



**U.S. Department  
of Transportation  
Pipeline and Hazardous  
Materials Safety  
Administration**

**1200 New Jersey Avenue, SE  
Washington, DC 20590**

January 26, 2021

Via Email

Tony Marino  
Executive Officer  
The Dig Safe Board  
2251 Harvard Street, 4<sup>th</sup> Floor  
Sacramento, CA 95815

Dear Mr. Marino:

On July 15, 2020, a representative of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an evaluation of the California Dig Safe Board's (DSB) enforcement of the California State excavation damage prevention law. PHMSA conducted this evaluation pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs. Based on this evaluation, PHMSA has determined that the enforcement of the California excavation damage prevention law is "adequate."

PHMSA evaluates a state's excavation damage prevention enforcement program based on the criteria detailed in 49 CFR 198.55 and scores the state's compliance with those criteria. Although DSB's enforcement program was deemed "adequate" for calendar year (CY) 2019, this is not a finding by PHMSA that the state program has no room to further improve the program's effectiveness. Accordingly, PHMSA would like to bring to your attention an area of improvement involving the requirements of 49 CFR 198.55(a)(3). This is one of the evaluation criteria for a state's program and assesses, in part, whether the state is "assessing civil penalties and other appropriate sanctions for violations at levels sufficient to deter noncompliance." In CY 2019, California's gas distribution operators reported a total of 5,449 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA. Based on the information gained during our evaluation, the DSB investigated 78 of these damages, and only ten of those led to a civil penalty. Additionally, the apparent root cause of 426 of the 5,449 reported damages was attributed to operators failing to comply with their responsibilities as stated in the California excavation damage prevention law and the Pipeline Safety Regulations. However, only one enforcement action was pursued against these operators. PHMSA encourages the DSB to evaluate how it may improve its program in this regard and provide an update to PHMSA relative to this issue within 60 days from receipt of this letter.

Tony Marino, Executive Officer

Page 2

PHMSA appreciates your dedication to safety. As you are aware, excavation damage continues to be a leading cause of pipeline failures, some of which have resulted in fatalities, serious injuries, and environmental damage. Nationwide statistics show that effective enforcement of state damage prevention laws reduces excavation damage and pipeline incidents, resulting in enhanced public safety.

Should you or your staff have any questions regarding this letter, please contact Steven Fischer, PHMSA Senior Program Manager, at (713) 548-4838 or by email at Steven.Fischer@dot.gov.

Sincerely,



Massoud Tahamtani  
Deputy Associate Administrator, Policy and Programs  
Office of Pipeline Safety

cc: Mike Richwine, State Fire Marshal  
California Department of Forestry and Fire Protection  
James Hosler, Assistant Deputy Director  
CAL FIRE – Office of the State Fire Marshal, Pipeline Safety Division  
Terence Eng, P.E., Program Manager  
Gas Safety and Reliability Branch, California Public Utilities Commission