

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: D-200037  
PENALTY AMOUNT: \$1,000  
Investigation # 8139

Amber Anderson  
Able Concrete Designs, LLC  
16633 244th Pl SE  
Issaquah, WA 98027

UBI: 603 511 259  
Phone: (425) 830-1865

The Washington Utilities and Transportation Commission (Commission) believes that Able Concrete Designs, LLC, (Able Concrete Designs or Company) has violated Revised Code of Washington (RCW) 19.122.030(1)(a) by failing to request a dig ticket prior to excavating. RCW 19.122.070(1) states, in part, that violations of any provision of the chapter are subject to a civil penalty of not more than \$1,000 for an initial violation and not more than \$5,000 for each subsequent violation within a three-year period.

The Commission reviewed findings and recommendations made by the Washington State Dig Law Safety Committee (Safety Committee) and hereby notifies you that it is assessing a \$1,000 penalty against Able Concrete Designs on the following grounds:

On January 9, 2020, the Safety Committee heard the complaint for case 19-077 against Able Concrete Designs regarding an alleged violation of the Washington state dig law, RCW 19.122, that occurred on October 19, 2018. The complainant in this case was Seattle Public Utilities (SPU). The Safety Committee determined that the Company committed the following violations:

- One violation of RCW 19.122.030(1)(a) for failing to submit an underground utility locate request through a one-number call service prior to excavating on October 19, 2018.

The Safety Committee recommends that the Commission assess the following penalty against Able Concrete Designs:

- \$1,000 penalty for one violation of RCW 19.122.030(1)(a); and
- The opportunity to suspend \$800 of the \$1,000 penalty amount if the owners of Able Concrete Designs complete National Utility Contractor Association (NUCA) Dig Safe Training within 12 months of the date of this Notice, and the Company incurs no additional dig law violations within 12 months of the date of this Notice.

Commission regulatory staff (Staff) reviewed the Safety Committee's determination and agrees with its conclusions. Staff found that Able Concrete Designs violated RCW 19.122.030(1)(a) on one occasion. Staff based this decision on the following information provided by the Safety Committee:

On October 19, 2018, while preparing forms for concrete work, Able Concrete Designs punctured an SPU underground 2-inch fire water service line with a concrete form stake at 111 E. Hamlin St., Seattle, Washington.

The type of work performed by the Company on October 19, 2018, requires notification to utility operators not less than two full business days before beginning. The One-Call ticket database does not have record of a valid utility locate request submitted for the area in which the Respondent caused the damage on October 19, 2018.

Staff recommends the Commission accept the Safety Committee's recommendation and assess a \$1,000 penalty against the Company for one violation of RCW 19.122 for failing to provide the required notice to a one-number locator service not less than two business days before excavating, as follows:

- \$1,000 penalty for the violation of RCW 19.122.030(1)(a) that occurred on October 19, 2018.

Documents and statements provided by the Company and SPU suggest that the violation occurred due to a lack of understanding of the requirements of Washington's dig law. After considering all of the circumstances, Staff concurs with the Safety Committee's recommendation that the Commission should offer to suspend \$800 of the total penalty for a period of one year subject to the following conditions: (1) owners of Able Concrete Designs must attend Dig Safe training provided through the National Utility Contractors Association (NUCA) within 12 months of the date of this Notice; and (2) the Company may not incur any further violations of RCW 19.122 within 12 months from the date of this Notice.

The Commission agrees with Staff's recommendation and assesses a penalty of \$1,000 with an offer to suspend \$800 of the total penalty amount subject to the conditions listed above. The Commission will waive the suspended penalty amount of \$800 if the Company complies with both conditions. If the Company fails to comply with either of these conditions, the \$800 suspended penalty amount will become immediately due and payable, in addition to any new penalties that the Commission may assess for additional violations.

These facts, 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 that 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.

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 \$1,000 amount due;
- Pay \$200 of the total penalty amount and notify the Commission that you accept the offer to suspend, and ultimately waive, the remaining \$800 of the penalty amount subject to the following conditions:
  - Able Concrete Designs owners attend Dig Safe training provided through NUCA within twelve (12) months of this Notice; and
  - **Submit documentation of that attendance to the Commission within five (5) days of attending the training; and**
  - Able Concrete Designs incurs no additional violations of RCW 19.122 within twelve (12) months of the date of this Notice; or
- Request a hearing to contest the violation; or
- Request mitigation to reduce 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 Lacey, Washington, and effective February 14, 2020.

*/s/Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

PENALTY ASSESSMENT D-200037, Investigation # 8139

**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 \$1,000 in payment of the penalty.

2. **Accept conditions.** I admit that the violation occurred and enclose \$200 toward the payment of the penalty. I also accept the Commission's offer to suspend, and ultimately waive, the remaining \$800 penalty amount subject to the following conditions:

- Able Concrete Designs owners attend Dig Safe training provided through NUCA within twelve (12) months of the date of this Notice; and
- Submit documentation of that attendance to the Commission within five (5) days of attending the training;** and
- Able Concrete Designs incurs no additional violations of RCW 19.122 within twelve (12) months of the date of this Notice.

3. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe 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.

4. **Request 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: \_\_\_\_\_ [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 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.”