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")

July 15-16, 2019

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

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
Jeff Brooks, Attorney
Jason Corsey, Chief of Investigations
Carla Newman, Supervising Investigator
Jon Barkley, Special Investigator
Michael Ehrgott, Special Investigator
Kerstin Tomlinson, Education & Outreach Officer
Jenni Reed, Policy Analyst
Jeff McClenahan, Office Technician

July 15, 2019
10:00 a.m.

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Sacramento, CA 95815

OPEN SESSION

Chair Voss called the meeting to order at 10:03 a.m.

Agenda Item No. 1: Executive Officer's Report

Executive Officer Tony Marino delivered his executive officer's report, discussing housekeeping, evacuations, and where the bathrooms are. He then asked the Board's Budget and Policy Manager to give an update on human resources and year-end purchasing.

Policy and Budget Manager Brittny Branaman introduced Jeff McClenahan, the Board's new Administrative Technician and gave a report on his career and education background. Ms. Branaman also discussed ending the fiscal year on time and challenges with FI$Cal.

Mr. Marino discussed the development of the Board's case management system, giving background on the company awarded the contract to build the system.

Education and Outreach Officer Kerstin Tomlinson provided an update on the Board's Education and Outreach efforts, including an online article and a magazine article that provided information about the Board, a safety awareness event attended by Board staff, a CARCGA meeting where staff provided an update on Board business, and a meeting with representatives of USA North 811, DigAlert, and Central valley farmers organized by the Board regarding area of continual excavation ticket renewals. Ms. Tomlinson also discussed coordinating the Board's participation in the 2020 Common Ground Alliance Conference, and the organization of the Board's 2019 Annual Education and Outreach meeting.

Mr. Marino discussed a letter the Pipeline and Hazardous Materials Safety Administration (PHMSA) sent the state of California about its inadequacy enforcing the one-call law. He told the Board the letter was expected, and discussed the response he drafted, that is under review by the Governor's office. Mr. Marino also discussed Senate Bill 70, and the changes made to the Board's involvement in implementing the bill.

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.

Member Del Toro discussed an article in American Society of Safety Professionals Journal she was interviewed for.

Chair Voss asked for additional Board member engagement reports. There were none.

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

Agenda Item No. 3: Resolution No. 19-07-01: Approval of the Regulations for Investigation, Enforcement, and Area of Continual Excavation and Authorize Rulemaking Proceedings after Considering Public Comments Received During 45-Day Written Comment Period

Policy and Budget Manager Brittny Branaman presented a report on Resolution No. 19-07-01, giving background on the Board's vote in February to approve the regulation language. She discussed changes made to the language based on feedback from the Office of Administrative Law, and written comments received during the 45-day public comment period. Ms. Branaman addressed the written comments received by the Board, and discussed the Board's response to those comments.

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 approve Resolution No. 19-07-01 of the California Underground Facilities Safe Excavation Board approving the adoption of the regulations for investigation, enforcement, and area of continual excavation and authorize rulemaking proceedings after considering public comments received during 45-day written comment period.

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

MOTION ADOPTED.

Agenda Item No. 4: Resolution No. 19-07-02: Approval of the Adoption of the Regulations for the Area of Continual Excavation Renewal Ticket Requirement and AB 1914 Implementation and Authorize Rulemaking Proceedings

Executive Officer Tony Marino discussed the rulemaking process and gave an overview of the changes made to the regulation language. Mr. Marino told the Board he would discuss each section individually, allowing for comments in between. He read through section 4300 regarding contact information for members of the regional notification (one-call) centers regarding power tool use in the tolerance zone and discussed the changes made to the regulation language.

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

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

Mr. Marino discussed section 4305 regarding persons eligible to work under a continual excavation ticket.

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

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

Mr. Marino discussed section 4310 regarding the continual excavation renewal ticket reminder notifications.

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

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

Mr. Marino discussed section 4345 regarding the onsite meeting and plan following renewal of a continual excavation ticket near high priority subsurface installations.

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

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

Mr. Marino discussed section 4401 regarding valid and current contact information for excavators using the regional notification centers.

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

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

Mr. Marino discussed section 4501 regarding the use of equipment other than hand tools to determine the exact location of a subsurface installation.

Chair Voss asked Mr. Marino to give the Board a timeline on the public comment process.

Mr. Marino discussed the regulation process regarding public comment which includes a review by the Natural Resources Agency prior to the Office of Administrative Law 45-day public written comment period. He told the Board, following the public comment period they would review the comments, consider them, and vote to move the regulation forward with the intent of them being operational by July 1, 2020.

Chair Voss asked for comments from the Board.

Member Johns asked for clarification about the in-writing portion of the language and whether that meant texts and emails.

Mr. Marino told the Board anything that either side can keep a record of is considered in-writing.

Chair Voss asked for comments from the public.

A representative from DigAlert discussed subsection (c) of section 4501 of the proposed language, and asked the board whether the requests would go through the one-call centers.

Member Johnson clarified that the requests would go straight to the operators.

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. 19-07-02 of the California Underground Facilities Safe Excavation Board approving the adoption the regulations for the area of continual excavation renewal ticket requirement and AB 1914 implementation and authorize rulemaking proceedings.

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

MOTION ADOPTED.

Agenda Item No. 5: Resolution No. 19-07-03: Support of or Opposition to Legislation to Amend Government Code Section 4216.3 (AB 1166 (Levine))

Policy and Budget Manager Brittny Branaman presented a report on Resolution No. 19-07-03, giving background on AB 1166, which would require operators to supply electronic positive response through the one-call center beginning January 1, 2021. She discussed how the bill would enhance the enforceability of the Dig Safe Act, and recommended the Board support AB 1166 if amended to give the Board authority to grant limited extensions to operators who provide good cause for needing it.

Chair Voss asked for comments from the Board.

Board members and staff discussed the definition of electronic positive response referenced in GOV 4216(e).

Member Munoz discussed how electronic positive response will help problems and ambiguity in the field. She told the Board that transitioning from the method used now

to electronic positive response is going to be cumbersome for some operators.

Member Johnson agreed with Member Munoz and discussed how some cities and municipalities only give excavators maps to look at.

Member Charland discussed how some cities are using paper one-call tickets to mark their lines, and will need time to adjust to electronic positive response. He also discussed the importance of updating the one-call center status codes and adding any new ones that may be needed.

Chair Voss asked for comments from the public.

A representative from the Los Angeles Department of Water and Power (LADWP) thanked the Board for the option to grant extensions, and voiced his support for Resolution No. 19-07-03.

A representative from USA North 811 discussed several areas of 4216 the Board might want to consider clarifying, including the definition of electronic positive response.

A representative from West Valley Construction thanked the Board for entertaining Resolution No. 19-07-03, and discussed how mandating electronic positive response will help improve safety.

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. 19-07-03 to oppose legislation to amend Government Code section 4216.3 (AB 1166 (Levine)) unless amended.

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

MOTION ADOPTED.

(Meeting recessed at 11:33 a.m., and resumed at 1:32 p.m.)

Agenda Item No. 6: Discussion on Investigations Workflow and Select Preliminary Investigations

Chief of Investigations Jason Corsey discussed the Investigations Division workflow including the damage notification process, the case intake and assignment process, how investigators review damage notifications, set case plans and initiate investigations. Chief Corsey also discussed the Investigations Divisions reports, and how staff decides to pursue enforcement actions.

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

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

Special Investigators Jon Barkley and Michael Ehrgott presented two cases. The first case involved a subcontractor performing deep ripping and irrigation control for a farming company, when he struck an un-marked six-inch deactivated steel line. The second case involved a contractor performing a directional bore under a major roadway to install a fiber optic line. In the second case, the bore head struck a four-inch unmarked plastic natural gas main, forcing evacuations of nearby homes.

Chair Voss asked for comments from the Board.

Board members and staff discussed the details of the second case including where the bore entered and exited the street, the un-marked gas line, whether staff was able to look at the utility map, whether the contractor had a bore log, how staff received notification of the hit, and how familiar the operator and excavator were with the Dig Safe Board.

Member Munoz discussed the importance of knowing where the utilities are located under the ground.

Member Johns asked about the ticket for the project, and whether it was a long-term job, that spanned several miles, or just for this portion of the street.

Mr. Ehrgott clarified that the ticket had been renewed multiple times.

Board members and staff discussed the details of the first case including the damage to the subcontractor's equipment, the nature of the work being performed, the failure to renew the ticket or establish a new ticket, the fact that the line was never marked, whether staff was able to look at the utility map, the type of pipeline that was hit, and the use of the word deactivated to describe the pipe.

Member Munoz brought up the issue of using the term deactivated for the facility, and discussed the process for abandoning a subsurface installation.

Member Bianchini agreed with Member Amparo's statement and discussed that deactivated means the line can be reactivated. He told the Board if the operator plans on reactivating the line, they should be marking it.

Member Johns discussed GOV 4216.3(a)(1)(B) which requires the operator mark any abandoned lines with an "A" inside a circle.

Board members and staff discussed the process for referring the first case to the California Public Utilities Commission (CPUC), and investigator efforts to contact CPUC representatives to refer this case, and how cases that do not involve violations of GOV 4216 will be referred to other agencies in the future.

Chair Voss asked for comments from the public.

A representative from the CPUC discussed the process for abandoning lines.

A representative from USA North 811 encouraged the Board to advise staff to request the utility mapping in their investigations and commented on the investigations process.

A representative from Pacific Gas and Electric Company (PG&E) discussed the use of the term “deactivated” being a word some operators use in-house to describe the status of their facilities.

A representative from West Valley Construction discussed the National Utility Locating Contractors Association (NULCA), and the standards locators are required to meet.

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 2:28 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair