

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: DG-230993
PENALTY AMOUNT: \$10,000
Investigation # 8752

Bradley Meyer
17150 Leon Rd
Genesee, ID 83832

Phone: (509) 595-0993

YOU MUST RESPOND WITHIN 15 DAYS OF THIS NOTICE

The Washington Utilities and Transportation Commission (Commission) believes that Bradley Meyer (Meyer or Respondent) violated Revised Code of Washington (RCW) 19.122.055(1)(a) by failing to notify the one-number locate service and causing damage to an underground gas facility and RCW 19.122.090 for excavating¹ without a valid excavation confirmation code² within thirty-five feet of a transmission pipeline³.

RCW 19.122.055(1)(a) states, in part, that excavators⁴ who fail to notify a one-number locator service and cause damage to an underground gas facility are subject to a civil penalty of not more than \$10,000 for each violation.

RCW 19.122.090 states, any excavator who excavates without a valid excavation confirmation code when required, within thirty-five feet of a transmission pipeline is guilty of a misdemeanor.

Commission staff (Staff) conducted an investigation that included reviewing damage reports, investigation reports, a review of the One Call Center database, and attempted communications with Respondent. The documents reviewed identified a natural gas event that resulted from Respondent hitting a transmission pipeline and damaging a natural gas facility while excavating without a valid locate ticket.

¹ RCW 19.122.020(8) "Excavation" and "excavate" means any operation, including the installation of signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means.

² RCW 19.122.020(9) "Excavation confirmation code" means a code or ticket issued by a one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

³ RCW 19.122.020(26) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

⁴ RCW 19.122.020(10) "Excavator" means any person who engages directly in excavation.

The Commission reviewed the findings and recommendations made by Staff and hereby notifies you that it is assessing a \$10,000 penalty (Penalty Assessment) against you on the following grounds:

1. **Alleged Violation RCW 19.122.055(1)(a):**

On November 8, 2023, Respondent was excavating at parcel #200004415281859, milepost 27 Highway 195, in Whitman County, WA. While excavating, Respondent struck and damaged an underground Northwest Pipeline LLC (NW Pipeline) interstate natural gas transmission pipeline. Information obtained from NW Pipeline indicated Respondent was excavating without a valid request to locate underground utilities.

Analysis:

The alleged violation concerns RCW 19.122.055(1)(a), which states, in part, that an excavator must contact the one-number locate center before beginning excavation. On November 8, 2023, Respondent was pulling a large pipe installation plow behind a tractor in an agriculture field to install a 4" drain line on the property. The leading bottom edge of the plow struck an underground 12-inch steel transmission line and tore a large diameter hole in the top of the pipeline. The depth to the top of the pipeline at the location of the damage was 41 inches, which met the minimum required depth of 30 inches. The pressure of the blowing gas caused the plow to break away from the tractor and fly up and over the top of the tractor.

Staff reviewed the One Call ticket center database and did not find a locate request for this location. Staff attempted to reach Respondent by telephone on December 18 and 19, 2023, and left messages requesting further information and an interview with Respondent, but there has been no response. First responders to the incident reported Respondent told them he was aware of a law requiring excavators to contact 811 but didn't seem to think the plow activity on private land qualified as excavating. Respondent expressed frustration and confusion as to why there were gas lines on the property and claimed not to know that the lines were there.

2. **Alleged Violation RCW 19.122.090:**

On November 8, 2023, Respondent was excavating at parcel #200004415281859, milepost 27 Highway 195, in Whitman County, WA. While excavating, Respondent struck and damaged an underground NW Pipeline interstate natural gas transmission line. Information obtained from NW Pipeline indicated Respondent was excavating without a valid request to locate underground utilities.

Respondent caused significant damage to the NW Pipeline transmission line and did not have a valid code to be excavating within thirty-five feet of a transmission line. This violation of the Dig Law is a misdemeanor, and criminal statutes are not within the jurisdiction of the Commission. The Commission considered this jurisdictional issue and is referring this alleged violation to the Whitman County Prosecuting Attorney office for consideration of criminal charges.

The Commission considered all of the following factors in determining the appropriate penalty amount for **Alleged Violation 1:**

1. **How serious or harmful the violation is to the public.**

The shutdown of the damaged pipeline resulted in one of the largest natural gas outages in United States history and affected approximately 37,000 customers in Washington and Idaho. Many of the affected customers were without heat and hot water for up to a week in 30° temperatures while repair and service restoration efforts were underway. This incident could have been significantly more harmful to Respondent, family members, nearby homeowners, and the public, and could have resulted in serious injury or death. The approximate results of this damage incident include customer losing service for over 153 hours, more than \$5 million in damage and repairs, and 10.671 MMCF of natural gas lost.

2. **Whether the violation is intentional.**

The violation appears to be due to negligence rather than a lack of knowledge regarding Washington State's dig law, RCW 19.122 (Dig Law). However, Staff was unable to obtain Respondent's perspective or scope of knowledge regarding the Dig Law due to the lack of response from Respondent following Staff inquiries.

3. **Whether the company self-reported the violation.**

The Respondent did immediately notify emergency responders; however, Respondent has not been available for further information during this investigation.

The Commission has considered these factors and due to the aggravating circumstances identified by the extent of damages caused, determined that it should penalize Respondent as follows:

Violation 1	\$10,000 penalty for one violation of RCW 19.122.055(1)(a)
Violation 2	Referred to Whitman County Prosecuting Attorney

These facts, if proven 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. Alternatively, 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. All filings with the Commission must comply with the Commission's filing rules as outlined in Washington Administrative Code (WAC) 480-07-140, WAC 480-07-141, and WAC 480-07-160. Any filing to contest the violation, or for mitigation of the penalty, must include a written statement of the reasons supporting that request.

If you properly file your request for mitigation or a hearing, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in an adjudicative proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

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

- Pay the \$10,000 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 submit it electronically, along with any other information required in the Commission's above referenced filing rules, through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you wish to make your payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).⁵

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective January 16, 2024.

/s/Michael Howard
MICHAEL HOWARD
Director, Administrative Law Division

⁵ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT DG-230993 Investigation # 8752

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:
 Enclose \$10,000 in payment of the penalty.
 OR Attest that I have paid the penalty in full through the Commission's payment portal.
2. **Contest the violation.** I believe that the alleged violation 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 or she makes a materially false statement which he or she 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 or her 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.