

## Underground Facilities Safe Excavation Board

In the Matter of  
Tomas's Concrete, Respondent

Case No. 21SA01473

### DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On May 9, 2022, The Office of Energy Infrastructure Safety Underground Safety Board (the "Board") considered Case # 21SA01473.

Tomas's Concrete ("Respondent") did not respond to the Notice of Probable Violation.

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

#### FINDINGS

Having considered the report of investigation, the Board finds that a probable violation of Government Code section 4216.2(b) 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.

#### Respondent Excavated Without Obtaining a Ticket

An excavator must notify the appropriate regional notification center prior to beginning excavation and must wait to begin excavating until after the legal excavation start date and time, which is indicated on the call-center ticket.<sup>1</sup> Respondent conducted excavation work without notifying the regional call center and obtaining a ticket.

#### SANCTIONS

##### Referral to the Contractors State License Board is Appropriate

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

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<sup>1</sup> Gov. Code § 4216.2(b)

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Government Code section 4216.6(c) or (d).<sup>2</sup> Section 4216.6(c)(1) provides that the Registrar of Contractors 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 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; the violation did not result in damage; Respondent cooperated with the investigation; and Respondent had no previous violations before the Board.

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

Date: August 17, 2022

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<sup>2</sup> Gov. Code § 4216.19(d)