



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL
California Underground Facilities Safe Excavation Board
715 P Street
Sacramento, CA 95814

December 3, 2021

NOTICE OF PROBABLE VIOLATION

Tomas Gonzales
Tomas's Concrete
4831 Siskiyou Avenue
Sacramento, CA 95820

Case No.: 21SA01473

Address/Location of Violation(s): FRONT YARD, BUILDING DRIVEWAY

Date/Time of Violation(s): July 30, 2021, 4:00 PM

Dear: Tomas Gonzales,

The Board has concluded an investigation of an incident on the above date, time and location and has determined that Tomas's Concrete violated Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code as follows:

Gov't Code 4216.2 (b) Except in an emergency, an excavator planning to conduct an excavation shall notify the appropriate regional notification center of the excavator's intent to excavate at least two working days, and not more than 14 calendar days, before beginning that excavation. However, an excavator and an operator may mutually agree to a different notice and start date.

On the morning of Friday July 30, 2021, employees of Tomas's Concrete conducted an excavation in preparation for adding a driveway and extending the width of an existing driveway in Fair Oaks, California without first notifying the one-call center of their intention to excavate, which would have allowed the operators of facilities in the area to have marked the location of their lines, in violation of Government Code § 4216.2 (b). Government Code 4216 (g) defines excavation as "any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, or any other way."

Violation of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the Government Code (Sections 4216 *et seq.*) is punishable by a maximum penalty of \$10,000, or \$50,000 for knowing and willful violation.

Mandatory completion of the Underground Facilities Safe Excavation Board's education course is being imposed. Please see <https://dig.fire.ca.gov/education-course/> for more information.

The proposed sanction reflects Tomas's Concrete has held a contractor's license for fifteen years, and should have been aware of the notification requirements of the State's One Call Law. Encroachment permit applications, such as that required by Sacramento County for unincorporated areas such as Fair Oaks, identify these requirements. The violation, however, did not result in damage, the company and its employees cooperated with the investigation, and the company has not had violations that have been previously identified by the Board. As such, the violation merits no more than a minor sanction. Furthermore, corrective action of mandatory completion of the Board's education course is merited in lieu of a financial penalty as the violation did not result in substantial injury or damage, the company and its employees cooperated with the investigation, the company has not had violations that have been previously identified by the Board, and the company owner expressed the incorrect belief that there was a six-inch exemption to the One Call Law's notification requirement.

This matter will be referred to CSLB with a recommended penalty of mandatory completion of the Board's education course.

The California Underground Facilities Safe Excavation Board will act on this notice of probable violation in a future meeting.

You may contest this notice by responding to this notice promptly. Please see attached instructions on completing and submitting your response for options available to you. Your response to this notice must be received by the California Underground Facilities Safe Excavation Board no later than January 19, 2022

Sincerely,

DocuSigned by:

Jason Corsey

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Jason Corsey
Chief of Investigations

Proposed hearing date: April 11, 2022