California Underground Facilities Safe Excavation Board

December 10-11, 2018

Agenda Item No. 6 & 7 (Information Item) – Staff Report

Draft Regulations on Area of Continual Excavation

Presenter:
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Summary:
This document demonstrates the research, outreach and education process for area of continual excavation and the justification for the language outlined in the proposed draft regulations.

Background:
The Dig Safe Act of 2016 (SB 661, Chapter 809, Statutes of 2016 ("the Act")), calls for the Dig Safe Board ("the Board") to create regulations for areas of continual excavation. In passing the Act, the Legislature acknowledged the current law was not suitable for agriculture activities and established an alternative annual notification system, and authorized the Board to:

1. Develop minimum standards for field meetings between farmers and operators when the excavation includes, or is within 10 feet, of a high priority line.[1,2]
2. Develop a renewal process for regional notification ("one call") center tickets, when a farmer's land is known not to have any subsurface installations.[3]

The annual notification system would allow farmers to call the appropriate one call center once a year, at their convenience, and request a ticket for normal farming practices. In cases where a high priority line is present, an onsite meeting between the farmer and the subsurface installation operator would occur, and both sides would discuss and agree on the safe excavation practices to be used when excavating over the line.

Onsite meetings have been required since 2007 for proposed excavation, but no minimum standards exist for what must be discussed in the case of agriculture. The lack of minimum standards has led each operator to create their own set of requirements for farmers, which has created frustration in the agricultural community. Operators have also voiced concern over the inconsistency in requirements for agriculture excavators, claiming it could lead to confusion.

Discussion:

[1] Must be adopted as regulations on or before January 1, 2020.
[2] "High priority" is defined as petroleum pipelines, natural gas transmission pipelines, pressurized sewer pipelines, high-voltage (≥ 60 kV) electric lines, and hazmat pipelines.
[3] The renewal process for one call center tickets, when a farmer's land is known not to have any subsurface installations, will be included in a separate rulemaking package in 2019.

To meet its statutory requirement to develop minimum standards for what must be discussed in an onsite meeting between farmers and high priority subsurface installation operators, the Board paid significant attention to creating a system where compliance is well-suited to regular farming practices, and safety is a shared responsibility among excavators and operators. Substantial time was spent hearing from farmers, operators, and the one call centers about the current agricultural process around high priority lines.

Bakersfield Workshop

In July, the Board invited farmers and subsurface installation operators to a workshop at the Kern County Farm Bureau Pavilion in Bakersfield to discuss farmer experiences excavating near high priority facilities, and current operator onsite meeting practices for agriculture. Prior to the meeting, Board members split into two groups for tours of ongoing operations at Ten Star Farming and Mckittrick Ranch. Several representatives from area farms attended the meeting, including: Ten Star Farming, Mckittrick Ranch, Grimmway Farms and Kirschenmann Farms. Meanwhile, operator representatives included: AT&T, PFB Energy, PG&E, Phillips 66, SoCalGas, and Southern California Edison. During the meeting,

Farmers discussed:

- Concerns with consistency in the onsite meeting process, stating the message is different among operators, and in some cases, is inconsistent among representatives from the same operator.
- Concerns over operators not showing up for scheduled standbys, and how that impacts agricultural operations.
- Concerns over safety when lines are mismarked and how frequently locators mismark the lines.
- How farmers feel they have better knowledge of line location than the operator representatives they interact with, who in some cases can change from onsite meeting to onsite meeting. Farmers say their knowledge comes from years of experience working the same land.
- Frustration with operator requirements to pothole the line for each Underground Service Alert (USA) ticket requested, because the operator lost the documentation of line location

Subsurface installation operators discussed:

- The struggle to interact with excavators who do repeated work, like farmers.
- Use of a standard form.
- Operator responsibility to provide knowledge and awareness of line locations and how to operate safely over the lines.
- Methods of measuring depth and location of lines including a probe, ground penetrating radar, and maps.
- The difficulty of patrolling all lines to maintain depth of cover.
- Concerns about markings moving or disappearing during agricultural operations.
- Use of permanent pipeline markers on parcels of agricultural land.
- Use of standby to document weather conditions, machines, and identification of lines.

Operator Outreach

As outlined in its 2018 Plan, the Board was expected to learn from operators of different varieties about the current onsite meeting protocol. Doing so would require outreach, and a mechanism to gauge the process on a statewide level. A timeline of operator outreach and engagement is outlined below:

August

- Operators from PG&E and SoCalGas made presentations at a Board meeting in Westlake Village discussing current damage prevention practices, including patrols of subsurface installations through agricultural land on the ground and from the air.

September

- Outreach conducted to operators in California and across the nation to discuss onsite meeting protocol, whether there was a specific policy for agriculture, and the potential use of a standard form or checklist.
    - Kinder Morgan, PG&E, Sacramento Sewer District, and SoCalGas shared their standard form, checklist and/or policies and procedures with the Board.
    - The states of Minnesota, New Mexico, and Georgia also shared their standard onsite meeting forms with the Board.
    - Forms included: a section for the USA Ticket number, date, location of excavation, name of the excavator, and operator representative, and a place for both parties to sign.
- Survey created by staff for subsurface installation operators using information received during July workshop and gathered from operator forms to gain more information about onsite meeting protocol specifically for agriculture *(see page 5, Onsite Meeting Survey)*.
- Outreach conducted to the Western Petroleum Association (WSPA) to discuss creation of onsite meeting survey.

October

- Operator survey posted to Dig Safe Board website: http://digsafe.fire.ca.gov for 31 days.
- One call centers distributed broadcast alert message created by the Board and containing survey information to its members in an effort to receive feedback about operators current onsite meeting protocol.
- WSPA distributed survey information to its members in an effort to receive feedback about operators current onsite meeting protocol.
- Email sent to Kinder Morgan, Phillips 66, PBF Energy, Chevron Pipeline, Plains All-American Pipeline, and Shell Pipeline about the survey in an effort to receive feedback about operators current onsite meeting protocol.
- Board held workshop for farmers and operators to discuss minimum standards for onsite meetings.

November

- Operator survey closed.

Farm Bureau Outreach

As outlined in its 2018 Plan, the Board was expected to learn from farmers of different varieties about the current excavation process around high priority facilities. Doing so would require outreach, and a mechanism to gauge the process on a statewide level. A timeline of farmer outreach and engagement is outlined below:

August

- Outreach conducted to county Farm Bureaus across California to discuss potential presentations by Board Members and staff to county Farm Bureau board of directors regarding area of continual excavation and proposed draft regulation development.

September

- Survey created by staff for farmers using information received during July workshop *(see page 5, Onsite Meeting Survey)*.
- Advertisement created for survey to run weekly in county Farm Bureau electronic newsletters through the month of October, and distributed to county Farm Bureaus who agreed to run the advertisement, including: Solano, Monterey, Kern, San Luis Obispo, Sacramento, Yolo and Yuba-Sutter Counties.

October

- Survey posted to Dig Safe Board website: http://digsafe.fire.ca.gov for 31 days.
- Presentations made at five county* Farm Bureau Board of Directors meetings *(see Figure 1)*.
- Board held workshop for farmers and operators to discuss minimum standards for onsite meetings.

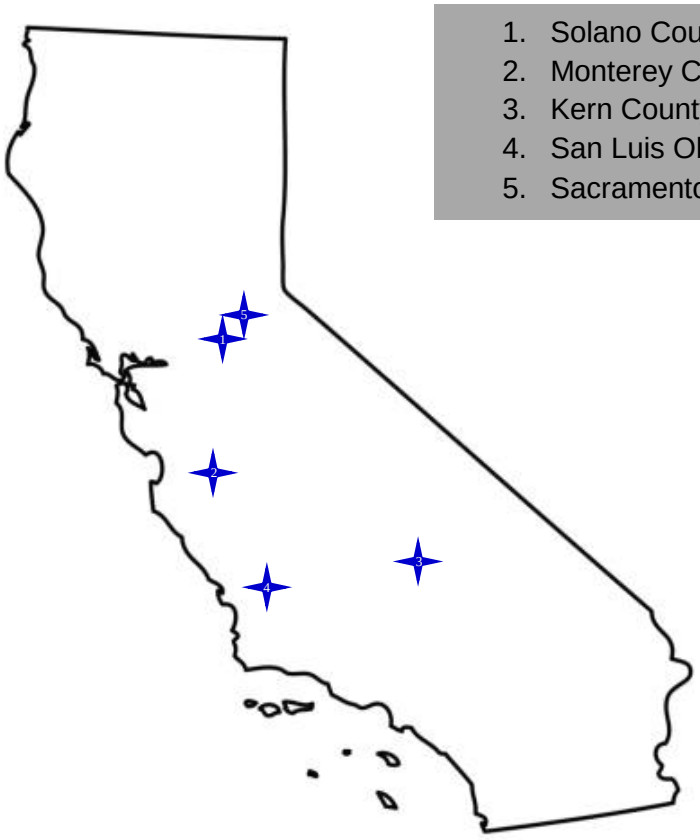

Figure 1: Map of county farm bureau presentations made by staff in October

At the county Farm Bureau presentations, farmers echoed concerns heard at the Board's July workshop, including:

- Concerns with consistency in the onsite meeting process among different operators, and sometimes among representatives from the same operator.
- Frustration with the current law, and requirements to call 811 if the farmer already knows there is nothing under their land.
- How farmers feel they have better knowledge of line location due to years of experience working the same land.
- Concerns over operators not showing up for scheduled standbys, and how that impacts agricultural operations.

November

- Farmer survey closed.
- Dig Safe Board outreach booth set up at San Diego County Farm Bureau's "Farm & Nursery Expo" to discuss proposed draft regulation development with farmers.

- Call received from Yolo County farmer about frustration with current law, heard issues consistent with those discussed at July workshop and county Farm Bureau presentations.
    - Farmer specifically discussed operator use of field mark materials that hindered farming operation because of how materials interacted with equipment.

Onsite Meeting Survey

To gather input on the current onsite meeting process from farmers and subsurface installation operators, staff created two surveys, one geared toward excavators, the other geared toward operators. Survey participants were asked a series questions about their experience with the current onsite meeting process.

Farmers who participated in the survey were asked questions, including: which operators they work with, how often onsite meetings are held, the operator representatives' knowledge of farming practices, whether the operator uses a standard form, what is included on that form, whether they get a copy of the form, and the types of equipment they call 811 for, before using.

10 farmers responded to the survey, representing the following five counties: Kern, Tulare, San Luis Obispo, Sutter and San Joaquin. Farmers shared experiences excavating near high priority facilities.

In the survey, farmers discussed:

- Concerns with consistency in the onsite meeting process among different operators, and sometimes among representatives from the same operator.
- Lack of knowledge among operator representatives about normal agricultural practices.
- Frustration with the current law, and requirements to call 811 if the farmer already knows there is nothing under their land.
- How farmers feel they have better knowledge of line location due to years of experience working the same land.
- Concerns over operators not showing up for scheduled standbys, and how that impacts agricultural operations.

Meanwhile, operators who participated in the survey were asked a different series of questions about the farmers they work with, whether they use a standard form or checklist, the types of equipment that cause concern when operated over their line, why the equipment causes concern, how often disagreements with farmers happen, and how those disagreements are documented and resolved.

11 operators responded to the survey, representing the following five industries: Natural Gas, Oil, Telecommunications, Water Treatment, and Utility Districts. Operators explained their current onsite meeting process, specifically focusing on agriculture.

In the survey, operators discussed:

- A form created specifically for the agriculture community.
- Concerns over farming equipment that digs deeper than 12-inches underground, because it can do damage to the lines.
- Disagreements field representatives have with the farmers over operator potholing requirements, which are done to verify the depth of the pipelines.
- Frustration with farmers who excavate near underground facilities without a USA Ticket or without verifying depth.
- Farming equipment that causes concern when operated over a pipeline, because the equipment penetrates the ground at an uncomfortable depth.

Sacramento Workshop

In October, the Board invited farmers and subsurface installation operators to a workshop at its headquarters in Sacramento to discuss minimum standards that should be required for onsite meetings. A representative for the California Farm Bureau Federation attended the meeting, along with operator representatives from PG&E, SoCalGas, and Southern California Edison. The Board discussed the following questions:

1. What should be required to be discussed in an onsite meeting and/or on a standard onsite meeting form as it relates to the agriculture community?
2. What is the operator's responsibility regarding depth?
3. How much information do the excavators currently receive from operators?
4. Why is depth information not commonly given to excavators?
5. Discuss potholing practices used to locate underground infrastructure. Determine minimum standards for potholing as it relates to the agriculture community.
6. Determine the criteria for an Area of Continual Excavation ("ACE") Ticket exemption for farmers who don't have utility lines on their land, and how that absence of lines will be recorded.

Board Members discussed concerns over who would attend the onsite meeting for agriculture operations, specifically on the operator's side. It was mentioned that currently a line locator, who either works for the company directly or is contracted, is dispatched to mark the line but does not have the authority to sign off on a yearlong plan. The idea was presented to require an engineer, supervisor or superintendent with knowledge of the lines to attend onsite meetings under areas of continual excavation.

Farmers discussed:

- Lack of pipeline location and depth knowledge among line operators which can lead to mismarking.
- Need for consistent information to be included in an onsite meeting and/or on a standard onsite meeting form.

Subsurface installation operators discussed:

- Concern over who can excavate under the annual area of continual excavation ticket and how information about safe digging practices will be disseminated to employees and contracted workers.
- Concern over how the lines will be marked to cover a year's worth of work.
- Pothole policies and why operators cannot disclose depth of the lines to excavators.
- Concerns of erosion and how it impacts depth of the lines.
- Distance from pipelines where farmers should lift ripper shank during excavation.

Proposed Draft Regulation Development

In November, writing of the proposed draft regulations for areas of continual excavation began. To create a fair, balanced process that promotes shared responsibility for safety between farmers and operators while remaining consistent with common sense and experience, the proposal addresses some of the inconsistencies discussed during Board workshops, outreach, and in the online surveys.

In accordance with the Board's statutory requirement, the proposal outlines minimum standards for onsite meetings in the presence of a high priority line, including:

1. Requirement for operator to either a) locate and field mark prior to the onsite meeting, including the use of an agreed upon marking method as outlined in the most recent version of the Common Ground Alliance (CGA) Best Practices guide; or b) provide information to the excavator where the high priority line is located.
2. Requirement for onsite meeting to be held at a mutually agreed upon date and time that does not "unreasonably disrupt the excavator's or operator's business operations."
3. Requirement for onsite meeting to include farm owner/lessee or owner/lessee's authorized

representative with knowledge of farming operations, and authority to develop and agree to an area of continual excavation plan.

4. Requirement for onsite meeting to include operator or operator's authorized representative with knowledge of high priority line location, and authority to develop and agree to an area of continual excavation plan.
5. Provision to address situation where operator's understanding of the location of the high priority line is different than the farmer's understanding of the location, and the operator's responsibility to demonstrate his/her understanding by providing supporting records or potholing.

The proposed draft regulations are based on feedback received during Board Meetings, stakeholder workshops and outreach efforts as previously outlined in this staff report. The provisions follow the principal of being consistent with agricultural operations and with promoting the shared responsibilities both parties have in safe operations.

The renewal process for one call center tickets, when a farmer's land is known not to have any subsurface installations, will be included in a separate rulemaking package in 2019.