

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: DG-180827  
PENALTY AMOUNT: \$2,000  
Investigation #7775

UBI: 601-006-854  
Phone: (509) 534-2657

Inland Asphalt Company  
5111 E Broadway Ave.  
Spokane Valley, WA 99212

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(2) by failing to request a dig ticket prior to performing an excavation. RCW 19.122.055 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 \$10,000 for each violation.

Commission staff (Staff) conducted an investigation that included reviewing damage reports submitted by Avista, which identified a natural gas damage event involving Inland Asphalt Company (Inland Asphalt or Company). 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 22, 2017, the Commission mailed an Alleged Violation of Washington Dig Law letter to Inland Asphalt informing the Company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. This letter was sent following a damage incident that occurred on June 26, 2017, at 1707 E 38<sup>th</sup> Ave., Spokane, Washington. Inland Asphalt failed to obtain a valid dig ticket prior to excavation and damaged an underground utility. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation.

**(Second Violation)**

On June 14, 2018, Inland Asphalt performed an excavation while grading at 6010 E Greenbluff Rd., Colbert, Washington. Prior to beginning excavation, Inland Asphalt failed to request a dig ticket from a one-number locator service to have underground utilities located and marked. An underground gas line was struck and damaged by equipment used by Inland Asphalt's employees.

On July 9, 2018, Avista submitted a Damage Information Reporting Tool (DIRT) report identifying Inland Asphalt as the party responsible for damaging the natural gas service line on June 14, 2018. Staff was unable to find a valid dig ticket for Inland Asphalt at this location on this date.

Staff recommends the Commission assess a \$2,000 penalty against Inland Asphalt for two violations of RCW 19.122.030(2) for failing to provide the required notice to a one-number locator service not less than two business days before excavating. The recommended penalty is as follows:

- \$1,000 penalty for the violation of RCW 19.122.030(2), which occurred on June 26, 2017; and
- \$1,000 penalty for the violation of RCW 19.122.030(2), which occurred on May 9, 2018.

Staff's research indicates that Inland Asphalt has a relatively significant history of requesting utility locates. As such, the violations appear to be the result of the Company's negligence rather than a lack of knowledge of the requirements of Washington's dig law. Inland Asphalt has submitted 78 utility locate requests since receiving the technical assistance warning letter, which demonstrates that Inland Asphalt is fully aware of the dig law requirements.

The Commission agrees with Staff's recommendation and assesses a penalty of \$2,000.

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 either or both of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation(s) 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 hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) 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(s) 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 \$2,000 penalty amount due; or
- Request a hearing to contest the occurrence of either or both of the violation(s); or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, P.O. 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 November 7, 2018.

*/s/ Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
PENALTY ASSESSMENT DG-180827, Investigation # 7775

**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 and enclose \$2,000 in payment of the penalty.
2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe 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.
3. **Request 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.”