



# TRI-VALLEY

Construction, Inc.

Contractor's License #TRIVACI055KP

1008 N. 1st Street • Yakima, WA 98901 • (509) 452-4098 • Fax (509) 248-9800

April 24, 2015

Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA. 98504-7250

RECEIVED  
PROJECTS MANAGEMENT  
2015 APR 28 PM 1:58  
STATE OF WASHINGTON  
UTIL. AND TRANSP.  
COMMISSION

RE: **Penalty Assessment: DG-144100**  
To Whom It May Concern:

Tri-Valley Construction, Inc. is appealing the above referenced citation for the following reasons:

**Violation #1** – Let me say first that we were given over the phone a date of violation at 660 Frontier, Prosser, WA. as 2/3/14, when the citation arrived the date was changed to September 18, 2013. We did call for a locate on this job for the September 8, 2013 digging, locate ticket # 13197411, email copy attached. The area on site where the excavator was digging was in between two dirt piles and no locates were visible. The locate for this job was requested on July 30, 2013, making it within the 45 day time frame for a locate

**Violation #1 should be vacated.**

**Violation #2** – We were on site installing a sewer lift station. While we were there the General Contractor, Lydig Construction, requested that we dig alongside of some existing power for them to install another conduit. At this point we were by the hour under the direction of Lydig Construction. We did not know when we showed up on site that day that we would be digging this line. Lydig Construction asked us to do them a favor by renting our excavator with operator so they could get the work done. They should have obtained the locate as they were the ones actually doing the work. While digging this line for Lydig, we were digging at a depth of 12", the existing line should have been at a depth of at least 18". Had it been at the proper depth we would not have come in contact with it.

**Violation # 2 should be vacated or redirected to Lydig Construction.**

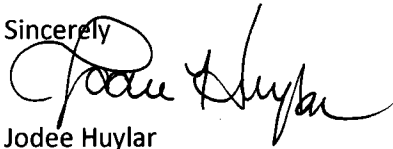
**Violation #3** – This violation was not done by Tri-Valley Construction. The line was hit by our subcontractor, Russell Crane Service. If you are going to charge Tri-Valley for the error of their subcontractor then violation #2 should be dropped from Tri-Valley and charged to Lydig Construction. You are changing your rules depending on who you are dealing with. It appears Cascade Natural Gas would like to make Tri-Valley Construction look like a contractor that breaks all the rules. That is not the case, we are very safety conscious. The demolition of the school was subcontracted from Tri-Valley to Russell Crane. The Wapato School District had called for the disconnect of service from the building to be demolished. When Russell Crane arrived on site the meter, standpipes and guard had been removed

from the building which is the general procedure for a building scheduled for demo. The owner must call for this service and Cascade Natural Gas will not perform this service for the contractor. Russell Crane demolished the building and the concrete slab. ON the North side of the building they encountered a utility tunnel that had pipes in it. The pipes were then removed from the tunnel. On the East end of the tunnel the pipes extended outside of the building line. The demo contractor pulled on them and this uprooted the gas line that was left just outside the building with no markings. The owner had called for the disconnect and Cascade Natural Gas had left no information with anyone about this line. They knew the purpose of the disconnect was for demolition of the building.

**Violation #3 should either be vacated or redirected to the demo contractor.**

We do not feel the Commission performed a thorough enough investigation in this assessment. They were very quick to assess penalties without considering all the information. We would request a review of the information provided and a re-evaluation of the assessment.

Sincerely

A handwritten signature in black ink, appearing to read "Jodee Huylar". The signature is fluid and cursive, with a large initial "J" and "H".

Jodee Huylar  
Vice President  
Tri-Valley Construction, Inc.

APR 13 2015

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION****NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES**PENALTY ASSESSMENT: DG-144100  
PENALTY AMOUNT: \$4,000.00

Greg Huylar  
d/b/a Tri Valley Construction  
1008 N 1<sup>st</sup> St  
Yakima, WA 98901

The Washington Utilities and Transportation Commission (Commission) believes that you have violated Revised Code of Washington (RCW) 19.122.030(1)(a) by failing to request a dig ticket prior to performing excavations. RCW 19.122.055(1)(a) states, in part, that any excavator who fails to notify a one-number locator service and causes damage to a hazardous liquid or gas facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

Commission staff (Staff) conducted an investigation in which Staff reviewed damage reports submitted by Cascade Natural Gas Corporation (CNG). The investigation identified three natural gas damage events involving Greg Huylar, d/b/a Tri Valley Construction (Tri Valley Construction), in which buried utilities were not located prior to excavation. Accordingly, the Commission hereby notifies you that it is assessing a penalty against you in the amount of \$4,000.00 on the following grounds:

**(First Violation)**

On ~~September 18, 2013~~, Tri Valley Construction performed an excavation for electric work at ~~660 Frontier, Prosser~~, Washington. Prior to beginning excavation, Tri Valley Construction failed to request a utility locate from a one-number locator service to have the underground utilities located.

On December 11, 2013, CNG submitted a Damage Incident Reporting Tool (DIRT) report identifying Tri Valley Construction as the party responsible for damaging CNG's natural gas service line at 660 Frontier, Prosser, Washington, on September 18, 2013, without first obtaining a ticket number to have utilities located prior to excavation.

On January 27, 2014, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tri Valley Construction, informing the company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. The letter emphasized the importance of

becoming familiar with the law, and the possibility of penalties for each violation of the law.

**(Second Violation)**

On February 3, 2014, Tri Valley Construction performed an excavation for electric work at 1100 S. Wasco Avenue, Wapato, Washington. Prior to beginning excavation, Tri Valley Construction failed to request a dig ticket from a one-number locator service to have the underground utilities located.

On February 4, 2014, CNG submitted a DIRT report identifying Tri Valley Construction as the party responsible for damaging CNG's natural gas service line at 1100 S. Wasco Avenue, Wapato, Washington, on February 3, 2014, without first obtaining a ticket number to have underground utilities located prior to excavation.

On April 21, 2014, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tri Valley Construction, informing the company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation of the law.

**(Third Violation)**

On July 2, 2014, Tri Valley Construction performed an excavation on a building demolition project at 1103 S. Wasco Avenue, Wapato, Washington. Prior to beginning excavation, Tri Valley Construction failed to request a utility locate from a one-number locator service to have the underground utilities located.

On July 7, 2014, CNG submitted a DIRT report identifying Tri Valley Construction as the party responsible for damaging CNG's natural gas service at 1103 S. Wasco Avenue, Wapato, Washington, on July 2, 2014, without first obtaining a ticket number to have utilities located prior to excavation.

On October 3, 2014, the Commission mailed an Alleged Violation of Washington Dig Law letter to Tri Valley Construction, informing the company of its obligation to have underground utilities located prior to excavation, as outlined in RCW 19.122.030. The letter emphasized the importance of becoming familiar with the law, and the possibility of penalties for each violation of the law.

Based on the results of Staff's investigation, the Commission finds that Greg Huylar, d/b/a Tri Valley Construction violated RCW 19.122.030(1)(a) three times by failing to request a dig tickets prior to performing an excavation. The Commission assesses a \$1,000 penalty for each of the first two violations and a \$2,000 penalty for the third violation for a total penalty of \$4,000. The facts set forth above, 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 violations did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

If you admit the violation but believe there is a reason for the violation that should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or through a written statement. 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. A request for mitigation, either in a hearing or through a written statement, must include a written explanation of the reasons supporting that request. Failure to provide such an explanation will result in denial of the request.

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 amount due;
- Request a hearing to contest the occurrence of the violation; or
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office 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 Olympia, Washington, and effective April 13, 2015.



GREGORY J. KOPTA  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT DG-144100

**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 \$4,000.00 in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:

- 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: April, 24, 2015 [Month/Day/Year], at Yakima, WA [City, State]

Tri-Valley Construction, Inc.  
Name of Respondent (company) – please print

[Signature]  
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.”

**Dave De Blasio**

**From:** RHuylar@aol.com  
**Sent:** Friday, August 2, 2013 8:01 AM  
**To:** davedebiasiotvc@yvn.com  
**Subject:** Fwd: Ticket: 13197411

RECEIVED  
PROJECTS MANAGEMENT  
2015 APR 28 PM 1:58  
STATE OF WASH  
UTIL. AND TRANSP  
COMMISSION

From: [REDACTED]  
To: [REDACTED]  
Sent: 7/30/2013 8:27:37 A.M. Pacific Daylight Time  
Subj: Ticket: 13197411

\*\*\*DO NOT REPLY TO THIS EMAIL\*\*\*

Ticket No: 13197411      2 FULL BUSINESS DAYS  
Send To: C\_EMAIL    Seq No: 174    Map Ref:

Transmit    Date: 7/30/13    Time: 8:27 AM    Op: ormatt  
Original Call Date: 7/30/13    Time: 8:23 AM    Op: ormatt  
Work to Begin Date: 8/02/13    Time: 12:00 AM

State: WA      County: BENTON      Place: PROSSER  
Address: 660    Street: FRONTIER ROAD  
Nearest Intersecting Street: HWY 22

Twp: 8N    Rng: 24E    Sect-Qtr: 1-NE  
Twp: 8N    Rng: 25E    Sect-Qtr: 6-NW

Type of Work: INSTALLATION OF UG UTILITIES, WATER AND SEWER  
Location of Work: EXCAVATION SITE IS ON THE E SIDE OF THE ROAD.  
: ABV ADD IS APX 500FT N OF ABV INTER. MARK AREA MARKED IN WHITE ON FRONTIER  
: ROAD, APX 100FT WIDE, MARK APX 200FT E WITH 100FT WIDTH TO THE TANKS, AT ABV  
: ADD, ON N END OF THE SITE.

Remarks: BEST INFORMATION AVAILABLE

Nad:    Lat:      Lon:      Zone:

Company : TRI VALLEY CONSTRUCTION      Best Time:  
Contact Name: RICK MARTIN      Phone: (509)452-4098  
Alt. Contact: GREG HUYLAR - CELL      Phone: (509)949-5611  
Work Being Done For: 14 HANDS WINERY

Additional Members:  
BENDPW01 BENTON CO PUB WORKS      (509)786-5611  
BENPUD02 BENTON COUNTY PUD - PROSSER      (509)582-1251  
CHRTER01 CHARTER COMMUNICATIONS- YAKIMA      (888)438-2427  
CNG13 CASCADE NATURAL GAS-SUNNYSIDE      (509)457-8176  
EMBWA01 CENTURYLINK      (855)742-6062  
EMBWA02 CENTURYLINK      (855)742-6062  
MCI01 MCI      (800)289-3427  
PROSSR01 CITY OF PROSSER      (509)786-2332  
XVID01 SUNNYSIDE VALLEY IRR DIST      (509)837-6980