



May 6, 2022

## **NOTICE OF PROBABLE VIOLATION**

Cristina Limon  
Southern California Edison  
2244 Walnut Grove Ave.  
Rosemead, CA 91770

**Case No.: 22LA01484**

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

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

Dear Cristina Limon:

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 10-11, 2022, at Noble Creek Park, Beaumont, CA 92223, and found that there are probable violations of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code. The probable violations are:

- 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.
- 4216.3(c)(1)(A) On and after January 1, 2021, every operator shall supply an electronic positive response through the regional notification center before the legal excavation start date and time. Upon a showing of good cause by an operator, the board may extend the time by which the operator is required to comply with this requirement. The board shall not grant an extension beyond December 31, 2021.

On January 5, 2022, Merlin Johnson Construction was issued ticket B220050037-00B by DigAlert. Southern California Edison did not locate and mark the excavation area until January 11, 2022, after the legal excavation start date and time of January 10, 2022, in violation of Government Code Section 4216.3 (a)(1)(A). Furthermore, Southern California Edison provided an incorrect electronic positive response on January 10, 2022, indicating that it had no subsurface installations in the area of excavation, in violation of Government Code Section 4216.3 (c)(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 probable violations exist 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 probable violations exist, 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:

California Public Utilities Commission  
505 Van Ness Ave  
San Francisco, CA 94102  
415-703-2782

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 Southern California Edison did not respond to the excavator until after the excavator made a "no response" notification to the one-call center, provided an incorrect electronic positive response, and had received an advisory notice for a similar violation on October 31, 2019. Corrective action is available, as the violation did not cause death or substantial

injury, environment or property damage and the respondent doesn't have a history of similar violations.

**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 are probable violations 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