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County of Sacramento

Regional Parks
Liz Bellas - Director

To: Office of Energy Infrastructure Safety
Underground Safety Board

From: Sacramento County Regional Parks
Michael Doane, Deputy Director

Date: 5-30-2023

RE: Notice of Probable Violation Case number D223400004

Sacramento County Regional Parks is contesting this probable violation in writing and requesting an Informal Hearing.

The Notice of Probable Violation listed a single violation of Government Code section 4216.2(b) Excavating without first notifying the regional notification center for an incident on December 6, 2022 on Sacramento County property on Branch Center Drive. Sacramento County Regional Parks is contesting the Probable Violation for the following reasons:

1. Government Code Section 4216(g) defines excavation as, "(g) "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, or any other way. The most important part of the definition focuses on the earth, rock or other material in the ground is moved, removed or otherwise displaced." Stump grinding does not involve the displacement of earth, rock or other material in the ground. The stump of the tree is above ground which is then ground down to ground level and not below the ground. While it is possible to remove the stump below the surface of the ground, that was never the intent of Regional Parks. Regional Parks intended to remove the stump through grinding to ground level and no further, and that is what occurred. This work does not meet the

definition of excavation. Since no excavation work was being conducted, no notification to the regional notification center was required; therefore, there was no violation of Government Code 4216.2(b).

2. Government Code section 4216.2(b) exists to protect active subsurface installations. The cable in question was not a subsurface installation. The cable is still present at the location and the current state of cable is laying on top of the ground. The cable is only covered by dirt sediment and fallen leaves. Even though the cable was hit by the stump grinder, it was hit on top of the ground and was not buried underground, which strengthens our argument that no excavation work was being conducted on site.
3. Lastly, it appears that there was no actual damage or loss to a business or the community. No one has claimed ownership of the cable. It appears that this is an abandoned cable since there was no reported outages and the line was never repaired. Since the law is to protect active subsurface installations, it would appear this cable does not meet that definition.

In conclusion, Regional Parks has a history of complying with the government code requiring notification of the regional notification center. Grinding stumps to ground level does not require notification to the regional notification center. Regional Parks was not conducting any excavation work when the apparent abandoned cable was hit. The cable was not a buried cable but was laying on top of the ground only covered by leaves and loose sediment dirt. Regional Parks was responsible in notifying the center in an attempt to locate any owner of the cable to report the damage, which demonstrates that Regional Parks acts responsibly and complies with the law. Regional Parks respectfully requests this Probable Notice of Violation is rescinded and that this board issue a finding of no violation with respect to the incident that occurred on 12-6-2022 on Branch Center Drive.

Respectfully,



Michael Doane, Deputy Director

Sacramento County Regional Parks