

**TT&E, LLC**  
**26910 – 92<sup>nd</sup> Avenue West**  
**Stanwood, WA 98292**  
**425.754.7731**

***Sent Via E-Mail To:***  
***safetycommitteewaucc@gmail.com***

January 3, 2017

Washington State Dig Law  
Safety Committee  
Attn: Shelly Cornelius  
P.O. Box 734  
Poulsbo, WA 98370

**Re: PSE v. TT&E, LLC**  
**Case Numbers: 16-023, 026, 027, 16-031-036, and 16-039**

Dear Ms. Cornelius:

Please accept this letter in response to the allegations raised against TT&E, LLC in the above-referenced complaints. A meeting is scheduled for January 25, 2017 to discuss the alleged violations. We understand this meeting is designed for discussion purposes only, and is not an adjudicative hearing.

We look forward to gaining a better understanding at the meeting regarding enforcement policies and procedures for the Underground Utilities statutes. Historical enforcement of these statutes has been confusing at best.

TT&E is called to perform excavation work mainly under two scenarios: First, it is asked to dig foundations in new residential developments virgin ground. In that case, utilities are installed on site for the first time. Utilities are all marked during this process and are stubbed/marked to the individual lots. However, these newly installed utilities are not typically energized or otherwise active at this time.

Second, TT&E is engaged to perform additional services after digging foundations. These additional services include installing sewer lines, water lines, driveways, walkways, etc., to the individual lots. Utilities service is not active to the individual lots is not active until well after the time these services are provided.

Based on the general scope of its work, TT&E has several questions and concerns about PSE's recent complaints. Several examples of our concerns include the following:

**1. Excavation of New Developments:**

PSE's complaints demonstrate that PSE believes excavating in new developments would be considered a technical violation. Yet, the statutes are silent with respect to this issue.

No reasonable expectation exists that utilities will be present in virgin ground. Indeed, the excavator and others actually install utilities in new developments for the first time.

Therefore, the need for utilities locates in new developments is both illogical and unreasonable.

This is an important issue to foundation excavators, like TT&E, as we are regularly called to excavate foundations in virgin ground.

**2. Performing Post-Foundation Work:**

Excavators are routinely called on to perform additional work on site after completing the foundation work. The additional work often involves sewers, water, driveways, walkways, etc. (See Case Nos. 16-032, 16-034, 16-035, 16-036 and 16-039).

If locates were not called in, this additional work would technically violate the statutes. Yet, that result would be illogical if the excavator installed the foundation and/utilities in the first place.

**3. Excavation Separation Requirements Regarding Plat Utilities:**

Foundation excavators typically must dig at least 20-30 feet behind the sidewalk. A house foundation will therefore be located at least 10-20 feet away from power and natural gas main lines servicing the plat. This separation renders it highly improbable that the foundation excavator will interfere, during his activity, with the utilities.

**4. Completing Work on Located Projects:**

Oftentimes a new excavator will complete work commenced by a prior excavator. If the new excavator uses the locates created during the prior excavator's work, under PSE's draconian interpretation the new excavator would violate the statute. (See Case No. 16-032).

However, PSE's interpretation improperly assumes that the original locates were inaccurate. And, the statute is silent regarding whether a successor excavator must independently call for locates.

The rules cannot be enforced in a vacuum, but their enforcement must be tempered by custom and practice in the excavation industry. Your guidance in addressing enforcement of the Underground Utilities statutes regarding the above-referenced questions will provide clarity to TT&E, and the excavation industry in general.

We look forward to working with the Committee to gain this important insight.

Thank you.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'B' followed by a long, sweeping horizontal line that curves upwards at the end.

**TT&E, LLC**  
**Benjamin Tanielian, Member**