

Response to Notice of Probable Violation

Incident Date: September 3, 2024

Location: 3010 Avenida Imperial, San Clemente, California 92673

Response: Contest in Writing

To the California Underground Safety Board:

This is in response to an incident that happened on this job. We are submitting this response to address the three violations listed in the Notice and ask the Board to consider the circumstances of this incident.

JW Carroll Construction is a small electrical contracting business. We take jobsite safety seriously. We are not trying to make excuses for what happened. We would simply like the Board to have a clear picture of the circumstances and understand that there was never an intention by JW Carroll Construction to disregard underground safety requirements or refuse to cooperate with the Board.

1. 811 Notification

This project was a swimming pool remodel being performed by Meridian Custom Pool. JW Carroll Construction was the electrical subcontractor.

This was not a typical new swimming pool project where a new pool is excavated with tractors or other heavy equipment. The existing pool was being remodeled, so there was no major excavation planned for the backyard.

On a typical new pool project, by the time JW Carroll Construction arrives to perform the electrical work, the general contractor has already handled the excavation portion of the project and the 811 process has already taken place.

On this particular project, some hand digging became necessary next to the main electrical panel on the side of the house. A day labor worker hired by JW Carroll Construction was digging

by hand with a shovel when a small plastic natural gas line coming from the street was struck. We later learned that the gas line was approximately 15 inches below the surface.

Because this pool was a remodel with no planned major excavation, an 811 ticket had not been obtained for this work. We now understand, however, that although the digging was limited and performed by hand with a shovel, that did not eliminate the underground safety requirements.

We have learned from this incident. Going forward, before any personnel perform excavation, including hand digging, we will make sure the applicable 811 requirements have been addressed.

2. 911 Emergency Notification After the Gas Line Was Damaged

When the gas line was struck, the worker was at the jobsite with the job superintendent. The worker suggested to the job superintendent that 911 should be called. JW Carroll was also notified by the worker by phone of the incident.

The decision was made by the job superintendent at the site to contact the gas company directly instead of calling 911. JW Carroll then contacted the job superintendent and was assured that the necessary notifications had been handled. The gas company responded to the jobsite in less than an hour and repaired the damaged gas line.

We are not providing this information as an excuse for the 811/911 requirements. We believe it is important for the Board to understand what actually occurred at the jobsite.

We understand now that contacting the gas company directly does not replace any emergency notification required by law when a gas line is damaged.

Going forward, the requirements of the California Underground Safety Board are clear and understood. Workers will be instructed on the steps to take if they damage or discover damage to a natural gas line or other underground utility, including following the required emergency notification procedures and calling 911 when required. Regardless of what another contractor at the jobsite may suggest, JW Carroll Construction will make sure the required call is made.

3. Allegation That JW Carroll Construction Refused to Cooperate

We would also like to address the allegation that JW Carroll Construction refused to cooperate with the Board's investigation.

JW Carroll Construction is a sole proprietor construction company that has been in business for several decades. During that time, regulatory requirements and procedures affecting contractors have continued to change. As a small business owner, JW Carroll is responsible for many different parts of the business, including managing any required field labor, jobsite safety, customers, bookkeeping, licensing, and the day-to-day operation of the company.

Without a separate office staff or compliance department, keeping up with newer requirements and procedures from specialized state agencies can be challenging. JW Carroll makes every effort to stay informed of the requirements that apply to the business. In this instance, however, we did not fully understand the significance of the Board's communications or that failing to respond could be treated as a refusal to cooperate with an investigation.

We acknowledge that we should have responded to the investigator's requests in a timely manner, and we regret that we did not do so.

There was never a deliberate decision to obstruct the investigation or withhold information from the Board.

We are now providing this written response and are willing to provide reasonable additional information the Board may need to evaluate what happened.

We respectfully ask the Board to consider that our failure to respond was not intended to hinder or obstruct the investigation.

4. Corrective Action and Penalties

We understand from the Notice that violations of the underground safety laws can carry significant penalties. We also understand that the Board can consider corrective action and education.

This incident has certainly been a learning experience for JW Carroll Construction. Although there was no intention to damage an underground utility, disregard an unsafe condition, or ignore the underground safety laws, the damage did occur during limited hand digging with a shovel during electrical work on a pool remodel, and we should have followed through accordingly. We have learned that our own procedures need to adhere to the guidelines established by the California Underground Safety Board.

We will make the 811 requirements known and strive to make sure they are understood before any digging is done. We will also make sure that the emergency procedures that must be followed if an underground gas line or other utility is damaged are understood, that the proper steps are taken.

If the Board determines that corrective action is appropriate, we respectfully ask the Board to consider an 811/Dig Safe refresher course, additional safety training, or similar corrective education rather than a monetary penalty.

After proper education on this important matter and regulatory follow-through procedures, we will strive to ensure that this does not happen again.

Conclusion

We ask the Board to consider the actual circumstances of the September 3, 2024 incident, including that this was a pool remodel rather than a new-pool excavation project; the digging was limited hand digging with a shovel; the worker suggested to the job superintendent that 911 be called; the gas company was contacted and responded to repair the line; and that JW Carroll Construction's failure to respond to the earlier investigation requests was not an intentional refusal to cooperate. JW Carroll Construction does take this matter very seriously.

We also ask the Board to consider our willingness to learn from this incident, improve our procedures, and follow the applicable underground safety and emergency notification requirements going forward.

If the Board determines that violations occurred, we respectfully request that the Board consider education, refresher training, or other appropriate corrective action rather than a monetary penalty.

Thank you for the opportunity to respond.

Respectfully submitted,

September 23, 2026

Background Information

John and I were the co-founders of J&J Capital Construction, LLC, a company that was founded in 2011 and has since grown into a successful business. We have been working together for over 10 years and have a strong relationship with the community. We are currently facing a challenge with the City of [City Name] regarding a permit application. We are seeking your assistance in resolving this matter.

Request for Assistance

We are seeking your assistance in resolving this matter. We have been working with the City of [City Name] for several months and have been unable to resolve the issue. We are seeking your assistance in resolving this matter and are hoping that you can help us in this regard.

Request for Assistance

We are seeking your assistance in resolving this matter. We have been working with the City of [City Name] for several months and have been unable to resolve the issue. We are seeking your assistance in resolving this matter and are hoping that you can help us in this regard.

John and I are the co-founders of

J&J Capital Construction, LLC

JW Carroll Construction

Underground Utility Safety Policy and Procedures

JW Carroll Construction is a sole proprietor electrical contractor and may occasionally have additional personnel working on a project. The following procedures apply whenever work may involve digging or excavation.

811 / Regional Notification Center

Before any excavation or digging is performed, including hand digging with a shovel or other hand tools, JW Carroll Construction will make sure the applicable 811/Regional Notification Center requirements have been addressed and that required utility markings are in place before digging begins.

Emergency Procedures

If an underground gas line or other utility is damaged or damage is discovered, work will stop immediately. Personnel will move away from any unsafe area and notify JW Carroll Construction. When required, 911 will be called, and the appropriate utility/operator will be notified. Work will not resume in the affected area until it is safe to do so.

Excavation Equipment and Hand Tools

No person working for JW Carroll Construction may use excavation equipment or begin hand digging until the underground utility requirements have been addressed. Any digging near marked underground utilities will be performed carefully and in accordance with applicable safety requirements.

Worker Instruction

Any person performing digging or excavation for JW Carroll Construction will be informed of these procedures before beginning the work.

JW Carroll Construction

John Carroll, Sole Proprietor

Procedures updated following September 3, 2024 incident

Physical Address*

18965A San Felipe St
Fountain Valley, CA 92708

Mailing Address*

18965A San Felipe St
Fountain Valley, CA 92708

Phone Number*

714/984-5335

Email Address*

johnncarroll@pacbell.net

Did JW Carroll Construction damage the Natural Gas facility while excavating at 3010 Avenida Imperial, San Clemente on the 9/3/2024?
(Select One) *

☒ Yes

☐ No

were there any other companies at or near 3010 Avenida Imperial, San Clemente on 9/3/2024? (Select One) *

☒ Yes

☐ No

Did someone in JW Carroll Construction, or anyone else, contact the Regional Notification Center 9/3/2024? *

☐ Yes

☒ No

The damage notification indicated that a facility was damaged at 3010 Avenida Imperial, San Clemente on 9/3/2024. Is that correct? *

☐ Yes

☒ No

Was JW Carroll Construction the prime contractor on the project at 3010 Avenida Imperial, San Clemente on 9/3/2024? *

☐ Yes

☒ No

☒ No

Was there an emergency response to the incident from the fire department, a law enforcement department, or an ambulance on 9/3/2024? *

☐ Yes

☒ No

Were there any injuries to any personnel or bystanders on 9/3/2024? *

☐ Yes

☒ No

Were there any fatalities on 9/3/2024 or afterwards, due to the damage at 3010 Avenida Imperial, San Clemente? *

☐ Yes

☒ No

Was there property damage on 9/3/2024, excluding the facility damage? *

☐ Yes

☒ No

Was there a fire on 9/3/2024 as a result of the damage to the facility? *

☐ Yes

☒ No

Was there an evacuation of any homes or businesses on 9/3/2024 as a result of the damage to the facility? *

☐ Yes

☒ No

Are you aware of anyone else that called 911?*

☒ Yes

General Contractor on site

☐ No

Did anyone at JW Carroll Construction contact the Regional Notification Center after the damage on 9/3/2024 ? *

☐ Yes

☒ No

Facility Damage ▾

Was a facility damaged on 9/3/2024? *

☐ Yes

☒ No just underground gas line

Describe the damaged facility.*

underground gas line

Identify the type of material damaged.*

poly/plastic gas pipe

Explain how the facility was damaged?*

first shovel action - line apx 12" down

What equipment did JW Carroll Construction use on 9/3/2024? (Select All That Are Applicable) *

☐ Auger/vertical bore

☐ Backhoe/trackhoe/excavator

Provide the names, phone numbers, and if applicable, their email address for all your personnel who were at 3010 Avenida Imperial, San Clemente when the facility was damaged.

Name*

Day Laborer - Jose

Title*

N/A

Phone Number*

N/A

Email Address*

N/A

Add an additional individual?*

☐ Yes

☒ No

Which one of the individuals you identified was the foreman on the project when the facility was damaged?*

None

☐ Horizontal drilling or boring equipment

☐ Farm equipment

☒ Shovel

☐ Pick

☐ Other hand tools

☐ Trencher

☐ Air/water knife

☐ Clay spade

☐ Jackhammer (90+ pound hammer)

☐ Powered hammer drill

☐ Powered hand-held other

☐ Explosives

☐ Surface milling equipment

☐ Saw cutting

☐ Other

What type of equipment damaged the facility? *

hand shovel

Who was operating the equipment that damaged the facility on 9/3/2024? *

Does JW Carroll Construction own that equipment? *

☒ Yes

☐ No

Emergency Response ▾

How did JW Carroll Construction learn that the So Cal Gas facility was damaged on 9/3/2024? *

call from worker

Did anyone with JW Carroll Construction call 911 on 9/3/2024 after the damage had occurred? *

No. General Contractor told worker he would handle required notifications

Did anyone at JW Carroll Construction contact So Cal Gas after the damage? *

☐ Yes

☒ No GC assured he would handle all required notifications

What steps, if any, have JW Carroll Construction taken to prevent a similar damage in the future? *

Reviewed procedures to better inform workers prior to any digging

Is there any other information you want to share about this damage?*

Submit