



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

2251 Harvard St., 4th Floor
SACRAMENTO, CA 95815 (916) 568-3800
Website: <https://digsafe.fire.ca.gov>



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

January 13th-14th 2020
Office of the State Fire Marshal
Sequoia Conference Room, Room 441
2251 Harvard St., 4th Floor
Sacramento, CA 95815

MEETING MINUTES

January 13th, 2020

Office of the State Fire Marshal
Sequoia Conference Room, Room 441
2251 Harvard St., 4th Floor
Sacramento, CA 95815

OPEN SESSION

Chair Voss called the meeting to order at 10:01 a.m.

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

None

STAFF PRESENT:

Tony Marino, Executive Officer
Jeff Brooks, Attorney

Jason Corsey, Chief of Investigations
Carla Newman, Supervising Investigator

Jon Barkley, Special Investigator
Michael Ehrgott, Special Investigator

Brittney Branaman, Policy and Budget Manager
Tom Finn, Operations Manager
Kerstin Tomlinson, Education and Outreach Officer
Jenni Reed, Policy Analyst
Veronica Bravo, Policy Analyst
Jeff McClenahan, Office Technician

Agenda Item No. 1: Executive Officer's Report

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

Mr. Marino covered the emergency procedures for the building.

Operations Manager Tom Finn introduced two new staff personnel, Veronica Bravo, Policy Analyst, and Courtney Yu, Student Assistant.

Mr. Marino provided an update on the completion of the first phase of development of the case management system, and an update on the Governor's proposed budget which, subject to approval by the Legislature, includes a new staff position for the Board.

Mr. Marino made recommendation that Agenda Items Nos. 4 and 8 on the agenda be changed to information items.

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: Resolutions Nos. 20-01-01, 20-01-02, and 20-01-03: Staff will present an annual review of the twenty existing Board policies and propose amendments to eleven of the policies for adoption by the Board.

Mr. Marino presented the staff report on Resolutions Nos. 20-01-01, 20-01-02, and 20-01-03.

Board members and staff discussed the policies up for review.

Board members and staff discussed the monitoring frequency of Board policies, the proposed update to the mission statement, the necessity and rationale for the schedules

of monitoring, and the option for the Board to review any policy prior to its scheduled review timeframe.

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

Board Action

Motion to approve Resolutions Nos. 20-01-01, 20-01-02, and 20-01-03.

MOTION: Member Johnson SECOND: Member Arden
AYES: Members Bianchini, Charland, Del Toro, Johns, Munoz, Voss
NOES: None
ABSTAIN: None
RECUSE: None

MOTION APPROVED.

Agenda Item No. 4: Staff will present the 2020 Strategic Plan to the Board.

The Board designated this to be an information item.

Mr. Marino presented the staff report on the Strategic Plan.

Board members and staff discussed components of the strategic plan and idea register.

Board Processes

Board members and staff discussed a proposal for staff to present the idea register form to the Board before bringing the strategic plan for a vote, and integration of the case management system, idea register, and the complaint notification system.

Idea Register Processes

Board members and staff discussed the transparency and the anonymization of ideas, procedures for the intake of ideas into the register, communication with contributors, formatting of the register, frequency and timing of presentation to the Board, alignment of ideas with strategic directions, and keeping public safety at the forefront of prioritization.

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

Agenda Item No. 5: 2019 Results Report and 2020 Plan: Staff will present the 2019 Results Report and the 2020 Plan for Board discussion.

Education and Outreach Officer Kerstin Tomlinson presented the 2019 Results Report.

Policy and Budget Manager Brittny Branaman presented the 2020 Plan.

Ms. Branaman gave an overview of the four Strategic Objectives for 2020: to foster compliance with new and existing laws, improve excavation and location practice safety, build a foundation for accident cause identification, and to continue building a foundation for Board operations.

Board members and staff discussed the implementation plan for the strategic objectives, review of the projects that were not able to be included in the 2020 Plan, and the relation of the annual plan with the idea register.

Chair Voss asked for comments from the public.

A representative of Southern California Gas (“SoCal Gas”) commented on examining the Common Ground Alliance (“CGA”) Damage Information Reporting Tool (“DIRT”).

Mr. Marino commented on the collection and modeling of information on the causes of damages and possible compatibility of data collected by DIRT.

A representative of West Valley Construction (“WVC”) commented on the addition of categories of information included in the Results Report on preliminary investigations.

A representative of Pacific Gas and Electric (“PG&E”) commented on processes of improvement tracking and feedback to stakeholders on idea submissions.

Agenda Item No. 6: Election of Chairperson and Vice Chairperson: Pursuant to Government Code § 4216.14(e).

Executive Officer Tony Marino discussed Gov’t Code 4216.14 on terms of members and chairs.

Election of Chairperson

Member Johnson nominated Member Voss as Chairperson. Member Bianchini seconded the nomination for Member Voss as Chairperson.

Chair Voss asked for further nominations from the Board. There were none.

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

Board Action

Election of Member Voss as Chairperson.

MOTION: Member Johnson SECOND: Member Bianchini
AYES: Members Arden, Charland, Del Toro, Johns, Munoz, Voss
NOES: None
ABSTAIN: None
RECUSE: None

MEMBER VOSS ELECTED CHAIRPERSON.

Election of Vice Chairperson

Chair Voss asked for nominations for Vice Chairperson

Member Johnson nominated Member Del Toro as Vice Chairperson. Member Arden seconded the nomination for Member Del Toro as Vice Chairperson.

Chair Voss asked for further nominations for Vice Chairperson. There were none.

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

Member Del Toro accepted the nomination for Vice Chairperson.

Board Action

Election of Member Del Toro as Vice Chairperson.

MOTION: Member Johnson SECOND: Member Arden
AYES: Members Bianchini, Charland, Del Toro, Johns, Munoz, Voss
NOES: None
ABSTAIN: None
RECUSE: None

MEMBER DEL TORO ELECTED VICE CHAIRPERSON.

(Chair Voss called for recess at 11:40 a.m. and reconvened the meeting at 1:35 p.m.)

Agenda Item No. 7: Resolution No. 20-01-05 Approval of the Regulations for the Area of Continual Excavation Renewal Ticket Requirements and AB 1914 Implementation and Authorize Rulemaking Proceedings after Considering Public Comments Received during the 45-Day Written Comment Period.

Attorney Jeff Brooks presented the staff report on comments received during the 45-day written comment period.

Board members and staff discussed the staff report and resolution regarding:

Power Tool Use

The hazards to workers of using hand tools, the power tools included in the regulation, parallels between the use of power tools and hand tools, and the framework of the regulation with respect to situations in which the operator and the excavator are the same organization;

Rulemaking

Education to stakeholders on the regulation, the process of administrative rulemaking, and the enforcement philosophy of the Board;

Contact Information

The amount of knowledge of the person referenced in the contact information in the database of the one-call center, the responsibilities of the one-call centers with respect to compliance of their members, the lengthy introduction time for phone calls to the one-call centers, the maintenance of current contact information, and changes in email contact information;

Area of Continual Excavation (“ACE”)

The feedback received during the regulatory process from agricultural organizations, the availability of multiple communication methods on a worksite, the information and activities included in an on-site meeting agreement, the geographic area covered in an ACE, amendment of on-site agreements.

Chair Voss asked for comments from the public.

A representative of United Contractors (“UCON”) commented on the relation between labor in various soil types and the health of excavators.

A representative of Southern California Contractors Association (“SCCA”) commented on the liability of excavators with respect to the knowledgeability of the individual for which there is contact information, the liability of an organization with respect to contact information, the distinction of contact information of a business as opposed to the contact information of an individual.

A representative of Underground Service Alert of Northern California (“USA North 811”) commented on the requirement of contact information on all sides.

A representative of PG&E commented on the timeliness of responses by different methods of communication and up-to-date contact information.

Board Action

Motion to approve Resolution No. 20-01-05 Approval of the Regulations for the Area of Continual Excavation Renewal Ticket Requirements and AB 1914 Implementation and Authorize Rulemaking Proceedings after Considering Public Comments Received during the 45-Day Written Comment Period.

MOTION: Member Arden SECOND: Member Munoz
AYES: Members Bianchini, Charland, Del Toro, Johns, Johnson, Voss
NOES: None
ABSTAIN: None
RECUSE: None

MOTION APPROVED.

(Chair Voss called for recess at 3:18 p.m. and reconvened the meeting at 3:32 p.m.)

Agenda Item No. 8: Discussion on the Regulations for Investigation, Enforcement, and Area of Continual Excavation and to continue with Rulemaking Proceedings.

This item was changed to an information item.

Mr. Brooks presented the staff report on the Investigation, Enforcement, and Area of Continual Excavation rulemaking proceedings.

Board members and staff discussed the regulation package.

Board members and staff discussed the feedback received from the Office of Administrative Law (“OAL”) regarding changes to the language of this regulation, the administrative law process that will add a 15-day written comment period to the regulation, possible administrative procedures for cases before the Board, and the timeline for this regulatory package returning before the Board.

The Board decided to carry over Item No. 8 to the following day.

Chair Voss asked for comments from the public.

A representative of Underground Service Alert of Southern California (“DigAlert”) commented on the timeline on the rulemaking.

Agenda Item No. 9: AB 1166 Emergency Regulations: Staff will present for Board discussion on the definition of good cause as it relates to drafting Emergency Regulations to implement AB 1166 (2019).

Member Charland and Member Munoz presented on the need to know more about the audience of extensions for good cause for compliance with AB 1166, a survey posted for operators to

comment on good cause posted to the Board website, and the results of the survey as an agenda item next month.

Board members, staff, and representatives of the two one-call centers discussed electronic positive response (“EPR”) and good cause for extensions regarding:

EPR

The issue of one-call center members that do not generally use electronic forms of communication, ongoing testing and feedback on a link to EPR directly in a ticket, the response codes currently available for EPR, the meaning of response codes as opposed to comments in a ticket or what occurs in the field, and the question of statute over positive response following the effect of statutory EPR;

One-Call Centers

The approval timeline of the one-call center boards, input by the California Regional Common Ground Alliance (“CARCGA”) to the one-call centers, increases in membership across multiple utilities, communication made by the one-call centers regarding upcoming regulations, sending of data to the Board, and the timeline of this regulation with respect to the options for communicating an EPR.

Chair Voss asked for comments from the public.

A representative of SCCA commented on compliance with respect to exceptions to EPR.

Other Business

Mr. Marino reviewed the agenda for the following day with the carryover of Agenda Item No. 8.

Public Comment

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

Adjournment

The meeting adjourned at 4:47 p.m.

January 14th, 2020

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OPEN SESSION

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

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Amparo Munoz

STAFF PRESENT:

Tony Marino, Executive Officer
Jeff Brooks, Attorney

Jason Corsey, Chief of Investigations
Carla Newman, Supervising Investigator
Jon Barkley, Special Investigator
Michael Ehrgott, Special Investigator

Brittney Branaman, Policy and Budget Manager
Tom Finn, Operations Manager
Kerstin Tomlinson, Education and Outreach Officer
Jenni Reed, Policy Analyst
Veronica Bravo, Policy Analyst
Jeff McClenahan, Office Technician

Agenda Item No. 8: Resolution No. 20-01-06 Approval of the Adoption of the Regulations for Investigation, Enforcement, and Area of Continual Excavation and to continue with Rulemaking Proceedings.

Mr. Brooks provided a review for the request to evaluate changes to the language as maintaining the spirit and intent of the regulation.

Member Del Toro voiced support for the changes.

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

Agenda Item No. 10: Presentation by Excavators on Near-Miss Events: Representatives from the excavation community will present to the Board on their experiences regarding near-miss events.

Presentations to the Board by:

Ron Bianchini, Dig Safe Board
Bret Barrow, United Contractors
Todd Bloomstine, Southern California Contractors Association

Member Bianchini presented on a near-miss event.

Near-Miss Events

Member Bianchini presented on the regularity of poor communication in the industry, a means of communicating marking issues to the operator, the regularity of near-miss events and marking problems in the field, and a means to track near-miss events and marking errors.

Locator Training and Mapping

Member Bianchini presented on an unmarked gas line with a pressure reducing station, markings outside of the tolerance zone, multiple locators on a single job and the training of locators, mismapping and differences between facility maps and reality, and grounding rod placement and the location of a facility.

Board members and members of the public discussed complexities around near-miss events regarding:

Near-Miss Events

Investigations of near-miss events, means for the Board to receive reports on these events, the upcoming Board complaint system, and the possibility for a new Board committee on this issue.

Locator Training

The training of locators, certification of locators, the importance of contact information and whether that changes depending on the circumstance, and the problem of buried excess cable and location of facilities.

Mapping

Corrective actions to maps, the limited resources of cities to monitor development and update maps, requirements of city permits, false impressions from maps of facilities and changes in mapping standards over time, communication regarding mapping to cities, the interval of time between these events and when maps are corrected, mapping by cities, and mapping by operators.

GPS

Geographic positioning systems (GPS) for facilities, and issues of laws around land surveying and implementation of GPS of facilities.

One-Call Centers

The ticket types and fields utilized in this event, mismarked as opposed to unmarked facilities, adding a code at the one-call centers for near-miss events, and options that could be developed with an enhanced positive response system.

Mr. Barrow presented on difficulties and incentives for excavators around near-miss events.

Difficulties

Mr. Barrow discussed the regular frequency of near-miss events, the difficulties faced by an excavator when discovering an abandoned line, communication to a utility owner directly, the issue of older maps and the importance of experience reading the street for facilities.

Incentives

Mr. Barrow discussed the limitations of time and monetary concerns for an excavator to complete their work on schedule, the disincentives and problem around reburial of unknown facilities, and career incentives for locators.

Mr. Bloomstine presented on the issue of communication around unknown ownership of marks for known facilities, work stoppage around these events in order to facilitate safety culture, and the lack of empirical data around near-misses.

Board members and staff discussed the blacking out or erasure of old marks, incomplete marking, the inclusion of the topics of this item in the idea register, and the development of a definition of a near-miss event.

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

Public Comment

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

(Chair Voss called for recess at 10:30 a.m. and reconvened the meeting at 10:47 p.m.)

Agenda Item No. 11: Travel and Travel Expense Reimbursement Training: Staff will present on the process and requirements for obtaining approval, requesting reimbursement, and receiving payment for Board-related travel.

Staff presented on the travel reimbursement process in accordance with Cal HR policy.

(Chair Voss called for recess at 12:11 p.m. and reconvened the meeting at 1:34 p.m.)

Agenda Item No. 12: Bagley-Keene Open Meeting Act Training: Staff will present an overview of the Bagley-Keene Open Meeting Act as it applies to the Board.

Staff presented Bagley-Keene Open Meeting Act requirements.

Agenda Item No. 13: Public Records Act Training: Staff will present on the California Public Records Act as it applies to the Board.

Staff presented on the California Public Records Act.

Agenda Item No. 14: Media Training: Staff will present to the Board on effective media relations.

Staff presented on Board processes around media relations and best practices.

Other Business

None.

Public Comment

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

Adjournment

The meeting adjourned at 3:00 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair