

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-190718

PENALTY AMOUNT: \$6,000

Investigation # 8006

UBI: 602-851-695

Phone: (509) 308-5747

Tri City Excavation & Concrete LLC
1248 Riesling St.
Richland, WA 99352

The Washington Utilities and Transportation Commission (Commission) believes that Tri City Excavation & Concrete LLC (Tri City Excavation or Company) has violated Revised Code of Washington (RCW) 19.122.055 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 Corporation (CNGC) that identified natural gas damage events involving Tri City Excavation. Accordingly, the Commission hereby notifies you that it is assessing a penalty of \$6,000 against you on the following grounds:

On May 2, 2017, Tri City Excavation employees struck and damaged a natural gas line operated by CNGC while excavating at 2676 Grayhawk Loop, Richland, Washington. Tri City Excavation did not request a dig ticket from a one-number locator service to locate underground utilities before excavating. Following the damage incident, CNGC submitted a Damage Incident Reporting Tool (DIRT) report identifying the Company as the party responsible for damaging the natural gas service line. Staff was unable to find a valid dig ticket for Tri City Excavation at this location on this date.

The Commission mailed an Alleged Violation of Washington Dig Law letter to the Company on July 20, 2017, that included detailed information about the requirements of Washington state's underground utility damage prevention act and the possibility of penalties for each violation.

First Violation

On January 24, 2018, Tri City Excavation employees struck and damaged a natural gas line operated by CNGC while excavating at 2010 Amy Loop, Pasco, Washington. Tri City Excavation did not request a dig ticket from a one-number locator service to locate underground utilities before excavating. On September 18, 2018, CNGC submitted a DIRT report identifying the Company as the party responsible for damaging the natural gas

service line. Staff was unable to find a valid dig ticket for Tri City Excavation at this location on this date.

Second Violation

On March 25, 2019, Tri City Excavation employees struck and damaged CNGC's underground gas line while excavating during construction at 3364 S Lincoln St., Kennewick, Washington. Before beginning excavation, Tri City Excavation failed to request a dig ticket from a one-number locator service to locate underground utilities.

On April 17, 2019, CNGC submitted a DIRT report identifying the Company as the party responsible for damaging the natural gas service line. Staff was unable to find a valid dig ticket for the Company at this location on this date.

Third Violation

On May 1, 2019, Tri City Excavation employees struck and damaged CNGC's underground gas line while excavating at 8004 Babine Dr., Pasco, Washington. Before beginning excavation, Tri City Excavation failed to request a dig ticket from a one-number locator service to locate underground utilities.

On June 11, 2019, CNGC submitted a DIRT report identifying the Company as the party responsible for damaging the natural gas service line. Staff was unable to find a valid dig ticket for the Company at this location on this date.

Staff recommends the Commission assess a \$6,000 penalty against Tri City Excavation for three violations of RCW 19.122 for failing to provide the required notice to a one-number locator service before excavating, as follows:

- \$1,000 penalty for the first violation of RCW 19.122.030(2) that occurred on January 24, 2018; and
- \$2,500 penalty for the second violation of RCW 19.122.030(2) that occurred on March 25, 2019.
- \$2,500 penalty for the third violation of RCW 19.122.030(2) that occurred on May 1, 2019.

The Commission agrees with Staff's recommendation and assesses a penalty of \$6,000.

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 any or all of 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 violations 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 violations 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 violations 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 \$6,000 penalty amount due; 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 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 October 7, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-190718, Investigation # 8006

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 \$6,000 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 violations, 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.”