

California Underground Facilities Safe Excavation Board

In the Matter of
City of Kerman,
Respondent

Case No. C240030005

DECISION REGARDING NOTICE OF PROBABLE VIOLATION

On December 09, 2024, the Office of Energy Infrastructure Safety, California Underground Facilities Safe Excavation Board (the Board) considered Case No. C240030005. Board investigative staff issued a Notice of Probable Violation (NOPV) to the City of Kerman, (Respondent), dated October 18, 2024, alleging violations of Government Code (Gov. Code) sections 4216.3, subsection (a)(1)(A) and 4216.3, subsection (c)(1)(A). Respondent did not submit a response to the NOPV.

Board members Johns, Johnson, Muñoz, Sorem, and Voss participated in the decision.

FINDINGS

Having considered the investigation report, the Board finds the Respondent violated Gov. Code sections 4216.3, subsection (a)(1)(A) and 4216.3, subsection (c)(1)(A).

VIOLATION SUMMARY

Respondent failed to respond to a locate request.

Government Code section 4216.3, subsection (a)(1)(A) requires operators to respond to a locate request, before the legal start date and time, in one of three ways: 1). locate and mark the area, 2) provide information about subsurface installations, or 3) state that no installations are within the area.

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.

JURISDICTION

Re: City of Kerman, D. 2024_12_C240030005

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 Kerman City Council** which may accept, amend, or reject this Board's recommendation.

SANCTIONS

The Board RECOMMENDS that the City of Kerman City Council order Respondent to take the Board's education course.

The following factors were considered relevant to this sanction determination:

- Respondent does not have a history of the same or similar violations before the Board.
- Respondent cooperated with the investigation.
- Respondent did not fulfill its operator response obligations for a locate request before the legal excavation start date and time.
- Respondent did not send an electronic positive response before the legal excavation start date and time.

/s/ Amparo Muñoz
Amparo Muñoz, Chair

Date: December 13, 2024