



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
Office of the State Fire Marshal
Underground Facilities Safe Excavation Board

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**California Underground Facilities Safe Excavation Board
("Dig Safe Board")**

July 13, 2020

MEETING MINUTES

July 13, 2020
Teleconference Meeting

OPEN SESSION

Chair Voss called the meeting to order at 9:14 a.m.

Chair Voss explained that due to the Coronavirus Disease-19 (COVID-19) pandemic, and pursuant to the Governor declaring a State of Emergency and issuing Executive Orders N-25-20 and N-29-20, that the meeting is being held via teleconference. Chair Voss explained the procedures for the public to comment via the webinar and teleconference.

BOARD MEMBERS PRESENT:

Carl Voss, Chair
Marjorie Del Toro, Vice Chair
Ron Bianchini
Randy Charland
Jessica Forte
Bill Johns
Marshall Johnson
Amparo Muñoz

STAFF PRESENT:

Tony Marino, Executive Officer
Jeff Brooks, Attorney

Jason Corsey, Chief of Investigations
Anna Brown, Supervising Special Investigator
Carla Newman, Supervising Special Investigator
Jon Barkley, Special Investigator
John Benane, Special Investigator
Michael Ehrgott, Special Investigator
Dennis Fenton, Special Investigator
Charley Park, Special Investigator

Brittney Branaman, Policy and Budget Manager
Tom Finn, Operations Manager
Jonathan Saxon, Education and Outreach Specialist
Jenni Reed, Policy and Data Analyst
Jeff McClenahan, Policy Analyst
Veronica Bravo, Policy Analyst
Amber Riggle, Office Technician

Agenda Item No. 1: Executive Officer's Report

Policy and Budget Manager Brittney Branaman presented the Executive Officer's report.

Education and Outreach Specialist Jonathan Saxon presented updates and additions to the Dig Safe Board website including new pages for Electronic Positive Response (EPR), Area of Continual Excavation (ACE), Ideas, and Damage Reporting pages which were added to the header and/or the homepage of the website.

Chief of Investigations Jason Corsey provided an enforcement update. Mr. Corsey explained that thirteen Notices of Probable Violation (NOPV) were mailed out on July 8 and July 10 which recommended education and/or fines. Three were referred to the California Public Utilities Commission (CPUC) and ten were referred to the Contractors State License Board (CSLB). Mr. Corsey explained that most of the notices were for not having a valid call before you dig ticket. Mr. Corsey explained that there may be a potential hearing date on September 14th if any NOPV's are appealed.

Attorney Jeff Brooks provided an update on the Electronic Positive Response (EPR) extension regulation that went into effect July 1, 2020. Mr. Brooks explained that the Dig Safe Board has so far received one application from an operator for an extension to the EPR requirement, which will be presented to Board Members at the August meeting.

Ms. Branaman thanked Underground Service Alert of Southern California (DigAlert) for their assistance to the Board that went into building the damage reporting portal that connects to the Board's case management system.

Chair Voss asked for comments from the Board.

Member Johnson requested further information about the status of area of continual excavation (ACE) tickets.

Chair Voss asked for comments from the public.

A representative of Underground Service Alert of Northern California (USA North 811) commented that there have been two ACE tickets so far. One from a farmer for agricultural uses and one from a school district for flood control.

A member of the public asked the Board what it plans to do for ACE tickets that are not for valid excavation types.

Agenda Item No. 2: Board Member Public Engagement Reports

Chair Voss asked for Board Member engagement reports.

Member Voss discussed the premiere of ACE tickets on July 1, 2020 and ongoing work with Mr. Saxon to continue outreach to the agricultural community.

Board members discussed the valid use of ACE tickets and systems of the one-call centers around ACE tickets. Members discussed a focus on education and compliance and the need for further information on the topic from the agricultural community and one-call centers.

Member Charland called for a discussion on the investigations process at a future board meeting.

Chair Voss asked for comments from the public.

A representative of USA North 811 explained that users are notified of the valid uses of ACE tickets which they must click before submitting an ACE ticket online or acknowledge to the call taker if submitting an ACE ticket over the phone.

Agenda Item 3: Resolution No. 20-07-01: Approval on the Adoption of Regulation on Investigations on Section 4201

Mr. Brooks presented the staff report on Board Resolution No. 20-07-01, which relates to evidence the Board will consider in imposing a penalty for violations of Dig Safe laws, following the 15-day comment period.

Chair Voss asked for comments from the Board. There were none.

Chair Voss asked for comments from the public. There were none.

Board Action

Motion: Member Bianchini.

Second: Member Johns

Ayes: Members Bianchini, Charland, Del Toro, Forte, Johns, Johnson, Munoz, Voss

Noes: None

Abstentions: None

Recusals: None

Result: Motion Approved.

Agenda Item 4: Resolution No. 20-07-02: Approval of the Adoption of Regulation on ACE and Power Tools

Mr. Brooks presented the staff report on Board Resolution No. 20-07-02, which relates to use power tools in tolerance zones.

Mr. Brooks explained that staff published, for public review and comment, the amended cost impact analysis supporting the Board's proposed regulations and comments received during the comment period which began June 23 and ended on July 7.

Mr. Brooks explained that while three members of the public responded during the 15-day comment period for the regulation, but that none of the comments received related to the amended cost impact report, and that because they were not related to the purpose of the amended rulemaking, that the Board is not required to consider or respond to the comments as a condition of continuing with the rulemaking process.

Chair Voss asked for comments from the Board. There were none.

Chair Voss asked for comments from the public. There were none.

Board Action

Motion: Member Del Toro

Second: Member Forte

Ayes: Members Bianchini, Charland, Del Toro, Forte, Johns, Johnson, Munoz, and Voss

Noes: None

Abstentions: None

Recusals: None

Result: Motion Approved.

Agenda Item No. 5: Information Item: Update on Education in Lieu of Fines Course

Policy and Data Analyst Jenni Reed presented the staff report on an overview of the content and structure of the course.

Ms. Reed shared an excerpt from the instructor guide and a video of a case study.

Chair Voss asked for comments from the Board.

Board members commented in support of the course materials and their desire to promote the course videos.

Chair Voss asked for comments from the public.

A representative of USA North 811 asked if the videos would be made available to share.

A member of the public suggested formatting changes to the instructor materials.

Agenda Item No. 6: Discussion of Dig Safe Board Regulatory Fee Implementation

Operations Manager Tom Finn presented a staff report of the Board's Regulatory Fee Implementation.

Mr. Finn presented a staff report that discussed two proposals for regulatory changes: first, one where the Board would issue its own invoices and collect fees itself, and the second where the Board would amend the regulation for one-call centers to continue collecting the fee on Board's behalf. Staff presented questions to help guide the Board's discussion of the potential changes to the regulations.

Chair Voss asked for comments from the Board.

Board members suggested the fee should be a line item included on the existing invoice and the one-call centers should be allowed to utilize the Board's logo. One-call centers should continue to administer fee as the Board does not have appropriate staffing.

Board members directed staff to work with the call centers to develop a partnership and hold discussions on fee collection.

Chair Voss asked for comments from the public.

A representative of USA North 811 requested that the Board follow-up on previous discussions to take the fee collection in-house as previously proposed by staff. The representative explained that USA North 811 would need to hire additional resources to perform the work the Board is proposing.

A representative of DigAlert commented that they agreed another person would need to be hired if they were to make the fee a line item. The representative acknowledged billing should be done from one place, but fees are sent to separate locations, making it difficult to reconcile payments.

Chair Voss recessed the meeting from 11:55 a.m. to 1:30 p.m. for a lunch break

Agenda Item No. 7: Discussion on Reasonable Care Standards Development

Policy Analyst Jeff McClenahan presented a staff report on Reasonable Care Standards Development.

Mr. McClenahan explained the renewed approach to reasonable care standards. He asked the Board to discuss their existing understanding of reasonable care standards to develop framework for developing reasonable care standards and proposed five questions for the Board to consider on how to structure its approach to developing such standards.

Chair Voss asked for comments from the Board.

Board members discussed the framework of reasonable care including around different stakeholder groups such as the six parties and standards used by the Common Ground Alliance, the process of excavation on a timeline from pre-bid work to backfilling, focus on conflict resolution, the different types of excavators and excavation methods, other stakeholders in the process such as locators, the one-call centers, permitting agencies, equipment manufacturers, and operator-excavators, and the idea to start to focus down to one stakeholder group.

Board members discussed specific reasonable care standard topics including attention to visible structures above the ground, review of design plans in the field, bulkheads and blocks in trenches, hazards in filling in trenches, failure to pothole, procedures around backfilling potholes, directional drilling procedures in different soil types, knowledge of the exit point in directional drilling, and the questions and content on locate request tickets.

Chair Voss asked for comments from the public.

A representative of Southern California Gas Company commented on the need for more safety guidelines for directional drilling procedures and if it would be helpful to submit common questions around this process.

A member of the public commented that Board should consider that each of the major industry groups will have their own associations and will have their own recommendations.

Other Business

None.

Public Forum

Chair Voss asked for any comments from the public for items not on the agenda.

A member of the public asked for the Board to develop guidelines for invalid ACE tickets.

Adjournment

Chair Voss adjourned the meeting at 2:54 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair