

Underground Facilities Safe Excavation Board

In the Matter of
Gonzalez Brothers Landscaping,
Respondent

Case No. 21SA01482

DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On May 9, 2022, The Office of Energy Infrastructure Safety Underground Safety Board (the “Board”) considered Case # 21SA01482.

Gonzalez Brothers Landscaping. (“Respondent”) did not respond to the Notice of Probable Violation.

Board members Bianchini, Del Toro, Johns, Munoz, and Voss participated in the decision. Board members Charland and Johnson recused themselves 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) 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 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.¹ Respondent conducted excavation work without notifying the regional call center.

SANCTIONS

¹ Gov. Code § 4216.2(b)

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 Government Code section 4216.6(c) or (d).² Section 4216.6(c)(1) provides that the Registrar of Contractors of the Contractors State License Board shall enforce the requirements of Article 2 (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:

- (1) The type of violation and gravity.
- (2) The degree of culpability.
- (3) Respondent’s history of work conducted without violation.
- (4) Respondent’s history of work conducted without violations.
- (5) The efforts taken by the Respondent to prevent the violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.

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)