

**DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING**

Thursday – September 26, 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 SEPTEMBER 26, 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
Bob Chandler
Scott Spears
Roy Ellis
Julie Maki
Vaughn Rasmussen
Nichole Rush
Darrin Ulmer

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
Amy Kohler, Compliance Program Specialist
Renee Bryant, Administrative Assistant 2
Jamie Buckingham, D. P. Program Representative

◆ **Acknowledgements**

Darrin Ulmer, Public Utilities Commission (PUC) Employee Representative, was welcomed as the newest member on the Board. In addition, Board Members Nichole Rush and Bob Chandler were congratulated on their reappointments.

◆ **Open Forum**

Conduits and Locates – A safety concern was brought forth where locators cannot locate conduits in the common trench without wires. A utility company hits the conduit; generating a citation. When asked, Thomas Nelson, Thomas Nelson Homes, suggested pulling in a locate wire as part of the conduit installation.

Existing Lines and Locates – The question arose whether a homeowner is responsible for an existing line that gets broken even after they have called 811 and locates have been marked. The answer is yes, as it would be a private line, which the homeowners of the property own. As a reminder, at the end of all Digline calls there is a “Locate Policy” that addresses private lines.

◆ **Approval of the September 26, 2019 and August 1, 2019 Meeting Minutes**

MOTION: Roy Ellis made a motion to approve the agenda as presented. Scott Spears seconded. All in favor, motion carried.

MOTION: Bob Chandler made a motion to approve the meeting minutes as written. Nichole Rush seconded. All in favor, motion carried.

◆ **Administrative Appeals Hearing**

Knife River--Dam1905-0013, Dam1906-0021 and Dam1906-0009 – The Division discussed with Knife River a new proposed fee schedule, which will be addressed under the *Compliance Report*. As a potential financial benefit, Knife River agreed to postpone its three appeals until the November 2019 Board meeting to allow the Board to properly review the fee structure.

ACTION: The topic *Knife River--Dam1905-0013, Dam1906-0021 and Dam1906-0009* will be placed on the November 2019 agenda as an action item.

Bybee Excavation--DAM1906-0031 – Greg Bybee represented Bybee Excavation, Terry Harpt represented Intermountain Gas, Compliance Program Specialist Amy Kohler represented the DBS, and Deputy Attorney General Spencer Holm was the facilitator. With no objections, the Chairman approved the introduction of Exhibits A through W into the record. All parties were sworn in and provided testimony to DAM1906-0031, violation of IDAPA 07.10.01.020.01.e *Failure to Wait for Locate or Maintain Markings*.

MOTION: Bob Chandler made a motion to deny the appeal based on the fact the locate was visible and both parties admitted to it. Roy Ellis seconded. Five ayes and three nays. Motion carried.

Deputy Attorney General Holm explained the rights of Bybee Excavation.

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

Hartley Dirtworks--DAM1906-0025 – Greg Hartley represented Hartley Dirtworks, Terry Harpt represented Intermountain Gas, Compliance Program Specialist Amy Kohler represented the 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 DAM1906-0025, violation of IDAPA 07.10.01.020.01.e *Failure to Wait for Locate or Maintain Markings*.

MOTION: Nichole Rush made a motion to deny the appeal with modification that the civil penalty be reduced to \$2,500.00. Roy Ellis seconded. All in favor, motion carried.

Deputy Attorney General Holm explained the rights of Hartley Dirtworks, 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 Hartley Dirtworks.

◆ **Election of Officers**

In statute, the chairman and vice-chairman may not hold a position for more than two consecutive terms. Chairman Jeffrey Diehl and Vice-Chairman Jerry Piper have served one year; therefore, are eligible to hold office for one more term.

MOTION: Vaughn Rasmussen made a motion to reappoint Jeffrey Diehl as chairman and Jerry Piper as vice-chairman. Roy Ellis seconded, ceasing nominations. All in favor, motion carried.

◆ **Schedule 2020 Board Meeting**

The proposed 2020 Damage Prevention Board meeting dates are as follows: January 23, March 12, May 28, July 16, September 24 and November 19.

MOTION: Bob Chandler made a motion to accept the calendar for the 2020 board meetings as presented. Darrin Ulmer seconded. All in favor, motion carried.

◆ **Education and Training Subcommittee Update**

Board Member Julie Maki provided the following updates on the Mike Rowe Campaign: 1) Electronic media, 2) Website traffic, 3) TV coverage, 4) Brochure mailing (14,000 in Idaho), and 5) Updated Damage Tracking App (Free/all stakeholders/download into DIRT).

The Board was asked to start considering the purchasing options for next year's marketing; i.e., sole source, out-to-bid, etc. Chairman Diehl challenged the subcommittee to contemplate options/suggestions and bring them to the November 2019 meeting.

ACTION: For the November 2019 Board meeting, the subcommittee to bring ideas on future education and training.

◆ **Damage Prevention Training Report**

The Idaho Damage Prevention Training Report was addressed to include the following topics: 1) August and September training schedules, 2) Fake emergency 811 calls, 3) DP Pro Magazine (Idaho named one of the task team members for the nation), 4) Education and online opportunities (Funds available through grants for digital online training and modules only), and 5) Build new platform (webinars/interactive trainings/videos).

◆ **Financial Update**

Deputy Administrator Ron Whitney reviewed, in-depth, the FY2019/FY2020 financial spreadsheets.

DBS was awarded the full amount, \$100,000, of the Pipeline and Hazardous Materials Safety Administration (PHMSA) grant, which allows the Division to make a request for half of the funds now and the other half at mid-term reporting. In addition, a grant has been submitted through PUC for an additional \$60,000. It is unsure if PUC has received notification of the award yet. The Division is in the process of negotiating, through a new Memorandum of Understanding, with PUC as they are the applicant on the grant; however, the responsibility is passed to DBS.

◆ **PHMSA Report**

The Board was informed of the response DBS has made to the PHMSA Evaluation Checklist for Idaho's 2018 audit. Although normally due in November, the deadline this year is September 30, 2019. It is Regional Manager Patrick J. Grace's understanding PHMSA is not as concerned about the transmission lines, as they are about service related lines and how many hits. PHMSA also wants to know what exemptions are in the state laws and the effects of those exemptions.

◆ **Damage Prevention Program Manager**

DBS was tasked with creating a job description for a program manager to oversee the Damage Prevention program. It was determined the best classification would be a program specialist as it is a bit more appropriate and fitting for the position the Board is looking for. Provided was the job description, job duties, minimum qualifications, and preferred qualifications for a Damage Prevention Program Specialist. The Board was encouraged to review the announcement and provide suggestions/comments to Deputy Administrator Whitney.

◆ **Administrator Report**

Status of Rules – The Board approved “pending rules” at its August 1, 2019 Board meeting; however, since then the Governor's office has asked for further consolidations/cuts/administrative revisions as part of the Red Tape Reduction Act. On October 1, 2019, a public hearing will be held to allow for public comments on all the Board's rules under DBS. On October 2, 2019, special meetings will be held for each board, in succession, to approve these pending rules that will go before the 2020 legislature.

Construction – There is no sign of construction slowing down. Over the last few days, DBS has consistently received an average of 300 permits per day.

◆ **Compliance Report**

Reports – Briefly reviewed was the DAM% NOV Activity by Date report, as well as the DBS Stats from 1/1/19 to 9/11/19 report.

Website – Access Idaho is revamping the websites of all state of Idaho agencies. The Board's website, current and new, was viewed. The content is the same, just a different layout.

Idaho's Guide to Safe Digging – The guide has been updated with the 2019 changes and is ready to go to print. Suggestions to add to the guide are: 1) Training content and/or material, 2) Frequently Asked Questions (FAQ) from training programs, and 3) Summary of current changes in statute and rules; i.e., titles, chapters, etc. (bullet points). It was also suggested to post the summary of changes to the Board's website

Proposed Fee Schedule – The Division has developed a new civil penalty fee structure based on a tier system. The violations were categorized into three tiers; Tier 1-most egregious, Tier 2-less egregious and Tier3-least egregious. The civil penalty dollar amounts for each category is based on the first violation, up to the fourth violation.

There was concern the violation “Failure to Use Reasonable Care” should be moved from Tier 3 to Tier 2, based upon carelessness. Upon further discussion, and evaluation of the structure, the Chairman agreed “Failure to Use Reasonable Care” should be moved to Tier 2, with the balance of violations remaining as listed. In addition, the colors of the pyramid should be Tier 1-red, Tier 2-orange and Tier 3-yellow.

◆ **Adjournment**

Chairman Diehl adjourned the meeting at 2:05 p.m.

JEFFREY DIEHL, CHAIRMAN
DAMAGE PREVENTION BOARD

CHRIS L. JENSEN, ADMINISTRATOR
DIVISION OF BUILDING SAFETY

DATE

DATE

10/10/2019rb