

California Underground Facilities Safe Excavation Board

In the Matter of
City of Atascadero Street and Storm
Drains,
Respondent

Case No. D230130001

DECISION REGARDING NOTICE OF PROBABLE VIOLATION

On November 13, 2023, the Office of Energy Infrastructure Safety, California Underground Facilities Safe Excavation Board (the Board) considered Case No. D230130001. Board investigative staff issued a Notice of Probable Violation (NOPV) to the City of Atascadero Street and Storm Drains (Respondent) on September 18, 2023, alleging a violation of Government Code (Gov. Code) section 4216.3, subsection (c)(1)(A). Respondent did not submit a response to the NOPV.

Board members Bianchini, Del Toro, Johns, Johnson, Muñoz, and Voss participated in the decision.

FINDINGS

Having considered the investigation report, the Board finds that a violation of Gov. Code section 4216.3, subsection (c)(1)(A) occurred.

VIOLATION SUMMARY

Respondent failed to provide an electronic positive response.

Government Code section 4216.3, subsection (c)(1)(A) requires operators to provide an electronic positive response (EPR) through the regional notification center before the legal excavation start date and time. Respondent did not send an EPR through the regional notification center before the legal start date and time.

JURISDICTION

When the Board finds a probable violation of the Dig Safe Act (Gov. Code section 4216 et seq.), the Board must transmit the investigation results and any recommended penalty to the appropriate agency identified in Gov. Code section 4216.6, subsection (c) or (d). This matter is subject to the jurisdiction of the City of Atascadero City Council which may accept, amend, or reject this Board’s recommendation.

SANCTIONS

The Board RECOMMENDS that the CITY OF ATASCADERO CITY COUNCIL order Respondent to take the Board's education course.

The following factors were considered relevant to this sanction determination:

- Respondent did not send an electronic positive response before the legal start date and time.

/s/ Amparo Muñoz
Amparo Muñoz, Chair

Date: 12/22/2023