

**DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING**

Thursday – May 23, 2019 – 9:30 a.m. (MDT)

**Division of Building Safety
1090 East Watertower Street, Suite 150, Meridian
1250 Ironwood Drive, Suite 220, Coeur d'Alene
2055 Garrett Way, Building 1, Suite 4, Pocatello**

MINUTES OF THE MAY 23, 2019 MEETING

NOTE: The following report is not a verbatim transcript of the discussions at the meeting; however, is intended to record the significant features of those discussions.

Chairman Jeffrey Diehl called the meeting to order at 9:30 a.m. (MDT)

Board Members Present:

Jeffrey Diehl, Chairman
Jerry Piper, Vice-Chairman
Jeanna Anderson
Joe Leckie
Bob Chandler
Mark Van Slyke
Roy Ellis
Julie Maki
Nichole Rush
Scott Spears

DBS Staff Members Present:

Larry Jeffres, Regional Manager, Region 1
Patrick J. Grace, Regional Manager, Region 2
Spencer Holm, Deputy Attorney General
Jerry Peterson, Energy Program Manager
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2

◆ **Open Forum**

There were no new issues to discuss under open forum.

◆ **Approval of the May 23, 2019 Agenda**

MOTION: Jerry Piper made a motion to approve the May 23, 2019 agenda as presented. Roy Ellis seconded. All in favor, motion carried.

◆ **Approval of March 14, 2019 Draft Meeting Minutes**

MOTION: Jerry Piper made a motion to approve the March 14, 2019 draft meeting minutes as written. Joe Leckie seconded. All in favor, motion carried.

◆ **Administrative Appeal Hearing**

Granite Excavation--DAM1811-0013 – Brad Sayers represented Granite Excavation, Vance Matthews represented Idaho Power, Compliance Program Specialist Amy Kohler represented DBS, and Deputy Attorney General Spencer Holm was the facilitator. With no objections,

the Chairman approved the introduction of exhibits A through Q into the record. All parties were sworn in and provided testimony to DAM1811-0013, violation of IDAPA 07.10.01.020.01.b *Notice of Excavation*.

MOTION: Joe Leckie made a motion to consider the violation in two separate motions. The first motion for a determination of a violation and the second motion for a determination of the amount.

Board Member Joe Leckie withdrew his first motion.

MOTION: Joe Leckie made a motion the board consider solely the culpability of Granite Excavation as to whether they violated the statutes and then reserve the right of the board to determine an appropriate violation amount, if a violation was deemed accepted by the board. Jerry Piper seconded. All in favor, motion carried.

The Board contemplated the civil penalty value. Suggested fine amounts were \$1,000, \$2,500 and original fine of \$5,000.

MOTION: Scott Spears made a motion the violation value be adjusted to \$1,000. Roy Ellis seconded. Seven ayes and two nays. Motion carried.

Deputy Attorney General Holm explained the rights of Granite Excavation, as well as stated the Division will refund a portion of the fine.

ACTION: The Deputy Attorney General will generate a Final Order on Appeal for the Chairman's signature with a signed copy provided to Granite Excavation.

◆ **National Excavator Initiative (NEI)**

Chairman Diehl explained the history behind the procurement of services through NEI and the Mike Rowe Campaign. The Board voted for DBS to enter into a contract with Sander Resources for the placement of the media content, which was gifted by Intermountain Gas.

MOTION: Roy Ellis made a motion to ratify the contract. Jerry Piper seconded. All in favor, motion carried.

◆ **Education and Training Subcommittee Update**

At the last Education and Training Subcommittee Meeting it was agreed both outreach and broadcast would be the most effective means to meet the Board's education/training needs. Briefly addressed was Energy Program Manager Jerry Peterson's strategic plan for fiscal year 2020, which was provided as a handout.

◆ **Financial Update**

Reviewed was the Damage Prevention Board's FY2020 Financial Report as of March 14, 2019. The FY2021 budget must be submitted by September 1, 2019. DBS is hosting a workshop for the Board on June 14th to assist in better understanding the Joint Finance-

Appropriations Committee, Department of Purchasing, financial constraints and limitations on DBS, how the board spends its money, etc.

With several groups in northern Idaho wanting to donate, it was questioned if this was a good time to collect. Board Member Mark Van Slyke recommended, and Regional Manager Patrick J. Grace agreed, a discussion needs to be held at the June 14th meeting to clarify the process the Board must take to utilize the donated funds.

◆ **Volume Based Considerations (Cont'd)**

Regional Manager Grace requested the topic *Volume Based Considerations (Cont'd)* be discussed prior to the topic *Marking & Locating* as he had to leave the meeting early.

Board Member Bob Chandler provided a handout to be able to add merit to the volume of out-going number of tickets for contractors and locators as it pertains to high versus low volume performances and civil penalties.

Wayne Hammon, Associated General Contractors, acknowledged Board Member Chandler for his insightful ideas; offering to create language in the form of a rule, policy, etc.

Regional Manager Grace suggested rather than implementing a proposal for presentation at the 2020 legislature, DBS track results for the next several months to determine if this is a viable option.

◆ **Marking & Locating**

At an appeal hearing at the March 2019 Board meeting, there was discussion on how things are located. Board Member Nichole Rush provided, in the packet, an article from the 2019 special edition of dp-PRO magazine titled *Understanding the Marks: Locating and Marking Practices*, as well as the Common Ground Alliance's (CGA) newly released *Best Practices 16.0 -- New Practices and Modifications*.

Upon further discussion on CGA's Best Practices Guide, Compliance Program Specialist Kohler will follow-up on whether DBS is a member of CGA and if paper copies can be purchased for the Board Members. In addition, the Compliance Program Specialist will check to ensure a link to CGA's website is on the Board's website.

ACTION: The Compliance Program Specialist will provide information regarding CGA.

ACTION: The topic *Common Ground Alliance* will be placed on the July 18, 2019 agenda as an informational item.

◆ **Senate Bills 1011 and 1073--Update**

Senate Bills 1011 and 1073 passed the 2019 Legislative Session and becomes effective July 1, 2019. Both bills define terms and revise provisions regarding locates and marking of service laterals/underground facilities.

◆ **New Complaint Form**

Board Member Jeanna Anderson recently met with excavators who want to see on the complaint form additional descriptors on the detail of offences; however, noting the current changes to the form, Board Member Anderson is pleased with the format.

There was further discussion on consistency between statute and rule when addressing alleged violators as an “excavator” or “defender”. It was determined the burden of proof is on the complainant; therefore, a new paragraph on page two of the complaint form will read, “In order to have a complete complaint, you will need to provide sufficient proof.”

◆ **Compliance Report**

Reports – The following reports were distributed and addressed by Compliance Program Specialist Kohler: 1) DPB Stats from 1/1/19 to 5/20/19, 2) DAM% NOV Activity by Date (3/5/19 to 5/30/19), 3) DPB Nov Trend, and 4) Sample Reports from DIRT (2018).

◆ **Administrator Report**

Regional Manager Larry Jeffries presented the Administrator Report on behalf of Administrator Chris L. Jensen.

Construction – Construction is an indicator and permits associated with construction is an internal indicator the Division is getting busy.

Program Manager – On behalf of the Administrator, Chairman Diehl affirmed the Board is interested in a program manager for the Underground Facility Program.

Retirement – Board Member Joe Leckie announced he will retire from the Public Utilities (PUC) Commission at the end of May and will not seek reappointment when his term expires on July 1, 2019. Board Member Leckie feels the seat allocated for the PUC and the Commissioners have indicated Darrin Ulmer will apply for appointment from the Governor.

◆ **Adjournment**

Chairperson Diehl adjourned the meeting at 12:10 p.m.

JEFFREY DIEHL, CHAIRMAN
DAMAGE PREVENTION BOARD

PATRICK J. GRACE, REGIONAL MANAGER
DIVISION OF BUILDING SAFETY

DATE

DATE

06/24/2019rb