

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-210065

PENALTY AMOUNT: \$1,000

Investigation # 8473

SERVICE VIA EMAIL

UBI: 604-129-471

Green Image Landscape Services
13316 Cook Pl. E
Bonney Lake, WA 98391
253-820-7696
KEVIN@GREENIMAGELS.COM

The Washington Utilities and Transportation Commission (Commission) believes that Green Image Landscape Services (Green Image) has violated the Revised Code of Washington (RCW) 19.122.030(4)(a) by failing to provide information to an excavator no later than two business days after receipt of the notice unless otherwise agreed by the parties. 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 (Penalty Assessment) against you on the following grounds:

On January 26, 2021, the Safety Committee heard case 20-033 against Green Image and determined Green Image violated RCW 19.122.030(2) by failing to provide notice to a One-Number locate service two business days before beginning excavation on August 17, 2020. The Safety Committee recommended that the Commission impose a \$1,000 penalty.

Commission staff (Staff) conducted an investigation that included reviewing documents, reports, and emails submitted by the Safety Committee, and a review of the One-Call center database.

Staff agrees with the Safety Committee's findings of probable violation but recommends the Commission suspend a portion of the penalty subject to conditions as follows:

- \$1,000 penalty for one violation of RCW 19.122.030(2) that occurred on August 17, 2020. With an offer to suspend, and ultimately waive, \$800 of the penalty subject to the conditions (1) the Company complete Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 45 days of the

date of this Notice and (2) the Company must not incur any further violations of RCW 19.122 within 12 months of the date of this Notice.

The Commission agrees with Staff's recommendation as described above.

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 the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, 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 their decision.

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

- Pay the \$1,000 penalty amount due; or
- Pay \$200 and notify the Commission that you accept the offer to suspend the \$800 penalty amount subject to the following conditions:
 - Green Image management and field crew responsible for excavation must complete NUCA Dig Safe Training within 45 days of service of this Penalty Assessment; and
 - The Company must submit documentation of that attendance to the Commission within 5 days of attending training; and
 - Green Image must not incur any additional violations of RCW 19.22 within 12 months of the date of this Penalty Assessment; or
- Request a hearing to contest the occurrence of the violation; or
- Request mitigation to reduce the amount of the penalty.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal records@utc.wa.gov **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 submit the filing to records@utc.wa.gov.

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 December 30, 2021.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT D-210065, Investigation #8473

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 violations occurred and enclose \$1,000 in payment of the penalties.
2. **Accept the Conditions.** I admit that the violation occurred, enclose \$200 in partial payment of the penalty, and I accept the Commission's offer to suspend, and ultimately waive, \$800 of the penalty amount subject to the following conditions:
- Green Image** supervisors and applicable field staff must attend dig safe training provided through NUCA within 45 days of the date of this Penalty Assessment; and
 - Green Image must submit documentation of that attendance to the Commission within 5 days of attending the training;** and
 - Green Image** must not incur any additional violations of RCW 19.122 within 12 months of the date of this Penalty Assessment.
3. **Contest the violation.** I believe that the alleged violations 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 provided above.
4. **Request mitigation.** I admit the violations, 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 provided 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.”