

**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

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

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

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:

- \$5,000 penalty for the violation of RCW 19.122.030(2) that occurred on January 22, 2019.

Staff's research indicates that Tropical Dew has submitted 29 requests to locate underground utilities since January 1, 2018. The Commission is aware of three underground utility damage incidents caused by Tropical Dew, all of which occurred because Tropical Dew failed to submit a utility locate request before excavating.

The Commission agrees with Staff's recommendation and assesses a penalty of \$5,000.

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 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 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 his or her decision.

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

- Pay the \$5,000 penalty amount due; 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 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 Lacey, Washington, and effective July 31, 2019.

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

**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: \_\_\_\_\_ [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.”