

Underground Facilities Safe Excavation Board

In the Matter of
Desert Concepts Construction,
Respondent

Case No. 22LA01486

DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On May 9, 2022, The Office of Energy Infrastructure Safety Underground Safety Board (the “Board”) considered Case # 22LA01486.

Desert Concepts Construction (“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) 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 and obtaining a ticket.

¹ Gov. Code § 4216.2(b)

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 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, 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 is a licensed contractor who is familiar with the One-Call Law notification requirements. Corrective action of mandatory education is available to Respondent as the violation did not result in death or substantial injury or environment or property damage. Corrective action in lieu of a monetary penalty is merited based on the following factors: 1) Respondent does not have a history of violations of the One-Call Law, 2) Respondent cooperated with the investigation.

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

Date: August 17, 2022

² Gov. Code § 4216.19(d)