24-069 filed by Robin Brown (Brown or Complainant) against It's Your Home and determined the Company violated RCW 19.122.030(2) one time for failing to provide notice to a one-number locator service not less than two business days before the scheduled excavation date. The Safety Committee recommended that the Commission impose a \$1,000 penalty.

Commission staff (Staff) reviewed the documents, reports, and communications with the Safety Committee and agreed with the Safety Committee's findings and recommendations.

The Commission hereby notifies you that it is assessing a \$1,000 penalty (Penalty Assessment) against you on the following grounds:

1. **Alleged Violation(s):**

The Complaint submitted by Robin Brown states that on June 14, 2024, It's Your Home was found excavating at 480 Northeast Hurd Road, Belfair, WA, without providing notice

to a one-number locator service not less than two business days before the scheduled excavation date.

2. **Analysis:**

The alleged violation concerns RCW 19.122.030(2), which states, in part, that an excavator must provide notice to a one-number locator service not less than two business days before the scheduled excavation date. Complainant noted in the submitted complaint that Earl Iddings from It's Your Home, LLC, did not call before he excavated with a backhoe from his property at 480 Northeast Hurd Road, Belfair, WA, to her property at 71 Northeast Purple Martin Place, Belfair, WA.

Staff reviewed the Washington One-Call Center database and found two locate tickets that were called in on September 11, 2024, by Le Iddings and Sons, Inc. (#24386196 and #24386221). Locate ticket #24386196 identified the entire property at 431 Northeast Hurd Road, Belfair, WA, to be marked. Staff did not find a valid locate request for It's Your Home, Earl Iddings, or Le Iddings and Sons, Inc. prior to September 2024, for 480 or 431 Northeast Hurd Road, Belfair, WA.

Peer Review:

During the Safety Committee peer review, Brown provided two photographs. One photograph shows a trench that had been excavated, and the other picture shows a transformer. The Complainant stated that Iddings dug from his side of the property to her property at 71 Northeast Purple Martin Place, Belfair, WA, to get to the transformer. Brown stated that the excavation also cut through the easement to go through the neighbor's property. Brown stated that Iddings left the trench open for 21 days, and the neighbor and a goat fell into it. When Brown asked Iddings to fill in the trench, he became belligerent. Brown stated that she and her husband witnessed Iddings and the subcontractors digging. Brown claimed that the location of the excavating has been readdressed to 431 or 481 Northeast Hurd.

The Respondent stated there were undeveloped lots being excavated upon and the Complainant doesn't like the area being developed. The easements were open for all the neighbors to use, and the utilities were completed by MLS services. Iddings stated that he could not fill in the trench because it was waiting on the inspector, who had been delayed. Iddings further stated that the Company and the contractors did not realize the locates expired after 45 days and thought locates were valid for 90 days. Iddings denied excavating at 480 Northeast Hurd in July 2024. Iddings stated that the excavation was completed by MLS about a year ago, and MLS had called for a locate for all of the properties being developed. Iddings claimed that the open ditches were completed by subcontractors and not by him. Iddings stated that due to potential litigation, he would be unable to answer any questions pertaining to anything other than the location at 480 Northeast Hurd, Belfair, WA. Regarding the photographs provided by Brown, Iddings stated that he did not know where that particular trench or the transformer was located. If the trench was located at 480 Northeast Hurd Road, then it would be the contractor that opened the trench, but he doesn't know where that trench is. Iddings stated that he would be willing to share information regarding any excavation privately but does not feel comfortable sharing the information with Brown since there may be litigation.

Staff reviewed the photographs provided by the Complainant and compared them to a Google Map search. Google Maps shows that 480 Northeast Hurd Road and 431 Northeast Hurd Road are

separated by NE Hurd Rd. Staff conducted a search on Google Maps, and based on this review, it appears that Northeast Purple Martin Road pavement ends at that location where there is a meter that is similar to the one pictured in the photograph provided by Complainant that shows the excavated trench.

On December 31, 2024, Staff contacted the Complainant's spouse Todd Brown (Todd) for further information. Todd stated that he and the Complainant witnessed Iddings operating a blueish, possibly a teal, medium-sized backhoe and cutting into the dirt. Todd and Complainant saw Iddings 2000s white pickup, which had a flatbed. Todd and Complainant then saw Iddings unload the backhoe from the flatbed and drive it down the road. Todd stated that when he and the Complainant saw this, he walked out and introduced himself to three men standing around the trench. Todd asked for the owner of the property, and one of the men pointed to Iddings, who was operating the backhoe. Iddings told Todd that he was digging to attach power to the transformer box. Todd told Iddings that his property extended past the end of the pavement of Purple Martin Place into the trees and bushes where the transformer was located. Todd sent Staff additional pictures and confirmed that the transformer in the picture was located past the end of the pavement and approximately 10 feet into the bushes. Todd confirmed the picture of the trench was located near the meter that Staff identified on Google Maps. Todd stated it appears that Iddings now has power for the modular home on the property at 431 NE Hurd Road. Todd confirmed that the correct address for the excavation was 431 NE Hurd Road. The address listed on the complaint, 480 NE Hurd Road, had been subdivided at one point but Iddings never notified the neighbors, nor was there any posting of the new address, 431 NE Hurd Road, anywhere on the property or near the road. Therefore, the address listed on the complaint was the only known address to Todd. Todd had a locator respond about installing a utility pole for a possible future shop and learned that Iddings came within inches of a live power line that served their property.

On December 31, 2024, Staff contacted the Complainant who stated that she saw Iddings using his excavator on June 13, 2024. She claimed that she witnessed Iddings exit his backhoe to take a phone call. Iddings was accompanied by two other males named Mark and Dane (LNU). The Complainant remembers the date this excavation occurred because she was having new flooring installed and was helping by removing debris from her house. The Complainant knew the address was 480 NE Hurd Road, Belfair, and didn't know that the property had been subdivided to 431 NE Hurd Road.

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 It's Your Home workers, utility technicians, nearby homeowners, and the public, and it could have resulted in severe injury and/or loss of property.

2. **Whether the violation is intentional.**

The violation does not appear to be intentional, but rather due to negligence by It's Your Home. Over the past 36 months (January 2, 2022 – January 2, 2025), It's Your Home has not been penalized by the Commission for violations of RCW 19.122.030. It's Your Home

has requested four locates in the past 36 months and is aware of the requirements to comply with the dig law.

3. **The likelihood of recurrence.**

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

4. **The Company's has not had any previous violations or penalties.**

The Commission has considered these factors and agrees with the Safety Committee's findings of probable violation and penalty recommendation, as follows:

- \$1,000 penalty for one violation of RCW 19.122.030(2) with an offer to suspend an \$800 portion of the penalty for one year, and then waive it, subject to the conditions that:
 - 1) Earl Iddings must complete Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 90 days of this Penalty Assessment;
 - 2) Earl Iddings must submit documentation of training completion to the Commission; and
 - 3) Earl Iddings 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 \$1,000 penalty amount due; or
- Pay \$200 and notify the Commission that you accept the offer to suspend an \$800 portion of the penalty amount subject to the following conditions:

- Earl Iddings must complete NUCA Dig Safe Training (<https://utc-9183.quickbase.com/db/bpkt6vndh>) within 90 days of service of this Penalty Assessment; and
- **Earl Iddings must submit documentation of training completion to the Commission;** and
- Earl Iddings 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 violation; 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, P.O. 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 January 21, 2025.

/s/ James E. Brown II
JAMES E. BROWN II
Acting 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 D-240944 Investigation # 9056

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 and:
- Enclose \$1,000 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 \$200 toward the payment of the penalty. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$800 penalty amount subject to the following conditions:
- Earl Iddings must complete Dig Safe training provided through NUCA within 90 days of service of this Penalty Assessment; and
 - Earl Iddings must submit documentation of training completion to the Commission; and
 - Earl Iddings 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.