

RESPONSE TO A NOTICE OF PROBABLE VIOLATION

Case Number: 23NTS0016

Via Email: enforcement.dig@energysafety.ca.gov

To: The Underground Safety Board

From: Dynamic General Construction

guerreje.dynamicconstruction@yahoo.com

First allow me to thank the board investigators for dismissing the probable violation; Government Code § 4216.4 (c)(2) Failure to notify the facility operator upon causing damage to a gas facility. As stated in the subject investigation report "Dynamic General did contact 911."

Case Summary:

Dynamic General Construction admitted to digging with a mini excavator to repair a water leak without first notifying the regional notification center. This digging caused minor damage to a Southern California Gas Co. pipe with the resulting gas leak.

Government Code § 4216.2 (b) Excavating without first notifying the regional notification center.

RESPONSE

As the owner and operator of Dynamic General, I take full responsibility for the damage to the subject gas line.

In this regard, as further explanation of the surrounding excavation to repair the water leak on property at 2900 E. Jurupa Street, Ontario, I had heard the manager of the facility state that he thought there was an old gas line which they had requested be aboned a long time ago.

The investigative reports that;

“On February 21, 2024, Jose Guerro (Guerro), General Manager for Dynamic General Construction, stated in an email to the Investigator that Dynamic General Construction provides general construction services and was contracted by Ventura Foods on December 2, 2023, to repair an underground two-inch water line. (Exh. 4.) Dynamic General Construction did not obtain an 811 ticket before excavation, stating, “This was the four time working on this line, we did call dig alert the first time that we worked on this underground line, but since the leak was inside the parking lot, we were told that the dig alert doesn't apply inside the property, after that we did a few more repairs on this line, that time we were called for another water leak, inside the parking lot property, but after chased the leak, we moved the equipment to the other side of the wall, outside the main parking lot area, we were digging on the small planter (garden), it was Saturday morning and since we knew this line already, we didn't called the dig alert.” (Exh. 4.)”

The facts will show that this so "called" abonded gas line lead to no meter and had no shut off valve.

Hitting the gas line, by my employee is admitted and we feel terrible that this mistake was made. However, no intent existed to harm the gas line, after I heard the leak, I sincerely

panicked but had the presence of mind to immediately call the facility manager at Ventura foods who took over all response operations and immediately called 911 and advised all persons to stay away a safe distance from the gas leak.

Government Code § 4216.4 (c)(3), 4; Cal. Regs., Title 19, § 4100(a): Failure to notify the regional notification center of excavation damage to a natural gas facility within two hours of the damage.

RESPONSE

- Immediately after the damage we were occupied assisting the gas co crew that arrived at the site in locating the shut off valve.
- We felt that in this emergency that calling 911 and having the Ontario Fire Department alerted of the damage to the gas line, that the Southern California Gas Co. would be notified.
- We assisted the Second Gas Co. crew in locating what we believed was an abandoned gas line.

As to Exhibit 4, in the inquiry regarding dig incident at 2900 E. Jurapa Street, In an email dated Feb 21, 2024, to Amy Morford, are my truthful honest answers to her questions.

In this respect, I feel I was able to show our complete cooperation with the subject investigation. I have made a sincere effort to be completely transparent with the mistake we made in hitting a Gas Company pipe.

This email from me clearly answers all the questions from the investigator. As my answers indicate, I never called the regional notification center of excavation damage to a natural gas facility within two hours of the damage.

The subject incident happen on a Saturday morning. The fist several hours were spent assisting the gas company in locating a shut off valve. As stated in my email on February 21, 2024. No damage occurred to any person or property other than the gas line we accidentally hit. We spent the first approximately 2 ½ hours looking desperately for a "shut off valve".

I sincerely apologize for our mistake in not immediately contacting the regional notification center within (2) hours of the damage.

I also am sincerely sorry for the misunderstanding I had regarding the fact that whatever hearsay conversation I had heard, the true fact remains undisputed that there existed an active gas line that no one knew existed. In this regard, I have no knowledge of any efforts that the property owners of the subject site may have taken to have the subject line abandoned.

PROPOSED PENALTY

I, as sole owner of Dynamic General Construction take full responsibility for the probable violations as outlined in our Notice which is do duly acknowledged.

However, please be aware that the mistakes we have admitted where made without any knowledge of the existing fact that there was an active gas line in the area where the water leak existed. I made the wrong assumption that because we worked on prior water leaks in the same area and never came across any gas lines, and in our first visit to the site we did apply for a dig permit. Never the less, we also made the mistake of not contacting the regional center within the first two hours. My only defense is that we immediately called 9111 and actively assisted the gas company crews in finding the damaged line.

Please also understand that my corporation is basically a "mom and pop" operation, I only have (3) Full time employees, we strive to give my customers good service for a fair price,

Please understand, we have learned our lessons because of the seriousness of this case, I stand prepared and willing to take any and all corrective actions to insure that my past mistakes in any future excavation will never occur again.

In conclusion, when assessing any potential penalty please appreciate that even a small penalty will cause an economic hardship on our very small business, thank you in advance for your understanding and consideration for our circumstances.

Sincerely Humbled;

Jose Guerro



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Name: Dynamic General Construction

The provisions of California Code of Regulations, Title 19, Division 4, Chapter 3, governs the Notice of Probable Violation (Notice) proceeding before the California Underground Safety Board (Board). Specifically, 19 CCR section 4252 provides your response options upon the receipt of a Notice.

Be advised that all material submitted by you in response to a Notice are subject to public disclosure.

Please select from one of the response options listed below. You have 30 business days to submit your written response to the Underground Safety Board. Failure to submit a written response will be considered by the Board as a "No Contest" response. Please attach this form with your selection to your response. If you choose "Contest in Writing" or "Contest in Writing and Request Informal Hearing," please also include your written explanation and documents that may be referenced in your written explanation or informal hearing. For all options, Board investigators may present the basis for your probable violation on the date of the public meeting as provided in your Notice, and the Board will review your case and vote to determine whether a probable violation exist and whether the corrective action and/or penalty proposed by the Board staff is appropriate at the meeting.

Response Options

___ No Contest

You do not contest the violations or the penalty. If you choose to not contest the violations or the penalty, you will waive your right to request the Board to reconsider its decision or recommendation issued.

X Contest in Writing

You wish to contest either the violation, the penalty, or both by providing the Board with written explanations and other records supporting the explanation. You will submit the written explanations and records, if any, with your written response within 30 business days of receiving this Notice. Your response must not exceed 10 pages (excluding exhibits) in length and must be on 8.5" x 11" white paper, double-spaced, and in a font size no smaller than 11-point. You must submit the original and 12 physical copies of the written explanation and records to the address below or submit one (1) copy electronically to enforcement.dig@energysafety.ca.gov. You may request an extension to the page limit by submitting a request to the Board staff within 5 days of receiving this Notice. The Board staff will notify you of its determination with respect to the page limit extension request within 10 days of you submitting the request. The Board will review and vote on your case on the date of the public meeting provided in the Notice.