



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

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



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

January 14-15, 2019

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

**MEETING MINUTES**

**BOARD MEMBERS PRESENT:**

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

**BOARD MEMBERS ABSENT:**

Jessica Arden

**STAFF:**

Tony Marino, Executive Officer  
Brittney Branaman, Policy and Budget Manager  
Jason Corsey, Chief of Investigations  
Carla Newman, Supervising Investigator  
Dennis Fenton, Special Investigator  
Jon Barkley, Special Investigator  
Deborah Yang, Legal Counsel  
Kerstin Tomlinson, Education & Outreach Officer  
Jon Goergen, Research Specialist  
Jason Neyer, Policy Analyst  
Misty Catano, Administrative Analyst

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January 14, 2019  
10:00 a.m.

Office of the State Fire Marshal  
Sequoia Conference Room  
2251 Harvard St., 4<sup>th</sup> Floor  
Sacramento, CA 95185

**OPEN SESSION**

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

**Agenda Item No. 1: Travel Training**

Administrative Analyst Misty Catano presented an overview of the rules regarding travel reimbursement.

**Agenda Item No. 2: Media Training**

Education and Outreach Officer Kerstin Tomlinson presented the Dig Safe Board's media procedures.

**Agenda Item No. 3: Executive Officer's Report**

Executive Officer Tony Marino welcomed everyone into 2019 and discussed the reappointment of Member Voss, Member Del Toro, and Member Johnson.

Policy and Budget Manager Brittny Branaman introduced new staff, Research Specialist Jon Goergen.

Supervising Special Investigator Carla Newman introduced new staff Special Investigators Dennis Fenton, and Jon Barkley.

Mr. Marino discussed the Governor's budget release, and read an email the Board received from Jerry's Trenching Service in Fresno discussing locating and marking concerns.

Chair Voss asked for comments from the Board.

Member Munoz asked about the reporting process for complaints and whether a person must put it in writing.

Mr. Marino explained staff is still working on the procedures for how to deal with formal versus informal complaints, and told the Board when investigations will begin.

Member Bianchini discussed how the Board needs to look at all sides of an issue in the future.

(Meeting recessed at 11:15 a.m. and resumed at 11:27 a.m.)

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. 4: Board Member Public Engagement Reports**

Member Del Toro discussed her upcoming presentation on January 30, 2019 in the City of Orange for the California Water Environment Association.

Member Johns asked how to handle inquiries from the industry because he does get recognized as a member of the Board.

Executive Officer Tony Marino discussed the reason members were chosen to be part of the California Dig Safe Board. He directed the Board members to respond to inquiries based on how they would like to answer questions.

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. 5: CARCGA Update on Standards Development**

Executive Officer Tony Marino discussed the request the Board gave to the California Regional Common Ground Alliance (CARCGA), to look at standards related to reasonable care and explained how the Board had suggested that CARCGA focus on road grading and building.

A representative from DigAlert reported on behalf members from CARCGA's Subsurface Safety and Incident Prevention (SSIP) committee. The representative discussed the questions the Board asked the SSIP committee to consider. The representative from DigAlert informed the Board that nothing has been completed, but road builders have come up with ideas for reasonable care standards for potholing.

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

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

(Meeting recessed at 11:40 a.m. and resumed at 1:30 p.m.)

**Agenda Item No. 6: Legal Counsel Opinion on Government Code Section 4216.4. Subdivisions (a) and (b)**

Legal Counsel Deborah Yang discussed a letter from CARCGA's SSIP committee. The committee asked for a legal interpretation of Government Code 4216.4. Ms. Yang explained how the law would be reviewed by the courts, and the legislative intent and where to find the legislative purpose of the statute.

Chair Voss asked for comments from the Board.

Member Munoz asked the representative from DigAlert if this would change the direction of CARCGA's SSIP committee discussions.

The representative from DigAlert told the Board she does not believe it will change anything, because it is about what reasonable care for determining how to find the lines.

Member Bianchini explained the intent of the law is to find the subsurface installation.

Chair Voss asked for comment from the public.

A representative from USA North 811 asked the Board about excavators who dig at shallow depths, like landscapers.

Member Bianchini discussed the importance of locating the line and knowing its exact location. He told the representative from USA North 811 that excavators cannot assume the location of the line.

The representative from USA North 811 discussed the phone calls his center receives regarding questions about what to do if they are only digging a certain depth and still have not located the lines.

Member Bianchini expressed concern over the one call centers giving risk advice to excavators.

Member Del Toro asked about the responsibility of the operator to know the location of the line, and proposed minimum requirements for the operator to locate their facilities.

Executive Officer Tony Marino proposed the idea of developing a process for determining "in conflict," that will work with statute.

Chair Voss asked for comments from the public.

A representative from West Valley Construction asked the Board to consider the human risks.

The representative from USA North 811 discussed the last conference call held by CARCGA's SSIP committee, and the discussion about the excavator being responsible for finding the exact location of the facility.

Member Johnson discussed the need for establishing standards before things get worse.

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

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

**Agenda Item No. 7: Board Policies: Staff will present on current policies for discussion and adoption/re-adoption.**

Executive Officer Tony Marino discussed the policies the Board adopted, which include a monitoring frequency. Mr. Marino discussed language changes to 4216 to incorporate Assembly Bill 1914, the Board's Enforcement Philosophy (Policy B-05), and a change to the election of Board Chair to add the election of a Vice Chair.

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 to adopt Resolution No. 19-01-01-, 19-01-02, and 19-01-03 of the California Underground Facilities Safe Excavation Board approving the adoption of Board policies.

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

MOTION ADOPTED.

**Agenda Item No. 8: Election of Chairperson and Vice Chairperson (Government Code § 4216.14(e))**

Chair Voss proposed postponing this item until the February meeting, when Member Arden will be present.

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. 9: 2018 Results Report and 2019 Plan**

Education and Outreach Officer Kerstin Tomlinson presented the Board's "2019 Results Report" and the Board's "2019 Plan." The two reports detail the work done by the Board in its first full year of operation, and outlined the work that must be done in 2019 to meet the Board's legislative mandates.

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

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

(Meeting recessed at 2:51 p.m. and resumed at 3:07 p.m.)

**Agenda Item No. 10: Discussion on the California Public Utilities Commission's Order Instituting Investigation into Potential Locate and Mark Violations**

Executive Officer Tony Marino discussed the Public Utilities Commission (PUC) proceeding on the investigation against Pacific Gas & Electric (PG&E). He clarified that the PUC is not looking for the Board's input.

Member Del Toro provided her perspective on the report. She discussed the unhealthy safety culture and gross negligence in falsifying records.

Member Johnson proposed the idea that staffing could be an issue, and discussed how the added stress of additional hours could influence decisions.

Member Charland expressed concern over not having enough time to locate and mark, because operators do not have control over the number of tickets they receive and where those tickets come from.

Member Johns proposed the development of solutions that are reasonable, but that take the limitations locators and excavators face into consideration.

Member Charland proposed the idea of a longer time frame to respond to tickets for larger projects.

Chair Voss asked for comments from the public.

A representative from the PUC discussed having a separate time frame for homeowners because they don't plan before they dig.

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 3:57 p.m.

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January 15, 2019  
9:00 a.m.

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Kerstin Tomlinson, Education and Outreach Officer  
Jon Goergen, Research Specialist  
Jason Neyer, Policy Analyst  
Misty Catano, Administrative Analyst

**OPEN SESSION**

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

**Agenda Item No. 11: Draft Regulations on Area of Continual Excavation, Investigation, and Enforcement.**

Legal Counsel Deborah Yang discussed the regulation timeline.

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

Chair Voss asked for public comments. There were none.

Chief of Investigations Jason Corsey discussed the changes to the notification portion of the draft regulations and the reason for those changes.

Chair Voss asked to go over the changes to the definitions.

Ms. Yang discussed the changes, and the additional definitions created after the last meeting. She told the Board about reaching out to the Department of Water Resources (DWR) for help defining what is and is not flood control. Ms. Yang also discussed changes to the definition of record and why the changes were made.

Member Johns discussed section 4300 and the burden on the one call centers to provide contact information for their members. He asked if the one call centers could find a way to get more cooperation from their members.

A representative from USA North 811 proposed the idea of creating a new user information agreement that includes provisions requiring one call center members to update their contact information and mapping at least once a year.

Member Johnson proposed the idea of creating an easy way for members to update their contact information and mapping.

Member Munoz asked the one call centers how often their mapping is updated on average.

The representative from USA North 811 discussed the frequency at which his members update their information, telling the Board that it ranges depending on the member.

Member Munoz asked about requiring members to update their mapping.

Ms. Yang discussed the possibility of the Board including a requirement to update mapping in the regulations.

A representative from DigAlert discussed the need for updated mapping when new lines are put in.

Chair Voss asked for comments from the public.

A representative from the California Farm Bureau Federation (CFBF) discussed the definition of records and asked the Board about the language regarding including documents and activities even if it is not directly involved with excavation activities.

Ms. Yang explained why the language is written this way, and provided a scenario where it would apply.

Chair Voss requested that the discussion move on to 4100 (b) of the regulations, and asked the Board to focus on the proposed timeframe of two to four hours for an incident to be reported.

Executive Officer Tony Marino provided background on the thought process surrounding the two to four-hour timeframe, and told the Board this timeframe would allow excavators to comply with the regulation, and would fit the needs of the investigations division.

Member Johnson discussed situations where there is a death or injury on the job.



Member Bianchini discussed his experience in those situations, and voiced his support for a two to four-hour response timeframe.

Member Charland voiced his support for a four-hour timeframe, telling the Board this would give enough time for smaller companies to report the incident.

Member Bianchini told the Board it should focus on how soon excavators and operators notify the one call centers after an incident.

A representative from the Southern California Contractors Association (SCCA) voiced his support for four hours, telling the Board some excavators may not have access to cell service.

Member Bianchini proposed the idea of requiring excavators to call 811 immediately after calling 911.

The CFBF representative voiced concern over remote areas not having cell reception or access to the internet and not being able to comply with the law.

A representative from the PUC emphasized the importance of ensuring the situation is safe, pointing out that less resources could keep an excavator from notifying the Board of an incident sooner.

A representative from PG&E asked if homeowners would be required to notify the Board.

Mr. Marino discussed the homeowner exemption.

Member Del Toro discussed work-related injuries, and proposed that the Board require the excavator to call 811 immediately after they call 911.

Member Bianchini agreed with Member Del Toro, and explained that 811 is the way excavators notify the operator of a problem.

A representative from Southern California Gas Company (SoCalGas) discussed how the company receives incident notifications directly from the excavator or from first responders.

Member Del Toro emphasized the importance of focusing on how quickly the Board needs to be notified.

Member Johnson asked a representative from the PUC how the agency is notified of damages.

The representative from the PUC told the Board the utilities contact the agency directly.

Member Del Toro directed the discussion back to the decision on two-hours or four-hours for notification, and asked if the excavator should notify via a web portal or phone call. She asked Chief Corsey for his recommendation.

Chief Corsey told the Board the sooner the Board is notified, the sooner the investigation can begin. He reminded the Board that he investigations division is small, but can handle the two-hour requirement.

Mr. Marino discussed the Pipeline and Hazardous Materials Safety Administration (PHMSA) grant

the one call centers received, and reminded the board that it can be used to develop a damage reporting program.

(Meeting recessed at 10:48 a.m. and resumed at 11:06 a.m.)

Member Bianchini discussed two hours being sufficient.

Member Charland discussed four hours being reasonable.

Member Del Toro discussed the importance of safety and that two hours is enough time.

Member Johns agreed that the time frame of two to four hours is the right range.

Member Johnson discussed that immediately would be preferred, but four hours is plenty of time.

Member Munoz discussed two hours being a reasonable amount of time.

Member Voss discussed two hours being appropriate.

Mr. Marino discussed Chapter 2. Article 1. Section 4100(d).

Chief Corsey discussed (XX) number of hours being unrealistic because of the location of the damage and travel time it may take to go to the incident.

Member Bianchini proposed changing the language to state “within an agreed upon number of hours.”

Ms. Yang discussed the current language of section (d), and told the Board it was written based on the idea of not having the excavator wait around until investigators showed up.

Chair Voss discussed operators not having any obligation to report the damages to the Board.

Mr. Marino confirmed that at this point, the proposal would only cover requirements for the excavator.

Member Munoz emphasized the importance of getting data to the investigators.

Chair Voss discussed that two hours was the agreed upon time, and the Board should come up with some reasonable language beyond that to address what the response time will be.

Chief Jason Corsey voiced concern over being notified after hours, and discussed how an investigation can still be conducted without having to respond to the scene. He told the Board the investigations division will not be able to respond to every incident, and will instead respond to more important incidents. Chief Corsey told the Board the two-hour timeframe will be used to make informed decisions.

A representative from West Valley Construction voiced his concerns over the notification timeframe, and provided the Board with a scenario. He discussed the impacts on his staff

regarding labor laws, and asked the Board to consider ways to minimize the exposure of excavators and eliminate risks.

Ms. Yang referred to Section 4151(c). and discussed the reasoning behind this section and a mutual agreement.

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

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

(Meeting recessed at 12:00 p.m. and resumed at 1:33 p.m.)

Mr. Marino proposed the idea of striking Section 4100(d) and 4151(c), telling the Board neither piece of language is necessary, and is not reflected anywhere else in statute. He explained to the Board that there will be internal processes to make sure staff is in contact with the excavator and the operator.

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

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

Ms. Yang discussed changes to section 4150 and explained the reason for the changes.

A representative from the PUC asked the Board how activities would be recorded at the site of an incident, and what kinds of activities investigators would record.

Ms. Yang told the PUC representative the information would need to be related to the damage.

Member Del Toro asked if the Board would require records to be kept indefinitely.

Member Bianchini told the Board excavators are required by law to keep project records for 10 years.

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

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

Ms. Yang discussed changes to the enforcement chapter, and the reason behind the changes.

A representative from DigAlert asked for clarification on the language regarding corrective action.

Member Del Toro proposed moving that section under the definition of records.

Ms. Yang discussed the changes to sections 4201 and 4252, and the reason for the changes.

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

Chair Voss asked for comments from the public.

The CFBF representative asked the Board to consider adding allowing a respondent to send a request to make a written request to the Board longer if the situation warranted.

Ms. Yang discussed the changes to section 4253, and the reason for the changes based.

Member Del Toro asked if the report must be on paper or if it can be sent via email.

Ms. Yang discussed staff deciding the operational aspects of how they want the information.

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

Ms. Yang discussed the changes to section 4254, and the reason for the changes.

A representative from the PUC asked to go back and discuss section 4252. He wanted clarification on items 1, 2, 3 and 5.

Ms. Yang explained more about section 4252(a), and how the excavator would have to comply with due process.

Mr. Marino discussed the option to send recommendations to the PUC under 4216, and provided an example of how this would work.

A representative from the Office of the State Fire Marshal's (OSFM) Pipeline Safety Division discussed his understanding of how the Board will proceed with investigations, violations, and recommendations to the PUC, Contractors State Licensing Board (CSLB), and OSFM.

Mr. Marino discussed the Memorandum of Understandings (MOU) the Board has entered into, and how under those MOUs, if one of the Board's investigators needed to be a witness in proceedings by the PUC, CSLB or OSFM that is allowed.

A representative from Western States Petroleum Association (WSPA) asked about Section 4301, and discussed the timing between when an onsite meeting occurs, and the time for an open ticket shall begin.

Ms. Yang referred to Section 4216.10(c).

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 2:54 p.m.

Respectfully submitted,

/s/ Tony Marino

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Tony Marino  
Executive Officer

Attest:

/s/ Carl Voss

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Carl Voss  
Interim Chair