

California Underground Facilities Safe Excavation Board

In the Matter of
USA Construction,
Respondent

Case No. CAS-01491-J2J3Q4

DECISION REGARDING NOTICE OF PROBABLE VIOLATIONS

On April 10, 2023, The Office of Energy Infrastructure Safety, California Underground Facilities Safe Excavation Board (the Board) considered Case # CAS-01491-J2J3Q4. USA Construction (Respondent) was issued a Notice of Probable Violation on February 02, 2023. Respondent answered the Notice of Probable Violation with a request to Contest in Writing.

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

VIOLATION SUMMARY

Respondent failed to notify the regional call center before beginning excavation as mandated by Government Code section 4216.2(b).

Respondent failed to notify the regional call center within 48 hours of discovering or causing damage as mandated by Government Code section 4216.4(c)(3).

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 licensed contractor subject to the jurisdiction of the Contractors State Licensing Board (CSLB). The CSLB may accept, amend, or reject this Board's recommendations.

FINDINGS

Having considered the investigation report and the Respondent's written response, the Board finds that probable violations of Title 1, division 5, chapter 3.1, article 2 of the California Government Code (the "Dig Safe" law) sections 4216.2(b) and 4216.4(c)(3) occurred. Further, the Board finds that Respondent was negligent in not reporting damage to the regional one call center.

SANCTIONS

The Board recommends Respondent be ordered to take the Board's education course and pay a fine of \$10,000.00. The Board further recommends that the CSLB consider additional investigation into Respondent's actions and add additional penalties, including license suspension, as the CSLB finds to be appropriate.

The following factors were considered relevant to this sanction determination:

- Respondent negligently failed to make the mandatory notifications to the one call center.
- Respondent's willful actions caused damage to an active natural gas line resulting in a fire.
- Respondent's lack of effort to prevent the violation and the damage or to mitigate the resulting safety impacts after damage occurred.
- Respondent's lack of full cooperation with the investigation.
- The violation resulted in environment and property damage.

/s/ Amparo Munoz
Amparo Munoz, Chair

Date: 05/26/2023