



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”)

December 9, 2019

California State Capitol
Room 2040
1315 10th Street
Sacramento, CA 95814

MEETING MINUTES

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Jessica Arden, Vice Chair
Marjorie Del Toro

STAFF:

Tony Marino, Executive Officer
Brittney Branaman, Policy and Budget Manager
Jeff Brooks, Attorney
Jason Corsey, Chief of Investigations
Carla Newman, Supervising Investigator
Tom Finn, Operations Manager

Michael Ehgott, Special Investigator
Dennis Fenton, Special Investigator
Kerstin Tomlinson, Education and Outreach Officer
Jenni Reed, Policy and Data Analyst
Jeff McClenahan, Office Technician

December 9, 2019
10:00 a.m.

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Room 2040
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OPEN SESSION

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

Agenda Item No. 1: Executive Officer's Report

Executive Officer Tony Marino explained the emergency evacuation procedures.

Policy and Budget Manager Brittany Branaman provided a Human Resources update.

Mr. Marino provided an update on the Lakewood Office flooding impacts.

Education and Outreach Officer Kerstin Tomlinson provided an update on recent Board activities: an update on the Board's three planned educational sessions at the upcoming Common Ground Alliance ("CGA") conference; articles by staff submitted to Damage Prevention Pro magazine, the Excavation Safety Guide and Directory, and the annual newsletter of the one-call centers; staff presentations for a United Contractors ("UCON") event in San Ramon, multiple safety breakfasts held by USA North 811, Pacific Gas & Electric ("PG&E"), and the Sacramento Municipal Utility District ("SMUD"), the California Water Environment Association ("CWEA") Safety Day in Woodland, an Underground Safety Awareness event hosted by Dig Alert and Southern California Gas in Northridge, the California Regional Common Ground Alliance ("CARCGA"), and the one-call center boards.

Mr. Marino provided a review of the Board's Legislative Hearing Review on November 8, 2019, including thank you card from Senator Hill; an update on delay of the Area of Continual Excavation (ACE) and Power Tools regulation package to April 1, 2020 with the Office of Administrative Law ("OAL") requesting wording clarifications rather than any substantial changes.

Attorney Jeff Brooks provided additional detail on the language concerns of OAL.

Chair Voss asked for comments from the Board.

Members asked for further clarification on the language regarding reference to versions of CGA best practices and the timing of the area of continual excavation aspects of the regulations, which staff provided.

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

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

Agenda Item No. 2: Board Member Public Engagement Reports

Member Bianchini provided an update on his participation at the recent UCON event, including a recent experience involving a near miss on a high pressure gas transmission line, a lack of mechanism for the Board to be made aware of near-miss events, a lack of available options through the one-call centers, and for this to be an agenda item in January for a presentation by the people involved.

Members discussed clarification on appending records of damages after the fact as comments within tickets via the one-call centers, the impracticality of providing updates by phone through the USA North 811 system as opposed to email to the utility and/or locating company directly, clarification on the possible agenda item on near misses and this recent event, support for the agenda item and discussion on reporting near-misses with respect to improving safety, an invitation for CARCGA to discuss the circumstances of this incident, and differences and normalization of the one-call centers.

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

Chair Voss asked for comments from the public.

A representative of USA North 811 discussed working on standardization of damage tickets between the one-call centers and any related notifications, the rationale of steering users toward their online platform, the information included in a phone call previously and today, workload of call center staff, the lack of any existing mechanism to handle near-miss reporting as opposed to the existing damage ticket process, the availability of a category for near-misses within the CGA Damage Information Reporting Tool (“DIRT”) tool, and that improvements to the phone system are in process as they have just moved to a new system and further changes are being investigated.

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. 3: Discussion on Receiving and Responding to Public Questions and Requests

Ms. Tomlinson and Mr. Brooks presented the staff report and the potential benefits to the Board of normalizing the process by which ideas and questions from the public are handled.

Chair Voss asked for comments from the Board.

Members and Mr. Brooks discussed the questions included in the staff report, a lack of policy and procedure for requests, the complexities and context of any questions, the possibility of setting precedent by providing answers, a need for a recorded library of matters of public and Board concern, the need for stakeholders to be assured they are complying with the law, interpretation of the law in general, the language of 4216 and areas in which the statutory language seems understandable and vague, and the purpose of the Board.

Chair Voss asked for comments from the public.

A representative of PG&E discussed ambiguity in the statute and that stakeholder questions are for legal interpretation and the commonality of such questions among stakeholders.

A representative of the California Public Utilities Commission (“CPUC”) discussed the responsibilities of the Board, possible aspects of litigious influence, and CARCGA’s work on interpreting certain aspects of 4216.

Mr. Marino asked for a presentation from the CPUC on how the CPUC addresses requests of legal interpretation.

A representative of the Office of the State Fire Marshal (OSFM) Pipeline Safety Division raised support for the Board providing an interpretation of 4216.

Board members discussed approaches to relationships with the public and stakeholders, the benefit of addressing questions appropriately, the complexity of 4216 issues in full reality, the relation of certain questions with litigation and court decisions, the need for research, and the priorities of the Board.

Mr. Brooks pointed to staff resources and the exceptionality of such a process for public input.

Members of the public discussed legal interpretations, the commonality of certain questions, the authority of the board to make regulation or interpretation, priorities of the Board, deviation and standards, the idea of frequently asked question (FAQ) documents, and answers to certain questions provided by the one-call centers as an interpretation.

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: Draft Strategic Plan

Mr. Marino reviewed the development of the Strategic Plan, prioritization of Board activities for the next three years, analysis as the time expensive step in this process, the rapidity of Board progress, the insufficiency of the Spring Forum for all feedback and input from stakeholders, idea registry as a channel for intaking questions and ideas and aligning them with the strategic directions of the Board and for use in the annual planning process, and pushing stakeholders for system description of the hazards and complexities known to them.

Chair Voss asked for comments from the Board.

Members and Mr. Marino discussed the urgency of certain stakeholder requests, the interrelation of certain ideas with Board objectives, requests of the legislature, staff resources and the certain questions that staff can resolve, interpretation of statute through regulation, the role of data analysis in the process, learning through investigations and past rulings, the accessibility of the idea registry to the public, enforcement of 4216, interaction of the case management system and investigations process with the idea registry, input to the registry from education and outreach activities, referral of ideas if they fall outside of Board jurisdiction, development of an input form, capture of comments from those who may not use a form, and updates to the registry over time.

(Meeting recessed at 11:50 a.m. and resumed at 1:30 p.m.).

Member Munoz commented on the nascency of the Board.

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: Draft Emergency Regulations Allowing Electronic Positive Response Extension Applications (AB1166)

Mr. Marino and Mr. Brooks presented on the proposed regulations, the question of what constitutes good cause, the voting timeline in January or February, the intended function of emergency regulations, and staff recommendations for the extension application timeline.

Board members and staff discussed flexibility in this timeline, the discretion of the Board and impact on potential timeframe for extension applicants, a rolling basis for review of applications, proposed criteria for what constitutes good cause, limitations on application materials and volume, knowledge of smaller or municipal operators of the impending regulatory requirement, channels available to outreach to municipalities, possible causes of delay of compliance, timeliness of Board review of application within a specified window, staff resources, shifting the framing toward compliance, the lack of authority of the Board to grant exemptions, the provision of maps without locate and mark practices and a disincentive to invest in ticket management technologies, the work of CARCGA and the one-call centers to standardize response codes, levels of voluntary use of electronic positive response (“EPR”) in the industry, communication hurdles of the one-call centers, single page plans with milestones in the application, application cutoff dates, determination of corrective actions for non-compliance, and scope of authority of the Board in this regulation.

Chair Voss asked for comments from representatives of the one-call centers.

Representatives of USA North 811 and Dig Alert discussed a high volume of questions on AB 1166, the options for EPR for members with lower ticket volume, a lack of reasons for good cause in delays for compliance, the splitting of member codes into codes per each utility type and EPR for each utility type, and statistics on current voluntary use of EPR.

Board members and staff discussed concerns that arose in the legislative process over timely compliance for certain operators and options for the Board in this regulation granted by statute.

Board members, representatives from the one-call centers, and staff discussed vendors supplying the available EPR tools and ticket management, the statutory definition of EPR, interactive voice response (“IVR”) as an EPR, optimization of available codes based on feedback from the experiences of other states with EPR, specifics of one-call center technical capabilities, and cases in which operators may or may not benefit from extensions.

Chair Voss asked for comments from the public.

Members of the public discussed the importance of AB 1166 for improving safety, a suggestion to reach out to municipal organizations, review of available response codes, following up with extension applicants, possible penalties for non-compliance with EPR, and avenues for communication with municipalities.

(Meeting recessed at 3:19 p.m. and resumed at 3:36 p.m.).

Board members and staff discussed draft language of the regulation and its specificity, software availability for EPR and its possible relation to regulation, information necessary to make an informed decision on an application, reasonable impacts from the state budgetary process on compliance, training staff and impacts on job duty statements, the degree of detail that would be satisfactory to approve or decline an application, short term solutions available for compliance, and the use of a baseline approach for applicants to explain why existing solutions are not an option for them.

Chair Voss asked the representative from USA North 811 to explain a hyperlink EPR solution.

The representative described a process in development to utilize a link from the ticket directly to walk through the steps of an EPR and confirmed this would be uniform for both call centers.

Board members and Mr. Marino discussed timing issues for the regulatory process and that the definition of good cause ought to be developed in the AB 1166 committee.

Chair Voss asked for comments from the public.

Members of the public and Board members discussed the feature of tickets routed in email and the availability of a hyperlink, confirmation of provision of EPR, cost to use a ticket management software through Dig Alert, degrees to which certain factors are impacting compliance and the measurement of compliance efforts, and whether a single member must subscribe to software in both northern and southern areas.

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

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

Other Business

None.

Public Comment

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

Adjournment

The meeting adjourned at 4:39pm.

Respectfully submitted,

/s/ Tony Marino

Tony Marino
Executive Officer

Attest:

/s/ Carl Voss

Carl Voss
Chair