

Underground Facilities Safe Excavation Board

In the Matter of
Kana Pipeline, Inc., Respondent

Case No. 21LA01346

DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On May 9, 2022, The Office of Energy Infrastructure Safety Underground Safety Board (the “Board”) considered Case # 21LA01346.

Kana Pipeline, Inc. (“Respondent”) answered the Notice of Probable Violation with a plea of “no contest.”

Board members Bianchini, Johns, Munoz, and Voss participated in the decision. Board members Charland, Del Toro, and Johnson recused themselves and did not participate in the decision.

FINDINGS

Having considered the report of investigation and the Respondent’s plea, the Board finds that a probable violation of Government Code section 4216.3(b) by Respondent has occurred.

The Board further finds that an order directing Respondent to take the Board’s education course is an appropriate sanction. The Board will transmit this decision and the investigation report to the Contractors State License Board (the “CSLB”) with a recommendation that the CSLB accept the Board’s recommended sanction.

VIOLATION SUMMARY

Respondent Excavated in the Absence of Field Marks

Once “field marks are no longer reasonably visible,” the excavator must stop digging in the area.¹ Respondent excavated in an area that had been marked but the marks were no longer visible. Respondent began the work knowing requests for remarking had not been fulfilled. Respondent failed to notify the regional notification center of the request for remarking.

SANCTIONS

Referral to the Contractors State License Board is Appropriate

¹ Gov. Code § 4216.3(b)

Re: Kana Pipeline D. 2022_05_21LA01346

When the Board finds a probable violation of Dig Safe laws, the Board may “transmit the investigation results and any recommended penalty” to the appropriate agency, identified in Government Code section 4216.6(c) or (d).² Section 4216.6(c)(1) provides that the Registrar of Contactors of the Contractors State License Board shall enforce the requirements of Article 2, Regional Notification Center System (commencing with section 4216) on contractors. The investigation report indicates that the Contractors State License Board has issued a license to Respondent.

An Order to Take the Board’s Education Course is Appropriate

Section 4216.19(e) provides that sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties.

The following factors were considered relevant to the sanction determination:

Respondent took responsibility for the incident and expressed a willingness to make changes to its excavation safety protocols. Respondent had no previous violations with the Board. Respondent fully cooperated with the investigation by providing access to personnel, providing statements, incident reports, and photographic evidence.

The Board finds that an order directing Respondent to take the Board’s education course is appropriate and will recommend this sanction to the CSLB.

/s/ Marjorie Del Toro
Marjorie Del Toro, Chair
Underground Safety Board

Date: August 17, 2022

² Gov. Code § 4216.19(d)