

**DAMAGE PREVENTION BOARD  
VIDEOCONFERENCE MEETING**

**Thursday – November 29, 2018 – 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 NOVEMBER 29, 2018 MEETING**

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

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

**Board Members Present:**

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

**DBS Staff Members Present:**

Chris L. Jensen, Administrator  
Ron Whitney, Deputy Administrator  
Spencer Holm, Deputy Attorney General  
Larry Jeffres, Regional Manager, Region 1  
Patrick J. Grace, Regional Manager, Region 2  
Adam Bowcutt, Regional Supervisor, Region 3  
Jerry Peterson, Energy Program Manager  
Amy Kohler, Compliance Program Specialist  
Kayla Green, Administrative Assistant 1

◆ **Open Forum**

Civil Penalties/Fee Schedule Adjustment- Jesse Rosin, General Manager for Knife River, asked the Board to consider changing the procedure on the assessment of civil penalties since larger companies will always be assessed the \$5,000 penalty as they have a larger volume of work than smaller companies.

Board to take into consideration a different procedure/method and evaluate something that goes off number of digline tickets or something similar. Another concern is to set the timeframe back as several public members feel the 18 months too long a time frame.

A request from multiple public members is for DBS to provide more detailed information on notices of violations. One public member showed concerns of distance marked and unmarked lines. He provided pictures of this concern. He expressed concern of fines being assessed if shown due diligence. Chairperson Diehl stressed the fact that contractors are also able to make complaints against other companies to address their concerns. Patrick Grace discussed pending legislation for locates providing reasonable accuracy.

The Board will address these concerns on the January 24<sup>th</sup> Agenda.

◆ **Approval of the November 29, 2018 Agenda**

**MOTION:** Chairperson Diehl approved the agenda as presented.

◆ **Approval of the September 27, 2018 Board Meeting Minutes**

**MOTION:** Jeffrey Diehl approve the minutes as written.

◆ **Administrative Appeal Hearing**

King Concrete Construction, LLC--DAM1806-0041 – Gene King and Dave McCarty represented King Concrete Construction, LLC, Compliance Program Specialist Amy Kohler represented DBS, Terry Harpt represented Intermountain Gas, and Deputy Attorney General Spencer Holm was the facilitator. The Board did not object to the introduction of Exhibits A through N (DBS) into the record. All parties were sworn in and provided testimony to DAM1806-0041, violation of IDAPA 07.10.01.020.01.h *Precautions to Avoid Damage*. Amy Kohler presents that King Concrete Construction, LLC is not appealing the fact that the damage occurred, they are appealing the amount of the fee. Compliance Program Specialist Kohler requests to not call witness Terry Harpt. Board Member Leckie asked about how King Concrete Construction, LLC, handles training on facility damage. Dave McCarty explains that they handle an internal training is through a checklist for every construction site, as well as weekly safety meetings that are mandatory attendance for their employees. The policy for King Concrete Construction, LLC, is to terminate employees who hit a facility line. The board asked King Concrete Construction, LLC what they propose as structure for future fines and what they feel would be a bearable fine in the current incident. They felt uncomfortable disclosing a specific amount.

**MOTION:** Joe Leckie made a motion to reduce the civil penalty to \$1500 (one thousand five hundred dollars). Roy Ellis seconded. All in favor, motion carried.

The Deputy Attorney General explained the rights of King Concrete Construction, LLC.

**ACTION:** The Deputy Attorney General will generate a Final Order on Appeal for the Chairman's signature, and provide a signed copy to King Concrete Construction, LLC.

◆ **2017 PHMSA Report Update**

Regional Manager Patrick Grace updated the board on the PHMSA evaluation the state of Idaho received. The score of that evaluation was 191 (one hundred ninety-one) out of 258 (two hundred fifty-eight). That is considered an adequate score. Mark Van Slyke, Patrick Grace and David Applebaum held a meeting on November 15<sup>th</sup>, 2018. Patrick Grace provided a handout for PHMSA compliance. David Applebaum is looking for information on exemptions from the board, that information will be provided through the Deputy Attorney General's office. There was a note that the state of Idaho did reduce damages from 8.1 per 1000 (one thousand) to 8.3 per 1000 (one thousand). The goal is to continue to work towards reduce damages to less than 2.0 per 1000 (one thousand). Regional Manager Grace will address areas of improvement on the January 24, 2019 meeting agenda.

◆ **Education and Training Update**

Board Member Jeanna Anderson updated the board on the processes the committee has been doing for training, as well as the future goal for ease of training. She discusses the outreach programs

they have been working on with Jerry Peterson. The homeowner handbooks and digline brochures are printed for the year. Her concern is how citizens are getting access to training, where and how to reach out to provide the training. She discusses advertising concerns and shares Mike Rowe Initiative with the National Excavator Initiative. Her concern is that the board will be unable to utilize funds for advertising in the FY2019, so she would like to discuss getting funds together for advertising in FY 2020/2021. Board Member Anderson will send links to the board for them to view the videos she referenced. Chairperson Diehl requested clarification on if the \$100,000 (one hundred thousand dollars) advertising budget included distribution or was to purchase the content. Board Member Anderson will look further into this topic.

◆ **Training and Industry Feedback**

Program Manager Peterson presented on his trainings across the state. He updated that the online course is available. It comes highly recommended from Board Member Rush. Jerry Peterson further presents on the completion of the printing of the handouts. He talks on how there have been requests to print the handouts in Spanish. He furthers to discuss the 8 (eight) trainings he has provided since the last board meeting. Manager Peterson shared his experiences with companies on their concerns with locate tickets. Within that, the law does not require the locate ticket to be onsite. He has been encouraging those who attend training to ensure that a copy of the locate ticket is available at the job site. He provided the board with his recent fliers for trainings. Manager Peterson is looking into providing monthly training at DBS. The totals from training are 13 (thirteen) trainings from July 1, 2018 to current with 207 (two hundred seven) participants. The totals from the inception of the program in February 2018 is 36 (thirty-six) trainings with 742 (seven hundred forty two) participants. His shares his concern with the issue of sewer laterals, to which DAG Holm stated that sewer laterals going to legislature next session. Board Member Van Slyke asked if the proposed or pending rules and legislature was on the DBS website. Amy Kohler answered that it is not on the Damage Prevention Board website but is available on the DBS website. Amy Kohler will investigate onto adding a link to the Damage Prevention Board website. Jerry Peterson and Patrick Grace will provide a .PDF copy of the Damager Prevention proposed rules and changes. Program Manager Peterson is also looking to have an active contact list for trainings that is divisible by regional area and area of expertise.

◆ **Compliance to 811 Law**

DAG Spencer Holm updated on the information that state agencies are required to participate in the 811, one number. Ron Whitney updates on a meeting with Idaho Department of Transportation(ITD). There was concern with the issues on contractors having to make multiple calls for locates. ITD is receptive to attending the January 24<sup>th</sup> board meeting to discuss the issues. Board Member Julie Maki expressed her concern with how ITD functions as districts within the state. Regional Manager Grace shared the discussion he had with ITD in reference to the requirement to apply for permits through ITD to do work on their areas.

◆ **Financial Update**

Board Member Nichole Rush and Deputy Administrator presented a spreadsheet of the financial status of the DPB. The board has received spending authority on \$50,000 (fifty thousand dollars) from monies received from the one-call. To date, the board has spent \$16,818.78 (sixteen thousand eight hundred eighteen dollars). With the budgeted projection, the board will be aligning with spending authority. The board will have \$32,182 (thirty-two thousand one hundred eighty-two dollars) in excess cash above what they have spending authority, due to that the FY2020 budget

request was \$81,400 (eighty-one thousand four hundred dollars) in spending authority. They further presented on the funds from the PHMSA grants and violation fines. Violation fines are only authorized to be spent on training and education. To date, the board has received one-half of the PHMSA grant with the goal of filing for the next one-half in March of 2019. To date, they have received one-half of the PUC grant with the other one-half to be received by March. The PUC grant monies must be spent before the end of the FY2019 fiscal year. The board received a donation from Intermountain Gas in September 2018 towards printing handbooks and manuals. With the total expenses projected, the board will be spending \$49,000 (forty-nine thousand dollars) of the \$157,384 (one hundred fifty-seven thousand three hundred eight four dollars) available. This leave a remaining balance of \$108,384 (one hundred eight thousand three hundred eighty-four dollars). Chairperson requests Deputy Administrator to extend the financial report to FY2021 in January 2019 meeting.

◆ **Joint States Meeting Update**

Board Member Nichole Rush shared the board members experience at the Joint States Meeting which was held in Washington. The meeting focused on reaching out to the new generation that is up and coming in the workforce. Board Member Julie Maki discussed the presentation from Common Ground Alliance (CGA) which showed the statistics that would be available from the DIRT tool. The Joint States Meeting presented a mock hearing during their conference.

◆ **Idaho Code § 55-2205 “Excavators Calling Their Own Locate Requests”**

Board Member Julie Maki presented on §55-2205. There have been issues of homeowners to call in the requests, which is a violation of the Idaho Code. The 811-call center has been trying to encourage the companies to follow the law and have the excavators themselves. Another concern is having other company employees or members call in locate requests for their excavators. The request is to further educate those calling in or during training and education.

◆ **Letter to Facility Owners Regarding Reporting Damages**

Board Member Nichole Rush requests the boards input on how to reach out to facility owners on the requirement to report damages. Regional Manager Patrick Grace expanded upon the discussion Board Member Rush and DBS had on sending a letter out to underground facility owners. The deadline for DIRT is March 31, 2019. Chairperson Diehl suggests a reminder letter on DBS letterhead from those who are already members of the one-call. Board Member Maki can use a query from the one-call members list.

◆ **Compliance Report**

Damage Prevention Case Report – Compliance Program Specialist Amy Kohler presented a handout on the compliance report. Collections are reported at an 50% (fifty percent). DBS has drafted a late notice of collections. They will be meeting with a collections agency in December 2018. Chairperson Diehl would like to see a graph over monthly collections. This will be discussed further at the January 2019 meeting. Amy Kohler presented on updating field information for the complainant form to comply with the PHMSA audit.

◆ **Administrator Report**

Deputy Administrator Whitney updated the DPB on the health of DBS Administrator Jensen and the intent of Governor-Elect Little to reappoint Administrator Jensen to DBS.

Financial Report – This is a regularly address board meeting agenda item.

◆ **Civil Penalties/Fee Schedule Adjustment (Cont'd)**

Board Member Rush requested further discussion on the civil penalties/fee schedule adjustment that was originally brought up in the Public Forum. Chairperson Diehl requested that this be placed on the January 24, 2019 agenda.

◆ **Adjournment**

MOTION: Chairperson Diehl adjourned.

The meeting adjourned at 3:02 p.m. (MST)

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JEFFREY DIEHL, CHAIRMAN  
DAMAGE PREVENTION BOARD

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CHRIS L. JENSEN ADMINISTRATOR  
DIVISION OF BUILDING SAFETY

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DATE

01/10/2019kh

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DATE