

From: [Kenney, Michael](#)
To: [Underground Enforcement](#)
Cc: [Carrillo, Victoria](#); [Bartley, Ernest](#); [Tran, Minh C](#); [Shaffer, Karel V](#); [Lenane, Sharon](#)
Subject: County of San Diego (Member code: COSDSD) Response to a Notice of Probable Violation Case No. CAS-01529-G6V5K1
Date: Thursday, January 29, 2026 2:45:57 PM
Attachments: [Response lrt to USA Violation Ver2.pdf](#)
[CAS-01529-G6V5K1 San Diego County Department of Public Works -Special Districts NOPV revised \(004\).pdf](#)

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Members of the Underground Safety Board,

The County of San Diego wishes to exercise our “Contest in Writing and Request Informal Hearing” option to the Notice of Probable Violation (Case No. CAS-01529-G6V5K1). A written response and the notice are attached. We understand that the Board will hear this item at their 2/9/26 meeting at 1PM. Please provide a confirmation email as well as meeting login credentials for the meeting.

Thank you,



Michael L. Kenney, P.E. T.E.
County Traffic Engineer
Department of Public Works, Transportation Division
County of San Diego Land Use and Environment Group
C: [REDACTED] | MS: 0-332
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5510 OVERLAND AVENUE, SUITE 410, SAN DIEGO, CALIFORNIA 92123-1237
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KATHRYN A. STEWART, PE
ASSISTANT DIRECTOR

January 29, 2026

Office of Energy Infrastructure Safety
Underground Safety Board
715 P Street, 15th Floor
Sacramento, Ca 95814

SUBJECT: Notice to Contest Probable Violation (Case No. CAS-01529 G6V5K1)

Dear Board Members:

The County of San Diego has received a Notice of Probable Violation for failing to correctly respond to a Dig Alert notice. The material facts contained in the report are correct. The County does not contest the violation, however, there is information that the County would ask the Committee to consider when considering fines or penalties.

Per the Report of Investigations attached to the notice, on November 30, 2022, a contractor working at an intersection within the County of San Diego damaged a water valve requiring an emergency repair. The USA investigator's report concluded that a subcontractor started work early, prior to the utility mark outs being completed, causing the damage. The County's responsibility for street light mark outs had nothing to do with the actions that led to the damaged water valve.

After County staff determined that no streetlights were in the area, the contractor was notified via email, however not through the Electronic Positive Response (ERP) system which we are required to do. Failure to respond via the EPR system resulted in late notice from the regional notifications center which was also identified in the investigation.

The County acknowledges shortcomings in our ERP reporting; however, we have corrected those shortcomings by implemented training for proper use of the ERP system. Since the training, no late notices or violations have been received. We understand that improperly responding to Dig Alert notices is subject to disciplinary actions by the Committee. If the Committee feels that penalties are warranted, we ask only that the penalties reflect the administrative nature of the infraction and consider our remedial measures.

Sincerely,

Michael L. Kenney, P.E., T.E.

County Traffic Engineer



RESPONSE TO A NOTICE OF PROBABLE VIOLATION

Case Number: CAS-01529-G6V5K1

Name: San Diego County Department of Public Works, Special Districts (member code: COSDSD)

The provisions of California Code of Regulations, Title 19, Division 4, Chapter 3, governs the Notice of Probable Violation (Notice) proceeding before the California Underground Safety Board (Board). Specifically, 19 CCR section 4252 provides your response options upon the receipt of a Notice.

Be advised that all material submitted by you in response to a Notice are subject to public disclosure.

Please select from one of the response options listed below. You have 30 business days to submit your written response to the Underground Safety Board. Failure to submit a written response will be considered by the Board as a "No Contest" response. Please attach this form with your selection to your response. If you choose "Contest in Writing" or "Contest in Writing and Request Informal Hearing," please also include your written explanation and documents that may be referenced in your written explanation or informal hearing. For all options, Board investigators may present the basis for your probable violation on the date of the public meeting as provided in your Notice, and the Board will review your case and vote to determine whether a probable violation exist and whether the corrective action and/or penalty proposed by the Board staff is appropriate at the meeting.

Response Options

___ No Contest

You do not contest the violations or the penalty. If you choose to not contest the violations or the penalty, you will waive your right to request the Board to reconsider its decision or recommendation issued.

___ Contest in Writing

You wish to contest either the violation, the penalty, or both by providing the Board with written explanations and other records supporting the explanation. You will submit the written explanations and records, if any, with your written response within 30 business days of receiving this Notice. Your response must not exceed 10 pages (excluding exhibits) in length and must be on 8.5" x 11" white paper, double-spaced, and in a font size no smaller than 11-point. You must submit the original and 12 physical copies of the written explanation and records to the address below or submit one (1) copy electronically to enforcement.dig@energysafety.ca.gov. You may

request an extension to the page limit by submitting a request to the Board staff within 5 days of receiving this Notice. The Board staff will notify you of its determination with respect to the page limit extension request within 10 days of you submitting the request. The Board will review and vote on your case on the date of the public meeting provided in the Notice.

X **___ Contest in Writing and Request Informal Hearing**

You wish to contest either the violation, the penalty, or both with oral argument at an informal hearing during a public Board meeting. You will submit with your written response, written explanations, information, or other materials you wish to reference in your oral hearing. Your response must not exceed 10 pages (excluding exhibits) in length and must be on 8.5" x 11" white paper, double-spaced, and in a font size no smaller than 11-point. You must submit the original and 12 physical copies of the written explanation and records to the address below or submit one (1) copy electronically to enforcement.dig@energysafety.ca.gov.

Your hearing would be during the public meeting noted in the Notice, on February 9, 2026, at 1:00p.m., and the location of the meeting will be in Sacramento, California.

California Natural Resources Agency Building
Conference Room 2-302 – Second Floor 715 P Street
Sacramento, California 95814

Please note that your oral hearing may not start exactly at the time provided as there may be multiple hearings during one Board meeting. You may request to reschedule your hearing no later than 15 business days from your hearing date. Your request to reschedule a hearing may be granted no more than once and only for good cause.

You may participate in person or through a virtual meeting platform. You will have 15 minutes to present your reasons for contesting the allegation or reasons that may support a modification or elimination of the penalty or corrective action. During your hearing, conducted pursuant to Section 4253 of Title 19 of the California Code of Regulations, board investigators may present the basis for your Notice of Probable Violation. You will be granted up to 15 minutes to respond to the Notice and up to 5 minutes to respond to any Board staff rebuttal. You may arrange, at your expense, for a stenographer or court reporter to transcribe the informal hearing. You must provide a copy of any transcription to the Board.

The Board will issue a decision at,

- The informal hearing;
- Thereafter within 45 business days of the informal hearing; or
- At a subsequent Board public meeting where a quorum of the Board is present.

The Board will adopt the issued written decision at the hearing or a subsequent public meeting. The Board's decision is effective upon the adoption of the written decision.

___ Reservation of Rights to Contest Violation with the Enforcement Agency

You contest the violation, the penalty, or both, but do not wish to present your comments to the Board. You request that the Board refer the case to the appropriate state or local agency that would conduct the enforcement of the probable violation pursuant to Government Code section 4216.6(c) (Enforcement Agency), and you will reserve the right to contest the violation, the penalty, or both before the Enforcement Agency. The Board will review and vote on your case to determine whether a probable violation exists and whether the corrective action and/or penalty proposed by the Board staff is appropriate at the public meeting noted in your Notice. Should the Board determine a probable violation exists, the Board will refer your case to the Enforcement Agency.

Board Contact Information:

Please direct all formal correspondence, including your written response to the Notice, to the Board either via email at enforcement.dig@energysafety.ca.gov or via mail to the following address:

Office of Energy Infrastructure Safety
Underground Safety Board
715 P St., 15th Floor
Sacramento, CA 95814

Please provide your written response within 30 business days of receiving this Notice. If a response is provided via mail, the mailed response must be received by the Board within 30 business day.

Penalties

Any penalties, including corrective actions, are only proposals by Board staff, and do not require any current corrective action or payment at this time. Your Enforcement Agency will provide the final determination to and instructions for any penalty. Please do not include any proof of compliance with proposed corrective actions or payment of a proposed penalty with your written response.

ADA Compliance

The California Underground Safety Board complies with the Americans with Disabilities Act ("ADA") by ensuring that the facilities are accessible to persons with disabilities, and providing this Notice and information given to the members of the California Underground Safety Board in appropriate alternate formats when requested. If you need further assistance, including disability-related modifications or accommodations, you may contact the Underground Safety Board no later than seven (7) calendar days before a scheduled hearing at (916) 902-6000. California Relay Service is available by dialing 711.