Governance Committee Minutes
Date: Tuesday, October 1, 2024
Time: 11am

Members: Jessica Epley, Melanie Lewis, Alba Vogland, Lee Tumminello, Robbie West, KC Chumachenko, and Matt Barrett
Non-Voting Members: Josh Thomas, Kitty O'Keefe, and Micah Brown
Guests: none

1. Announcements and Introductions
    a. Announcements and Guest sign-in
    b. Motion to approve minutes from September 5, 2024, by Lee and seconded by Robbie. Kitty to post on OUNC website.
    c. Comments from the Chair: Jessica thanked members for joining.
2. Old Business
    a. Fact finding results on damage reporting
        i. Jessica reminded members that she and staff met with One Call Concepts on 9.11.24 to discuss mandatory damage reporting/damage tickets. Here are some highlights she shared:
            o Cost for added reporting, tickets
            o Inclusion for date of reporting
            o Would mandatory reporting be used as an emergency ticket
            o What changes would we expect to see
            o Would rule change be needed
        ii. Jessica shared after discussions with OCC, here are some things now to consider:
            o Remember, this effects the excavators and would be asking them to make three phone calls
            o This could become a burden for the excavator community, especially smaller companies
            o Maybe look at enhancements to the existing ticket as an alternative solution
            o OCC shared by adding the mandatory damage ticket, inbound/outbound ticket volume will be impacted. Cost may outweigh additional damage data.
        iii. Josh shared his comments:
            o Start with the end goal per Frank's suggestion
            o What are we trying to accomplish?
            o If you've seen one mandatory damage reporting program, you have seen one. Every state has a different take on it.
            o Possible burden on the system. Consider consolidating the reporting.
            o Can the PUC provide the enforcement needed if this is in place?
            o Josh shared Kansas 811 Damage Ticket Volume (see attachment)
            o Mitch feels the facility operator not the excavator needs to be responsible for damage reporting.
            o Robbie likes the idea of mandatory damage reporting; but sees why it would be hard to enforce.
        Next Action: Jessica reminded members this committee has already made a motion not to recommend this to the board. This effort will conclude unless the board asks the committee for further discussion (a new concept submission form would be needed). As of now our worklog is clear.

3. New Business
    a. Referral of reserve policy reduction proposal from Budget, Audit and Tariff Committee

    Proposed: Modify the reserve policy to specify 30 days for the notification center contract and 90 days for staff costs/other contractual obligations. This would reduce the required reserves on hand from ~$600k to ~$300k.

- o Josh reminded members this came from the last Budget and Audit meeting where Nate Rivera asked for this change (Nate said he did not want a status quo budget). Because OCC is paid first, Nate felt we do not need to keep three months of operating funds in reserve.
- o We need to create a Concept Submission form for this along with the Service Tariff proposal to get it referred to the committee by the board.
- o This committee will likely have these two new suggestions to the worklog soon.
- o Jessica reminded how the OUNC Board needs to use the process that we the board created using the Concept Submission Forms.

4. For the Good of the Order

5. Next Meeting: Jessica would like to schedule mid-November for next meeting.

Meeting adjourned at 11:25 am
Kitty submitted minutes on September 11, 2024

ISSUE SUMMARY
#24-09-0043

SUBJECT: Data and Research Fact Finding Report
DATE: September 2, 2024
PREPARED BY: Josh Thomas, Executive Director
COMMITTEE: Data and Research

In response to recent concept submission forms and conversations at the board and committee levels, Data and Research Committee Chair Lee Tumminello and staff have held a series of meetings with damage prevention experts as part of a fact-finding mission to learn more about topics including mandatory damage reporting, mandatory positive response, and generally how our counterparts collect, analyze, report and utilize their data.

Starting with staff from the Common Ground Alliance (CGA), we have since met with leaders from South Carolina, North Carolina, Tennessee, Washington, and New Mexico. These states were recommended to us as models by CGA staff. Some calls included multiple experts, and they were all informative and fruitful conversations about what has worked well (and what has not) in their respective states.

While all share the same end goal of reducing damage to underground utilities, there are vast differences between states in terms of staffing, budget, laws, notification centers, enforcement, organizational structure, autonomy, etc. As a result, not everything was directly relevant to what we do here in Oregon, but these are our findings to help inform our next steps.

Collecting and Using Damage Data

At the start of each of these meetings, we explained that we were gathering information on best practices from other states on how they collect and utilize their damage data for two primary purposes: 1) to measure effectiveness/results; and 2) to better target our efforts and resources. All affirmed that there is high value in leveraging data to inform strategy, and all agreed that more could be done in their own respective states.

To some degree, all depend on the Damage Information and Reporting Tool (DIRT) managed by CGA for the collection and analysis of damage data. Unlike Oregon, some have the damage reported directly to them, and they batch and report that information to DIRT themselves. Although some excavators and operators in those states still report directly into DIRT as well.

- All use data to help identify root causes, trends, correlations between activities and damage.

- South Carolina (SC) is a data rich operation. They use an Application Programming Interface (API), Power BI, with ticket data and reports in Tableau. They have possible suggestions for a contractor that could help build dashboards to access current data on a rolling basis.

- North Carolina (NC) voluntarily submitted to DIRT with an API created by staff, and created a spreadsheet with information from month to month. They focus on damage per thousand

transmissions and correlate their data to 100 counties and share the information with coordinated committees across the state. They use the data for friendly competition between counties. They have also worked with a college professor on several papers and research with support from a Pipeline and Hazardous Materials Safety Administration (PHMSA) grant.

- Washington (WA) has an annual DIRT damage report produced by the Washington Utilities and Transportation Commission. They also generate some monthly reports to review the sources and causes of damage or if it's a no-call. Since they are funded partially by PHMSA (50-80%), they do reporting on pipeline and very little on other utilities. They have found delayed entry can pose challenges to getting current damage data (submission date vs damage date).

- Tennessee (TN) utilizes DIRT and said it has given them enhanced credibility through association with a national organization like Common Ground Alliance. They revisit their legislation every three years with their trade association and lobbyists, using the data to inform and engage with supporters in legislature. Their PUC also includes Underground Utility Damage Prevention in their annual report.

- New Mexico (NM) was the outlier that doesn't use the DIRT data as much as other states. They have a curated product from Irth for their damage reporting software. They accept damage reporting directly and export the information to DIRT with the root cause analysis from their investigation. They produce an annual damage report and share the information at a regional CGA Conference they host.

Mandatory Damage Reporting

Getting more complete and accurate damage reporting is vital to identifying the root causes of damage and to inform strategies to help reduce those risks in the future. While Oregon has decent voluntary participation in DIRT, we know there are a lot of gaps in reporting. This adversely impacts our analysis, findings and conclusions, due to incomplete data.

There has been interest amongst board members in moving toward mandatory damage reporting in Oregon since at least 2019. More recently, our Board Chairperson filed a concept submission form in 2023 to prompt consideration of a new damage ticket and reporting process. CGA is providing new resources including a root cause flow chart and work type mapping to help standardize reporting.

- SC has mandatory reporting for excavators and they are looking at mandatory reporting for more utilities via legislation. They suggest operators require their excavators to report damages. Damages are reported directly to SC 811 and then to CGA (DIRT). They encourage excavators to report and make their story heard and ensure that, "we aren't using damage data to throw rocks, we are using it to educate." They recommended tracking emergency tickets and how they tie to damage. They attribute reductions in no-calls and repeat damages to their efforts.

- NC also requires excavators to report damages to NC 811 and the facility owner/operator. At this time, this can only be done by calling 811 to speak with an NC 811 representative. This started in 2013, and they said even those with mandatory damage reporting are still missing data. They suggested to "start where you are" and build from there.

- WA has had mandatory reporting since 2011 through their [internal system](#) for people to submit and we annually enter damages into DIRT. Submissions are 85% operators, 15% excavators. Some unregulated utilities are wary, untrusting and concerned about self-incrimination, and they said telecommunications has been a weak spot. Those not reporting could be referred to the Safety Committee for violation of their dig law.

- TN requires operators whose facilities have been damaged to [report the incident using DIRT](#) or by filing a damage notice with the one-call system. This was implemented in 2021. If a report is made by filing a damage notice with the one-call service, then the one-call service may submit a report of the incident report to DIRT. Excavators must report damage to the operator. They have done outreach and training to encourage submissions, including it as a part of new member utility onboarding. They ensure that members that they will not be penalized for reporting.

- NM requires utility operators to [report damages](#) within 30 days, and it is handled through their call center using IRTH. If there is no ticket to associate the damage with, they can build a damage report. Each damage is investigated to determine the root cause.

CGA staff reminded us during the calls that DIRT is not intended to be used for enforcement purposes. They don't want to dissuade reporting if those submitting the damage are concerned about it being used against them.

Mandatory Positive Response

[Positive response](#) is an important tool that allows facility operators and locators to communicate the status of a locate request directly with the excavator. This full-circle communication saves time, increases clarity and reduces the chance of damage occurring. It is identified as a best practice in the Common Ground Alliance's [Best Practices Guide, Chapter 5 (5.8)](#).

Oregon has offered voluntary positive response since August 2017, and many of the larger locators and operators are utilizing the service today. While positive response provides the status of each utility locate (marked, clear, etc.), enhanced positive response provides hyperlinks with even more detailed information (photos, maps, offsets, etc.) so the excavator knows more about the utilities and job site prior to dispatching resources to excavate. It is identified in the [Best Practices Guide, Chapter 3 (3.31)](#).

- SC has mandatory positive response and their system has popups to encourage its usage. They have found it adds value for all users and they can use the status to monitor on-time response and cases when a locator never responds. It helps with tracking and accountability.

- NC has mandatory positive response, which they also use to track timeliness of locates, changes in status and update tickets. It yields valuable data.

- WA has voluntary positive response but they do not have positive response after the locate is done. With concerns about late locates, they are interested in adding it to the new legislation as a requirement for the facility owner/operator to provide positive response. It has strong support.

- TN adopted mandatory positive response around 2015. There was a learning curve for their users and it was a challenge to help excavators understand and use it. Their positive response rate is

now about 90%. It helps with data insights on ticket status and delays. They are looking at two-way enhanced positive response to allow excavator responses to the locator response.

- TN also mentioned Kentucky has mandatory positive response, but they can choose to use the one call service or contact the excavator directly. They said this approach made it less beneficial and transparent.

- NM has had mandatory positive response since 2012. In 2018 they refined their rules and in 2020 heavy enforcement started with 600 warning letters to violators. That got their attention and holdouts started learning to use the system. They also proactively sold the benefits for contractors and leveraged partnerships to encourage voluntary adoption.

Enforcement

While enforcement was not necessarily a topic we had planned to delve into on these calls, every one of the meetings involved discussions about how it was necessary to ensure compliance. As Laura Harrison of New Mexico 811 said, "Without enforceable action, you can have any rule in the book but it's not going to change anything."

- SC has an automated damage form to create a complaint. The complaint goes to the Attorney General and 811 and the party named has 30 days to dispute. An enforcement subcommittee (made up of various stakeholders) reviews it, and their findings go to the Attorney General to make a final ruling. Their focus is on improvement and changes in behavior, but they are looking at increasing fines and penalties to ensure they are taken seriously.

- NC, like Oregon, has complaint-driven enforcement. They prioritize education over punitive action. They have a 15-person board of stakeholders appointed by the Governor that can require fines and/or training. The complaint requires a response within 30 days. Money collected goes to the education fund (~80k). They are looking to create a liaison position on the board from the utilities commission.

- WA UTC handles pipeline safety, and the Safety Committee, which they said is similar to Maryland's, handles all other complaints. Both parties present their case before the group of industry peers, they do a minor investigation if needed, and the committee rules on it. They have a penalty matrix starting with a warning letter, then a $1,000 fine with potential to waive $800 if you take a training class and have no violation in the next 12 months. If they have another violation, it can cost $2,500 up to $10k (with a proposal to increase the maximum to $25k). They currently have a criminal case that was penalized $10k off the bat plus prosecution. Homeowners are not penalized, but they are looking into it for repeat offenders.

- TN is also complaint-driven, covering damages and violations. Their enforcement board consists of 17 stakeholders with a five member executive committee that hears the complaints. Investigation is only based on the photos and complaint information (not a field investigation). Beyond the dig law, they have rules that point to CGA's Best Practices. Their PUC is the administrative body that receives the complaint (2 people on staff). PUC then sends a citation letter, which usually starts with training/warning, then escalating fines. They are developing a learning management system and require training for no notification.

- NM was most highly regulated with self-described "heavy handed enforcement." With six investigators from the Pipeline Safety Bureau, they were the only state that said they can show up on a dig site for audits/inspections with the ability to enforce/cite on site. They investigate every reported damage for root causes, and they fine and require training for violators. They give warning tickets if locators have not marked after two days have passed, at which time they have two hours to respond or they could incur costs. NM law allows for recovery of losses for excavators including documented down time for costs of late locates. They said 811 and the enforcement officers work well together, they run a report each month with each warning ticket, and send violation letters. All enforcement has a check and balance between parties.

Broadband Fiber Investments

Another topic that came up organically was what states are doing to deal with (or prepare for) the influx of broadband fiber projects in unserved and underserved communities.

- SC is seeing an increase in utilities damaging other utilities – especially fiber. They have had issues with large projects and late locates involving fiber. They're tracking excavators and their tickets and allowing them to push their work dates out. They have been comparing build areas to the tickets and looking at what will be overhead vs underground.

- NC is also seeing fiber builds causing more damage and mentioned telecommunications were a weak spot in their damage reporting.

- NM is pursuing a new rule change for design tickets that don't require digging. This was in response to large fiber projects, as they have had to restrict those tickets. If you aren't digging during the ticket life, you are not going get lines marked. Their dig law says locates cannot overburden a locator, and they recently had a safety standdown for a major operator to hold a conference. For large project tickets, they are mandating meetings every two weeks to share maps, as-builts, conversations in details and impacts to ensure there is a shared understanding of what is happening and when so the locators can reasonably stay ahead of the projects.

- TN and WA did not weigh in on this topic during our conversations.

Conclusion

These conversations covered a lot of ground and provided insights to help guide our decision making. Each of the organizations underscored the importance of evolving and adjusting to the ever-changing landscape with a focus on continual refinement and improvement. With each of the various programs and topics we covered, it was clear that fostering relationships, trust, and two-way communication will be important for successful implementation.

We appreciated the willingness of our counterparts to share information, and each of the other states offered to answer additional questions or even to meet with our committee or board. The same is true of CGA staff, and they tell us they will be rolling our some new and improved resources this quarter, so stay tuned.

Kansas 811

Damage Ticket Volume

Month	Billable Incoming Locate Requests	Damage Tickets	Damages as % of Total Incoming
January 2024	40,214	95	0.24%
February	53,897	204	0.38%
March	56,615	213	0.38%
April	61,077	274	0.45%
May	60,703	262	0.43%
June	52,845	285	0.54%
July	57,136	295	0.52%
August	55,892	283	0.51%
2024 Year-to-Date	438,379	1,911	0.44%

** We have also changed how impacted facility types are entered by CSRs and ITICnxt users when filing a Damage ticket. The changes made will hopefully simplify the process and improve the ability to research and gather data based on damage tickets. Instead of manually entering the facility that was damage the CSR/User will select the facility type(s) from a list of options (Uniform Color Code) and the selections will then be placed in the appropriate field of the ticket.