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 24, 2018
10:00 a.m.

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

MEETING MINUTES

BOARD MEMBERS PRESENT:

Jessica Arden
Vince Bernacchi
Ron Bianchini
Randy Charland
Marjorie Del Toro
Bill Johns
Marjorie Del Toro
Amparo Munoz
Carl Voss

BOARD MEMBERS ABSENT: Marshall Johnson

STAFF:

Tony Marino, Executive Officer
Brittny Branaman, Policy and Budget Manager
Zachary Trammell, Government Analyst
Jason Neyer, Government Analyst
Misty Catano, Government Analyst
Deborah Yang, Legal Counsel

OPEN SESSION

Chair Arden called the meeting to order at 10:19 a.m.

Agenda Item No. 1: Executive Officer's Report

Executive Officer Tony Marino introduced new staff: Misty Catano, Analyst, and Jason Corsey, Chief of Investigations. It was discussed that there will be no workshop held in August for notifications and reporting. Staff is currently working with Member Charland and Member Bernacchi on changes. It was announced that the next Board Meeting will be held August 20th and 21st in Westlake Village, California.

Chair Arden asked for public comments. There were none.

Agenda Item No. 2: Resolution of the California Underground Facilities Safe Excavation Board in Opposition to Assembly Bill 1914 (Flora) Unless Amended

Executive Officer Tony Marino presented the action item. Staff recommended the Board oppose AB1914 (the "bill") unless amended to clarify the Board's rulemaking authority to limit the type of power operated tools and set other conditions on the use of such tools within the tolerance zone of a subsurface installation. Staff worked with Members Bianchini and Marshall to develop the proposed revision to the bill.

Member Bianchini shared Member Marshall's comments. Member Marshall is opposed to the bill unless amended.

Member Johns requested clarification on boring equipment.

Chair Arden asked for public comments.

A representative from Pacific Gas and Electric ("PG&E") agreed that the use of power equipment should have proper use guidelines. It was discussed that it helps the safety of excavators, and that PG&E supports Board approval of the resolution.

A representative from the public stated that boring should be done where pipeline is not near to avoid striking any pipes, and it's not good practice to put the public at risk.

A representative from the California Public Utilities Commission addressed their concern regarding the bill.

Member Bianchini expressed his concern that a pneumatic tool is not defined, and asked Executive Officer Tony Marino to clarify that the revision to the bill as proposed by staff would authorize the Board to implement rules to define the term. The Executive Officer answered in the affirmative.

Member Munoz discussed the possibility of having a written agreement between the operator and the excavator.

Member Johns stated a mutual understanding will be needed to confirm limitations and issues.

A representative from PG&E expressed that any tool can be used inappropriately and in a hazardous manner. He discussed that the Board put protections in place for power equipment. He explained that laborers shouldn't be at risk with bending, twisting, and lifting to dig five to six feet holes by hand.

A representative from AT&T discussed the importance of providing equipment that would result in less injuries. He expressed that he was over 40 years of experience using equipment, and he knows how to follow markings. If information is provided and accurate, it will result in less injuries or fatalities. The more workers that call to report incidents, the more information that is provided, and fewer bad outcomes.

A representative from Edison stated that it would be wrong to vote on this matter right away without research first.

A representative from the public expressed that California law needs to be modified depending on the conditions. Excavators move soil and depth changes.

A representative from PG&E discussed that every tool has a purpose, including pneumatic tools that are not sharp and work from vibrations. It's not necessary to worry about a spade being sharp, but the focus should be on laborers knees digging into the ground.

Executive Officer Tony Marino discussed that the action item before the Board today is to take a position on the bill. If and once the bill becomes effective on January 1, 2019 with the recommended changes, the Board can move forward with adopting rules on the type of pneumatic power tools, tolerance zones, and other issues.

A representative from SoCal Gas stated that under current law, power tools can't be used. If power tools are used correctly, there will be less injuries. He advised that the Board create a pathway to move forward.

Member Munoz thanked the public for the comments, and expressed her concern for injuries to laborers and the need for a mutual agreement in writing between the operator and excavator.

Member Del Toro discussed that it would not be a great idea to have excavators digging five to six feet holes over a two to three-day span in triple digit weather, and that the appropriate tools should be defined. She expressed that the resolution should be passed today.

Member Voss explained that if the Board does nothing today, the Legislature will pass the bill as is. If the Board approves the resolution and the bill is amended as proposed by staff, then the Board would be able to develop rules and specify the type of tools and other conditions.

Executive Officer Tony Marino confirmed that Member Voss was correct.

Member Munoz asked staff about the possibilities of making changes to the resolution. Chair Arden asked staff about clarifying the agreement between an operator and excavator.

Legal counsel explained the effect of the Board's decision on the resolution and staff's recommended changes to the bill.

Chair Arden asked for any further public comments. There were none.

Board Action

Motion to approve Resolution No. 18-07-01 of the California Underground Facilities Safe Excavation Board in opposition to Assembly Bill 1914 (Flora) unless amended.

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

MOTION ADOPTED.

(Meeting recessed for lunch at 11:45 a.m. and resumed at 1:00 p.m.)

Chair Arden called the meeting to order at 1:13 p.m.

Agenda Item No. 3: Discussion on Area of Continual Excavation

Chair Arden discussed the Board's responsibilities in the area of continual excavation ("ACE"). She invited the public to share any issues they are currently experiencing on this subject.

Member Voss greeted everyone and thanked the farmers for giving the Board members and staff tours that morning.

Member Johns thanked the farmers for the tours. He addressed the public and explained to them that he would like their take on decisions. He wants to see both sides of the story. It was discussed that the public can use this setting and forum to discuss the issues they are experiencing. He invited the public to share what they do and what issues they have to come up with some common ground ideas.

Executive Officer Tony Marino gave a brief legislative history, and explained an ACE ticket and the Board's responsibilities in this area.

A representative from Ten Star Farming stated that all they do is grow vegetable crops, and as soon as one vegetable comes out another is planted. He stated that they do not have any problem calling 811. However, they would like everyone and everything to be on the same page. He expressed there were inconsistent information from PG&E representatives.

Member Johns asked the farmers to share their experience with working near high priority lines.

A representative from Ten Star Farming discussed that before the law was in place they always knew were the line was. They would begin digging with a chisel and mark the line. They knew how far down the line was because they have been farming on the land for over fifty years.

A representative that farms along the B line explained that they mark the line with a pickup truck. The tractors would see the lines from the pickup and won't go anywhere near it. He expressed concerns with inconsistent information from PG&E representatives.

A representative from Ten Star Farming stated that they do not have the capability to stop working for the day if a PG&E standby does not show up as promised. He explained that there is a timeframe to plant crops.

Member Bianchini asked about the requirement for a standby.

A representative from USA North 811 discussed Government Code section 4216.4 and the responsibility to setup a meeting, locate the pipeline, and discuss the method and tools for the project.

A representative from the Public Utilities Commission discussed California law and Pipeline and Hazardous Materials Safety Administration ("PHMSA") requirements.

A representative from PG&E discussed the confusion of interpretation of laws, and he apologized for inconsistent information given to the farmers from PG&E. He expressed that they struggle to interact with those who do repeated work for long periods of time like agriculture, and stated that they hope the Board will help everyone to understand the law.

Member Del Toro expressed her concerns regarding response time to locate and mark, mis-markings, and property damage liability.

A representative from Ten Star Farming stated that their tools do not go more than 28 inches in the ground. He asked that people apply logic and stop providing inconsistent answers through the chain of command.

A representative from PG&E agreed that inconsistency is something that PG&E needs to work on and improve on.

Member Bianchini asked about the cost to send a standby person versus technology like GPS in tractors.

Member Johns asked about PG&E's responsibilities on locating the lines.

A representative from PG&E stated that it is their responsibility to respond and provide knowledge and awareness, and their responsibilities are driven by law.

A representative from PG&E stated that they are not able to patrol 42 thousand miles of pipeline to the foot all year long. If there is no ticket, PG&E isn't going to know the issues that are present. Wind and other forces of nature affect the ground, but there is no way to monitor that.

Member Del Toro discussed the possibility of permanent markers for inspectors to identify a quarter of inch of erosion or more.

A representative from PG&E stated that permanent markers are available and farmers have indicated where to place those in their fields, however cows knock them over.

A representative from USA North 811 discussed the idea of a depth marker that sits on top of the pipeline like a yard stick. It could monitor depth over time and provide a permanent solution over time. The law is currently written for traditional construction.

Chair Arden asked if there was any flexibility in Government Code section 4216.4 to determine the method of finding the exact location of a pipeline. Legal counsel stated that she would need to consider that in more depth.

A representative from USA North 811 discussed issues with recordkeeping.

A representative from Ten Star Farming stated that they have had someone come out and mis-mark the lines, and if it wasn't for the years of knowledge about the land or the GPS in their tractors, they could have easily hit the line.

A representative from PG&E discussed hand tools and depth of subsurface installations, and welcomed the idea of not having a one-sided approach.

Executive Officer Tony Marino asked other operators present to share their experiences and opinions.

A representative from SoCal Gas discussed their process with working with farmers on excavation.

Chair Arden asked about the process to change the statute.

Executive Officer Tony Marino discussed that the Board may provide recommendation on legislative changes in its report to the Governor and Legislature.

Member Del Toro asked about the need for and responsibilities of a standby.

A representative from Phillips 66 stated that a standby's responsibilities include documenting weather conditions and machines onsite.

A representative from SoCal Gas discussed that it is expected for employees to assist with machines to scope for probing.

Member Del Toro asked who pays for the standby.

A representative from SoCal Gas stated that they pay their own employees depending on the job itself.

(The meeting recessed for a break at 2:39 p.m. and resumed at 2:48 p.m.)

A representative from Phillips 66 asked the farmers how often they grade their areas within a year.

A representative from Ten Star Farming stated that it varies between each crop, but it's around five to six times a year.

A representative from 66 west coast damage prevention asked if the grey level was ever surveyed.

A representative from PG&E stated that once every four to five years they will come out with a laser and measure.

A representative from 66 west coast damage prevention team stated that they use a module that collects data that can be used by everyone.

A representative from SoCal Gas asked about tickets and who should call it in.

A representative from USA North 811 discussed that they and DigAlert do things differently. DigAlert can create tickets for themselves and other contractors, while each contractor must create their own ticket for USA North 811.

A representative from Ten Star Farming stated that each ticket is opened per contractor.

Member Johns discussed that he learned from his visit with the farmers that there is a wide variety of farming being done. The Board should come up with solutions that can help like GPS to define elevation for pipelines, and other ideas.

A representative from PG&E stated that flags move, and discussed whose responsibility it is to determine if it's still marked correctly.

Member Del Toro stated that she saw wood stick markings throughout the field, but they were hard

to see because they blended with the dirt.

A representative from SoCal gas stated that his team uses stakes with a string. The stake will list the material and size of the pipe.

Chair Arden noted that the Board should have a technology committee.

Member Charland discussed that the excavator may have pictures of markings on the field and call the operator to fix destroyed markings.

Member Voss discussed that farmers are farming over high priority lines. Stakes and markings move or disappear because of plants and wind. Another crop will be planted within a year. There needs to be some type of agreement that if the markings get damaged, the operator will send someone to come out and mark it again.

Member Bianchini stated that accidents do happen and that's why there is currently very little wiggle room.

A representative from West Valley Construction asked for a definition of high priority.

Executive Officer Tony Marino discussed the statutory definition of a high priority subsurface installation.

Member Voss stated that across the entire state, other areas may have experiences we are not familiar with.

Member Bianchini stated the Board should consider all areas.

Member Johns stated that we need consistency on what a meeting is between operators and excavators.

Member Voss stated that there should be some way to assess records and possibly exempt land without subsurface installations.

A representative from Ten Star Farming discussed that technology has helped delineate areas for tickets. A representative from USA North 811 agreed that technology like GIS is useful.

Member Voss explained how farmers use the technology to mark fields.

Member Voss asked for any further public comments. There were none.

Other Business
None.

Public Comment
Chair Arden asked for public comments. There were none.

Adjournment
Meeting adjourned at 3:37 p.m.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Jessica Arden

Jessica Arden