

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: D-220318

PENALTY AMOUNT: \$1,000

Investigation # 8536

SERVICE VIA EMAIL

UBI: 604-130-082

Greenland Industries LLC
PO Box 215
Southworth, WA 98386
Gabriela@greenlandindustriesllc.com

YOU MUST RESPOND TO THIS NOTICE WITHIN 15 DAYS - See page 4.

The Washington Utilities and Transportation Commission (Commission) believes that Greenland Industries LLC (Greenland or Company) has violated the Revised Code of Washington (RCW) 19.122.030 (1) An excavator must mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service; and (2) An excavator must provide notice to a one-number locator service not less than two business day before the scheduled date of excavation. 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 April 27, 2022, the Safety Committee heard the complaint about case 22-001 against Greenland and determined that the Respondent violated RCW 19.122.030 (1) An excavator must mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service; and (2) An excavator must provide notice to a one-number locator service not less than two business day before the scheduled date of excavation.

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 and agrees with the penalty recommendation of a \$1,000 penalty for the two violations of RCW 19.122.030 that occurred on January 17, 2022. Staff recommends offering an opportunity to suspend an

\$800 portion of the penalty amount for one year, and then waive it, subject to the conditions that: (1) Greenland supervisors and field crew responsible for excavation complete Dig Safe Training provided through the National Utility Contractors Association (NUCA) within 45 days of the date the Commission issues the Penalty Assessment, (2) the Company must not commit any further violations of RCW 19.122 within 12 months of the date of this Penalty Assessment, and (3) the Company must pay the \$200 portion of the penalty that is not suspended within 15 days of receiving the Penalty Assessment.

The Commission agrees with Staff's recommendation and assesses a \$1,000 penalty with an offer to suspend an \$800 portion of the penalty subject to the conditions 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 either of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation(s) 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 a hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) 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 the \$200 portion of the penalty that is not suspended and notify the Commission that you accept the offer to suspend an \$800 portion of the penalty amount subject to the following conditions:
 - Greenland management and field crew responsible for excavation must complete NUCA Dig Safe Training (<https://utc-9183.quickbase.com/db/bpkt6vndh>) 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
 - Greenland must not incur any additional violations of RCW 19.122 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 file it with the Washington Utilities and Transportation Commission, at records@utc.wa.gov, **within FIFTEEN (15) days** after you receive this Penalty Assessment.

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 May 26, 2022.

/s/Michael Howard

MICHAEL HOWARD

Acting Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT D-220318 Investigation #8536

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 the Conditions.** I admit that the violation occurred. I enclose \$200 and accept the Commission's offer to suspend and ultimately waive the remaining \$800 portion of the penalty amount subject to the following conditions:

- Greenland** supervisors and applicable field staff must attend dig safe training provided through NUCA within 90 days of the date of this Penalty Assessment; and
- Greenland must submit documentation of that attendance to the Commission within 5 days of attending the training;** and
- Greenland** 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 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 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.”