DEPARTMENT OF FORESTRY AND FIRE PROTECTION
Office of the State Fire Marshal
Underground Facilities Safe Excavation Board
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Website: https://digsafe.fire.ca.gov

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

February 11-12, 2019

Kern Agricultural Pavilion
3300 E. Belle Terrace
Bakersfield, CA 93307

MEETING MINUTES

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

None

STAFF:

Tony Marino, Executive Officer
Brittny Branaman, Policy and Budget Manager
Jason Corsey, Chief of Investigations
Deborah Yang, Legal Counsel
Kerstin Tomlinson, Education & Outreach Officer
Jon Goergen, Research Specialist
Jennifer Reed, Policy Analyst

February 11, 2019
10:00 a.m.

OPEN SESSION

Chair Arden called the meeting to order at 10:06 a.m.

Agenda Item No. 1: Executive Officer's Report

Executive Officer Tony Marino welcomed everyone to the Board meeting.

Policy and Budget Manager Brittny Branaman introduced new hire Jennifer Reed, Associate Government Program Analyst, and provided her career background.

Chief of Investigations Jason Corsey introduced two new hires Mandy Liao and John Benane in the Southern California office. Chief Corsey provided the career background for both hires.

Mr. Marino discussed a recent dig-in that occurred in San Francisco on February 6, 2019, and discussed Board staff's response. He proposed postponing Agenda Item 7/9 until the Board's next meeting in April. Mr. Marino also congratulated Member Del Toro for her recent appearance in "O" and "Entrepreneur" Magazines.

Chair Arden asked for comments from the Board.

Member Charland asked where the investigations division stands.

Chief Corsey discussed the hiring process.

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

Agenda Item No. 2: Board Member Public Engagement Reports

Chair Arden asked for Board Member public engagement reports.

Member Del Toro discussed her presentation to the Santa Ana River Basin Section of the California Water Environment Association on January 30, 2019 in Orange County.

Chair Arden discussed wanting to join a safety committee with Member Charland, and asked if there were any concerns. She asked Member Charland if he accepted.

Member Charland accepted.

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

Agenda Item No. 3: Election of Chairperson and Vice Chairperson (Government Code § 4216.14(e))

Chair Arden introduced the action item to elect the Board's Chair and Vice Chair.

Board Action

Motion to elect Member Voss as Chairperson.

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

MOTION ADOPTED.

Board Action

Motion to elect Member Arden as Vice Chairperson.

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

MOTION ADOPTED.

Agenda Item No. 4: Resolution No. 19-02-01: Approve Regulations on Area of Continual Excavation, Investigation, and Enforcement.

Legal Counsel Deborah Yang discussed the changes to the regulations since the last Board meeting and the reasons for the changes.

Chair Voss asked for clarification about the enforcement regulations, and possible requests from respondents to exceed the page limit when writing explanations to the Board.

Vice Chair Arden asked about requests for a hearing being in writing, and if the public could ask the Board in person.

Ms. Yang discussed Chapter 3. Article 2. Section 4252 (a)(2)(A)(i). regarding the differing options for a public hearing request the Board can consider, including a written document, or a verbal presentation at a public meeting.

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

Ms. Yang discussed Chapter 3. Article 2. Section 4254 through Section 4351, and the changes made to the two Area of Continual Excavation (ACE) forms.

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

Chair Voss asked for comments from the public.

A representative from the Public Utilities Commission (PUC) expressed concern over the reporting of damages to natural gas facilities only in the case of a gas release. The representative recommended including all damages to gas facilities.

Executive Officer Tony Marino discussed his understanding of what is drafted in the regulations and the criteria for calling 911 as written in statute, which requires an excavator to call 911 for high priority subsurface installation and any gas or petroleum release. Mr. Marino pointed out that statute does not require a notification of damage to a natural gas facility that is not high priority and does not cause a release.

Vice Chair Arden asked about the increase in notifications Dig Safe Board staff would receive.

Mr. Marino discussed the potential 5% increase in notifications.

Member Johns asked for clarification on the requirement for notification when a pipeline is nicked but there is no release.

Chair Voss discussed the absence of a requirement to report the damage if there is no release.

Ms. Yang discussed the statutory requirements for excavators to call 911 when a high priority line is damaged, or a natural gas or petroleum pipeline is damaged, causing a release.

Mr. Marino discussed Government Code Section 4216.4 (c).

Ms. Yang discussed changing the regulation to include damage to all natural gas pipelines, if the Board requests the changes.

Chair Voss asked for additional comments from the Board.

(Meeting recessed at 10:57 a.m. and resumed at 11:11 a.m.)

Mr. Marino discussed the request from the PUC representative, recommending an ACE form for non-high priority facilities. He told the Board that staff can create the form if the Board wishes, without making any changes to the regulations.

Member Del Toro asked the representative from the PUC to explain why the Board would want a non-high priority form.

The representative from the PUC discussed the current forms included in the regulation, and how a form for non-high priority facilities would provide awareness to the farmer that there are non-high priority lines present.

Mr. Marino discussed the importance of communication between the farmers and the operators when describing the high priority facility, and that the operator could also describe any non-high priority facilities present. He discussed the onsite meeting process, and the requirement for a meeting only when high priority facilities are present. Mr. Marino told the Board that there is no requirement for non-high priority facilities, but that either party could request an onsite meeting.

A representative from the PUC proposed the idea of having two form options: one for high priority, and one for non-high priority.

Chair Voss told the representative from the PUC that anyone can call for a non-high priority meeting, but it’s not required.

The representative from the PUC discussed there not being enough clarity. Non-high priority lines should not be excluded from the agreement process between the excavator and operator.

Mr. Marino discussed the non-high priority ticket process, and the opportunity for the non-high priority operator to call for a meeting, but that it was up to the operator or the excavator to call that meeting.

Chair Voss discussed the importance of documenting the meeting and agreement between the excavator and operator.

A representative from USA North 811 discussed the ACE ticket only being offered to excavators that call in for agricultural or flood control purposes.

Mr. Marino discussed the reasoning for not creating a non-high priority form, because the Board did not want to mandate how excavators and operators communicate and come to an agreement.

Member Johns proposed the idea of making sure excavators and operators know the forms are not restricted to high priority facilities, and can be used for all utilities.

A representative from USA North 811 agreed with Member Johns and discussed the need for having some way that informs small utility owners about the existence of the ACE ticket, and what they are agreeing to for a year.

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

Chair Voss asked for public comments.

A representative from the California Farm Bureau Federation (CFBF) proposed the idea of the ACE agreement applying for other utilities, allowing both parties to come to a solution and documenting it. She asked the Board to support the idea of allowing the farm community to have a process that only happens once a year, and is done.

Vice Chair Arden asked who would be in possession of the agreement.

Ms. Yang told the Board that both parties are required to keep a copy of the form, but they are not required to send it to the Board.

Member Johnson voiced his concerns over coming to an agreement for one year, and then an operator decides to put something new in the ground. He asked if the farmer and the operator would need to come to a new agreement.

(Meeting recessed at 11:46 a.m. and resumed at 1:32 p.m.)

Mr. Marino proposed the idea of creating an optional form for non-high priority lines that could be posted to the Board's website. He discussed the importance of engaging the public and educating them about the process.

Chair Voss discussed staff recommendations to change Section 4100 for notification of damages, and asked for comments from the public.

The CFBF representative discussed the comments from Farm Bureau on the regulations.

A representative from Pacific Gas & Electric (PG&E) discussed Section 4302 (c)(1) and (2), and asked how the section would be implemented.

Mr. Marino discussed what the section would and wouldn't do, and the statutory requirements for onsite meetings when a high priority line is present.

A representative from PG&E voiced concern over the operator being responsible for determining the location of the pipe and the farmer not agreeing with the operator's information.

Member Bianchini discussed comments the Board heard from farmers at the July meeting in Bakersfield, California.

Vice Chair Arden discussed the issue of delaying work to daylight the pipe.

Chair Voss discussed the reason for the language in the regulations, because of past abuses on both sides.

Member Johnson discussed the option to provide documentation instead of daylighting the pipe.

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

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

Board Action

Motion to approve Resolution No. 19-02-01 on Area of Continual Excavation, Investigation, and Enforcement.

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

MOTION ADOPTED.

Agenda Item No. 5: Discussion on Implementation of AB 1914.

Policy Analyst Jennifer Reed presented a report on the implementation of AB 1914, giving background information about the legislative process, the need for input from a variety of stakeholders, and the questions the Board needs to take into consideration during the regulation development process.

Legal Counsel Deborah Yang discussed the regulation implementation timeline for AB 1914.

Member Bianchini voiced concerns over power tools being used unsafely to locate underground

facilities.

Member Johnson voiced concerns over disturbing older infrastructure with power tools, and discussed the fragility of older facilities.

Member Bianchini discussed using soil types to determine the power tools that can be used to determine the location of a facility.

Executive Officer Tony Marino discussed the legislative process for AB 1914.

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

Chair Voss asked for public comments.

A representative from PG&E asked the Board to consider creating a mutual agreement for power tool use in the tolerance zone prior to determining the location of underground facilities, and discussed the current process for vacuum excavation.

(Meeting recessed at 2:27 p.m. and resumed at 2:46 p.m.)

Member Johns proposed the idea of creating a matrix to identify the different tools that can be used in certain circumstances which would allow excavators and operators to be on the same page.

Chair Voss asked operators about their protocols and procedures for using power tools in the tolerance zone.

A representative from Southern California Gas Company (SoCalGas) proposed the idea of creating a list of what cannot be done with power tools in the tolerance zone to promote the proper tool use.

A representative from Shell Pipeline told the Board a regular shovel can cause the same damage to an underground facility as a pneumatic tool.

A representative from PG&E discussed the importance of training to ensure the right tools are being used for the right circumstances.

Member Johnson asked for clarification from PG&E on training and whether it would be a certification to use the tool, or a corrective action from the Board.

The representative from PG&E discussed the idea of training being used for corrective action, and provided to companies to proactively train their employees.

Member Bianchini discussed the importance of training, conditions, and accountability.

Mr. Marino discussed the need for staff to research conditions, tool use for those conditions, and what notifications are required.

Member Munoz proposed the idea of using soil classification as a starting point.

Member Bianchini discussed the requirement for a competent person to be trained and present

on the job site so the excavator has knowledge of the different soil classifications.

Member Munoz discussed the importance of the Board remaining consistent with Occupational Safety and Health Administration (OSHA) requirements, because the Board is not only creating these regulations to protect the facilities, but to protect the workers in the field.

Member Del Toro discussed the section on tools and equipment under OSHA's construction orders.

Member Johns asked PG&E to provide information on the majority of damages caused by hand tools

A representative from PG&E discussed different situations where hand tools are used, and how some excavators are not using the proper tools to pot hole.

Member Del Toro asked if it would be possible to choose several different safe tools.

Member Bianchini proposed the idea of removing boring equipment as a locating tool.

Vice Chair Arden voiced concerns over allowing a new tool in the tolerance zone to determine the location of the facility.

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

Member Bianchini proposed the idea of adding a training element.

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 Board. There were none.

Adjournment
Meeting adjourned at 4:14 p.m.

February 12, 2019
9:00 a.m.

MEETING MINUTES

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
Brittny Branaman, Policy and Budget Manager
Jason Corsey, Chief of Investigations
Deborah Yang, Legal Counsel
Kerstin Tomlinson, Education & Outreach Officer
Jon Goergen, Research Specialist
Jennifer Reed, Government Analyst

OPEN SESSION

Chair Voss called the meeting to order at 9:03 a.m.

Agenda Item No. 6/8: California Regional Common Ground Alliance (CARCGA) Update on Standards Development.

Executive Officer Tony Marino introduced two representatives from CARCGA Subsurface Safety and Incident (SSIP) committee members who participated via conference call to discuss the organization's update on standards development.

A representative from CARCGA's SSIP committee discussed the responsibility of the excavator to determine the facility location down to any depth. He discussed the idea that the area of potential conflict covers the entire length and width of the work area. The representative told the Board about CARCGA's process to make a final recommendation to the Board.

Member Munoz asked the SSIP committee members about reasonable care standards regarding road grading and shoulder work.

A representative from CARCGA's SSIP committee discussed reasonable care for potholing.

Member Munoz asked the SSIP committee members, how it could be considered reasonable care if the depth is between 24 and 36 inches, and the facility is not located.

A representative from CARCGA's SSIP committee the idea of a sliding grading scale which would allow the excavator to dig to a certain depth to determine the location of the facilities.

Chair Voss asked the SSIP committee representatives to clarify CARCGA's position on the sliding scale.

A representative from CARCGA's SSIP committee clarified that some contractors want to locate the facilities at any depth, but some soils pose other issues for digging beyond the area of potential conflict.

Member Munoz discussed subdivision (a), and asked the SSIP committee representatives if changing course without notifying the operator is considered reasonable care.

A representative from CARCGA's SSIP committee discussed the impact of worker safety, and asked the Board whether the excavator is responsible for finding the facility if the operator has decided that there is no conflict because of the shallow nature of the work.

Chair Voss asked for staff to clarify the information the Board is hoping to receive from CARCGA.

Mr. Marino asked the Board to think about what they are asking CARCGA to do, and the outcome members want. He told the Board if it doesn't feel like statute is appropriate in certain ways, they can ask for a change.

Member Johns discussed the idea of excavation for road work being a specific issue.

Member Del Toro discussed the need for accountability among operators to locate their facilities, and emphasized her concerns over having the excavator taking time to locate facilities, which impacts safety and the bottom line.

A representative from CARCGA's SSIP committee discussed shared responsibility between the excavator and the operator.

Member Johnson discussed road building and the need for excavators and operators to work together to determine the location of the facilities.

Vice Chair agreed with Member Johnson, and discussed the process of grinding overlay not being in conflict with a utility.

A representative from SoCalGas proposed the idea of changing the definition of in conflict depending on the type of excavation activity.

A representative from PG&E voiced concerns over the excavator not waiting for the operator to provide solutions to locate the facility, and instead doing the work themselves. He discussed the importance of notifying the operator.

Member Del Toro discussed the persistent concern over operator response times, and proposed the idea of creating guidelines.

A representative from SoCalGas discussed the importance of the excavators contacting operators if they cannot find the facility, because mis-markings happen.

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 10:23 a.m. and resumed at 10:39 a.m.)

Agenda Item No. 7/9: Discussion on Complaint Process.

Postponed until the Board's April 15-16, 2019 meeting in Southern California.

Agenda Item No. 10: Discussion on Area of Continual Excavation Ticket Renewal Requirement (Government Code section 4216.10(e)).

Executive Officer Tony Marino discussed the Board's vote to approve language for the first phase of its Area of Continual Excavation (ACE) regulations yesterday (February 11, 2019). Mr. Marino discussed the need for the Board to modify or eliminate the renewal requirement for areas where no subsurface installations exist.

Research Program Specialist Jon Goergen presented a report on the ACE ticket renewal requirements, providing background on the regulation development process and discussing research process to identify the number of parcels in California that do not contain high priority infrastructure.

Chair Voss discussed his involvement with Member Johns on the ACE committee, and how the current available data only shows oil and gas facilities.

Member Munoz asked about the overlay in high priority.

Mr. Goergen discussed the data consisting of only oil and gas, and how staff does not have data sets for the other high priority facilities.

A representative from USA North 811 provided background information about the ideal master database, but told the Board it doesn't exist because facility owners don't share the information with the one call centers. He discussed the current ticket process using service area mapping provided by operators.

Member Charland discussed the challenges that exist to update mapping to reflect new underground facilities.

The representative from USA North 811 gave background on the amount of time it takes to receive updated mapping.

Member Johnson asked the representative from USA North 811 about putting a buffer on tickets.

The representative from USA North 811 discussed the process of adding a 200-foot buffer to the tickets because the mapping can be distorted.

Member Johns discussed the importance of someone claiming responsibility for the new facilities.

The representative from USA North 811 proposed the idea of ACE ticket having an automatic check to confirm there are still no facilities on the land.

Member Munoz proposed the idea of creating a registry for agricultural operators.

Member Johnson gave background on the positive response system, and discussed the idea of creating an enforcement tool that requires the operators tell the one call centers that they have responded to a ticket, and how they responded.

Chair Voss discussed the challenge of requiring farmers who own land with no facilities to call once a year and request a ticket, and asked to get more information about how the ACE Ticket will impact the regional notification centers' call volume.

The representative from USA North 811 discussed the handful of tickets his center receives now.

A representative from the Office of the State Fire Marshal (OSFM) discussed the importance of positive response and documenting operator responses electronically.

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 11:51 a.m. and resumed at 1:31 p.m.)

Mr. Marino asked Member Johnson from AT&T and a representative from SoCalGas to discuss their companies' ticket response and locate and mark procedures.

Member Johnson discussed AT&T's procedure for responding to tickets, including the company's geocoding process, how they determine who will do the locate and mark work, and the ticket distribution

Vice Chair Arden asked Member Johnson about AT&T's use of marker balls.

Member Johnson discussed the use of marker balls, the information they contain, and their lifespan.

The representative from USA North 811 proposed the idea of training the public how to better understand utility terms.

The representative from SoCalGas discussed the company's procedure for responding to tickets, how those tickets are received, dispatched and prioritized, how SoCalGas determines whether a site visit is needed, and the procedure for onsite meetings.

Chair Voss asked for comments from the Board.

Member Charland asked the representative from SoCalGas about their map updating process, and how long it takes to send information about new facilities to the one call centers.

The representative from SoCalGas discussed the company's map updating process, and told the Board he would need to research more about the time it takes to update the one call centers.

Member Del Toro asked the representative from SoCalGas how the company handles abandoned lines found by excavators while digging.

The representative from SoCal Gas told the Board once the company is informed of an abandoned line, they send someone to determine if the line is active.

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
Chair Voss asked for other business.

Legal Counsel Deborah Yang discussed the need for reappointed Board members to complete their state training.

Executive Officer Tony Marino asked Board members about issues accessing their CAL FIRE emails.

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

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

Adjournment
Meeting adjourned at 2:52 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair