

Complaint Case 24-019  
Presentation for Peer Review on 5/16/2024  
Jonathan Coddon

On July 1, 2022, Tank Wise LLC excavated to remove an underground oil tank at 3241 NW 66th Street in Seattle.

A) Tank Wise struck and severed a gas line because they:

1. Failed to use “reasonable care”;
  2. Failed to pot-hole to find “the precise location” of the marked underground facility as required by law.
- See attached: RCW 19.122.040 / RCW 19.122.070

B) Tank Wise failed to report this incident as required by law.

- See attached: RCW 19.122.050 / RCW 19.122.053

C) PSE investigated the damage and found Tank Wise to be at fault for severing the gas line. They concluded that Tank Wise did not pot-hole or hand dig before digging with the excavator.

- See attached DIRT report from PSE.

D) The site supervisor for Dyna Builder’s observed the excavation and confirmed that Tank Wise did not pot hole before using the excavator.

- See email below

E) The site markings were obvious and accurate.

- See attached photos.

This incident happened in June /July of 2022, but I didn’t find out until more than a year later.\*(see below) I’m still trying to figure out exactly what happened and am hoping that today’s zoom will fill in the blanks.

My understanding is that:

1. The gas line was severed because the excavator did not first pot-hole to find the precise location of the line.
2. That the site was properly and accurately marked.
3. That PSE investigated the damage and determined that Tank Wise was in fact at fault and therefore financially liable.
4. That PSE billed them \$899.06 and received payment from Tank Wise.

I’m hoping the committee can:

- Confirm or refute each of the above.
- Issue its determination of who is responsible for the damage and financially liable for the repair.

I'd also like to find out:

- How Tank Wise managed to convince Dyna to reimburse them for this additional expense when the job was done at a fixed rate.
- Who did Tank Wise speak with at Dyna?
- What did they tell Dyna?
- What did Dyna tell him?

And lastly, I'd like Tank Wise to verify the accuracy of the attached photos.

- Are these the markings they observed?
- Is this what the site looked like after they removed the oil tank?

\*I was never informed that the gas line had been cut, nor that the repair would be so extensive and expensive. It seems that there is no law or regulation that specifically stipulates a contractor (or for that matter PSE) has to alert the property owner if they sever the gas line. I think it would be beneficial to add language to the RCW that requires a property owner be notified immediately (certainly within 24 hours) if a gas line has been damaged.

Email from Ken Schaffer:

**From:** ken schaffer <[kenashoe@yahoo.com](mailto:kenashoe@yahoo.com)>

**Date:** May 7, 2024 at 12:37:39 PM PDT

**To:** [coddon@gmail.com](mailto:coddon@gmail.com)

**Subject: Re: Oil Tank Excavation/ Gas Line Damage**

**Reply-To:** ken schaffer <[kenashoe@yahoo.com](mailto:kenashoe@yahoo.com)>

Jonathon per our conversation and your request for my recollection of the tank removal process.

1. The tank was situated just off the North wall of your residence
2. The 811 services located the gas line and marked it on the ground
3. When the tank was excavated the gas line was within 12 inches of the yellow line marked.
4. There was no hand excavating to find the line.
5. Gas company was called in to repair and has charged the repair of the line.

Sincerely

Ken schaffer

Former site supervisor - Dyna contracting

The photos show:

- The oil tank excavation at 3241 NW 66th Street.
- The orientation of the hole is east west and parallel to the north side of the house foundation.
- The dunnage (brick, scrap wood) is on top of where the yellow markings are.
- The photo shows the hole after the oil tank was removed.

- #1 is the street side of the severed gas line (which has been crimped and tied shut.)
- #2 approximates the original position of the gas line before being tugged out of place and severed by the excavator.
- #3 is the meter side of the severed gas line which is partially hidden by the white irrigation pipe.



Approximate location of underground oil tank in black.

...



Ticket: 22283954.0 Timestamp: 6/29/2022 1:00:05 PM



Ticket: 22283954.0 Timestamp: 6/29/2022 1:00:14 PM

North Side of House. Photo is looking east 66th Street. The house is to the right.



Ticket: 22283954.0 Timestamp: 6/29/2022 12:59:43 PM

Marking continues from sidewalk onto property. It curves left and towards the house.



Ticket: 22283954.0 Timestamp:6/29/2022 12:59:46 PM

The markings angle towards the northeast corner of the house.



Then turn to the south. The gas meter is on the right side of this photo; the east side foundation of

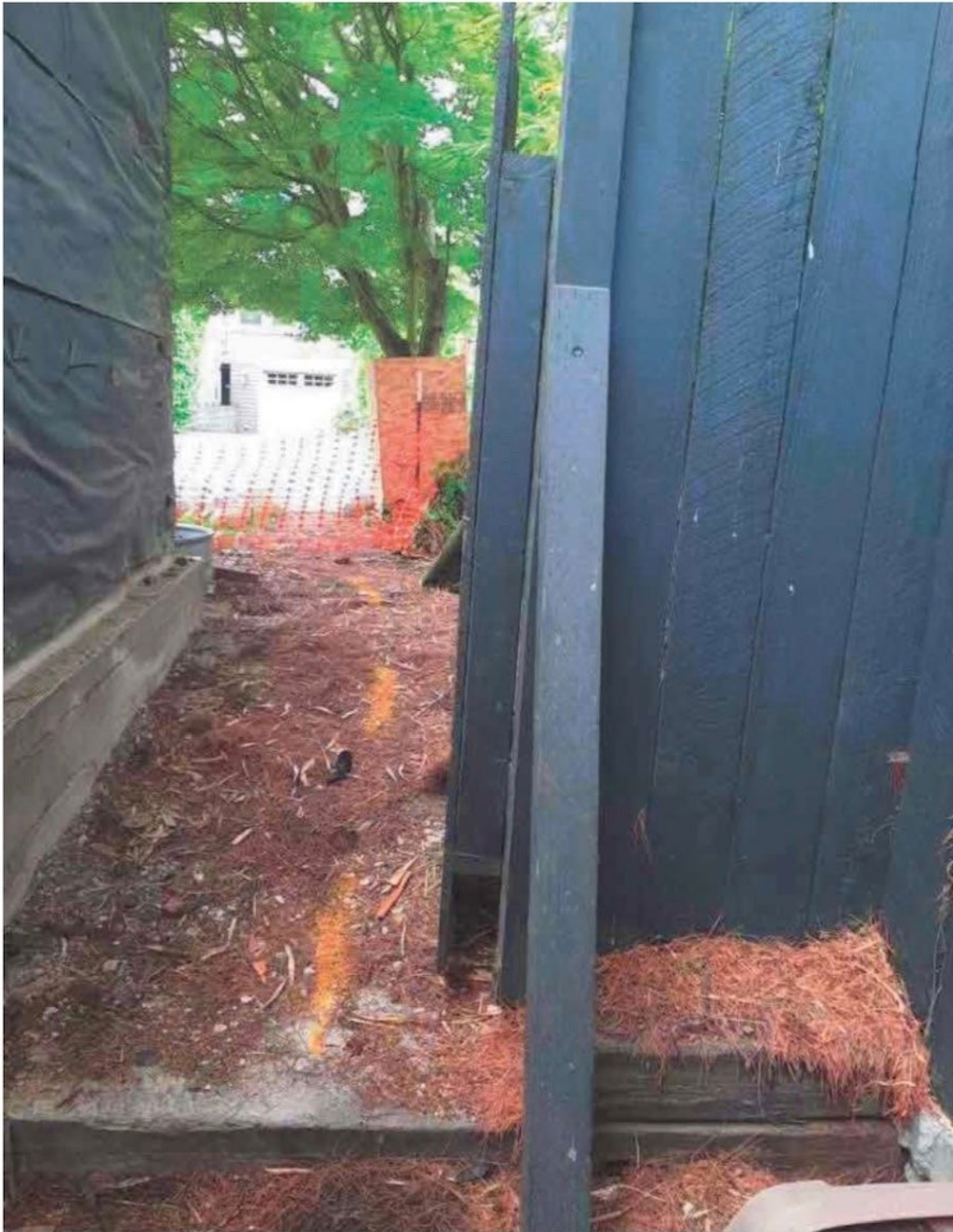


the house.



Ticket: 22283954.0 Timestamp: 6/29/2022 1:00:08 PM

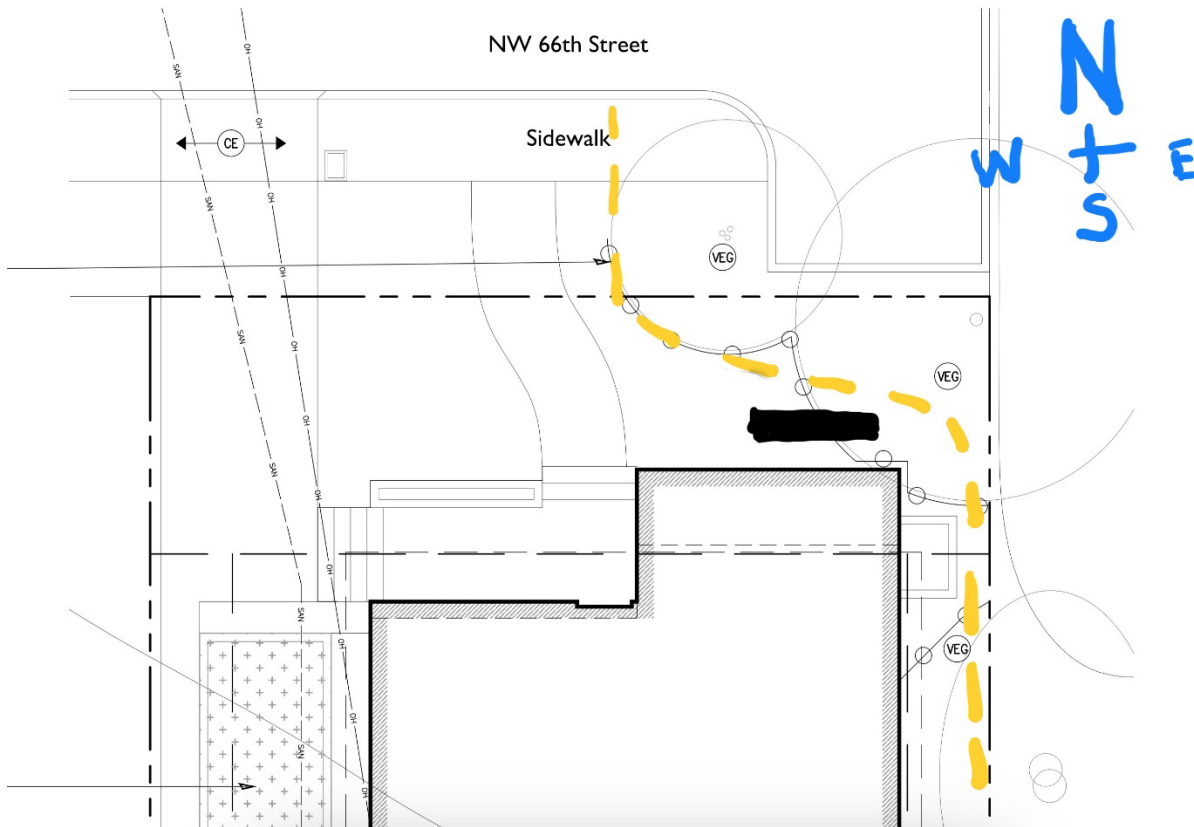
This is the view looking back towards the street from the gas meter.



Ticket: 22283954.0 Timestamp:6/29/2022 1:00:26 PM

And this is the view from the northeast corner looking back along the gas line markings that started on the sidewalk.





PDF RCW 19.122.040

**Underground facilities identified in bid or contract—Excavator’s duty of reasonable care—Liability for damages—Attorneys’ fees.**

- (1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation. The following are deemed to be changed or differing site conditions:
  - (a) An underground facility not identified as required by this chapter or other provision of law; or
  - (b) An underground facility not located, as required by this chapter or other provision of law, by the project owner, facility operator, or excavator if the project owner or excavator is also a facility operator.
- (2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator must:
  - (a) Determine the precise location of underground facilities which have been marked;
  - (b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and
  - (c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.
- (3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation is liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, that differs from the provisions of this chapter is against public policy and unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.
- (4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys’ fees.

# Washington One Call

**Ticket No:** 22289042  
2 FULL BUSINESS DAYS

**Update of:** 22283954

**Original Call Date:** 06/29/22 01:37 pm  
**Work to Begin Date:** 07/02/22 12:00 am  
**Expiration Date:** 08/13/22 01:45 pm

## CALLER INFORMATION

**Company Name:** TANK WISE

**Type of Excavator:**

**Contact Name:** TOM WISE

**Phone:** 206-937-3995

**Alt. Contact:** TOM WISE/CELL - 1ST CALL

**Phone:** 206-793-2425

**Fax Phone:**

**Caller Address:** 5405 W MARGINAL WAY SW SEATTLE, WA 98106

**Email Address:** WTANKWISE@gmail.com

## DIG SITE INFORMATION

**Type of Work:** REMV HEATING OIL TANK

**Directional Drilling:**

**Type(s) of Excavation**

**Equipment:**

**Work Being Done For:** DYNA CONTRACTING

## DIG SITE LOCATION

**State:** WA

**County:** KING

**Place:** SEATTLE

**Address:** 3241

**Street:** NW 66TH ST

**Intersecting Street:** 34TH AVE NW

**Location of Work:** EXCAVATION SITE IS ON THE S SIDE OF THE ROAD. MARK APX 12FT BY 8FT AREA MARKED IN WHITE ON THE NE CORNER OF OF THE HOUSE, PROGRESSING APX 3FT E OF CORNER OF HOUSE AT ABV ADD.

**Remarks:** AREA MARKED IN WHITE PAINT.++CALLER REQUESTS DEPTH OF LINES IF POSSIBLE++NO GUAR  
++UPDATE TICKET - TO CORRECT ADDRESS OF WORK++

**Map Coord NW Lat:** 47.6766094

**Lon:** -122.4006054

**SE Lat:** 47.6759832

**Lon:** -122.3997043

## MEMBERS NOTIFIED

# Washington One Call

**Ticket No:** 22283954  
2 FULL BUSINESS DAYS

Cancelled

**Updated by:** 22289042  
**Original Call Date:** 06/27/22 10:54 am  
**Work to Begin Date:** 06/30/22 12:00 am  
**Expiration Date:** 08/11/22 11:00 am

## CALLER INFORMATION

**Company Name:** TANK WISE  
**Type of Excavator:**  
**Contact Name:** TOM WISE  
**Phone:** 206-937-3995  
**Alt. Contact:** TOM WISE/CELL - 1ST CALL  
**Phone:** 206-793-2425

**Fax Phone:**  
**Caller Address:** 5405 W MARGINAL WAY SW SEATTLE, WA 98106  
**Email Address:** WTANKWISE@gmail.com

## DIG SITE INFORMATION

**Type of Work:** REMV HEATING OIL TANK  
**Directional Drilling:**  
**Type(s) of Excavation**  
**Equipment:**  
**Work Being Done For:** DYNA CONTRACTING

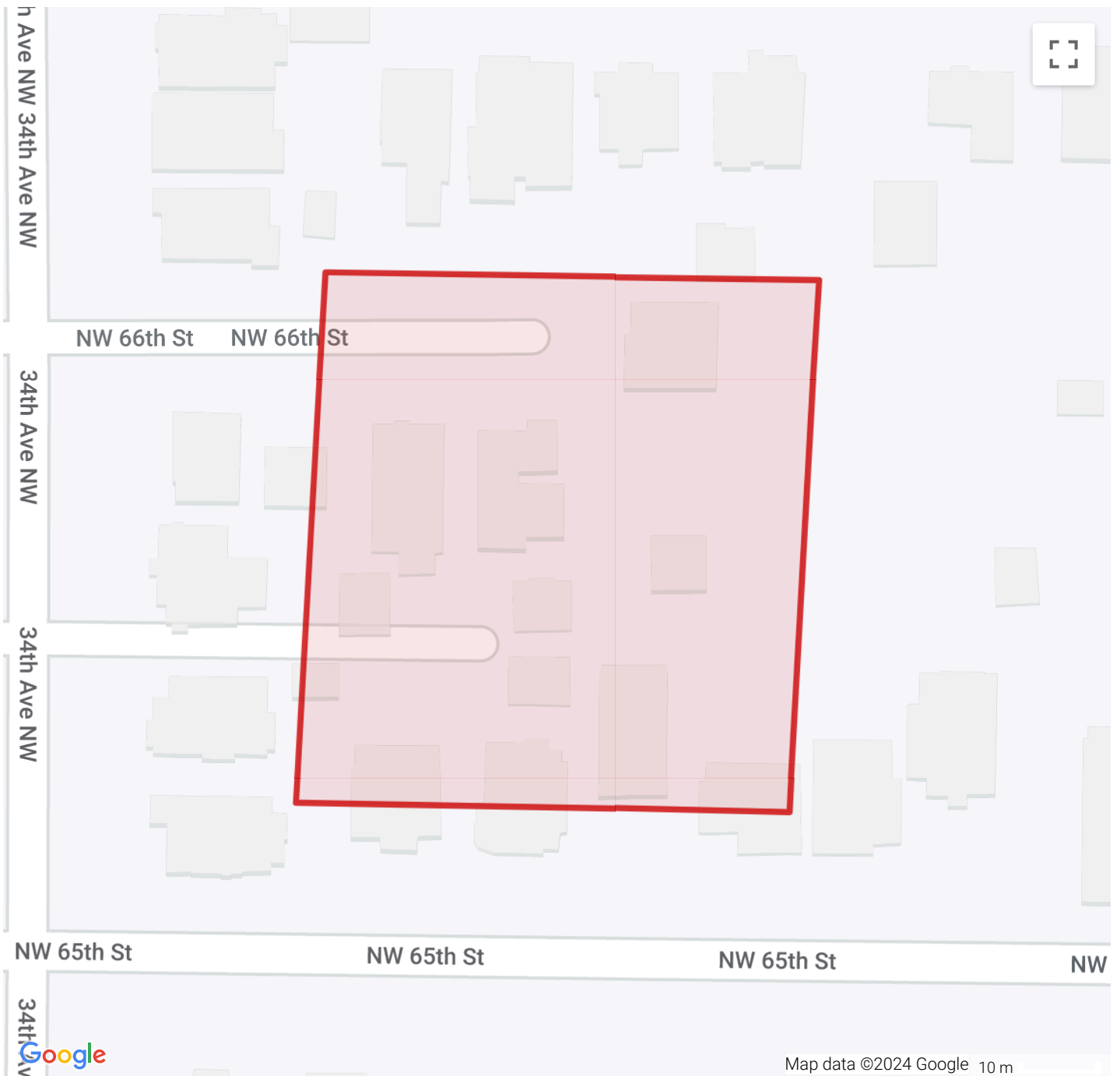
## DIG SITE LOCATION

**State:** WA  
**County:** KING  
**Place:** SEATTLE  
**Address:** 4241  
**Street:** NW 66TH ST  
**Intersecting Street:** 34TH AVE NW  
**Location of Work:** EXCAVATION SITE IS ON THE S SIDE OF THE ROAD. MARK APX 12FT BY 8FT AREA MARKED IN WHITE ON THE NN CORNER OF OF THE HOUSE, PROGRESSING APX 3FT E OF CORNER OF HOUSE AT ABV ADD.  
**Remarks:** AREA MARKED IN WHITE PAINT.++CALLER REQUESTS DEPTH OF LINES IF POSSIBLE++NO GUAR  
++CANCEL TICKET VIA TOM - WRONG ADD - REPLACED WITH 22289042  
**Map Coord NW Lat:** 47.6771253  
**Lon:** -122.4030494  
**SE Lat:** 47.6757812  
**Lon:** -122.3995520

District	Company Name	Marking Concerns	Customer Service	Repair	Status
PUGG03	PUGET SOUND ENERGY GAS	888-728-9343	888-225-5773	888-225-5773	Marked, Complete
QLNWA16	CTLQL-CENTURYLINK	800-778-9140	800-283-4237	800-573-1311	Not yet responded
SEACL01	SEATTLE CITY LIGHT	206-684-4239	206-684-4239	206-684-3000	Clear, No Utility Owned Facility in Excavation Area
SEAH2001	SEATTLE PUBLIC UTILITIES-WATER	206-386-1849	206-386-1800	206-386-1800	Does not report
SEAWW01	SEATTLE PUBLIC UTILITIES- DWW	206-386-1800	206-684-3000	206-386-1800	Does not report

**Legend:**  Locate Polygon

Lat/Lon





# DIRT Damage Information Reporting Tool



**EDIT**

**<< BACK**

DIRT ID	Company/Organization	Orig. Event Source	Event Type	Spec. Version
6707682	<b>DELETE</b> Puget Sound Energy	Natural Gas	Underground Damage	2018.0

### Part B: Type, Date and Location of the event

Date of event:	Date Submitted	State	County	City	Street Address:
2022-07-01	2022-08-13 17:39 MDT	Washington	WA-King	SEATTLE	3241 NW 66TH ST
Nearest intersection:	lat:	lon:	Right of way where the event occurred:		
			Private - Land Owner		

### Part C: Affected Facility Information

What type of facility operation was affected?	Did this event involve a Cross Bore?	Measured Depth from Grade:	What type of facility was affected?	Was this facility part of a joint trench?	Was the facility owner a member of one-call?	If no, was the facility owner exempt?
Natural Gas	false	24"	Service/Drop		true	

### Part D: Excavation Information

Type of Excavator:	Type of Excavation Equipment:	Type of Work Performed:
Contractor	Backhoe/Trackhoe	Unknown/Other

### Part E: Notification and Locating

Was the one-call center notified?	If yes, please provide the ticket number:	Type of Locator:	Was work area white-lined?	If No, is excavation activity and/or excavator type exempt from notification?
true	22280141	Contract Locator	false	

### Part G: Excavator Downtime

Did the excavator incur downtime?
false

### Part H: Interruption and Restoration

Did the damage cause an interruption in service?	Approximately how many customers were affected?	Estimated cost of repair/restoration:
N	Unknown	Unknown

### Part I: Description of the Root Cause

Excavator dug prior to verifying marks by test-hole (pot-hole)

### Part J: Additional Comments

PER CLAIMS, LOCATE WAS COMPLETED BEFORE THE DAMAGE. Contractor digging to remove oil tank when 5/8" PE SVC was severed with backhoe. Contractor had valid locate ticket. Ticket number 22283954. Contractor advised of WA state dig laws regarding pot hoing gas before digging with backhoe.## DC3001960964

### Part Z: Site-Specific (non-CGA) Data

for Washington Utilities and Transportation Commission Data Network

Enter the name of the person excavating:	TOM WISE
Enter the name of the excavator company:	TANK WISE

**Civil penalties—Treble damages—Existing remedies not affected.**

(1) Any person who violates any provision of this chapter not amounting to a violation of RCW 19.122.055 is subject to a civil penalty of not more than one thousand dollars for an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period. All penalties recovered in such actions must be deposited in the damage prevention account created in RCW 19.122.160.

(2) Any excavator who willfully or maliciously damages a marked underground facility is liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known facility operators or a one-number locator service, any damage to the underground facility is deemed willful and malicious and is subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage.

**Damage to underground facility—Notification by excavator—Repairs or relocation of facility.**

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the facility operator and a one-number locator service, and report the damage as required under RCW 19.122.053. If the damage causes an emergency condition, the excavator causing the damage shall also call 911 to alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

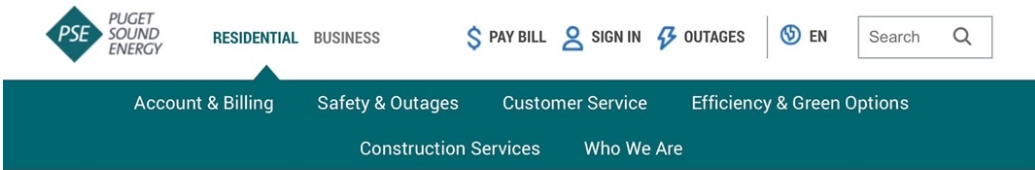
(2) A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical, or permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

**Report of damage to underground facility.**

(1) Facility operators and excavators who observe or cause damage to an underground facility must report the damage event to the commission.

(2) A nonpipeline facility operator conducting an excavation, or a subcontractor conducting an excavation on the facility operator's behalf, that strikes the facility operator's own underground facility is not required to report that damage event to the commission.

(3) Reports must be made to the commission's office of pipeline safety within forty-five days of the damage event, or sooner if required by law, using the commission's virtual private damage information reporting tool (DIRT) report form, or other similar form if it reports:



# Call before you dig

## Dial 811 for free utility pipeline location

When you dig on your property for any reason, it's important to have the locations of underground utilities verified and clearly marked. Striking a natural gas or electric line may result in service disruptions, bodily harm, fines and/or repair costs.

Dial 811 at least **two full business days** (not including the day you call) before you plan to dig, no matter the size of your project. It's not only smart, it's the law.



**Know what's below.  
Call before you dig.**

If you prefer to submit a utility location request online, visit the [Dig Safe WA](#).

### How it works

Before you call 811, you should outline your dig area with white spray paint.

When you call, an operator will record information about your dig and notify affected utility companies, including PSE. We will dispatch a technician to mark the location of our electric and gas lines with paint and/or flags.

The law says you must call, even if you are a homeowner.

PSE locates and marks its own lines for free, but privately owned utility lines must be located by a separate vendor, typically for a fee. To better understand which utility pipelines belong to you, [visit this interactive guide](#). You'll find a list of private utility locating companies [here](#).

### When you dig

Mark the dig area with white paint or stakes so the locator knows where to search for utilities. Once the utilities have been marked, don't move the colored flags or alter the painted marks until construction is finished. Use only hand tools when digging within two feet of the marked lines. Support exposed gas pipelines with secure nylon straps, wood shoring, and ropes so they don't break. Use sand or rock-free dirt as backfill. Never build decks or other structures over pipelines or meters. Doing so runs a safety risk and prevents us from servicing the equipment.