



**CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD
INVESTIGATION DIVISION
INVESTIGATION REPORT**

DATE: November 19, 2021

CASE No.: 21SA01473

INCIDENT: Concrete contractor excavating a new driveway without notifying one-call center

Violations:

Tomas's Concrete

Gov't Code 4216.2 (b):

Failure to notify one-call center of planned excavation

Executive Summary:

Tomas's Concrete performed excavation to build a new driveway and widen an existing driveway in Fair Oaks without notifying the one-call center, in violation of Government Code 4216.2(b). No damage occurred.

Report Date:	Case Number:	Notification Date:
November 19, 2021	21SA01473	July 31, 2021

Subject of Investigation: Concrete contractor excavating a new driveway without notifying one-call center

Reporting Party Information:

[REDACTED]

Prior Relevant Board Actions:

None

Date and Time of Incident:

July 30, 2021

Location of the Incident:

[REDACTED], Fair Oaks, CA

Ticket:

None

Operator:

None

Excavator:

Tomas's Concrete

Facility Type Damaged:

None

Scene Description

Front yard of a corner property in a neighborhood in Fair Oaks, CA.

Investigation

At 8:55pm on Thursday, July 29, 2021, [REDACTED] sent an email notifying to the Board's Executive Officer stating that her friend [REDACTED] was "scared to death that her neighbor is pouring a cement driveway over a gas line" (Exh. 1). When contacted at 9:17am the next morning, [REDACTED] stated that Tomas's Concrete was working for her neighbor to add a new driveway and expand the existing driveway. She stated that workers were using pickaxes to dig the driveway, and was concerned they would hit a gas line. She was aware of the 811 process and did not believe that there was a ticket for the work. A search of the USA North 811 ticket database for a ticket at residence in question—the corner of [REDACTED]—did not identify an active ticket in the vicinity.

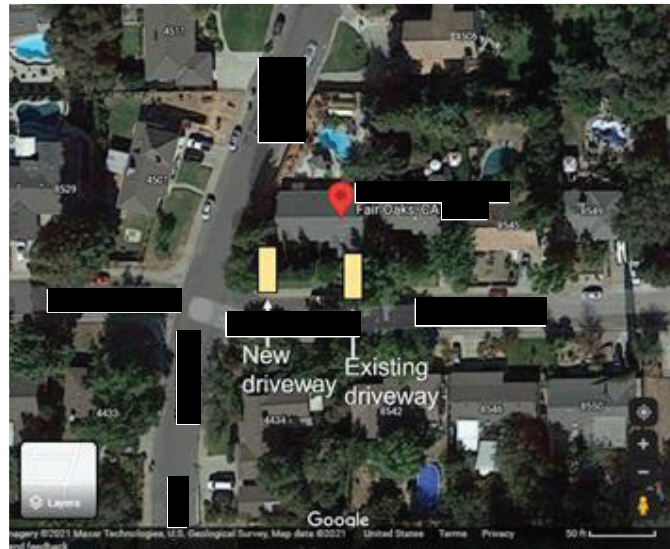


Figure 1: Google Maps satellite view of property with locations of new and existing driveway added.

Executive Officer Tony Marino, acting as an investigator, arrived at the excavation site at 10:45am. The USA North 811 Newtin “Near Ticket” webpage did not identify a ticket for driveway work or one by Tomas’s Concrete in the vicinity. The “Near Ticket” webpage identifies tickets within 1,000 feet of a GPS-enabled device’s location (**Exh. 2**). Several workers were on site, none of whom were performing excavation at the time. The front yard of the property had already been excavated to a depth of several inches (**Exh. 3, 4, 5**). No exposed facilities were visible.



Figure 2: from **Exh. 3**, image of new driveway bed following excavation the morning of July 30, 2021.

One of the workers, Mark, identified himself and the other workers onsite as a crew of Tomas's Concrete. Mark stated that he didn't know if there was a "call before you dig" ticket for the job, but that he could call his boss, Tomas Gonzales. Mark stated that they had completed the excavation work.



Figure 3: from **Exh. 5**, close-up of new driveway bed following excavation the morning of July 30, 2021.

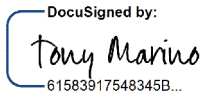

Mr. Gonzales spoke through Mark's cell phone, and he talked about the job and stated that he did not have a ticket. He said that he'd thought there was an allowance for digging 6-inches without a ticket, though he admitted that he should have gotten one (**Exh. 6**).

Encroachment permits are required by Sacramento County for the installation of new driveways (**Exh. 7**). The Sacramento County encroachment permit application states that "*Applicant must check with all Utility Companies serving the area covered by this permit, for location of existing underground pipes, conduits or cables. Underground Service Alert (U.S.A.) does not locate non-pressurized sewer and drainage facilities*" and contains a space to indicate the ticket number (**Exh. 8**). Fair Oaks is an unincorporated community in Sacramento County. The Maintenance Engineering Division of the Sacramento County Department of Transportation did not have any records of an encroachment permit for a driveway at the address (**Exh. 9**).

Tomas's Concrete has an active contractors license that had been issued April 19, 2006. (Contractors State License Board license 876397, **Exh. 10**).

Investigative Findings

- I. **Tomas's Concrete performed excavation to build a new driveway and extend an existing driveway at a residence in Fair Oaks.**
- II. **Tomas's Concrete is in violation of Government Code section 4216.2(b).** Tomas's Concrete conducted an excavation without notifying the one-call center in advance of the excavation. The owner expressed a belief that there was an exemption for excavation up to six inches. There is no depth exemption for excavation.
- III. **The homeowner is not in violation of Government Code 4216.** The homeowner had hired a licensed contractor to perform the excavation and is therefore exempt from requirements of the One Call Law pursuant to Government Code section 4216.8(b).

Investigator Name	Supervisor Name
Tony Marino	Jason Corsey
Signature	Signature
 61583917548345B...	 3F4D07A2D48B4AA...

Witness List

Name: [REDACTED]
Organization:
Address: [REDACTED] Fair Oaks, CA 95628
Phone: [REDACTED]
Knowledge of: Neighbor to excavation

Name: Tomas Gonzales
Organization: Tomas's Concrete
Address: 4831 Siskiyou Avenue Sacramento, CA 95820
Phone: [REDACTED]
Knowledge of: Conducted excavation for driveway work

Name: [REDACTED]
Organization:
Address:
Phone:
Knowledge of: Friend of [REDACTED]

Exhibit List

Exhibit #	Description	Date Received	Received From
1	Email from [REDACTED] concerned about friend's neighbor pouring concrete driveway over gas lines	7/29/21	Lois Greene
2	Norfield "Newtin Near Ticket" explanation from USA North 811 Board of Directors Meeting packet from April 28, 2021	11/18/21	USA North One Call Center
3	Photo of new driveway to the left of house	7/30/21	Tony Marino
4	Image of existing driveway, with new excavation for extension	7/30/21	Tony Marino
5	Image of new driveway, showing the depth of the excavation	7/30/21	Tony Marino
6	Report of Interview for Tomas Gonzales	7/30/21	Tomas Gonzales
7	Sacramento County webpage articulating need for encroachment permits for new driveway construction	9/2/21	Sacramento County Engineering
8	Sacramento County Encroachment Permit Application (blank)	9/1/21	Internet Search
9	Response from Sacramento County Engineering regarding encroachment permit, that they found none for address	9/1/21	Tony Marino
10	CSLB license check for Tomas's Concrete	7/30/21	CSLB License Check

Evidence 1: Email from [REDACTED]

From: [REDACTED]
To: [Marino, Tony@CALFIRE](mailto:Marino.Tony@CALFIRE)
Cc: [REDACTED]
Subject: Neighbor Pouring cement over gas line
Date: Thursday, July 29, 2021 8:55:04 PM

Warning: this message is from an external user and should be treated with caution.

My friend is scared to death that her neighbor is pouring a cement driveway over a gas line. This is adjacent to her property.

This is to be done tomorrow morning.

Why is there no help to get someone to come out immediately to make sure that this is not going to cause a disasterous situation?

Her neighbor just decided to put in additional driveways for extra vehicles. He has already dug them up.

811 dig---- .does not follow up in a timely way and the dangerous situation is ready to happen tomorrow.

Doesn't anyone have any immediate help to investigate this situation?

Does she have to wait for an explosion?

Please help her. [REDACTED] in Fair Oaks,. CA. [REDACTED].

Please help.

Thank you,
[REDACTED]

Sent from my Samsung Galaxy smartphone.

Near Ticket

Smartphone tool for field investigators

Shows tickets within 1,000 ft of the user's position, as indicated by user's GPS coordinates.

List of tickets that are within 1,000 ft of user's position

Tap on a ticket to see its details

Red circle = 1,000 ft radius distance from user and area in which tickets will be visible

Purple polygon = dig site polygon of selected ticket

Red dot = user's position, as indicated by phone's GPS

Newtin Near Ticket

Get Tickets

Ticket	Address
X032802142-06X	5130 COMMERCIAL CIR

Details for: X032802142-06X

State: CA
County: CONTRA COSTA Place: CONCORD
Street: 5130 COMMERCIAL CIR
Cross 1: DEAN LESHER DR
Location: 20'X20' AREA IN FRONT OF PROPERTY 5130 COMMERCIAL CIR., CONCORD.
Company: VPI CHARGE 707-771-4813
Foreman: UNKNOWN
Enters St or Sidewalk: No
Work Type: DIG/TRENCH/INSTALL ELECTRIC
Work Date/Time: 11/25/2020 05:01 PM
Valid Thru: 05/20/2021 12:00 AM

Comments: **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--12/17/2020 09:08:46 AM **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--01/12/2021 09:42:31 AM **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--02/05/2021 01:24:52 PM **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--03/03/2021 09:18:41 AM **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--03/29/2021 09:53:43 AM **RENEW TICKET** WORK CONTINUING PER SVEIN GRIMSTAD--04/22/2021 08:50:26 AM

300 ft

Concord

Commercial Cir

Lesh Dr

© ndpoci.com

© Norfield Development Partners

Evidence 3: Site Photo: Image of new driveway



Evidence 4: Site Photo: Extension to existing driveway



Evidence 5: Site Photo: Close-up of new driveway



Evidence 6: Report of Interview for Tomas Gonzales



CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD INVESTIGATION DIVISION INTERVIEW REPORT

REPORT DATE: 7/30/2021

CASE NO: 21SA01473

DATE/TIME OF INTERVIEW: 7/30/2021 10:45 AM

LOCATION OF INTERVIEW: Excavation site, telephonic

NAME/ADDRESS OF INTERVIEWEE:

Tomas Gonzales

Sacramento, CA

Tel: [REDACTED]

NARRATIVE:

I arrived onsite at [REDACTED] at approximately 10:45am and checked the USA North Newtin "Near Ticket" webpage and did not find a ticket for driveway work or by Tomas's Construction in the vicinity. I introduced myself to one of the workers, Mark. He identified himself and the other workers onsite as a crew of Tomas's Construction. I asked Mark if there was a "call before you dig" ticket for the job. He said he didn't know, but that he could call his boss, Tomas. I asked if they had more excavation work to do, or if they were done. Mark indicated that they had completed the excavation work (as it appeared to me they had).

I spoke with Tomas Gonzales on Mark's cell phone, and Mr. Gonzales talked about the job and indicated that he did not have a ticket. He said that he'd thought there was an allowance for digging 6-inches without a ticket, though he admitted that he should have gotten one. I indicated that there was no depth of excavation that was permitted without a ticket, and one couldn't assume lines to be buried at a certain depth. I told him that I was going to leave a couple USA North excavation guides with his crew, take some pictures, and leave. I indicated that he was likely to get an advisory letter from the Board, but unlikely to receive a sanction at this time. We hung up.

Mark and two other crew members asked if getting the ticket was something that the homeowner should do. I indicated that the law did not place that responsibility on the homeowner when a contractor performed the work; that the contractor bore the responsibility. I provided them with two USA North excavation guide booklets and showed mark where the contact information for USA North could be found. I took a few pictures and left.

Investigator Name	Supervisor Name
Tony Marino	
<i>Tony Marino</i>	

Transportation

web address: <https://sacdot.saccounty.net/Pages/Driveways-NewOrProposed.aspx>

Driveways, New or Proposed

Driveways serve as points of access to and from private properties to the County's public roadways. Because each driveway represents a conflict point and is potentially disruptive to the flow of traffic, SACDOT must limit the number and spacing of driveways especially on our heavier travelled streets.

Most driveways are approved and constructed when abutting properties are developed or redeveloped. The determination of the appropriate driveway locations is made either through entitlement review during the planning process or, if no entitlement action is required, during plan checking. In all cases the Sacramento County Improvement Standards shall serve as the basis for driveway placement and design. In developed areas, SACDOT reserves the right to close inappropriate driveways in an effort to make our congested corridors more efficient.

Some driveways are installed without property development or in some cases after a property has been developed. If no site improvement plans are deemed necessary, such new driveways shall be constructed only after issuance of an Encroachment Permit.

Contact Information - New Driveways During Site Development:

Tony Do, Associate Civil Engineer

Phone: 916-874-7069

Email: doto@saccounty.net

Pete Kokkinis, Assistant Civil Engineer II

Phone: 916-874-5374

Email: kokkinisp@saccounty.net

Contact Information - New Driveways Through Encroachment Permit:

Hardeep Sidhu, Senior Civil Engineer

Phone: 916-875-5490

Email: sidhuh@saccounty.net

ROADWAYS

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- › [Roadway Services Road](#)
- › [Commissioner Decs Road](#)
- › [& Lane Closures](#)

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Translation Disclaimer

Evidence 8: Sacramento County Encroachment Permit Application

U.S.A. TICKET NO. _____

Phone (800) 227-2600 _____

SACRAMENTO COUNTY MUNICIPAL SERVICES
827 – 7TH STREET, ROOM 105, SACRAMENTO, CA. 95814
PHONE (916) 874-6544

PERMIT NO. _____

MAP NUMBER
COORDINATES

APPLICATION FOR ENCROACHMENT PERMIT

1. Permit Type: _____
2. Application is made for permission to excavate, construct and/or otherwise encroach on County right-of-way by performing the work described below on:

Project Location

3. Scope of Work:

--

4. Permittee shall schedule a pre-construction meeting to activate this permit by calling CMID at (916) 875-2707.
5. **Permittee shall notify Construction Management and Inspection Division (CMID) at (916) 875-2707, at least 24 hours in advance prior to commencing work.**
6. **Permittee shall contact the County Survey Section at (916) 874-6546 for potential location of survey monuments.**
7. Applicant must check with all Utility Companies serving the area covered by this permit, for location of existing underground pipes, conduits or cables. Underground Service Alert (U.S.A.) does not locate non-pressurized sewer and drainage facilities.
8. Attention is directed to the General Provisions attached hereto and to any specific conditions made a part of hereof.

In consideration of the granting of this application, it is agreed by the applicant that the County of Sacramento and any officer or employee thereof shall be saved harmless by the applicant from any liability or responsibility for any accident, loss or damage to persons or property, happening or occurring as the proximate result of any of the work undertaken under the terms of this application and the permit or permits which may be granted in response to thereto, and that all of said liabilities are hereby assumed by the applicant. It is further agreed that if any part of this installation interferes with the future use of the highway, it must be removed or relocated, as designated by the Chief Deputy County Executive of Municipal Services, at the expense of the applicant or their successor in interest.

FOR USE BY UTILITY COMPANIES			
District		Division:	
Engineer		Job No:	

Contact Person _____

Applicant Signature: _____

Applicant: _____ Phone: _____

Address: _____ City _____ State _____ ZIP _____

DEPARTMENTAL REVIEW	APPROVED	DATE	Bond / Deposit:		VALIDATION:
WATER SUPPLY			Code: 077C-0772982-5500000		
TRANSPORTATION			PERMIT FEE:		
WATER RESOURCES			Code: 005A-2900000-92925800		
WATER QUALITY			Sub. Order Number:		
TECHNICAL RESOURCES			Customer Number:		

Approved applications subject to payment of fees, pre-construction meeting with CMID, Attachment A, and is revocable at any time. This permit is nontransferable and EXPIRES **ONE YEAR** from date issued. ***ANNUAL Permits expire December 31 of the year permit is issued.**

RON E. VICARI, Road Commissioner

By: _____ Date: _____

CMID INSPECTOR

Plan Submittal Date: _____

“ASBUILT” Inspector Approval: _____
Name _____ Date _____

Traffic control plans templates:

<http://www.sacdot.com/Pages/TrafficControlPlansandDetourPlans.aspx>

Sacramento County General Map Viewer e-Map-It

<http://generalmap.gis.sacounty.net/Default.aspx>

STATEMENT OF APPLICANTS RESPONSIBILITY

Encroachment Permit

Dear Applicant:

Please read the following statement outlining your responsibilities regarding the checking and approval of your Encroachment Permit.

California Government Code Section 66451.2 authorizes cities & counties to charge a fee for the actual cost of review. Sacramento County has implemented this fee in Section 22.20.016 of Sacramento County Code. In submitting your plan for review and signing this form, you are agreeing to take responsibility for the costs generated by the County related to plan review, material testing, and construction inspections. An application fee of \$365.75 (\$350.00 + \$15.75 I.T. Recovery Fee) is to accompany this encroachment permit submittal. Upon receipt, a unique account will be established in your name. You will receive a statement on a monthly basis, and all charges must be paid in full prior to final inspection approvals of your permit. If you are the owner of the affected land please sign on the line below. If you are an authorized agent of the owner please sign below and present a copy of your power of attorney for this project. Failure to keep your account current may result in delays of permit approval and final inspection approvals.

I hereby confirm that I understand my financial responsibility for this plan. If I sell or option this property, I will disclose the terms of this statement, and if I fail to do so, I will be jointly responsible.

Property Address/Project Name:			
Assessor's Parcel No.:			
FOR UTILITY ENCROACHMENT PERMITS ONLY IDENTIFY UTILITY PURVEYOR WHO OWNS FACILITIES:			
Applicant's Name:			
Title:			
Company Name:			
Contractor's License No.:		Business License:	
Address:			
Telephone No.:		E-mail Address:	
SECURITY DEPOSIT			
<input type="checkbox"/>	Bond	Bond Number:	Bond Amount:
Bond Exp. Date:		Bonding Company:	
<input type="checkbox"/>	Cash		
Refund Cash Deposit To:			
Name:			
Address:			
Signature:		Date:	

Evidence 9: Response from Sacramento County Engineering regarding encroachment permit

From: [Khang. Sue](#)
To: [Marino, Tony@CALFIRE](#); [Yee. Stanley](#)
Subject: RE: Encroachment permit for a residential property in Fair Oaks
Date: Thursday, September 2, 2021 1:28:12 PM

Warning: this message is from an external user and should be treated with caution.

Hi Stan,

I don't show any records of an encroachment permit for a driveway at this address.

Sue Khang

Assistant Civil Engineer
County of Sacramento
Department of Transportation, Maintenance Engineering
4100 Traffic Way, 2nd Floor
Sacramento, CA 95827
[REDACTED] (voice mail)
[REDACTED] (fax)
khangs@saccounty.net (email)
mail code: 71-003

From: Marino, Tony@CALFIRE <tony.marino@fire.ca.gov>
Sent: Thursday, September 2, 2021 9:35 AM
To: Yee. Stanley <yees@SacCounty.NET>
Cc: Khang. Sue <khangs@SacCounty.NET>
Subject: RE: Encroachment permit for a residential property in Fair Oaks

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.

Stanley, Sue, thank you so much.

We're looking for an encroachment permit for a driveway at the following address:

[REDACTED]
Fair Oaks, CA 95628

The contractor information is:

Tomas's Concrete
CSLB License #876397
4831 Siskiyou Avenue
Sacramento, CA 95820
tomas.concrete@yahoo.com

The dates I'm aware of work being done are July 29-30, 2021.

Let me know if I can provide any other information.

Thank you!
Tony

From: Yee. Stanley <yees@SacCounty.NET>
Sent: Thursday, September 2, 2021 9:28 AM
To: Marino, Tony@CALFIRE <tony.marino@fire.ca.gov>
Cc: Khang. Sue <khangs@SacCounty.NET>
Subject: RE: Encroachment permit for a residential property in Fair Oaks

Warning: this message is from an external user and should be treated with caution.

Tony, you can contact myself or Sue Khang to see if there is an driveway encroachment permit on file with Sac Co.

From: Marino, Tony@CALFIRE <tony.marino@fire.ca.gov>
Sent: Wednesday, September 1, 2021 4:31 PM
To: DSS ENCROACHMENT VM. <dssencroachmentvm@SacCounty.NET>
Subject: Encroachment permit for a residential property in Fair Oaks

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.

Hello,

I'm wondering how I may access an encroachment permit issued for driveway construction, or determine that the construction occurred without a permit.

I'm Executive Officer for the California Underground Facilities Safe Excavation Board. We investigate possible violations of the State's "call before you dig" law. We're investigating a "call before you dig" failure in Fair Oaks from about a month ago, and we noticed that your encroachment permit has language that states that the permittee needs to check with utilities. If the contractor applied for the permit, then he would have seen that language, which is material to our investigation.

As far as I can tell it appears that <https://data.saccounty.net/> does not include encroachment permits, so I'm not sure where the best place to look would be, or who to contact. If you can point me in the right direction, I'd appreciate it.

Thanks,
Tony

Tony Marino
Executive Officer
California Underground Facilities Safe Excavation Board

Cell: 916-767-3370
2251 Harvard Street | 4th Floor | Sacramento, CA | 95815
<https://dig.fire.ca.gov/>

Evidence 10: CSLB license check for Tomas's Concrete

▼ Contractor's License Detail for License # 876397

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- ▶ Only complaints disclosed in writing and reported to CSLB are disclosed. Subject to public complaint disclosure click on link that will appear below for more
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's

license database.

Data current as of 7/30/2021 9:30:19 AM

Business Information

TOMAS'S CONCRETE
4890 SISKIYOU AVENUE
SACRAMENTO, CA 95820
Entity Name
Business Phone Number: (916) 444-0000
License Number
04/19/2006

Expire Date

04/30/2022

License
Status

This license is current and active.

All information below should be

reviewed.
C-8 -
CONCRETE

Classification
S

Bonding
Information

Contractor's Bond

This license filed a Contractor's Bond with [OHIO CASUALTY INSURANCE COMPANY \(THE\)](#). **Bond Number:** 999084072

Bond Amount: \$15,000

Effective Date: 01/13/2021

[Contractor's Bond History](#)

Workers'
Compensation

This license has workers compensation insurance with the [FALLS LAKE FIRE AND CASUALTY COMPANY](#) **Policy Number:** FLA008164

Effective Date: 01/22/2018

Expire Date: 01/22/2022

[Workers' Compensation History](#)

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