



State of California – A Natural Resources Agency

OFFICE OF ENERGY INFRASTRUCTURE SAFETY
UNDERGROUND SAFETY BOARD
715 P Street, 20th Floor | Sacramento, CA 95814
916.902.6000 | www.energysafety.ca.gov

Marjorie Del Toro, Chair

May 6, 2022

NOTICE OF PROBABLE VIOLATION

Mike Rivera
Yucaipa Valley Water District
P.O. Box 730
Yucaipa, CA 92399

Case No.: 22LA01484

Address/Location of Violations: Noble Creek Park, Beaumont, CA 92223

Date/Time of Violations: January 10-27, 2022

Dear Mike Rivera:

You are receiving this Notice of Probable Violation (Notice) as a result of an investigation pursuant to Government Code sections 4216 *et seq.* The California Underground Safety Board (Board) investigator has concluded an investigation of an incident on January 10-27, 2022, at Noble Creek Park, Beaumont, CA 92223, and found that there is a probable violation of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code. The probable violation is:

4216.3(a)(1)(A) Unless the excavator and operator mutually agree to a later start date and time, or otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time: (i) locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations, (ii) to the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's active or inactive subsurface installations are located, or (iii) advise the excavator it operates no subsurface installations in the area delineated for excavation.

On January 5, 2022, Merlin Johnson Construction was issued ticket B220050037-00B by DigAlert. Yucaipa Valley Water District did not respond to the notification, in violation of Government Code Section 4216.3 (a)(1)(A).

Hearing and Referral to Enforcement Agency

The Board will hear and vote on your case at its next public meeting on July 11, 2022, at 1:00 p.m. in Sacramento.

During the meeting, the Board will review and consider the Investigation Report and exhibits, this Notice, and any other explanation or records you submit, and the Board will determine whether a probable violation exists and whether the penalty (such as corrective action, education course, or

monetary penalty) proposed by the Board investigator is appropriate. You may contest the violation and proposed penalty noted in the below section at this meeting.

Should the Board determine a probable violation exists, the Board will refer your case with either the proposed penalty below or a new recommended penalty to the appropriate state or local agency for enforcement pursuant to Government Code section 4216.6 (Enforcement Agency). The Board's recommendation to the Enforcement Agency will include its finding of probable violation and a recommended penalty. The Board's recommendation does not constitute a final determination of your case. The Enforcement Agency has discretion to accept, amend, or reject the Board's recommendation, in whole or in part, through its own investigations pursuant to Government Code section 4216.6.

The Enforcement Agency for this case is:
Yucaipa Valley Water District Board of Directors
12770 Second Street
Yucaipa, CA 92399
909-797-5117

The Board will notify you of its recommendation following its public meeting.

Proposed Penalty

Any penalties provided in this Notice, including corrective actions, are only proposals by Board investigator and do not require any corrective action or payment at this time. Your Enforcement Agency will provide the final determination to and instructions for any penalty.

Pursuant to Government Code section 4216.6, violation of Government Code, Title 1, Article 2, Chapter 3.1, Division 5 (Sections 4216 *et seq.*) may be subject to a maximum penalty of \$10,000 for negligent violation, or \$50,000 for knowing and willful violation. Knowing and willful violation of Article 2 that results in damage to a gas or hazardous liquid pipeline subsurface installation and that results in the escape of any flammable, toxic, or corrosive gas or liquid may be subject to a maximum penalty of \$100,000.

The Board investigator is recommending the below corrective action and penalty:

Mandatory completion of the Underground Safety Board's education course is being imposed. Please see <https://energysafety.ca.gov/what-we-do/underground-safety-board/education-course/> for more information.

The proposed sanction is merited, as Yucaipa Valley Water District did not respond to the excavation notification. Corrective action is available, as the violation did not cause death or substantial injury, environment or property damage, the respondent doesn't have a history of similar violations, and the respondent cooperated with the investigation.

Response to this Notice

Enclosed as part of this Notice is a document titled *RESPONSE TO A NOTICE OF PROBABLE VIOLATION*. Please carefully review this document and note the response options. All material you submit in response to this enforcement action are subject to public disclosure.

You have 30 business days from the date of this Notice to submit your written response to the Board. Your response to this notice must be received by the Board no later than June 20, 2022.

If you do not respond within 30 business days, this constitutes a waiver of your right to contest the Board's determination on whether there is a probable violation in this case and to refer the case to the Enforcement Agency with the Board's recommendation.

Sincerely,

Jason Corsey

Jason Corsey
Chief of Investigations

Proposed hearing date: July 11, 2022