

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

May 11, 2021

MEETING MINUTES

May 11, 2021
Teleconference Meeting

OPEN SESSION

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Tony Marino, Executive Officer
Jeff Brooks, Attorney

Jason Corsey, Chief of Investigations
Anna Brown, Supervising Special Investigator
John Benane, Special Investigator
Michael Ehrgott, Special Investigator
Charley Park, Special Investigator

Brittney Branaman, Policy and Budget Manager
Tom Finn, Operations Manager
Devin Blankenship, Communications Specialist
Jenni Reed, Policy and Data Analyst
Jeff McClenahan, Policy Analyst
Veronica Bravo, Policy Analyst
Amber Riggle, Office Technician

Agenda Item No. 1: Call to Order and Roll Call

Chair Del Toro called the meeting to order at 9:00 a.m.

Chair Del Toro 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 Del Toro explained the procedures for the public to comment via the webinar and teleconference.

Agenda Item No. 2: Public Comments on Items not on the Agenda

Chair Del Toro asked for any comments from the public for items not on the agenda. There were none.

Agenda Item No. 3: Decision on Notice of Probable Violation #20SA01291 – City of Lafayette Department of Public Works

Member Johnson recused himself from participation in this agenda item.

Chair Del Toro asked if there were any public comments on this item.

James Wingate, Executive Director of USA North 811, explained the City of Lafayette Department of Public Works did not respond to the NOPV and has not been in communication with USA North 811.

Chair Del Toro asked for comments from the Board.

The participating Board members considered the report of investigation, the evidence presented and found that (1) probable violation of Government Code 4216.1 (failure to participate in a notification center), and (2) an order directing the City of Lafayette Department of Public Works to become compliant with Government Code 4216.1 by September 1, 2021 and mandatory completion of the Board’s education course is an appropriate sanction.

Vice Chair Muñoz noted the City of Chico was making right steps for public safety.

Board Action: Motion to refer case to the Lafayette City Council with recommendation of the respondent becoming compliant with Government Code 4216.1 by September 1, 2021 and attend the Board’s education course.

Motion: Vice Chair Muñoz

Second: Member Bianchini

Yeses: Members Bianchini, Charland, Del Toro, Johns, Muñoz and Voss

Noes: None

Abstentions: None

Result: Motion Approved

Agenda Item No. 4: Decision on Notice of Probable Violation #20SA01304 – City of Chico Department of Public Works

Member Johnson recused himself from participation in this agenda item.

Chair Del Toro asked if there were any public comments on this item.

Mr. Wingate explained the City of Chico Department of Public Works responded to the NOPV, started the application process, and is slated to become a USA North 811 member by the end of May.

Chair Del Toro asked for comments from the Board.

The participating Board members considered the report of investigation, the evidence presented and found that (1) probable violation of Government Code 4216.1 (failure to participate in a notification center), and (2) an order directing the City of Chico Department of Public Works to become compliant with Government Code 4216.1 by September 1, 2021 and mandatory completion of the Board's education course is an appropriate sanction.

Board Action: Motion to refer case to the Chico City Council with recommendation of the respondent becoming compliant with Government Code 4216.1 by September 1, 2021 and attend the Board's education course.

Motion: Member Voss

Second: Member Bianchini

Yeses: Members Bianchini, Charland, Del Toro, Johns, Muñoz and Voss

Noes: None

Abstentions: None

Result: Motion Approved

Agenda Item No. 5: Decision on Notice of Probable Violation #20SA01303 – Pacific Gas and Electric Company

Per Executive Officer Tony Marino, Item 5 was removed from the agenda and is expected to be heard at a future Board Meeting.

Agenda Item No. 6: Decision on Notice of Probable Violation # 21SA01355 – Pacific Gas and Electric Company

Per Executive Officer Tony Marino, Item 6 was removed from the agenda and is expected to be heard at a future Board Meeting.

Agenda Item No. 7: Board Name Change

Executive Officer Tony Marino presented the staff report on the Board name change.

Mr. Marino explained the Board received a letter from attorneys for Dig Safe System, Inc. that demanded the Board to cease use of "Dig Safe" and associated marks. Mr. Marino discussed the changes staff have implemented including removing marks from official

documents and upcoming website name change to dig.fire.ca.gov. The Board will use its original statutory name and the Great Seal of California as its name and seal in the interim.

Mr. Marino discussed the Board moving from the Department of Forestry and Fire Protection (CAL FIRE) to the new Office of Energy Infrastructure Safety on January 1, 2022 pursuant to SB 865. The Board will have its own official re-branding by July 1, 2021 and in place by January 1, 2022 that is consistent with the new Office of Energy Infrastructure Safety.

Mr. Marino recommended Dig Alert and USA North 811 to cease using the “Dig Safe” seal beginning next billing cycle. A resolution would not be necessary if both call centers agreed to cease use of the “Dig Safe” seal. Mr. Marino recommended the Board not to take action on the resolution proposed in the staff report. A resolution would not be necessary if both call centers agree not to use the Board’s former logo moving forward, beginning with the next billing cycle.

Chair Del Toro asked for comments from the Board.

Vice Chair Muñoz informed the Board she provided Mr. Marino with suggestions on Board rebranding.

Chair Del Toro confirmed with Mr. Marino that Board members are to cease using the Board’s former “Dig Safe” name.

Chair Del Toro asked for comments from the public.

Ann Diamond of Dig Alert asked Mr. Marino if Dig Alert should remove the Great Seal of California from invoices without a resolution. Mr. Marino asked that Ms. Diamond remove the seal without a resolution. Ms. Diamond agreed to comply with the request from Mr. Marino and cease use of the Great Seal of California and the Board’s former logo from invoices until further notice.

Ms. Diamond suggested the Board send the letter to members on behalf of Dig Alert on account that invoices are sent via email automatically and it could be difficult to attach another document. Mr. Marino explained staff considering providing a letter to one call centers to address the Board’s name change and explain why invoices appear differently.

James Wingate of USA North 811 stated USA North 811 will comply with the request from Mr. Marino and cease use of the Great Seal of California and the Board’s former logo from invoices until further notice.

Agenda Item No. 8: Update on Safety Standards

Operations Manager Tom Finn presented the staff report on the update on safety standards.

Mr. Finn explained that in 2020 the Board outlined general framework for developing safety standards going excavation subtype by subtype beginning with trenchless excavation. After information gathering process into trenchless excavation techniques, it became clear that there may be some overlap in safety practices which apply universally and other safety practices applicable to certain excavation subtypes. Staff is revising their approach into standards development until a more comprehensive understanding of various excavation standards has been complete.

Mr. Finn explained what the Board previously referred to as Reasonable Care Standards will be termed Safety Standards to more accurately reflect the work the Board is doing. Staff welcomed name suggestions from the Board on how to title the new revised approach. The Safety Standards Committee proposed the Board pursue information gathering into the excavation subtype of roadbuilding before it proceeds with standards development.

Chair Del Toro asked for comments from the Board.

Board members discussed various term name ideas while agreeing that the name should reflect the Board's work in safe excavation. The term standards could have unwanted implications as different stakeholders' interpretation of standards will vary.

Mr. Marino suggested Members Bianchini and Muñoz collaborate on an interim name for the Committee and then go through the process to figure out what it is the Board thinks people should be doing and which solutions to apply. Vice Chair Muñoz commented that the Board's longevity and intent should be considered when determining a name for the committee.

Chair Del Toro asked for comments from the public.

Southern California Gas Company Ryan Dove submitted a text comment of Government Code 4216.18 that outlines standards for the Board's reference.

Chair Del Toro called for a five-minute recess from 9:57 a.m. to 10:02 a.m. The meeting resumed at 10:05 a.m.

Agenda Item No. 9: Issues Identified by USA North 811 Regarding Locate-and-Mark Responses and Tickets

Executive Officer Tony Marino presented the staff report on issues identified by USA North 811 regarding locate-and-mark responses and tickets.

Mr. Marino discussed issues identified by Mr. Wingate with locate and mark tickets and how it has affected USA North 811. Mr. Marino turned over the presentation to Mr. Wingate and Ann Diamond of Dig Alert.

Mr. Wingate explained issues that have been occurring with locate and mark tickets and the nature of comments between contractors and excavators were unprofessional. Mr. Wingate asked the Board to discuss what type of comments are allowed on tickets.

Chair Del Toro asked if any members needed to recuse themselves.

Members Bianchini, Charland and Johnson recused themselves from participation in this agenda item.

Chair Del Toro asked for comments from the Board.

Board members discussed the many dynamics involved with Mr. Wingate's request. Board members decided to table the discussion for a future Board meeting at later date to be determined.

Chair Del Toro asked for comments from the public.

An audio comment from Preston Pipelines Operations Coordinator Logan Downer spoke to experiences with USA North 811 and ticket system. Mr. Downer explained the comments section is often the only time the only form of communication between operators and excavators.

An audio comment from Level 10 Construction Director of Safety Larry Fabbro expressed it's a common issue with excavators being frustrated with tickets and have had no issues with appropriate comments in ticket to document situation.

Chair Del Toro called for a five-minute recess from 11:16 a.m. to 11:21 a.m. The meeting resumed at 11:26 a.m.

Chair Del Toro invited Members Bianchini, Charland and Johnson back to the meeting.

Agenda Item No. 10: Board Member Public Engagement Reports

Chair Del Toro asked for Board Member engagement reports.

Member Johns participated in a call with Caltrans on AB 1037 regarding 3D documentation of construction projects. The discussions include what type of technology we can incorporate in marking.

Chair Del Toro asked for comments from the Board. There were none.

Chair Del Toro asked for comments from the public. There were none.

Agenda Item No. 11: Executive Officer's Report

Executive Officer Tony Marino presented the Executive Officer's report.

Mr. Corsey provided an update on non-compliance with EPR except for extensions granted by the Board. Between January and April 2021, there was 100% non-compliance with EPR of 392 members. 158 notices were sent to Dig Alert members and 234 notices sent to USA North 811 members. These numbers do not reflect local or city governments in each call center's responsible areas.

Mr. Marino explained the amount of NOPV's is not likely to increase in the manner expected six months ago due to staff turnover and several vacancies within the investigations unit. Recruitment packets were sent out for five investigators and a supervisor and the hiring process is expected to take a few months to process.

Mr. Marino provided an update on the fee regulation that would modify the way fees are collected. The regulation went through economic analysis and will likely see 45-day comment period open on May 25th with the expectation it will go into effect January 1, 2022.

Mr. Marino discussed public complaints that were received from several homeowners in attempt to get neighbor to stop utility relocation. Mr. Marino advised homeowner to contact gas company. The second complaint received was from homeowner having difficulty getting an area marked.

Mr. Marino noted the next Board meeting will be July 13th.

Chair Del Toro asked for comments from the Board. There were none.

Chair Del Toro asked for comments from the public.

Mr. Wingate commented USA North 811 receives questions frequently from homeowners who want to prevent neighbors from performing utility relocations. USA North 811 will occasionally refer to the Board if it is an enforcement issue or give out PG&E contact information.

Agenda Item No. 12: Other Business

Chair Del Toro asked if there were any other items to be added to the next board meeting agenda.

Vice Chair Muñoz proposed focusing one section of Mr. Wingate's letter per meeting. Board members agreed the letter should be discussed during the next meeting.

Agenda Item No. 13: Adjournment

Chair Del Toro adjourned the meeting at 12:05 p.m.

Respectfully submitted,

Attest:

/s/ Tony Marino

/s/ Marjorie Del Toro

Tony Marino
Executive Officer

Marjorie Del Toro
Chair