

Docket No. DG-150491 - Vol. I

**In the Matter of the Penalty Assessment Against Tom
Wise d/b/a Take Wise, LLC**

June 5, 2015

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BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty) Assessment Against) TOM WISE) Docket DG-150491 TANK WISE, LLC) Pages 1-34 In the amount of \$2,000)

EVIDENTIARY HEARING, VOLUME I Pages 1 - 34 ADMINISTRATIVE LAW JUDGE MARGUERITE E. FRIEDLANDER

10:00 A.M. JUNE 5, 2015 Washington Utilities and Transportation Commission 1300 South Evergreen Park Drive Southwest Olympia, Washington 98504-7250

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1 EVIDENTIARY HEARING 2 EXAMINATION INDEX 3 EXAMINATION BY PAGE 4 WITNESSES: 5 ANTHONY DORROUGH 6 Mr. Shearer. 7 7 Judge Friedlander. 14 8 9 TOM WISE 10 Judge Friedlander. 20 11 Mr. Shearer. 21 12

13 EXHIBIT INDEX 14 EXHIBITS PAGE 15 Exhibit AD-1 (Admitted) 12 16 Exhibit AD-2 (Admitted) 12 17 18 19 20 21 22 23 24 25

1 APPEARANCES 2 ADMINISTRATIVE LAW JUDGE: 3 MARGUERITE E. FRIEDLANDER 4 Administrative Law Judge 5 Washington Utilities and 6 Transportation Commission 7 1300 South Evergreen Park Drive SW 8 P.O. Box 47250 9 Olympia, Washington 98504 10 360.664.1136

11 FOR WASHINGTON UTILITIES AND 12 TRANSPORTATION COMMISSION: 13 14 BRETT SHEARER 15 Assistant Attorney General 16 P.O. Box 40128 17 Olympia, Washington 98504 18 (360) 664-1187 19 bshearer@utc.wa.gov

20 FOR TANK WISE, LLC: 21 TOM WISE 22 Tank Wise, LLC 23 5405 West Marginal Way Southwest 24 Seattle, Washington 98106 25 (206) 937-3995 wtankwise@gmail.com

1 EVIDENTIARY HEARING 2 OLYMPIA, WASHINGTON; JUNE 5, 2015 3 10:04 A.M. 4 5

6 JUDGE FRIEDLANDER: We'll be on the record. 7 Good morning, everyone. We're here for an 8 evidentiary hearing in Docket DG-150491, and we are 9 currently scheduled to start at 10:00. We're a little 10 past that. We're going to take a recess. Hopefully 11 it's brief until Mr. Wise appears. It's our 12 understanding, through Mr. Shearer, that he is on his 13 way, so we shall take a brief recess. Thank you.

14 (A break was taken from 15 10:04 a.m. to 10:20 a.m.)

16 JUDGE FRIEDLANDER: Good morning. Let's go 17 on the record.

18 My name is Marguerite Friedlander, and I'm 19 the administrative law judge presiding over this matter 20 today before the Washington Utilities and Transportation 21 Commission on June 5th, 2015 to begin a hearing in 22 Docket DG-150491 to address a penalty assessed against 23 Tank Wise, LLC in the amount of \$2,000.

24 The purpose of today's hearing is to take 25 evidence and testimony from both parties on the issues

1 EVIDENTIARY HEARING
 2 in the proceeding. My plan is to take appearances of
 3 the parties first, address any preliminary issues the
 4 parties may have, and then get right into the witness
 5 testimony.
 6 Staff has brought the matter before the
 7 Commission, and they have the burden of proof, so they
 8 will go first with their witness. And then you'll have
 9 an opportunity to cross-examine Mr. Dorrough, Mr. Wise.
 10 And then after you've had that opportunity, you may
 11 present your testimony, and Mr. Shearer will have an
 12 opportunity to cross-examine you on your testimony. And
 13 after that, we'll be done.
 14 So let's take appearances from the parties,
 15 beginning with Staff, and for -- since this is our first
 16 time meeting, let's go ahead and do full appearances,
 17 which means please give me your business address,
 18 telephone number, e-mail address, and that's pretty much
 19 it.
 20 MR. WISE: Okay.
 21 JUDGE FRIEDLANDER: All right. Mr. Shearer?
 22 MR. SHEARER: Good morning, Your Honor. My
 23 name is Brett Shearer. I'm an Assistant Attorney
 24 General representing Commission Staff. My business
 25 address is P.O. Box 40128, Olympia, Washington 98504.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 need to address before we get into the hearing today?
 3 MR. SHEARER: Staff has none, your Honor.
 4 JUDGE FRIEDLANDER: Okay. Thank you.
 5 MR. WISE: No.
 6 JUDGE FRIEDLANDER: And let's go ahead and
 7 proceed with the witness then.
 8 MR. SHEARER: I would like to call Staff's
 9 witness, Anthony Dorrough, please.
 10 JUDGE FRIEDLANDER: Okay. Thank you. If
 11 you'll remain standing and raise your right hand.
 12
 13 ANTHONY DORROUGH, (witness sworn.)
 14
 15 JUDGE FRIEDLANDER: You can be seated.
 16 Mr. Shearer, you can proceed.
 17 And I would note for the record that Staff
 18 has provided us with -- has provided the Bench with a
 19 Staff exhibit list and both exhibits AD-1 and AD-2.
 20 MR. SHEARER: Thank you, your Honor.
 21
 22 EXAMINATION
 23 BY MR. SHEARER:
 24 Q. Can you please provide your name and spell your
 25 last name for the record.

1 EVIDENTIARY HEARING
 2 My email is bshearer@utc.wa.gov.
 3 JUDGE FRIEDLANDER: And did you give us a
 4 phone number?
 5 MR. SHEARER: Oh, I apologize. My phone
 6 number is (360) 664-1187.
 7 JUDGE FRIEDLANDER: Thank you. And,
 8 Mr. Wise?
 9 MR. WISE: My name is Tom Wise. Do I have
 10 to push this?
 11 JUDGE FRIEDLANDER: Yeah. If you see the
 12 red light, you know it's on.
 13 MR. WISE: No red light. There it is.
 14 JUDGE FRIEDLANDER: Okay. Perfect.
 15 MR. WISE: My name is Tom Wise, representing
 16 Tank Wise, LLC, Seattle, Washington, 5405 West Marginal
 17 Way Southwest, 98106. Phone number, (206) 937-3995.
 18 Email address, wtankwise@gmail.com.
 19 JUDGE FRIEDLANDER: Thank you.
 20 Does anyone on the bridge line or anyone
 21 else in the hearing room wish to make an appearance
 22 today? There's really no one but Staff in the hearing
 23 room, and hearing nothing on the conference bridge,
 24 we'll proceed.
 25 Are there any preliminary issues that we

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 A. My name is Anthony Dorrough, D-O-R-R-O-U-G-H.
 3 Q. And what is your position here at the Commission,
 4 Mr. Dorrough?
 5 A. I'm a pipeline safety engineer for the pipeline
 6 office.
 7 Q. Can you please describe your role in this case,
 8 Docket DG-150491.
 9 A. My role was as an investigator. There was
 10 reports of damage to operators' facilities, and I just
 11 went and met with the utility and also gave Mr. Wise a
 12 telephone call to get his side of the situation.
 13 Q. Can you provide an additional description of the
 14 actual investigation.
 15 A. Sure. There was a report of a property --
 16 utility property damage, and they gave us a report and
 17 let us know that somebody had dug into their line. We
 18 took a look at that report. I went in to see if the
 19 parties involved had called for locates ahead of time
 20 and what other situations. I saw that there were no
 21 locates called in both the situations here, and then I
 22 decided -- I met with the utility to get their side of
 23 the situation, and then I gave Mr. Wise a call to get
 24 his side of the situation and wrote up a report based on
 25 the information I received.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 **Q. I'm going to turn your attention to the exhibit**
 3 **list that I've handed out. I'm going to turn to the**
 4 **first one, which I have labeled as AD-1. Do you see**
 5 **that?**
 6 A. Yes.
 7 **Q. Do you recognize this document?**
 8 A. Yes, I do.
 9 **Q. And can you please describe its contents.**
 10 A. Basically it's a report that states whether a
 11 contractor or anybody that's doing any digging is
 12 supposed to call into the One Call service to let people
 13 know that they're going to do that and get a ticket
 14 number issued to them, and then this report kind of
 15 documents that. And in this report that I have right
 16 here, there was no documentation of any kind of utility
 17 locate call or anything.
 18 **Q. And did you rely on this report as part of your**
 19 **investigation in this case?**
 20 A. Yes, I did.
 21 **Q. Thank you, Mr. Dorrough.**
 22 **I'm going to ask you to turn to the next exhibit,**
 23 **which is labeled as AD-2. Do you recognize this**
 24 **document?**
 25 A. Yes, I do.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 JUDGE FRIEDLANDER: Right. You have copies
 3 of the exhibits, do you not?
 4 MR. WISE: I do not. I mean, well, if this
 5 is a copy of the exhibits.
 6 MR. SHEARER: That's what we just went
 7 through.
 8 JUDGE FRIEDLANDER: Yeah.
 9 MR. WISE: All right.
 10 JUDGE FRIEDLANDER: Yeah, yeah.
 11 MR. WISE: It basically tells me just
 12 nothing but a date.
 13 JUDGE FRIEDLANDER: Oh, no, if you take the
 14 paper clip off, I believe behind that are the exhibits.
 15 MR. WISE: Oh, okay. This is what I was
 16 given before, and I thought that was the main --
 17 JUDGE FRIEDLANDER: Gotcha, gotcha. Yeah,
 18 if you want to examine those and let me know if you have
 19 any objections.
 20 MR. WISE: Well, let's make sure it's the
 21 right one.
 22 The first one is okay.
 23 And that one is okay too. As --- the
 24 addresses of the places are, yes.
 25 JUDGE FRIEDLANDER: Okay. Thank you.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 **Q. And can you please briefly describe its contents.**
 3 A. Same thing. It's another report that basically
 4 is there to -- from the One Call Center that outlines
 5 the damage, and then if a party or contractor or anybody
 6 has called in for locates or not. And on this report,
 7 there's no indication of any locates that were called
 8 out.
 9 **Q. And did you rely on this document in the course**
 10 **of your investigation?**
 11 A. Yes, I did.
 12 **Q. Thank you, Mr. Dorrough.**
 13 MR. SHEARER: Your Honor, I'm just going to
 14 ask that the two exhibits be admitted into the record.
 15 JUDGE FRIEDLANDER: Okay. Thank you.
 16 Mr. Wise, do you have any objection to admission of
 17 these records into the -- I'm sorry, of the pieces of
 18 evidence into the record?
 19 MR. WISE: I do not have any objection to
 20 the fact that I did not call for a locate.
 21 JUDGE FRIEDLANDER: Okay. But I mean, do
 22 you have any objection to the form or substance of these
 23 exhibits themselves?
 24 MR. WISE: Well, I don't know the exhibits.
 25 I just know these numbers.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
 2 So these two exhibits will be admitted into
 3 the record.
 4 (Exhibits AD-1 and AD-2 admitted.)
 5 BY MR. SHEARER:
 6 **Q. Now, Mr. Dorrough, the pipeline staff in this**
 7 **case recommended a penalty of \$1,000 per violation, for**
 8 **a total of \$2,000 in penalties; is that accurate?**
 9 A. Yes, it is.
 10 **Q. Can you please describe the rationale behind**
 11 **Staff's recommended penalty amount.**
 12 A. Well, after investigating, looking into the
 13 incidents and checking to find out if the incidents
 14 actually happened or not, and then I went and checked to
 15 see if Mr. Wise had -- you know, what their record was
 16 with calling locates. I saw that they had called in
 17 locates before, and after his conversation with me on
 18 the phone, he let me know that there was a mistake, he
 19 had forgotten to call in these two incidences. So
 20 because it's serious when these pipelines are hit
 21 because it can cause damage and fire, and so when we see
 22 more than one, we take it very seriously. So after
 23 speaking with Mr. Wise and looking at -- and seeing the
 24 record that he has called for locates in the past, we
 25 decided to mitigate that amount and indicate only a

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
2 thousand dollars for each incident.

3 **Q. What can happen when you hit a gas line?**

4 A. Well, there's a number of things that can happen.
5 There can be a release of gas, and if you have equipment
6 that's nearby that is -- and the conditions are right,
7 it can actually ignite and cause a fire. If there is a
8 lot of gas that's released, it can cause evacuation of
9 individuals from buildings. And depending on what's by
10 it, either schools or public buildings where lots of
11 individuals are meeting, then all those spaces have to
12 be evacuated. The fire department usually responds as a
13 First Responder, and they might even have other things
14 that they want to do along with that. So it's pretty
15 serious.

16 **Q. Thank you, Mr. Dorrough.**

17 MR. SHEARER: I have no further questions,
18 Your Honor.

19 JUDGE FRIEDLANDER: Thank you. Mr. Wise, do
20 you wish to cross-examine Mr. Dorrough?

21 MR. WISE: Well, as the explosive factor
22 that a gas line is, to be able to go ahead and try to
23 correct it by putting a plug in the line, that's normal
24 case as it would be to happen, but no, I'm good.

25 JUDGE FRIEDLANDER: Okay, okay. So no

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
2 it --

3 A. I believe it was a private residence.

4 **Q. Okay.**

5 A. But I'm not too sure. I talked to the utility,
6 and they gave me the address --

7 **Q. Gotcha.**

8 A. -- but from the address, it seemed like it was a
9 private residence. Usually they'll notate that if it's
10 a commercial residence or --

11 **Q. Gotcha.**

12 A. And I can tell by the size of the line.

13 **Q. That it's residential?**

14 A. Yes.

15 **Q. Okay. Great. Thank you.**

16 JUDGE FRIEDLANDER: That's all the questions
17 that I have. You're excused from the witness stand, and
18 I thank you for providing testimony.

19 MR. DORROUGH: Thank you.

20 JUDGE FRIEDLANDER: Thank you.

21 So, Mr. Wise, we'll go ahead and swear you
22 in if you would like to testify, and then after you give
23 your statement, as I said before, Mr. Shearer will have
24 the opportunity to ask you some questions relating to
25 your testimony, if you would like to do that.

1 EVIDENTIARY HEARING - TESTIMONY OF ANTHONY DORROUGH
2 questions?

3 MR. WISE: I understand the problems that
4 can come about.

5 JUDGE FRIEDLANDER: Okay. Thank you.
6 I have just a few brief clarification
7 questions.

8 **EXAMINATION**

9 **BY JUDGE FRIEDLANDER:**

10 **Q. So you mentioned that there was damage sustained**
11 **each time. Can you describe for me what the damage was.**

12 A. Sure. The report -- one of the incidences, it
13 says here, Contractor was moving the oil tank, hit and
14 severed a 5/8-inch P -- P service line with his trackhoe
15 so the service line was damaged, and the utility had to
16 come out to repair it.

17 **Q. Okay.**

18 A. And in the second incident, the same thing, he
19 basically broke a gas service line to a residential
20 home; therefore, causing the utility to have to come out
21 and repair that damage.

22 **Q. The home in the second instance, the home that**
23 **was near the gas line that was damaged, do you know if**
24 **it was private property, if it was Mr. -- where was it**
25 **located? I know Seattle is where it's listed, but was**

1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE

2 MR. WISE: Ask Anthony here, he's a pipeline
3 representative for what it is. The one thing that I
4 have --

5 JUDGE FRIEDLANDER: Well, let's go ahead and
6 swear you in first. If you'll stand and raise your
7 right hand.

8 MR. WISE: Sure.

9
10 TOM WISE, (witness sworn.)

11
12 JUDGE FRIEDLANDER: Thank you. You can be
13 seated.

14 MR. WISE: Anyway, as he was talking about
15 the second incidence at -- oh, let's go to 1900 - 16th
16 Avenue South, that gas meter and line was an exposed
17 line factor for what it was, meaning I didn't need to
18 call for a locate because the gas meter was just
19 installed a week before that maybe. Maybe not.

20 JUDGE FRIEDLANDER: So was there still the
21 paint on the ground indicating where they were going to
22 install it or was there -- what was the --

23 MR. WISE: It was an exposed line.

24 JUDGE FRIEDLANDER: Okay. So when you
25 say --

1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 MR. WISE: In other words, they had a
 3 ditching created from where they dug the ditch.
 4 JUDGE FRIEDLANDER: Okay.
 5 MR. WISE: This was a very small, postage
 6 stamp yard of about 10 feet in width from the house to
 7 the street -- or to the sidewalk property line.
 8 JUDGE FRIEDLANDER: Okay.
 9 MR. WISE: The opportunity to go ahead and
 10 have normally 8 feet as a setback is what it is for
 11 normal houses. This one was not quite normal. This was
 12 built way before the problems or whatever. The gas line
 13 was dug as a ditch to the house. The meter was
 14 installed. There was no gas piping to the interior of
 15 the house or anything of that nature. Knowing where
 16 this -- this dug spot was, was not a particular problem.
 17 As we took the tank out, the line itself was exposed,
 18 and the connection to where they put the gas meter
 19 pigtailed to the house as a nice little black connector,
 20 it was exposed as well. Upon the tank coming out of the
 21 ground, it pushed against that little black rigid
 22 connector and it popped it. It broke it.
 23 JUDGE FRIEDLANDER: Okay.
 24 MR. WISE: So I mean, it wasn't that I
 25 didn't know that it was there. I understand I did not

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 2 of a problem, that's what I generally try to do, but now
 3 as they say, no, get away from it, stand clear. This
 4 hose is going to point out fumes that can light off for
 5 what it is, and that's fine, but to be able to control
 6 it, I don't see a particular problem with a wooden plug.
 7 JUDGE FRIEDLANDER: Okay.
 8 MR. WISE: They're 5/8 lines as a very small
 9 pipe to be able to give you the pound pressure, 2 pounds
 10 of pressure coming up to the house to be able to
 11 regulate 7 inches of water column, which is still a very
 12 small amount. I've dealt with gas all my life, as I was
 13 in the heating oil industry, and last hurrah, I get to
 14 deal with the oil customers who put their furnace into a
 15 gas furnace instead of an oil furnace. I did that for
 16 27 years that I was working with the oil company.
 17 Neither here nor there.
 18 I understand lots of things that maybe the
 19 general person wouldn't understand, but yeah, to be able
 20 to keep them safe and clear, that's understandable. And
 21 yes, I did not call.
 22 As the 6 foot of open line, I don't know
 23 that, you know -- I just hit the darn thing, and that's
 24 the way it went, but okay.
 25 JUDGE FRIEDLANDER: Okay.

1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 call for dig. Everything else to the house is overhead
 3 power, overhead telephone, overhead cable, so there was
 4 nothing as -- nothing else available to be buried in
 5 that particular yard. But like I say, they had 6 feet
 6 of the line exposed to the black connector, and for some
 7 reason, the tank twisted and hit that connector and
 8 broke it.
 9 All right. That was that incident.
 10 The other incident in Kent -- or Renton,
 11 I'll take full responsibility on for the fact that I did
 12 not call. The meter was not even close to being
 13 visible, and it was behind all kinds of brush and piles
 14 of rotting, stacked-up firewood. I mean, it was just,
 15 all of a sudden, oh, no. Well, as we noted, the tank --
 16 the meter was there. We worked very carefully --
 17 diligently to be able to locate the line by hand, and
 18 was not located until all of a sudden, oh, here it is.
 19 It's leaking.
 20 Both cases, we put plugs into the lines so
 21 that it didn't create the gas problem, as what can come
 22 about.
 23 Talking to the response person, oh, no, you
 24 can't do that. Well, we already plugged it up. So I
 25 mean, to stop the problem as to be able to create more

1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 MR. WISE: Enough of my problems.
 3 JUDGE FRIEDLANDER: Well, if you have
 4 anything else to say, otherwise, I'll go ahead and open
 5 it up for cross-examination.
 6 MR. WISE: That's fine.
 7 JUDGE FRIEDLANDER: Okay. Mr. Shearer?
 8
 9 EXAMINATION
 10 BY MR. SHEARER:
 11 Q. Mr. Wise, you understand the concern, the general
 12 concern, for not hitting gas lines, correct?
 13 A. Sure, safety and liability.
 14 Q. Uh-huh. And you -- would you agree that it's a
 15 big deal when a gas line gets hit? It can be a big
 16 deal?
 17 A. It has the potential of being a disaster.
 18 Q. And are you aware what the maximum allowable
 19 penalty is under the statute?
 20 A. Yes.
 21 Q. Can you tell us what that is or what your
 22 understanding of that is.
 23 A. Well, my understanding at this time is the fact
 24 that I could die, but the penalty would be, is a
 25 thousand dollars per incidence of what it is and/or the

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1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 cost of the repairs to the line.
 3 **Q. Would you accept, subject to check, that the**
 4 **maximum allowable statutory penalty is actually \$10,000?**
 5 A. I didn't know that.
 6 **Q. Well, for our purposes, will you accept that,**
 7 **subject to you can verify -- subject to your own**
 8 **verification?**
 9 A. Well, my verification of a \$10,000 penalty, I'll
 10 take it on your hearsay.
 11 **Q. Okay. And is it accurate that Staff's**
 12 **recommending a thousand dollar penalty for each**
 13 **violation; is that your understanding?**
 14 A. That's my understanding.
 15 MR. SHEARER: Thank you, your Honor. I have
 16 no further questions.
 17 JUDGE FRIEDLANDER: Okay. Thank you. I
 18 just have a couple of clarification questions, just to
 19 understand your business and the procedure a little bit
 20 better.
 21
 22 EXAMINATION
 23 BY JUDGE FRIEDLANDER:
 24 **Q. How would you describe Tank Wise? What kind of a**
 25 **business is it?**

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 2 A. Well, I started out as -- as Tank Wise because I
 3 was kind of frustrated with the way people were
 4 representing the fact that heating oil is an
 5 environmental nightmare, and as I went ahead and started
 6 Tank Wise in 1995, working with the oil companies, there
 7 was about five different oil companies that I used to do
 8 tank replacements for as the heating oil tanks would be
 9 coming of age and then they would have a particular
 10 problem.
 11 As heating oil was always considered as an
 12 irritant in the Department of Ecology here in Washington
 13 State, as an irritant that it is, then you need to take
 14 care of an irritant. If it is not an irritant where it
 15 does not flow across a property line or infect a day
 16 sloper, where you can have an odor, which could be a
 17 health issue or the environment where it bubbles up out
 18 of the ground over here and the screening as the
 19 irritant that it would be. They were allowed to leave
 20 that soil alone on private property for what it is, if
 21 so that the homeowner would like to do that.
 22 A lot of these oil companies -- or tank companies
 23 were saying, oh, no, you have to do this, you have to do
 24 that. The Model Toxic Control Act wasn't put forth
 25 towards heating oil as such until approximately '98, but

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1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 the opportunity to go ahead and work with the people as
 3 an informant to what their rights are for the heating
 4 oil as a decommissioner, I am -- I have to tell them
 5 that they have some contamination, and it's up to them
 6 to understand the basic rules of an irritant, whether it
 7 irritates anybody or anything. It will naturally
 8 decompose in the ground where the dirt absorbs this oil
 9 and allows it to be locked in place.
 10 It's kind of like getting a spot of grease on
 11 your shirt, and you get that round circle around that
 12 spot of -- let's call it gravy. So you can take that
 13 chunk of gravy out of the middle, that spot doesn't keep
 14 growing after it's gone.
 15 JUDGE FRIEDLANDER: Right.
 16 MR. WISE: And that's the same way with oil
 17 in the ground too. It's absorbed to the clays
 18 primarily, which generates a different color. But yes,
 19 installations was my main thing, working with a whole
 20 bunch of the oil companies. Decommissions were
 21 requested. Started doing them in about 1982 as requests
 22 for the City of Seattle. They went from a \$50 a year
 23 permit to be able to have a tank in a right-of-way, to
 24 \$500 a year for that tank in a right-of-way. A lot of
 25 the places they would have these heating oil tanks,

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1 EVIDENTIARY HEARING - TESTIMONY OF TOM WISE
 2 whether they heated a business, a product or the house
 3 itself that were in the right-of-ways were requested to
 4 come out of the ground, so consequently, I got to know
 5 the permit issues of everything to deal with for
 6 commercial -- because this is all commercial -- any time
 7 it's in the right-of-way, it will always be a
 8 commercial. So I got good at doing the permit process,
 9 doing the work, and learning how to repair concrete
 10 sidewalks.
 11 **Q. Okay. So --**
 12 A. That was in '82.
 13 **Q. Okay.**
 14 A. Okay. Then I started my own business as Tank
 15 Wise -- or I was decommissioning tanks with West Fuel
 16 Company from basically that 1982 point on.
 17 In 1993, West Fuel Company had started thinking
 18 about being able to discontinue as they wanted to go
 19 ahead and sell off the owner -- owner of the company
 20 went ahead and got to the age where he wanted to retire.
 21 Retirement happened in '94, and I started Tank
 22 Wise as my own business in '95 knowing something and
 23 knowing people to work with.
 24 **Q. Okay. That's kind of the background that I**
 25 **needed because I wasn't sure exactly whether you were a**

6 (Pages 21 to 24)

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1 **EVIDENTIARY HEARING - TESTIMONY OF TOM WISE**
 2 **contractor, whether this was something that you were**
 3 **doing for a friend or --**
 4 A. Yeah, no, this is all bigger knowledge of my own
 5 self to keep everybody happy.
 6 **Q. Gotcha. Okay. Great. Thank you.**
 7 A. I always work with the Pollution Liability
 8 Insurance Agency of the State of Washington. I help set
 9 up lots of the rules of what goes on through the
 10 different city jurisdictions.
 11 I mean, Edmonds didn't have a clue -- because
 12 this was all new stuff in that period of time, where
 13 permits for the tanks as individual registration, which
 14 I wanted to really pound hard on for all the fire
 15 departments had control of all -- all the petroleum or
 16 associated tanks of any flammability. It's their
 17 knowledge. They have to keep record of. They were
 18 supposed to have done that all the way along. I didn't
 19 want to be the bearer of a person that says, you're not
 20 doing your job right, but I let them know.
 21 **Q. Okay.**
 22 A. As King County, they had a problem where they put
 23 out \$200 permits for going ahead and doing these things.
 24 I said, look, you're charging over a third of the cost
 25 to do the job for the permit. You don't want these

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1 **EVIDENTIARY HEARING - TESTIMONY OF TOM WISE**
 2 tanks sitting in the ditches and the streams. You don't
 3 want them just laying around all over the place, because
 4 for that much, you're not going to get registration.
 5 You need the registrations. You make it a free
 6 registration; henceforth, they took it on, and that's
 7 what we have today still.
 8 **Q. Good.**
 9 A. Yeah.
 10 **Q. That's good.**
 11 A. I mean, it's just a matter of educating people a
 12 little bit.
 13 **Q. Well, let me ask you, there are a couple of**
 14 **exemptions to the Call Before You Dig. Let me just ask**
 15 **if any of these qualify -- if the two incidents would**
 16 **qualify under these exemptions. One, was there an**
 17 **emergency to remove the tank? Was it an emergency?**
 18 A. Well, you know, when you're dealing with
 19 Realtors, it's always you've got to get it done
 20 yesterday kind of thing.
 21 **Q. Yeah.**
 22 A. I mean, it's just so frustrating to go under
 23 their pressure what those are, but is that an emergency,
 24 only to their paycheck.
 25 **Q. Gotcha. Gotcha. Okay. That's kind of all that**

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1 **EVIDENTIARY HEARING - TESTIMONY OF TOM WISE**
 2 **I needed to know.**
 3 **And then was the excavation involving a dig of**
 4 **less than 12 inches, so were you going beneath the**
 5 **surface of the soil more than 12 inches?**
 6 A. Below 12 inches?
 7 **Q. Yeah.**
 8 A. Yes.
 9 **Q. Okay, okay. And obviously this doesn't involve**
 10 **road maintenance or replacement of an official traffic**
 11 **sign or filling soil for agriculture purposes, those two**
 12 **look like the only possible exemptions that would come**
 13 **under the statute, but I appreciate the clarification**
 14 **and the description of your business.**
 15 **So I believe I don't have any further questions.**
 16 **Is there anything else that you wish to have me**
 17 **consider before we adjourn?**
 18 A. Yes.
 19 **Q. Okay.**
 20 A. As far as -- I don't know if it's going to be
 21 coming through you or not, but as a locate is done, they
 22 are picking up the copper wire that travels with the gas
 23 line, they're picking up the generated electricity from
 24 what it is to where the electric line might be. The
 25 only thing they can get for a locate on water is up to

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1 **EVIDENTIARY HEARING - TESTIMONY OF TOM WISE**
 2 the primary meter. All of these go to the primary
 3 meter.
 4 **Q. Okay.**
 5 A. The primary meter can be located someplace a
 6 little different from where it is servicing that
 7 property. To be able to go ahead and go from the locate
 8 of the primary meter to the residence of question, I
 9 would really love to have that happen.
 10 **Q. Uh-huh.**
 11 A. A lot of times, they'll have in a rural area,
 12 they'll plant a power pole out the front of the property
 13 to be able to go ahead and put a meter on it and that's
 14 the end of the utility, is right where that meter stops.
 15 **Q. Right.**
 16 A. To be able to have the service going from that
 17 pole to the house is always an unknown so you've got to
 18 call in a private locate. I'm not real thrilled about
 19 having to call in a private locate when a guy can go
 20 ahead and just walk along and paint some lines and be
 21 done in ten minutes.
 22 **Q. So when you call the Call Before You Dig number,**
 23 **I think it's 511?**
 24 A. 811, but okay.
 25 **Q. 811?**

EVIDENTIARY HEARING - TESTIMONY OF TOM WISE

A. Yeah.
Q. So when you call in that number, is that -- that's not the private locate?
A. No.
Q. That's the utility?
A. That's the utility locate that they require me to do as the dig law.

Q. Okay.
A. And this is where -- I don't have a problem on trying to make sure that I get that done every time.

Q. Right, right.
A. As when you go to a private yard, you can see everything that's going on, but yes, to Call Before You Dig is a mandatory law.

Q. Right, right. So I guess since I am not well versed in the procedures of calling before you dig and what happens after the call is placed, you might want to talk to Mr. Dorrough and he can either refer you to the utility or whoever is in charge of the rural water.

A. Sure.
Q. And electricity --
A. Well, like I say, water always is a problem for what it is. Generally it used to be a steel pipe galvanized coming from the meter to the house, and they

EVIDENTIARY HEARING - TESTIMONY OF TOM WISE

rockery and come into the house area, and it proceeded probably, you know, 40 feet to the side of the house. We had to go ahead and basically dig a new power ditch for this house to be remodeled, and they wanted to put conduit in the ground there, which is fine, but gee whiz, I couldn't tell how deep that line was. After we got to about 3 1/2 feet and still didn't find the thing, we were sitting on pins and needles digging this little, tiny, thin ditch. We never did find it.

But to have known -- because I believe they have the depth of what it is with their unit, right?

MR. DORROUGH: Not exactly.

MR. WISE: They can tell how deep that line is to where the sewer pipe is, and it's the same type of an instrument they're working with the top.

JUDGE FRIEDLANDER: Okay.

MR. DORROUGH: Is it okay if I address Mr. Wise?

JUDGE FRIEDLANDER: Yeah. Why don't you come up to the microphone. And actually, we can have this discussion off the record as well.

MR. WISE: Yeah, it's all just pure wants to know. I mean, we have an educated guy over here who's going to fill me in.

EVIDENTIARY HEARING - TESTIMONY OF TOM WISE

generally didn't bend and retwist the steel pipe. It was always a straight line. You can easily tell where the hose bib on the outside of the house is to where the waterline enters the house to the meters is a straight line location.

Well, then they came up with the fine coppers and plastics, and plastics you can't trace at all so you're going to get a real problem that way, but that's always on the private sector side.

Q. Gotcha.

A. The thing that I would love to have with the gas line, is since there's that fine locating wire that goes with that gas line, to know the basic depth of that line would be a real helpful thing, because I had another incidence where I called for a locate, they came out there and wrote down all the good things, and then it said no gas. Well, jeez, I see a gas meter right there, how can it say no gas? Well, this is the entry point to where the new gas line was installed where the locator had nothing on the information to look for a gas line to be able to know that there was one, which I had to wait for them to come back to be able to give me a better idea that this thing is going here.

Well, they started out at the bottom of the

EVIDENTIARY HEARING - TESTIMONY OF TOM WISE

MR. DORROUGH: Well, as far as the depth, you can always contact the utility, and they'll tell you from an operations standard and maintenance, and they have a depth that they -- which is 12 inches.

MR. WISE: Right, and then the house down the -- I was at before, it's on the surface. Oh, well, we've got to come back and fix that.

MR. DORROUGH: Right.

JUDGE FRIEDLANDER: So you know what, I'll let you guys continue this off the record, and if there's nothing further procedurally or evidencewise, I'll take this under advisement, and since it's a brief adjudicative proceeding, I'll have an order out within ten days.

MR. WISE: Okay.

JUDGE FRIEDLANDER: Thank you for your testimony and for appearing today.

MR. WISE: In other words, I'm not going to know the fine for ten days?

JUDGE FRIEDLANDER: Yeah.

MR. WISE: Gotcha.

JUDGE FRIEDLANDER: And the order will be sent to you most likely electronically and in the mail.

MR. WISE: Yeah, I'll get it. Thank you.

1 EVIDENTIARY HEARING
 2 JUDGE FRIEDLANDER: Thank you. We are
 3 adjourned.
 4 (Hearing concluded at 10:53 a.m.)
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CERTIFICATE

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 3
 4 STATE OF WASHINGTON
 5 COUNTY OF KING
 6

7 I, Lisa Buell, a Certified Shorthand Reporter and
 8 Notary Public in and for the State of Washington, do
 9 hereby certify that the foregoing transcript of the
 10 evidentiary hearing on June 5, 2015, is true and
 11 accurate to the best of my knowledge, skill and ability.

12 IN WITNESS WHEREOF, I have hereunto set my hand
 13 and seal this 15th day of June, 2015.
 14

15
 16 
 17 LISA BUELL, RPR, CRR, CCR
 18

19 My commission expires:
 20 DECEMBER 2018
 21
 22
 23
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 25

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