



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

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CA Underground Facilities Safe Excavation Board
("Dig Safe Board")

April 15-16, 2019

DigAlert
1379 Pico St. Suite 101
Corona, CA 92881

MEETING MINUTES

BOARD MEMBERS PRESENT:

Carl Voss, Chair
Jessica Arden, Vice Chair
Randy Charland
Marjorie Del Toro
Bill Johns
Marshall Johnson
Amparo Munoz

BOARD MEMBERS ABSENT:

Ron Bianchini

STAFF:

Tony Marino, Executive Officer
Brittney Branaman, Policy and Budget Manager
Jason Corsey, Chief of Investigations
Anna Brown, Supervising Investigator
Diana Lopez, Special Investigator
John Benane, Special Investigator
Mandy Liao, Special Investigator
Charley Park, Special Investigator
Kerstin Tomlinson, Education & Outreach Officer
Jon Goergen, Research Specialist
Jenni Reed, Policy Analyst
Misty Catano, Administrative Analyst

April 15, 2019
10:00 a.m.

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OPEN SESSION

Chair Voss called the meeting to order at 10:00 a.m.

Agenda Item No. 1: Executive Officer's Report

Executive Officer Tony Marino provided an update on the current recruitment process for the following open staff positions: Associate Government Program Analyst (AGPA), Operations Manager, and Attorney.

Member Arden arrived at 10:04 a.m.

Chief of Investigations Jason Corsey introduced newly hired Special Investigator Charley Park and gave background information about his experience.

Mr. Marino discussed AB 434, website accessibility standards, and staff work bringing the Board's website into compliance. He discussed the status of the Dig Safe Board's vehicles, and several upcoming Board outreach opportunities including: the Sacramento Regional Builders Exchange (SRBX) Expo, the California Regional Common Ground Alliance (CARCGA) mock strike, and the Office of the State Fire Marshal (OSFM) Pipeline Safety Conference. Mr. Marino also discussed wildfire safe excavation guidelines created by staff, and posted on the Board's website along with the websites of the California State License Board (CSLB) and the California Occupational Safety and Health Administration (OSHA).

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

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

Agenda Item No. 2: Board Member Public Engagement Reports

Chair Voss asked for Board Member engagement reports. There were none.

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

Agenda Item No. 3: Discussion on Fee Implementation

Administrative Analyst Misty Catano presented a report on the implementation of the Dig Safe Board fee charged to members of California's two regional notification (one call) centers. Mrs. Catano discussed the high volume of calls staff has received from stakeholders since the fee went into effect on February 1, 2019 regarding their confusion and frustration with the invoices provided by the one call centers on behalf of the Board. She reviewed the most common questions staff received regarding prior notification about

the fee, vital information missing from the invoices, and billing schedules. Mrs. Catano asked the Board to provide direction on how to improve invoices to clear up confusion among stakeholders.

A representative from DigAlert, discussed the corrected information included on the invoices sent out on April 1, 2019. She discussed the issue of collecting contact information from her members, and that DigAlert sends annual requests to members about updating contact information.

Chair Voss asked for comments from the Board.

Member Johnson asked about DigAlert's credit statement and how it is being sent to members.

Mrs. Catano discussed the confusion she encountered surrounding the credit statement from members who pay their invoice in full.

Member Charland asked about the 5% late payment penalty and whether the Board has started enforcing the penalty.

Mrs. Catano told the Board that while the 5% penalty was part of the regulation, it is not currently being added to the invoice.

Member Charland asked if it were possible to hold off on the penalty until members get used to paying the fee.

Executive Officer Tony Marino told the Board the penalty process is currently being developed with CAL FIRE's accounting department.

Member Munoz asked about getting updated one call center member information and then moving forward with the penalty once more current information is received.

A representative from USA North 811 discussed his center's goals to get updated member contact information and shape files.

Member Del Toro asked about the method the one call centers use to send out the fee invoices to their members.

The USA North 811 representative told the Board his members receive an invoice via email or standard mail.

Member Johnson asked when the 5% late payment penalty will take effect.

Mr. Marino discussed the fee regulation, and told the Board the penalty is based on the invoice due date.

Member Johnson asked whether the Board could do its own invoicing moving forward.

Mr. Marino discussed the decision not to duplicate billing, and the reasons why state regulatory boards have other entities bill the regulated public.

Member Johns asked about the potential for finding other sources of funding to support the Board.

Mr. Marino discussed the statutory reason for the one call center member fee, and the opportunity for the Board to use other funding sources, like grants.

Member Del Toro asked for clarification about when the one call center members would begin paying the 5% late payment penalty.

Mr. Marino discussed the issue of ensuring the penalty is equal for all fee payers, and making sure the circumstances are reviewed before any decisions are made regarding the penalty fee.

Member Charland asked the one call centers about their new membership registration process, and whether it included an explanation about the Dig Safe Board fee.

The representative from USA North 811 told the Board his center's new membership packet did not contain any information about the Dig Safe Board.

The representative from DigAlert told the Board her center's new membership packets provide information about the Dig Safe Board, but do not specifically address the fee.

Chair Voss asked for comments from the public.

A representative from Torrance Logistics Company raised concern over being charged for remarks, and asked whether excavators could be held responsible for remark requests.

The representative from USA North 811 discussed his Board's upcoming meeting on May 1, 2019, and told the Board the meeting would include a discussion on billing members and what should be considered chargeable.

A representative from Pacific Gas & Electric (PG&E) raised concern over dissuading the public from renewing tickets.

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

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

(Meeting recessed at 11:05 a.m. and resumed at 11:24 a.m.)

Agenda Item No. 4: Discussion on Implementation of AB 1914

Policy Analyst, Jenni Reed presented a report on the implementation of AB 1914, providing background information on the Assembly Bill and discussing the online survey being used to gather stakeholder input on this issue. Mrs. Reed also discussed proposed draft regulation language.

Member Johnson discussed the AB 1914 committee's desire to get as many survey responses as possible from stakeholders to ensure the draft regulation language promotes safety and fairness among excavators and operators.

Chair Voss asked for comments from the Board.

Member Charland voiced concern over locators and contract locators being asked to speak about facility materials. He discussed the tools at a locator's disposal and why they are not qualified to speak about facility materials. Member Charland also discussed the need for an agreement between the excavator and the operator.

Member Johns voiced concern over the Board being too prescriptive about the type of power tool that can be used, and discussed the importance of training.

Member Munoz discussed the current process with vacuum excavation where excavators check a box, never hear from the operator, and use the tool because they are not told they cannot use it.

Member Johnson told the Board just checking a box is not enough, and discussed the importance of the excavator and operator communicating and coming to a mutual agreement.

Chair Voss asked for comments from the public.

A representative from the Los Angeles Department of Water and Power (LADWP) asked the Board to allow the legal use of the clay spade, and discussed his department's current process for using the tool.

A representative from PG&E asked the Board to consider creating a decision tree for excavators to use to determine when the use of power tools is appropriate for locating an underground facility.

A representative from Shell Pipeline discussed the company's onsite meeting requirement for excavators to have a dig plan. He also raised concern over the contact information on tickets called in by dispatch centers and how it is difficult to reach the person with the authority to discuss the dig plan.

(Meeting recessed at 12:09 p.m. and resumed at 1:41 p.m.)

A representative from PG&E discussed the importance of training.

A representative from Southern California Gas Company (SoCalGas) expressed the company's support for the use of the clay spade with guidelines and qualifiers for use. He also voiced the company's support for training.

A representative from the Southern California Contractors Association (SCCA) discussed training for contractors. He asked if operators would be training the contractor, or whether the Board would create a training program.

Stakeholders and the Board discussed the different training requirements for operators under Federal Pipeline Safety Regulations Part 192 and 195. They also discussed OSHA requirements, operator training programs, private training programs, and the possibility of partnering with CSLB to provide training to excavators.

Executive Officer Tony Marino discussed the federal pipeline safety regulations and OSHA requirements regarding the Board's implementation of AB 1914, and asked

operators to provide examples of their power tool use procedures to the Board. Stakeholders and the Board discussed the current process for the use of vacuum trucks to locate underground facilities, how the operators are notified of vacuum truck requests, and the mutual agreement process.

Mr. Marino reminded the Board of the regulation development timeline and discussed the Board's responsibility to determine the tools appropriate to use prior to locating a subsurface installation, what the mechanism should be to determine when those tools should be used, and how accountability should be considered.

Member Munoz discussed the importance of having qualified individuals coming to mutual agreements.

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

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

(Meeting recessed at 3:02 p.m. and resumed at 3:23 p.m.)

Agenda Item No. 5: Discussion on Investigations

Chief of Investigations Jason Corsey presented a report on investigations, providing background on the hiring and training process, the start of preliminary investigations and some of the insights drawn from those investigations, and a proposal to initiate official investigations focusing on "no ticket" and "no response" cases.

Chair Voss asked for comments from the Board.

Board members asked Chief Corsey about the investigations process, including who investigators will be communicating with about these cases, how investigators obtain the contact information of the parties involved, and whether the Board would receive reports on investigative findings.

Chief Corsey discussed the preliminary investigation process with the Board, including how investigators are working with the one call center to obtain contact information.

Board members asked Chief Corsey about investigating no response tickets.

Chief Corsey told the Board about the process of determining the most severe no responses and how that correlates to future penalties.

Chair Voss asked for comments from the public.

A representative from USA North 811 requested that the Board and operators to keep statistics of no ticket cases that can be used in the future for education.

A representative from SoCalGas requested that the Board track statistics about homeowners that can be used in the future.

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

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

Other Business

None.

Public Comment

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

Adjournment

Meeting adjourned at 4:30 p.m.

April 16, 2019
9:00 a.m.

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Jon Goergen, Research Specialist
Jenni Reed, Policy Analyst
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OPEN SESSION

Chair Voss called the meeting to order at 9:01 a.m.

Agenda Item No. 6: Discussion on Area of Continual Excavation Renewal Requirement (Government Code section 4216.10(e))

Research Specialist Jon Goergen presented a report on the Area of Continual Excavation (ACE) Renewal Requirement, providing the results of staff research into parcels of land with no subsurface installations present, a proposal for an automatic renewal ticket process, and several scenarios for the Board to review to determine which properties

would be eligible for automatic renewal.

Chair Voss asked for comments from the Board.

Member Johns discussed the importance of communication between the operators and the farmers who want to request an ACE ticket.

Member Munoz asked about the possibility of creating a registry of farm parcels that are absent of underground facilities.

Mr. Goergen discussed the current technology that exists to identify farm parcels, the process of locating and marking, and the complications with using those systems to mine data for a Board database.

Executive Officer Tony Marino discussed how electronic positive response would fit into the building of a database.

Board members and staff discussed electronic positive response regarding farmland with no subsurface infrastructure, how the Board can use the information the one call centers would receive, and who would be storing the data. Members also asked about the number of Underground Service Alert (USA) tickets currently being requested by farmers.

Mr. Goergen shared his preliminary research into agriculture tickets in Kern County, and the number of parcels that are eligible for an ACE ticket.

Chair Voss discussed the importance of educating the farmers about the process because they haven't been required to call in a ticket until now. Mr. Voss discussed the goal of eliminating parcels of land that do not have any subsurface infrastructure present.

Board members and staff discussed a photo of farmland in Bakersfield, California provided by Chair Voss to illustrate different ACE ticket renewal situations.

Member Charland raised concern over locators being required to mark such large parcels of land.

Member Johnson raised concern over non-high priority lines not being required to have an onsite meeting with the farmer. Mr. Johnson told the Board, the parcel would need to be marked every year.

Vice Chair Arden proposed the idea of creating a policy that allows utility owners to approve automatic ACE ticket renewals for land absent of underground facilities based on certain criteria.

A representative from USA North 811 discussed the ACE ticket, how it differs from a regular ticket, how positive response will fit into the picture, and the challenges with map data being less accurate in rural areas compared to urban areas. He discouraged the idea of automatic ticket renewals and told the Board farmers should call once a year.

Chair Voss asked for comments from the public.

A representative from the Public Utilities Commission (PUC) discussed the importance of everyone in the field knowing what kind of facilities they are working around to ensure they

work safely.

The representative from USA North 811 discussed the concept of electronic positive response, and how it could make delineating the field easier for farmers. He told the Board about the process of electronic white lining.

The Board and stakeholders further discussed electronic positive response, who currently does it and why, who doesn't currently use electronic positive response and why, and the importance of clear delineation.

Mr. Marino asked the Board to consider how much of the ACE ticket renewal process can be automated to make it easier for farmers to comply with the process.

Member Munoz suggested that automatic ACE ticket renewals be revisited when technology is at a place to accommodate automatic renewals.

Member Johns voiced concern over automation and its impact on communication. He suggested a once a year conversation between the farmer and the operator.

The representative from the PUC voiced his support for an annual conversation between the farmer and the operator.

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

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

(Meeting recessed at 11:10 a.m. and resumed at 11:29 a.m.)

Agenda Item No. 7: Discussion on Complaint Process

Chief of Investigations Jason Corsey presented a report about the Board's complaint process, providing background on the Board's Enforcement Philosophy (Policy B-05), and providing a proposal to create a complaint process that encourages complainants to submit written complaints via the Board's website, email, or standard mail. Chief Corsey discussed how the complaints will be prioritized using the following four categories: consequence, public interest, policy, and workload and how staff will differentiate between confidential and anonymous reporting.

Chair Voss asked for comments from the Board.

Member Johnson asked for clarification about the complaint process in relation to legal disputes.

Executive Officer Tony Marino discussed Government Code 4216.21 which requires the complainant to wait for the results of a Board investigation and decision, or six months after the investigation begins, before they file for damages. Mr. Marino also discussed the Board's Enforcement Philosophy (Policy B-05), which staff has interpreted to mean investigators will not investigate claims that don't meet a certain threshold, and liability is not a reason the Board would investigate.

Member Munoz discussed how the one call centers are already receiving complaints from stakeholders, and asked how those complaints are documented and managed.

A representative of DigAlert told the Board her center does not record complaints because they are not an enforcement agency. She discussed how her customer service representatives handle complaints by referring them to the Dig Safe Board.

A representative of USA North 811 told the Board when his center receives complaints they try to put the complainant in direct contact with the subject of their complaint, so their concerns can be heard. However, he told the Board his center does not document complaints.

Member Johns discussed the importance of keeping a record of complaints and documenting the decisions made based on those complaints.

Member Johnson asked whether the outcome of the investigation would be forwarded to the parties involved.

Chief Corsey clarified that unless there was an enforcement action, the parties involved would not receive the details of the investigation.

Member Munoz asked Chief Corsey if his investigators would give a complainant any information that would help them stay in contact with the person they are complaining about.

Chief Corsey told the Board the Investigations Division would do what it could, short of mediating the situation, to help resolve an issue before it rose to an investigative level.

Member Munoz asked about jurisdictional issues with OSHA for excavation, and how that would work into the Board's complaint process.

Mr. Marino told the Board staff had yet to engage with OSHA on this issue.

Chair Voss asked whether staff had defined the threshold by which a complaint will be investigated.

Chief Corsey told the Board the threshold is still in development, but consequence and public interest will be taken into consideration.

Board members and staff further discussed the potential threshold by which complaints would be investigated, and how litigation will factor in. They discussed the Board's role in determining the facts of the case, and the idea of making the information public once an investigation is complete for everyone to review. Staff made it clear everything discussed was still under development.

Member Johns asked about encouraging written complaints and whether staff had the resources to record any complaint calls.

Chief Corsey discussed the importance of encouraging written complaints, because often people abuse call-in hotlines.

Mr. Marino clarified that staff does not have the ability to record phone calls.

Chair Voss asked for comments from the public.

A PUC representative discussed protection for whistleblower complaints to the Board regarding how complaint investigations would eventually be made public.

Mr. Marino discussed the definition of whistleblowers in relation to future complaints the Board receives, and the need for more research and discussion on this topic.

The Board, staff and stakeholders discussed how the Board will deal with imminent hazards, including how operators are looking for someone to help stop inappropriate work around high-priority facilities, the importance of discussing how other agencies deal with this, and the Board's ability to assert its authority in this area.

Member Munoz asked how the Investigations Division plans to respond to homeowner-related complaints

Chief Corsey discussed how his investigators have handled homeowners in the preliminary investigation stage by contacting them and educating them on the benefits of calling 811.

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

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

(Meeting recessed at 12:14 p.m. and resumed at 1:31 p.m.)

Agenda Item No. 8: Discussion on Pending Legislation

Executive Officer Tony Marino presented a report on pending legislation at the State Capitol, providing background on three measures proposed in the Legislature that are related to the Board's jurisdiction: AB 754, AB 1166, and SB 70.

Chair Voss suggested suggesting discussing one bill at a time.

Mr. Marino discussed AB 754 in more detail, including background on how the bill would require the state's Department of Technology to provide access to GIS services to the state's one call centers to improve the centers' accuracy. He asked the representative from USA North 811 to discuss the non-profit's position on the bill.

The USA North 811 representative discussed his center's position and the importance of receiving more proactive data from the State. He told the Board the information would allow the one call centers to do their jobs more effectively by granting them access to more detailed mapping. The representative told the Board, California is behind other states in this area.

A representative for DigAlert discussed the mapping system for the one call centers and how they are so far behind in terms of the new neighborhoods being developed and the infrastructure being installed in those neighborhoods. He told the Board the one call centers may not see those new neighborhoods on their maps until two or three years after the neighborhood was developed. The representative told the Board this bill would help create a better source for base mapping, and will aid in reducing damages.

Chair Voss asked for comments from the Board.

Member Munoz discussed the importance of updating base maps, and voiced concern over how current technology isn't able to do that.

Chair Voss asked staff to present the next measure, AB 1166.

Mr. Marino discussed AB 1166 in more detail, and provided background on how the bill would require operators to use electronic positive response. Mr. Marino gave a brief history on the genesis of the bill, which was rooted in PUC penalty proceedings against PG&E for locate and mark issues.

Chair Voss asked for clarification about the difference between electronic positive response and enhanced positive response.

The Board and staff discussed the difference between the two, with electronic positive response meaning operators respond to excavators through the one call centers, and the information is documented digitally on the ticket. While enhanced positive response follows the same practice, it goes one step further to include detailed photos of markings, structures, and maps.

The representative from USA North 811 clarified that enhanced positive response has not been defined, but the idea is to allow both excavators and operators to share information, photos, and maps on the ticket.

Board members, staff and stakeholders discussed how electronic positive response is a best practice per the latest version of the Common Ground Alliance's (CGA) handbook.

Vice Chair Arden voiced her support for electronic positive response and asked for more information about how other states have made it mandatory.

Board members and staff discussed the date for when operators would be required to use electronic positive response, and whether the Board should make a recommendation to the Legislature about the date. They also discussed the Board taking control of the process for determining the date and rules surrounding electronic positive response.

(Meeting recessed for break at 3:07 p.m. and resumed at 3:23 p.m.)

Chair Voss asked staff to present the final measure, SB 70.

Mr. Marino discussed SB 70 in more detail, providing background on how the bill would direct the CPUC to require undergrounding of electricity in certain situations particularly in the replacement of infrastructure in high fire hazard zones. He discussed the author's intent to allow for joint trenching in Paradise during the rebuilding process, following the Camp Fire. Mr. Marino the Board, staff is considering joint trenching and whether that makes sense for wildfire recovery.

Member Johns discussed his experience with joint trenching, the safety issues that exist, and how pre-planning can circumvent some of those issues.

Member Charland discussed how joint trenching is a benefit for locators and contract locators, but warned about the safety risks involved.

Vice Chair Arden expressed her support for joint trenching, and discussed the need to be thoughtful when abandoning lines as joint trenching is installed.

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

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

Other Business

None.

Public Comment

Chair Voss asked for public comments. There were none.

Adjournment

Meeting adjourned at 3:49 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair