



**OFFICE OF ENERGY INFRASTRUCTURE SAFETY
UNDERGROUND SAFETY BOARD**

715 P Street, 20th Floor | Sacramento, CA 95814
916.902.6000 | www.energysafety.ca.gov

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September 1, 2022
The City of Kingsburg Department of Public Works
1200 Kern Street
Kingsburg, CA 93631

Case No.: 21SA01472

Address/Location of Violation(s): 333 Sierra Street, Kingsburg, CA 93631

Date/Time of Violation(s): July 13, 2021, 5:01 p.m.

Dear City of Kingsburg Department of Public Works:

You are receiving this Notice of Probable Violation (Notice) as a result of an investigation conducted pursuant to Government Code sections 4216 *et seq.* The California Underground Safety Board (Board) investigators have concluded an investigation of an incident on July 13, 2021, at 1:10 p.m. in Kingsburg, and found violations of 4216.3(c)(1)(A) of the Government Code:

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. ...

Violation No. 1

Swinerton Builders requested ticket W111700318-00W on April 27, 2021, for 333 Sierra Street in Kingsburg, with a legal start date of April 29, 2021, at 5:01 p.m. The City of Kingsburg did not supply an electronic positive response for that ticket, in violation of Government Code section 4216.3 (c)(1)(A). (Evid. 18.)

Violation No. 2

Bill Nelson Construction requested ticket X114000542-00X on May 20, 2021, for 333 Sierra Street in Kingsburg, with a legal start date and time of on May 24 at 5:01 p.m. The City of Kingsburg did not supply an electronic positive response for that ticket, in violation of Government Code section 4216.3 (c)(1)(A). (Evid. 19.)

Hearing and Referral to Enforcement Agency

During the Board's public virtual meeting on November 8, 2022, at 1:00 p.m., the Board will determine whether the violations occurred and whether the penalty proposed in this Notice is

appropriate. You may contest the violation and proposed penalty noted in the below section at this meeting. Details of the Board's virtual meeting may be accessed here: [Underground Safety Board Business Meeting | Office of Energy Infrastructure Safety \(ca.gov\)](#)

Should the Board determine that a probable violation exists, 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(d). 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(d).

The Enforcement Agency for this case is:

City of Kingsburg City Council
1401 Draper Street
Kingsburg, CA 93631
559-897-5821

Proposed Penalty

Any penalties provided in this Notice, including corrective actions, are only proposals by Board investigators 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 section 4216 *et seq.* by an operator or excavator 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 investigators are recommending the below corrective action and penalty:

Mandatory completion of the Underground Safety Board's education course. Please see <https://dig.fire.ca.gov/education-course/> for more information.

The proposed penalty reflects that The City of Kingsburg is eligible for corrective action in lieu of a financial penalty, as The City of Kingsburg cooperated with the investigation, the violation did not result in substantial injury or environment or property damage, and Kingsburg does not have a history of violation as identified in Board actions.

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 September 1, 2022 to submit your written response to the Board. Your response to this notice must be received by the Board no later than October 14, 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 violation(s) in this case and to refer the case to the Enforcement Agency with the Board's recommendation.

Sincerely,

/s/ Jason Corsey

Jason Corsey
Chief of Investigations, Underground Infrastructure Directorate
Office of Energy Infrastructure Safety

Proposed hearing date: November 8, 2022