



July 9, 2021

Via Email (DigBoard@fire.ca.gov)

Jason Corsey
California Underground Facilities Safe Excavation Board
2251 Harvard Street, Suite 400
Sacramento, CA 95815

**Re: Contest of Notice of Probable Violation
Imerys Filtration Minerals, Inc., 2500 Miguelito Road, Lompoc, CA 93436
Case No. 20LA1094
Date of Incident: 5/7/2020**

Dear Mr. Corsey:

I am writing on behalf of Imerys Filtration Minerals, Inc. ("Imerys")¹ and am in receipt of the Notice of Probable Violation ("NOPV") issued by your office regarding the above-referenced matter. Imerys is contesting the NOPV because the activity Imerys conducted on the date of the incident did not constitute an "excavation" under the California Government Code.

On May 7, 2020, an Imerys employee² was operating a bulldozer to clear brush and other vegetation located below an overhead electric utility pole in order to mitigate fire risk. This activity was taking place on a steep and unevenly graded hill. While clearing weeds, a corner of the bulldozer blade inadvertently struck and punctured a shallow and unmarked gas line operated by Southern California Gas Company ("SoCalGas"). The actual gas line where the bulldozer was operating was located approximately sixty (60) feet from SoCalGas's existing utility markers (see photographs and diagrams on page 3 of this letter). SoCalGas repaired the line and has since returned to the site to properly mark the gas line (see photographs of new markers in NOPV package).

Section 4216(g) of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code (the "Code") defines "excavation" as "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."

Imerys was not removing earth, rock, or other ground material on the day of the incident. It was not performing any of the specifically named means of removal as listed by the Code.

¹ Imerys Filtration Minerals, Inc. is incorrectly identified as Imerys Minerals USA, Inc. in the NOPV.

² The Imerys employee is incorrectly identified in the NOPV as Bruce Coggin, who was not on site that day.

Imerys was clearing vegetation to mitigate fire risk near an overhead electric utility line. In other words, Imerys was simply landscaping, an activity that does not trigger regional notification center requirements. The brush clearing was occurring above or at the surface, and a corner of the blade struck a shallowly located portion of the pipe due to the uneven grade of the hill. This incident could have just as easily occurred while using a commercial lawn mower, which certainly would not constitute an "excavation." The Imerys bulldozer operator was using utmost care in clearing the brush at a substantial distance (i.e. 60 feet) away from the existing gas utility markers. Had SoCalGas properly and accurately marked the actual location of the gas line in the first place, the incident could have been avoided entirely. In fact, Section 4216.7(d) of the Code expressly disclaims liability for damages due to an inaccurate field mark by an operator.

In light of the foregoing, Imerys respectfully requests the Dig Board to find that no violation occurred. In the alternative, to the extent the Dig Board finds that a violation nevertheless occurred, Imerys respectfully requests the Dig Board to decline to recommend any proposed penalty. The incident involved no injuries, no property damage aside from a small section of pipe, and unique mitigating circumstances in which the alleged excavation took place a substantial distance from existing utility markers.

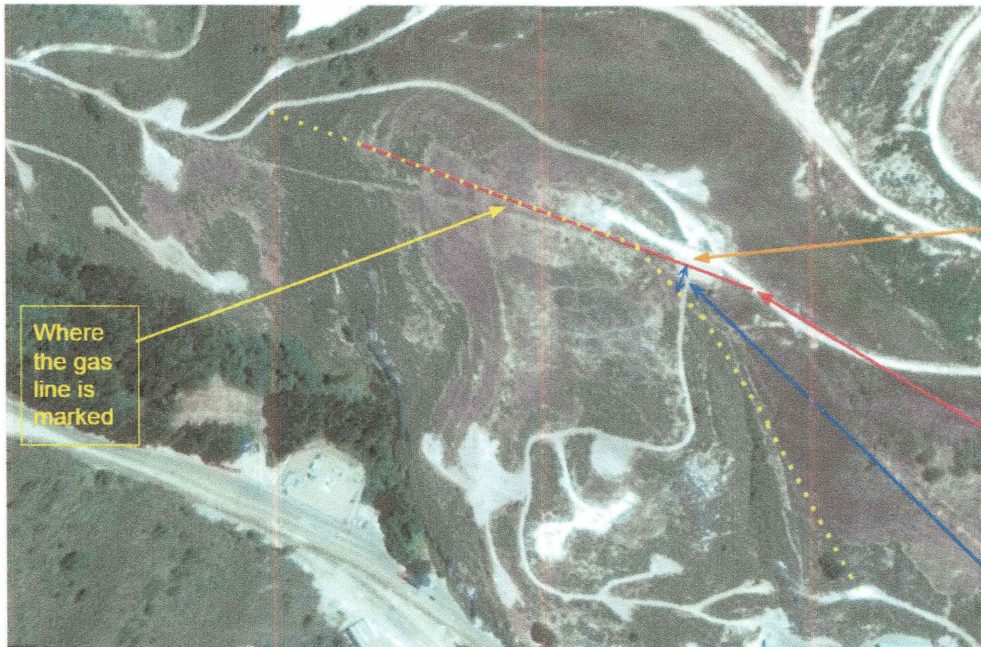
I have attached the response form indicating Imerys's intent to contest the NOPV. If you have any questions or wish to discuss this matter in further detail, please feel free to contact me directly at 770-645-3709 or via email at ryan.florio@imerys.com. Thank you for your attention and consideration.

Sincerely,


Ryan Florio (Jul 9, 2021 13:07 EDT)

Ryan Florio
Litigation & Regulatory Counsel - North America
Imerys

Attachment (via email)



Where the gas line is marked

Spot where the dozer was clearing the vegetation for a fire break

Actual Location of the gas line

~60' difference between marked line location and actual line location



~60' apart



These markers are placed to indicate that this is where the gas line is.

However, the dozer operator was operating ~60 feet to the north (left in the picture) of these markers when the dozer impacted the gas line.