

California Underground Facilities Safe Excavation Board

In the Matter of
City of Kingsburg Public Works Dept.,
Respondent

Case No. 21SA01472

DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On November 07, 2022, The Office of Energy Infrastructure Safety, California Underground Facilities Safe Excavation Board (the "Board") considered Case # 21SA01472. City of Kingsburg Public Works Department ("Respondent") was issued a Notice of Probable Violation on September 01, 2022. Respondent answered the Notice of Probable Violation with a request to reserve rights.

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 investigation report and the Respondent's written explanation, the Board finds that a violation of Title 1, division 5, chapter 3.2, article 2 of the California Government Code¹ (the "Dig Safe" law) sections 4216.3(c)(1)(A) occurred.

The Board finds that an order directing Respondent to take the Board's education course is an appropriate sanction.

VIOLATION SUMMARY

Respondent failed to timely supply an electronic positive response.

Respondent failed to provide an electronic positive response through the regional call center before the legal excavation start date and time pursuant to 4216.3(c)(1)(A).

¹ All further statutory references are to the Government Code unless otherwise indicated.

JURISDICTION

When the Board finds a probable violation of Government Code Title 1, Division 5, Chapter 3.1, Article 2 (Regional Notification Center System), the Board must transmit the investigation results and any recommended penalty to the appropriate agency, identified in section 4216.6(c) or (d). Respondent is a local agency subject to the jurisdiction of the City of Kingsburg City Council (“Kingsburg City Council”). The Kingsburg City Council may accept, amend, or reject this Board’s recommendation.

SANCTIONS

The Board recommends Respondent be ordered to take the Board’s education course.

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 this sanction determination:

- Respondent does not have a history of similar violations before the Board.
- Respondent cooperated with the investigation.
- The violation did not result in substantial injury or environment or property damage.

 /s/ Marjorie Del Toro
Marjorie Del Toro, Chair

Date: 11/22/22