



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



|                     |                     |                           |
|---------------------|---------------------|---------------------------|
| <b>Report Date:</b> | <b>Case Number:</b> | <b>Notification Date:</b> |
| 12/14/20            | 20SA01291           | 10/5/20                   |

**Reporting Party Information:**

James Wingate  
USA North 811  
4005 Port Chicago Hwy, Suite 100 Concord CA 94520

**Subject(s) of Investigation:**

The City of Lafayette  
Michael Moran - City Engineer  
3675 Mt. Diablo Blvd 210 Lafayette, CA 94549

**Prior Relevant Board Actions:**

None

**Date and Time of Incident:**

Ongoing violation.

**Location of the Incident:**

City of Lafayette Incorporated Area

**Ticket No.:**

N/A

**Ticket Type:**

N/A

**Ticket Issued:**

N/A

**Legal Start:**

N/A

**Operator:**

City of Lafayette

**Excavator:**

N/A

**Facility Type Damaged:**

N/A

**Notification**

Notification number:C202790004

**Fatalities and Injuries:**

Fatalities: 0

Injuries: 0

**Damages:**

N/A

**Responding Agencies:**

N/A

**Scene Description**

The City of Lafayette incorporated area, approximately 15 square miles.

**Summary of Investigation**

On 11/10/2020 SI Ehrgott reviewed the complaint submitted by James Wingate, Director, USA North 811. SI Ehrgott noted the email included an attachment to building permits issued by the City Of Lafayette which states they are not part of the Underground Service Alert system and permit holders are required to call the City to have facilities marked (Exhibits 1 & 3).

On 11/10/2020 I called Mr. Wingate and interviewed him regarding the complaint. Mr. Wingate stated that the City of Lafayette is not a member of USA North 811 despite attempts from Mr. Wingate and Charles (Chas) Whites, East Bay MUD, to educate them on the requirement to join the regional notification center as required by GC 4216. I asked Mr. Wingate about the types of facilities that Lafayette has and what locate & mark process they use if any. Mr. Wingate stated that Mr. Whites would have all that information and referred me to him as a witness. Mr. Wingate stated that the City of Lafayette's building permits have language that they are not part of the USA process and that the permittee must contact the City directly to have their facilities marked, which is in violation of multiple sections of 4216. Mr. Wingate provided SI Ehrgott with the referenced page of the City's permit package in the initial complaint. Mr. Wingate provided SI Ehrgott with the contact info for Farzaheh Sanders, Senior Engineer, City of Lafayette.

On 11/12/2020 SI Ehrgott called Charles aka "Chas" Whites, Superintendent of Construction and Maintenance, East Bay Municipal Utility District (EB MUD). Ehrgott asked Mr. Whites about the complaint submitted by Mr. Wingate. Mr. Whites confirmed that the City of Lafayette is not a member of USA North 811 and states that they city has low and high voltage buried electrical lines powering the traffic system. Mr. Whites stated that the City will mark their facilities but requires direct contact to do so. Mr. Whites states the problem is that the excavator may not know if there are buried Lafayette facilities within their work area or not. Mr. Whites stated that the locate and mark process is not timely when the City is contacted by the excavator. The City's permit packages make no mention of calling 811 beyond the fact that the City does not participate in the USA process. Mr. Whites stated that EB MUD supplies the water for the City of Lafayette and when they work on their own facilities they know to contact the City but many other excavators don't. Mr. Whites stated that beyond the USA process, the City of Lafayette is very good to deal with on excavations.

On 11/12/2020 SI Ehrgott left a voicemail for Farzaheh Sanders, Senior Engineer, City of Lafayette.


On 11/16/2020, Michael Moran, City Engineer, City of Lafayette called SI Ehrgott back and discussed the complaint. Mr. Moran stated that he recently became the City Engineer but had been working for the City for 20 years. Mr. Moran stated he did not know why Lafayette never became a member of USA North. Mr. Moran stated that their electrical contractor who performs maintenance and installation of the City's buried electrical facilities performs the locates when they are requested. Mr. Moran states the City has electrical lines feeding he traffic signals and street lamps. The City also has storm drains but no pressurized lines. Mr. Moran states that they require an encroachment permit for excavation near their facilities which triggers the locate and mark process. I explained GC 4216.1 to Mr. Moran and explained that the City would receive a NOPV if they did not begin the process to become a member of the one call center. Mr. Moran stated he understood and would forward my correspondence to the City of Lafayette's contract attorney for review. I also sent Mr. Moran

information on the USA North 811 membership process, GC 4216, and the Dig Safe Board. Mr. Moran responded to my email that he would let me know what he is advised to do.

On 11/30/2020 SI Ehrgott emailed Mr. Moran for an update. Mr. Moran stated he had spoken with the City Attorney but had received no direction yet. Mr. Moran indicated in his email that the NOPV could be sent to his attention and provided the address (Exhibit 2).

**Investigative Findings**

Following the investigation SI Ehrgott finds the City of Lafayette in violation of GC 4216.1.

|   |                                   |
|---|-----------------------------------|
| Investigator Name   | Supervisor Name                   |
| Michael Ehrgott   | Carla Newman                      |
| Signature   | Signature                         |
| <br>12/16/2020 | <i>Carla Newman</i><br>12/16/2020 |

**Witness List**

Name: Charles (Chas) Whites

Address:

Phone: 5107157584

DL:

Knowledge of: