



February 22, 2021

## **NOTICE OF PROBABLE VIOLATION**

Erik Gustafson  
City of Chico Department of Public Works  
PO Box 3420  
Chico, CA 95927

Case No.: 20SA01304  
Address/Location of Violation(s): City of Chico  
Date/Time of Violation(s): 11/17/20, 7:00 PM

Dear: Erik Gustafson,

The Board has concluded an investigation of an incident on the above date, time and location and has determined that City of Chico Department of Public Works violated Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code as follows:

Gov't Code 4216.1 Every operator of a subsurface installation, except the Department of Transportation, shall become a member of, participate in, and share in the costs of, a regional notification center

Violation of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the Government Code (Sections 4216 *et seq.*) is punishable by a maximum penalty of \$10,000, or \$50,000 for knowing and willful violation.

A Corrective Action of compliance with Gov't Code 4216.1 by September 1, 2021 and mandatory completion of the Dig Safe Boards education course is being imposed. Please see <https://digsafe.fire.ca.gov/education-course/> for more information.

The proposed sanction reflects the nature and gravity of the violation and takes into consideration the Respondents history of prior offenses, cooperation with the investigation and demonstration of his/her intent to comply with Government Code Sections 4216 *et seq* in the future.

This matter will be referred to the Chico City Council with a recommendation of the respondent becoming compliant with Gov't Code 4216.1 by September 1, 2021 and mandatory completion of the Dig Safe Board's education course.

The California Underground Facilities Safe Excavation Board will act on this notice of probable violation in a future meeting.

You may contest this notice by responding to this notice promptly. Please see attached instructions on completing and submitting your response for options available to you. Your response to this notice must be received by the California Underground Facilities Safe Excavation Board no later than April 5, 2021.

Sincerely,

*Jason Corsey*

Jason Corsey  
Chief of Investigations  
Dig Safe Board  
916-926-1660

Proposed hearing date: May 11, 2021



**CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD  
INVESTIGATION DIVISION  
INVESTIGATION REPORT COVER SHEET**



**DATE:** 12/14/20

**CASE#:** 20SA01304

**SUBJECT(S):** City of Chico – Public Works

**4216 Violations:** Gov't Code 4216.1 - Failure to participate in a notification center

**Prior Relevant Board Actions:** No

**Executive Summary:**

On 11/17/2020 James Wingate, Director of USA North 811 submitted a complaint regarding the City of Chico being in violation of Government Code(GC) 4126 by owning buried facilities, which provide services to the public, and not being a member of the regional notification center. Special Investigator Michael Ehrgott, Dig Safe Board, investigated the complaint and finds the City of Chico in violation of GC 4216.1



CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD  
INVESTIGATION DIVISION  
INVESTIGATION REPORT



<b>Report Date:</b>	<b>Case Number:</b>	<b>Notification Date:</b>
12/14/20	20SA01304	11/24/20

**Reporting Party Information:**

James Wingate  
USA North 811  
4005 Port Chicago Hwy #100 Concord CA 94520

**Subject(s) of Investigation:**

City of Chico  
Erik Gustafson, Director, Public Works  
PO Box 3420 Chico, CA 95927

**Prior Relevant Board Actions:**

None

**Date and Time of Incident:**

Ongoing violation

**Location of the Incident:**

CITY OF CHICO INCORPORATED AREA.

**Ticket No.:**

N/A

**Ticket Type:**

N/A

**Ticket Issued:**

N/A

**Legal Start:**

N/A

**Operator:**

City of Chico

**Excavator:**

N/A

**Facility Type Damaged:**

N/A

**Notification**

Notification number:C203290001

**Fatalities and Injuries:**

Fatalities: 0

Injuries: 0

**Damages:**

N/A

**Responding Agencies:**

N/A

**Scene Description**

City of Chico Incorporated Area, approximately 27 square miles


**Summary of Investigation**

On 11/17/2020 SI Ehrgott received a complaint via email from James Wingate, Director, USA North 811. On 11/17/2020 SI Ehrgott spoke with Mr. Wingate regarding the case. Mr. Wingate stated that the City of Chico had begun their application process in early 2020 but never followed through with it. Mr. Wingate stated that their customer team reached out to a Skyler Lipski, Public Works Manager, who stated that the City had not approved funding for a full-time L&M staff member so the membership application was put on hold. Mr. Wingate stated he would email me contact details for Mr. Lipski and an email chain regarding the complaint (Exhibit 1).

On 11/23/2020 SI Ehrgott spoke with Skyler Lipski, Public Works Manager, City of Chico, and discussed the complaint filed by USA North 811. Mr. Lipski stated that the City was in the process of joining USA North and had a budget proposal for a full-time L&M person in February. Mr. Lipski stated that the City did not approve that budget request because of Covid-19 funding worries after the pandemic became prominent in March. Mr. Lipski also stated that the city has a management software that will sync with USA North once they join and that USA North stated they could receive around 24,000 tickets per year for that service area, hence the request for the full-time L&M position. Mr. Lipski stated that the City mainly has drainage facilities and electrical/data lines for the City's traffic system and streetlights. There is no pressurized sewer or water lines owned by the City that provide services to the public. SI Ehrgott explained that the City of Chico is in violation of GC 4216.1 and would be receiving a notice of probable violation which would begin the enforcement process. Mr. Lipski stated he understood completely and gave me the name and address of the Director of Public Works, Erik Gustafson, to who the letter should be addressed. Mr. Lipski further added that he hopes the letter will spur the City into approving the L&M budget request and joining USA North. Mr. Lipski stated that they do mark their facilities but are only notified to do so when an encroachment permit is pulled by an excavator for work near their facilities. Mr. Lipski stated the local excavators know what to do but did acknowledge a problem when excavators who aren't familiar with their system call 811 and don't check with the city. Mr. Lipski stated the City has experienced dig-ins to their facilities in years past. SI Ehrgott emailed Mr. Lipski his contact info, Dig Safe Board web address, and the language of GC 4216.

**Investigative Findings**

Following the investigation, SI Ehrgott finds the City of Chico in violation of GC 4216.1.

Investigator Name	Supervisor Name
Michael Ehrgott	Carla Newman
Signature	Signature
 12/16/2020	<i>Carla Newman</i> 12/16/2020



**Witness List**

Name: Skyler Lipski

Address: PO Box 3420 Chico, CA 95927

Phone: 5305204776

DL:

Knowledge of: Complaint