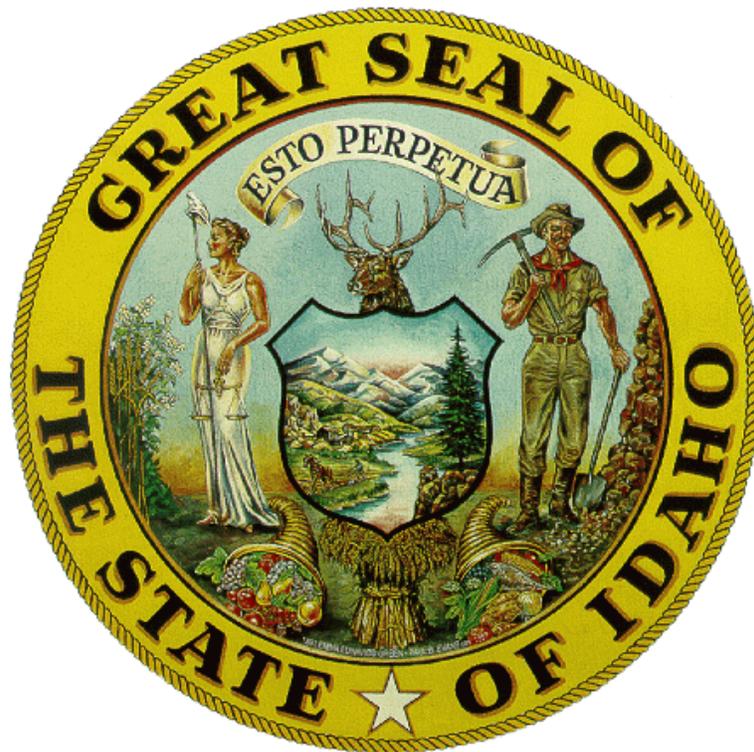


DIVISION OF BUILDING SAFETY

DAMAGE PREVENTION BOARD  
VIDEOCONFERENCE MEETING

MARCH 22, 2018



# DAMAGE PREVENTION BOARD

## Agenda Item No. 01

## Agenda

**PRESENTER:** Mark Van Slyke, Chairman

---

**OBJECTIVE:** Approve agenda for the March 22, 2018 Damage Prevention Board meeting.

---

**ACTION:** Consent

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Tentative Agenda

---



# **TENTATIVE AGENDA**

## **NOTICE OF PUBLIC MEETING**

### **DAMAGE PREVENTION BOARD VIDEOCONFERENCE MEETING**

**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  
dbs.idaho.gov – (208) 332-7137**

**Thursday, March 22, 2018  
9:30 a.m. – 3:00 p.m. (MDT)**

*(Note: North Idaho - Meeting Commences @ 8:30 a.m. PDT)*

- 
- 9:30 a.m. CALL TO ORDER** – Mark Van Slyke, Chairman
- Roll Call & Introductions
  - Open Forum

#### **CONSENT AGENDA**

1. Approval of the March 22, 2018 Agenda – Mark Van Slyke
2. Approval of the January 25, 2018 Board Meeting Minutes – Mark Van Slyke
3. Approval of the February 12, 2018 Special Board Meeting Minutes – Mark Van Slyke

#### **ACTION AGENDA**

4. **Administrative Appeals Hearing** – Amy Kohler, Compliance Program Specialist
  - a. **5J Excavation – DAM1801-0017 – Intermountain Gas**

#### **INFORMATIONAL AGENDA**

*(These items are for informational purposes only. Any action will be at the Damage Prevention Board's discretion.)*

5. DPB/DBS Informational Seminars – Vaughn Rasmussen, Vice-Chairman and Jerry Peterson, Program Manager
  - a. 2018 Education & Training Plan
  - b. 2018 Education & Training Meetings
  - c. Training Souvenir Items – Joe Leckie, Board Member
  - d. Remedial & Imposed Training – Jeffery Diehl, Board Member
6. 2019 Proposed Legislation – Patrick J. Grace, Regional Manager

7. DPB Idaho Statutes & Rules – Jerry Piper, Board Member
  - a. Idaho Code §§ 55-2203(13); 55-2203(16) (e) & (f); 55-2205(1)(b) & (c); 55-2205(4); and 55-2210(5)
  - b. IDAPA 07.10.01.002, .005, .008.01, .008.02, .009, .016, .017.01, .018.01
8. PHMSA Audit – Patrick J. Grace
9. Sewer/Water Lines in Right-of-Way – Spencer Holm, Deputy Attorney General
10. Virtual DIRT--Update – Nichole Rush, Board Member
11. Definition of Business Day--Update – Nichole Rush
12. Compliance Report – Amy Kohler, Compliance Program Specialist
  - a. Damage Prevention Case Report
13. Administrator Report – Chris L. Jensen, Administrator
  - a. Financial Report
  - b. Financial Report Format

**3:00 p.m. ADJOURN**

*For additional agenda information, refer to the packet, available one week prior to this meeting, at the DBS's central and regional offices and <https://dbs.idaho.gov/boards/dpboard/dpmeetings.html>.*

*All times, other than beginning, are approximate and scheduled according to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on Board preference. 03/16/2018rb*

# DAMAGE PREVENTION BOARD

**Agenda Item No. 02**

**Minutes**

**PRESENTER:** Mark Van Slyke, Chairman

---

**OBJECTIVE:** Approve the January 25, 2018 Damage Prevention Board meeting minutes.

---

**ACTION:** Consent

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Draft Minutes

---



**DAMAGE PREVENTION BOARD  
VIDEOCONFERENCE MEETING**

**Thursday – January 25, 2018 – 9:30 a.m. (MST)**

**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**

**\*DRAFT MINUTES OF THE JANUARY 25, 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 Mark Van Slyke called the meeting to order at 9:30 a.m. (MST)

**Board Members Present:**

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

**DBS Staff Members Present:**

Chris L. Jensen, Administrator  
Ron Whitney, Deputy Administrator  
Spencer Holm, Deputy Attorney General  
Patrick J. Grace, Regional Manager, Region 2  
Jerry Peterson, Energy Program Manager  
Larry Jeffres, Regional Manager, Region 1  
Jeff Egan, Regional Manager, Region 3  
Amy Kohler, Compliance Program Specialist  
Renee Bryant, Administrative Assistant 2

◆ **Open Forum**

There were no new issues to address during open forum.

◆ **Approval of the January 25, 2018 Agenda**

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

◆ **Approval of the November 30, 2017 Board Meeting Minutes**

On page five under the Administrator Report and Grant, Board Member Joe Leckie proposed changing the word “slush” to “contingency” as it pertains to funds.

MOTION: Joe Leckie made a motion to approve the minutes with the correction. Roy Ellis seconded. All in favor, motion carried.

◆ **DPB/DBS Informational Seminars**

The Division offered, and Vice-Chairman Vaughn Rasmussen agreed, for DBS Program Manager Jerry Peterson to be the point of contact for coordinating/providing training on behalf of the Board.

Currently scheduled presentation: 1) February 20, 2018, Digline Advisory Board meeting; and 2) February 28, 2018, Canyon County Utility Coordinating Council (UCC) meeting. A training calendar will be placed on the Damage Prevention Board's website.

**ACTION:** The Division will add a training calendar to the Board's website.

Deputy Administrator Ron Whitney discussed a handout of the summary of expenses from the 2016 grant. Briefly explained was the expected costs from the 2017 grant. It was determined the Subcommittee would review the summary, and then forward it to the Board.

The Board requested to review the training material prior to the first presentation. A "GoToMeeting" for the Subcommittee will be February 7, 2018, at 1:00 p.m., and a special "GoToMeeting" of the Board will be February 12, 2018, at 9:30 a.m. To abide by the Open Meeting Laws, Board Member Nichole Rush offered to attend the February 12th meeting at the Division's Meridian office.

**MOTION:** Jeffrey Diehl made a motion to authorize the Subcommittee and DBS to move forward with educational training and meetings. Roy Ellis seconded. All in favor, motion carried.

**ACTION:** The Administrative Assistant to send a GoToMeeting request for February 7th to the subcommittee members and DBS staff; as well as a GoToMeeting request for February 12th to the Board and DBS staff.

◆ **Legislative Update**

The Board's temporary rules, effective September 1, 2017, are before the 2018 legislature for review. If approved, the rules become permanent upon sine die of the legislature.

Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor's office.

**ACTION:** Regional Manager Grace will bring suggestions to streamline current statute and rules to the March meeting, as well as submit to the Governor's office a Notice to Engage in Negotiated Rulemaking.

**ACTION:** The topic 2019 Proposed Legislation will be added to the March 2018 agenda as an informational item.

◆ **2018 Board Member Term Vacancies**

Effective July 1, 2018, terms of three board members expire. The current One Number Notification Representative does not want reappointed; however, may continue to serve at the pleasure of the Governor until replaced.

◆ **DPB Member Authorization & Reimbursement for Travel and Expenses**

Clarified was the procedures for approval and reimbursement of board members attending meetings or training seminars on behalf of the Board.

◆ **Sewer/Water Lines in Right-of-Way**

Deputy Attorney General Spencer Holms explained that states are making operators responsible for locating laterals in the Right-of-Way (ROW) as they have operational and administrative control, know where the lateral is located, and has the equipment and expertise. Idaho's statute puts it on the owner to locate; however, the definition of owner includes both owners and operators.

The best way to clarify the definition of "operator" is in rule through negotiated rulemaking. The Deputy Administrator suggested inviting the Association of Idaho Cities and Idaho Association of Counties to the March 2018 meeting. Board Member Jeffrey Diehl asked the Deputy Attorney General to bring to the March 2018 meeting definitions, in context of law, of "owner", "operator", and "liability", to remind the Board of what those perimeters are within the definition.

Chairman Van Slyke stated the topic *Sewer/Water Lines in Right-of-Way* to be further discussed at the March 2018 meeting.

**ACTION:** The Deputy Attorney General to provide definitions of "owner", "operator", and "liability" at the March 2018 Board meeting.

**ACTION:** The topic *Sewer/Water Lines in Right-of-Way* will be added to the March 2018 agenda as an informational item.

◆ **PHMSA Review of the State of Idaho for 2016--Update**

The Division has not received the formal written findings on the 2016 PHMSA audit. When received, a copy will be forward to the Board, as well as posted to the Board's website.

**ACTION:** Upon receipt, DBS will forward the audit to the Board and post on the Board's website.

◆ **Virtual DIRT Update**

Idaho's Virtual Private DIRT is active; however, DBS is trying to verify who is populating the reports and what information to acquire, as there is a vast array of reports available through the program. This is a cumbersome task; therefore, Deputy Administrator Whitney suggested forming a subcommittee to address these issues.

Effective January 2018, the Virtual DIRT program has a new format, and damages in 2017 need entered into this very complex program by March 31, 2018. Board Member Rush would like the Program Manager to put together a tutorial for the Board's website, explaining how to become a Common Ground Alliance (CGA) member, as well as easy instructions to upload data.

Following are the new subcommittee members: Board Members Nichole Rush, Jeanna Anderson, and Bob Chandler, Avista Representative Linda Burger, Intermountain Gas Representative Greg Watkins, DBS Program Manager Jerry Peterson, and DBS Compliance Program Specialist Amy Kohler. The subcommittee was encouraged to communicate with CGA, by suggesting they simplify their program by removing some of the impediments currently in place.

◆ **Definition of Business Day--Update**

The definition of a business day will be a topic of discussion at the February 20, 2018 Digline Advisory Board meeting.

Although Digline and Password are two separate entities, a recommendation was for both call centers to agree upon one definition. At the February 2018 Kootenai County UCC meeting, Board Member Chandler will encourage Password to unite with Digline. As a member of the Advisory Board representing Idaho Power, Board Member Rush will request Digline change its process to reflect what the law says so contractors are not confused when their ticket is due. Speaking for Intermountain Gas, Chairman Van Slyke supported that direction.

The Board will wait until after the February advisory meeting to determine whether to send a letter to one-call businesses within the state, informing them of the State's definition of a business day.

◆ **Compliance Report**

Compliance Program Specialist Amy Kohler created a report based on cases entered into the Division's TRAKiT system. As a first draft, the report included the case number, date complaint issued, offender "case" name, status, fees charged, complainant and follow-up date. As requested, the Compliance Program Specialist will send the report to the Coeur d'Alene and Pocatello offices.

**ACTION:** The Compliance Program Specialist will provide to the Division's Coeur d'Alene and Pocatello offices the Damage Prevention Cases Report.

When asked, the Division is working on a database for the Board's website that will allow individuals to search for specific complaints.

Suggestions for report were: 1) Add a column "location", 2) Substitute case name with an assigned number, 3) Provide report to Board but do not post to website, 4) Change status from "invalid" to "withdrawn" or "dismissed", if no action taken by DBS, and 5) Under "case name", use the person's occupation; i.e., excavator, utility, homeowner, etc., rather than the individual's name.

As requested by the Chairman, the topic *Damage Prevention Cases Report* will be added to the March 2018 Board meeting agenda, providing the Board an opportunity to format the report with fields to represent the Board.

**ACTION:** The topic *Damage Prevention Cases Report* will be added to the March 2018 agenda as an informational item.

◆ **Administrator Report**

Financial Report – Reviewed was Fiscal Year 2018 financial statement, as of December 31, 2017, for the Underground Facilities Damage Prevention Fund. The Board directed DBS to payback the \$25,000 start-up fee of this Board to the PWCL Board.

**MOTION:** Nichole Rush made a motion authorizing DBS to payback the \$25,000 loan to the PWCL Board. Roy Ellis seconded. All in favor, motion carried.

Financial Donations – The Division's budget presentation to the Joint Finance-Appropriations Committee included a \$40,000 expenditure for the Damage Prevention Board based on the \$20,000

donation Intermountain Gas offered and \$20,000 donation the Public Utilities Commission offered for marketing. If approved, DBS will not have spending authority until July 1, 2018. The Education and Training Subcommittee will provide additional information on advertisement, materials, etc., at the March meeting, and throughout the year.

Publication of Rules – Available through DBS are 1,000 draft rule booklets. The next publication will combine the statutes and rules into one booklet.

◆ **Adjournment**

**MOTION:** Jerry Piper made a motion to adjourn the meeting. Jeffrey Diehl seconded. All in favor, motion carried.

The meeting adjourned at 12:30 p.m. (MST)

\_\_\_\_\_  
MARK VAN SLYKE, CHAIRMAN  
DAMAGE PREVENTION BOARD

\_\_\_\_\_  
CHRIS L. JENSEN, ADMINISTRATOR  
DIVISION OF BUILDING SAFETY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

\*These DRAFT minutes are subject to possible correction and final approval by the Damage Prevention Board. 03/07/2018rb

# DAMAGE PREVENTION BOARD

**Agenda Item No. 03**

**Minutes**

**PRESENTER:** Mark Van Slyke, Chairman

---

**OBJECTIVE:** Approve the February 12, 2018 Special Damage Prevention Board meeting minutes.

---

**ACTION:** Consent

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Draft Minutes

---



**DAMAGE PREVENTION BOARD  
SPECIAL MEETING**

**Monday – February 12, 2018 – 9:30 a.m. (MST)**

**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**

**\*DRAFT MINUTES OF THE FEBRUARY 12, 2018 MEETING**

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

Chairman Mark Van Slyke called the meeting to order at 9:31 a.m. (MST)

**Board Members Present:**

Mark Van Slyke, Chairman  
Jeanna Anderson  
Jerry Piper  
Jeffrey Diehl  
Linda Phillips  
Bob Chandler  
Scott Spears

**DBS Staff Members Present:**

Chris L. Jensen, Administrator  
Ron Whitney, Deputy Administrator  
Spencer Holm, Deputy Attorney General  
Patrick J. Grace, Regional Manager, Region 2  
Jerry Peterson, Energy Program Manager  
Larry Jeffres, Regional Manager, Region 1  
Jeff Egan, Regional Manager, Region 3  
Amy Kohler, Compliance Program Specialist  
Renee Bryant, Administrative Assistant 2

◆ **Presentation**

Damage Prevention Board – Complaint Overview – Jerry Peterson, Damage Prevention Education and Outreach Specialist, gave a PowerPoint Presentation titled *Damage Prevention Board – Complaint Overview*. The presentation, approximately 15 minutes with an additional five minutes for questions and answers, will be provided at industry-related meetings. For training, Mr. Peterson will create a one-hour course.

The following suggestions were offered to help improve the presentation: 1) Virtual Private DIRT – Instructions on how to enter information, emphasize reporting requirements, navigate to DIRT program from DBS website, and add link to DIRT's training tutorials, 2) Use Idaho Code § 55-2203 for introduction of Board, 3) Identify Administrator from DBS, and 4) Clarify reasons to file a complaint.

Training Calendar/Request Form – The DBS Damage Prevention Training Calendar is on the Board's website. The calendar will be color coded to identify public vs. private meetings. A business card with Mr. Peterson's information, as well as information on 811 was distributed.

A fillable training request form is on the Board’s website. Mr. Peterson asked the Compliance Program Specialist to look into whether it is feasible to add a “submit” box to the form in order for him to receive the forms directly by email.

**ACTION:** The Compliance Program Specialist will research to see if it is possible to add a “submit” box to the Training Request Form.

Statute and Rules – The printed statutes and rules are available for distribution, and will be part of Mr. Peterson’s handouts at meetings/trainings.

Frequently Asked Questions (FAQ) – Currently, there are three pages of FAQ and one-page of acronyms. The Division and Board’s websites will include those documents. In addition, the Board’s main page will have a “link” back to the Division’s website.

**ACTION:** The FAQ and acronyms pages to be included on the Division and Board websites.

**ACTION:** A “link” to the Division’s website will be added to the Board’s webpage.

**MOTION:** Jerry Piper made a motion to approve the presentation with modifications addressed at today’s meeting. Jeffrey Diehl seconded. All in favor, motion carried.

◆ **Adjournment**

The Chairman adjourned the meeting at 10:12 a.m. (MST)

\_\_\_\_\_  
MARK VAN SLYKE, CHAIRMAN  
DAMAGE PREVENTION BOARD

\_\_\_\_\_  
CHRIS L. JENSEN, ADMINISTRATOR  
DIVISION OF BUILDING SAFETY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

\*These DRAFT minutes are subject to possible correction and final approval by the Damage Prevention Board. 02/28/2018rb

# DAMAGE PREVENTION BOARD

**Agenda Item No. 04a**

**5J Excavation – DAM1801-0017**

**PRESENTER:** Amy Kohler, Compliance Program Specialist

---

**OBJECTIVE:** Administer a ruling on 5J Excavation – DAM1801-0017

---

**ACTION:** Affirm or reject the imposed penalties.

---

**BACKGROUND:** The Notice of Violation was issued based upon a proposed violation to IDAPA 07.10.01.20.01.h “Precautions to Avoid Damage”.

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Documentation from 5J Excavation and DBS

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 05a 2018 DPB Education & Training Plan

**PRESENTER:** Vaughn Rasmussen, Vice-Chairman and Jerry Peterson, Program Manager

---

**OBJECTIVE:** Inform the Board of the plan for 2018 DPB Education & Training.

---

**ACTION:** Informational

---

**BACKGROUND:** February 2018 – The Board viewed a PowerPoint Presentation for presentations at future industry-related meetings and training.

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 05b                      2018 DPB Education & Training Meetings

**PRESENTER:**            Vaughn Rasmussen, Vice-Chairman and Jerry Peterson, Program Manager

---

**OBJECTIVE:**            Inform the Board of 2018 DPB Education & Training Meetings

---

**ACTION:**                Informational

---

**BACKGROUND:**        Jerry Peterson, Damage Prevention Education and Outreach Specialist, has attended several industry-related meetings, providing a PowerPoint Presentation titled *Damage Prevention Board – Complaint Overview*. For training, Mr. Peterson will create a one-hour course.

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:**    No Documentation

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 05c

## Training Souvenir Items

**PRESENTER:** Joe Leckie, Board Member

---

**OBJECTIVE:** Discuss whether the Board can receive and offer free personalized industry-related items; i.e., pens, pencils, calendars, etc., at meetings and training.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 05d “Remedial” and “Imposed” Training

**PRESENTER:** Jeffrey Diehl, Board Member

---

**OBJECTIVE:** Identify program elements for first time offense “remedial” and “imposed” training

---

**ACTION:** Informational

---

**BACKGROUND:** First time offense enforcement action is limited to imposition of training (55-2211). Currently, there are not any training resources identified as suitable for such an imposition.

---

**PROCEDURAL HISTORY:** None

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

**Agenda Item No. 06**

**2019 Proposed Legislation**

**PRESENTER:** Patrick J. Grace, Regional Manager

---

**OBJECTIVE:** Redefine existing statutes and rules.

---

**ACTION:** Informational

---

**BACKGROUND:** January 2018 – Regional Manager Patrick J. Grace offered to present suggested changes, to refine existing statute and rules, at the March 2018 Board meeting. The Board agreed for DBS to submit a Notice to Engage in Negotiated Rulemaking to the Governor’s office.

---

**PROCEDURAL HISTORY:**

---

**ATTACHMENTS:** Supporting Documentation

---



## DAMAGE PREVENTION BOARD

### Possible statutory and/or administrative rule amendments:

#### Statutes:

1. §55-2202: Clarify or include certain definitions, such as “Business Day”, “Hand dig”, “Soft Dig”, or others. Some have indicated these definitions should be revised, or be contained in statutes, and not merely rule.
2. Idaho Code section 55-2205(2) requires identified but unlocatable underground facilities to be located and marked “with reasonable accuracy.” However, by definition, identified but unlocatable underground facilities “cannot be located with reasonable accuracy.” I.C. § 55-2202(9). This may be confusing for underground facility owners. A recommendation is to delete “and with reasonable accuracy as defined in section 55-2202(15), Idaho Code.” And then replace “with reasonable accuracy” in the first sentence of Idaho Code section 55-2202(4) with “in accordance with section 55-2205(2), Idaho Code,” and replacing “reasonably accurate locate information” in the last sentence of Idaho Code section 55-2202(4) with “the information required under section 55-2205(2), Idaho Code.”
3. §55-2208(5): Eliminate the double reporting requirement whereby both excavators and owners are required to report damage to facilities or downtime to the board. The possibility was raised that if both report the same event, it may improperly double our reporting figures.
4. §55-2211 – Clarify that the right to contest the findings DBS makes in response to a complaint includes the right to contest the imposition of training, and not just a civil penalty.
5. §55-2211 – Clarify that DBS has the authority to impose training and civil penalties, and not just merely recommend to the board that such be imposed – while retaining the ability to contest (appeal) the imposition of training/penalties to the Board.
6. §55-2211 – Expressly provide authority for the Administrator, DBS to initiate complaints. PHMSA appeared to desire that the State had the ability to initiate a complaint in the event that a third party did not do so. Procedurally, complaints initiated by the DBS may need to be heard directly by the Board.
7. §55-2211 – Consider establishing the authority of the DBS and/or Board to suspend a portion of any civil penalties that are imposed for a probationary period.
8. §55-2211 – Provide the complaining party with the ability to contest (appeal) DBS’ final determination of a complaint before the Damage Prevention Board. Currently, only the alleged violator has the ability to contest a matter before the board.
9. Provide direction regarding the location of and excavation near sewer and water (service) lateral lines within the public right-of-way and utility easements.

Rules:

1. 07.10.01 § 008.02 & 03: Replace the term “utility owner” with “facility owner.”
2. 07.10.01 § 018.03: Review the 30-day timeline in which Complaints have to file a complaint with the DBS from the date of the incident. Owners have indicated that 30 days is not enough time in which to gather all the information and submit a complaint. Conversely, contractors have also complained to DBS that they may not even remember the facts involving a complaint that is several months old, particularly if it takes DBS another month to process a complaint and notify the alleged violator thereof.
3. 07.10.01 § 018.03: Require the payment of an appearance bond for those who wish to contest the imposition of a civil penalty. The Bond can be in the amount of \$200 or the amount of the penalty imposed, whichever is less.
4. 07.10.01 § 020.01: Include locators as stakeholders who may be eligible for civil penalties for violations of the damage prevention statutes and rules.
5. 07.10.01 § 020.03: Provide clarity that a single incident may result in multiple violations of the damage prevention requirements, and that multiple violations, even if arising from a single incident may result in the imposition of a civil penalty as it may constitute a second offense within the statutory timeframe (18 months)
6. 07.10.01 § 008: Review and possible revision of the (.10¢) per call fee for each notice an owner receives from the one-number notification service.

# DAMAGE PREVENTION BOARD

**Agenda Item No. 07a**

**DPB Idaho Statutes and Rules**

**PRESENTER:** Jerry Piper, Board Member

---

**OBJECTIVE:** Clarify how the attached statutes should apply to the industry.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Idaho Code §§ 55-2203(13); 55-2203(16) (e) & (f); 55-2205(1)(b) & (c); 55-2205(4); and 55-2210(5)

---



**§ 55-2203. Damage Prevention Board.**

(13) The board shall adopt, by rule, a process for reviewing the adequacy of underground facility owners' use of internal performance measures for those locating underground facilities and recommending changes to improve such performance.

(16) The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter. The board is authorized to, and may among other activities:

(e) Enter into agreements with any vendor or contractor to provide services or administer any obligation imposed on the board or the administrator by law, as well as the authority to make expenditures, and to make purchases in accordance with [chapter 57, title 67](#), Idaho Code, to effectuate such agreements; and

(f) Delegate to the administrator the power to perform ministerial functions, conduct investigations, recommend and collect civil penalties on its behalf and appoint hearing officers.

**§ 55-2205. Permit compliance — Notice of excavation — Response to notice — Compensation for failure to comply — Exemptions.**

(1) Before commencing excavation, the excavator shall:

(b) Pre-mark on-site the path of excavation with white paint or, as the circumstances require, other reasonable means that will set out clearly the path of excavation. An excavator need not pre-mark as required in this subsection if:

(i) The underground facility owner or its agent can determine the location of the proposed excavation by street address or lot and block by referring to a locate ticket; or

(ii) The excavator and underground facility owner have had a meeting prior to the beginning of the proposed excavation at the excavation site for the exchange of information required under this subsection.

(c) Provide notice of the scheduled commencement of excavation to all underground facility owners through a one-number notification service. If no one-number notification service is available, notice shall be provided individually to those owners of underground facilities known to have or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated by the excavator to the one-number notification service or, if no one-number notification service is available, to the owners of underground facilities not less than two (2) business days nor more than ten (10) business days before the scheduled date for commencement of excavation, unless otherwise agreed in writing by the parties.

(4) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified or were not located with reasonable accuracy, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number notification service. The excavator shall have the right to receive compensation from the underground facility owner for

standby cost (based on standby rates made publicly available) incurred as a result of waiting for the underground facility owner or the owner's agent to arrive at the work site to identify the unidentified facilities and provided that if the underground facility owner or the owner's agent supplies reasonably accurate locate information within eight (8) hours of the time that the excavator notifies the underground facility owner of facilities not previously located, the excavator's compensation for delay of the excavation project shall be limited to actual costs or two thousand dollars (\$2,000), whichever is less.

**§ 55-2210. Excavations Exempt From Notice Requirement.**

Unless facts exist which would reasonably cause an excavator to believe that an underground facility exists within the depth of the intended excavation, the following excavations shall not require notice of the excavation pursuant to section [55-2205\(1\)\(c\)](#), Idaho Code:

(5) Replacement of highway guardrail posts, sign posts, delineator posts, culverts, and traffic control device supports in the same approximate location and depth of the replaced item within public highway rights-of-way.

# DAMAGE PREVENTION BOARD

**Agenda Item No. 07b**

**DPB Idaho Statutes and Rules**

**PRESENTER:** Jerry Piper, Board Member

---

**OBJECTIVE:** Clarify how the attached rules should apply to the industry.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** IDAPA 07.10.01.002, .005, .008.01, .008.02, .009, .016, .017.01, .018.01

---



**07.10.01 - RULES GOVERNING THE DAMAGE PREVENTION BOARD,  
DIVISION OF BUILDING SAFETY**

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Building Safety offices. (3-24-17)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.** The principal place of business of the Damage Prevention Board is at the Division of Building Safety office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Damage Prevention Board may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d’Alene, Idaho 83814, and at 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810- 2840. The Department website is <http://dbs.idaho.gov>. (3-24-17)

**008. FUNDING OF BOARD ACTIVITIES.**

Each owner of an underground facility shall pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as required by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner shall be collected by the one-number notification service, and shall be payable to the board in accord with the following schedule: (3-24-17)

**01. Fee Assessed.** The fee shall be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-24-17)

**02. Payment Submission.** The one-number notification service shall submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground utility owner is received after the seventy-day (70) period, the one-number service shall include late payments in its next payment to the board. (3-24-17)

**009. AUDIT OF ONE-NUMBER SERVICE RECORDS.**

The board shall have the right to review and audit the payment records of any one-number notification service relating to the collection of the ten cent (\$.10) fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board shall provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. (3-24-17)

**016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.**

The board shall review all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders shall take remedial actions to improve line-locating performance and shall monitor and report performance improvements to the board. (9-1-17)T

**017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.**

**01. Adoption of Technology and Communications Materials.** On an annual basis the board shall review and adopt any available technology and communications materials which promote effective underground facility locating. The board shall make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division of Building Safety website at <http://dbs.idaho.gov>. (9-1-17)T

**018. DAMAGE PREVENTION COMPLAINTS.**

**01. Complaint Forms.** Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division of Building Safety. Forms are available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. They may also be accessed electronically on the Division of Building Safety's website at <http://dbs.idaho.gov/>. Notice of the complaint shall be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator shall also be provided to the administrator. (9-1-17)T

# DAMAGE PREVENTION BOARD

**Agenda Item No. 08**

**PHMSA Audit**

**PRESENTER:** Patrick J. Grace, Regional Manager

---

**OBJECTIVE:** Inform the Board of the results of the 2016 PHMSA report

---

**ACTION:** Informational

---

**BACKGROUND:** January 2018 – The Division has not received the formal written findings on the 2016 PHMSA audit. When received, a copy will be forward to the Board, as well as posted to the Board’s website.

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 09

## Sewer/Water Lines in Right of Way

**PRESENTER:** Spencer Holm, Deputy Attorney General

---

**OBJECTIVE:** Update the Board on any new findings on this issue.

---

**ACTION:** Informational

---

**BACKGROUND:** At the January 2018 meeting, Deputy Attorney General Spencer Holms explained that states are making operators responsible for locating laterals in the Right-of-Way (ROW) as they have operational and administrative control, know where the lateral is located, and has the equipment and expertise. Idaho's statute puts it on the owner to locate; however, the definition of owner includes both owners and operators.

The best way to clarify the definition of "operator" is in rule through negotiated rulemaking. The Deputy Administrator suggested inviting the Association of Idaho Cities and Idaho Association of Counties to the March 2018 meeting. Board Member Jeffrey Diehl asked the Deputy Attorney General to bring to the March 2018 meeting definitions, in context of law, of "owner", "operator", and "liability", to remind the Board of what those perimeters are within the definition.

Chairman Van Slyke stated the topic *Sewer/Water Lines in Right-of-Way* to be further discussed at the March 2018 meeting.

---

## **PROCEDURAL HISTORY:**

---

**ATTACHMENTS:** Definitions

---



Policy

- Operators should be responsible for locating laterals in the right of way because they are best situated to locate them.
  - Operators have operational control over laterals in the right of way, owners do not.
  - Operators have knowledge of where the laterals in the right of way are located, owners do not.
  - Operators have the equipment and expertise to locate and mark the laterals, owners do not.

Proposal

- Define “underground facility operator”
  - Currently, I.C. § 55-2202(19) defines “underground facility owner” to mean “any person who owns or *operates* an underground facility.” The rule would further clarify what an “underground facility operator” is.
  - Oregon - OAR 952-001-0010(15) “Operator” means any person, municipal corporation, political subdivision of the state with control over underground facilities. Operator includes any person, as defined in ORS 756.010, having the right to bury underground facilities in any public right-of-way, or in any utility easement.
  - Washington - RCWA 19.122.020(11) “Facility operator” means any person who owns an underground facility or is in the business of supplying any utility service or commodity for compensation. “Facility operator” does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.
- Define “public right-of-way”
  - Minnesota Rules, part 7560.0100 - Subp. 10. Public right-of-way. “Public right-of-way” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and sidewalk in which a government unit has an interest, including other rights-of-way dedicated for travel purposes and utility easements of government units.
- Define “utility easement”
  - Washington - RCWA 19.122.020(29) “Utility easement” means a right held by a facility operator to install, maintain, and access an underground facility or pipeline.
  - Oregon - OAR 952-001-0010(6) “Easement” means a nonpossessory interest in the land of another which entitles the holders of an interest in the easement to a private right of way embodying the right to pass across another's land.
- Define “service lateral”
  - Minnesota Rules, part 7560.0100 - Subp. 12. Service lateral. “Service lateral” means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
  - Washington - RCWA 19.122.020(24) “Service lateral” means an underground water, stormwater, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.
- Require underground facility operators to locate and mark service laterals

**IDAPA 07  
TITLE 10  
CHAPTER 01**

**07.10.01 - RULES GOVERNING THE DAMAGE PREVENTION BOARD,  
DIVISION OF BUILDING SAFETY**

**000. LEGAL AUTHORITY.**

The Idaho Damage Prevention Board of the Division of Building Safety is authorized under Section 55-2203, Idaho Code, to promulgate rules consistent with the act for the administration of Title 55, Chapter 22, Idaho Code, to effectuate the purposes thereof. (3-24-17)

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 07.10.01, “Rules Governing the Damage Prevention Board, Division of Building Safety.” (3-24-17)

**02. Scope.** These rules shall be applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. (3-24-17)

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Building Safety offices. (3-24-17)

**003. ADMINISTRATIVE APPEALS.**

IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” Section 100, et seq., shall apply to contested cases, in addition to the provisions of Title 55, Chapter 22, Idaho Code. (3-24-17)

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into these rules. (3-24-17)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Damage Prevention Board is at the Division of Building Safety office located at 1090 E. Watertower Street, Suite 150, Meridian, Idaho 83642. The Damage Prevention Board may also be contacted at 1250 Ironwood Drive, Suite 220, Coeur d’Alene, Idaho 83814, and at 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. All locations are open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The telephone number of the office is (208) 334-3950. The facsimile number of the office is 1-877-810-2840. The Department website is <http://dbs.idaho.gov>. (3-24-17)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (3-24-17)

**007. DEFINITIONS.**

**01. End User.** Any utility customer or consumer of utility services or commodities provided by an underground facility operator. ( )

**02. Hand Digging.** Any excavation involving non-mechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes but is not limited to hand shovel digging, manual post hole digging, vacuum excavation, or soft digging. (9-1-17)F( )

**03. Public Right-of-Way.** The area on, below, or above a public roadway, highway, street, lane, path,

sidewalk, alley, waterway, underground facility easement, or other right-of-way dedicated for compatible uses in which an underground facility owner holds a right to control, operate, bury, install, maintain, or access an underground facility. ( )

04. Service Lateral. Any underground water, stormwater, or sewer facility located in a public right-of-way or underground facility easement that connects an end user's building or property to an underground facility operator's underground facility and terminates beyond the public right-of-way or underground facility easement. ( )

052. Soft Digging. Any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation. (9-1-17)( )

06. Underground Facility Easement. A right held by an underground facility operator to control, operate, bury, install, maintain, or access an underground facility. ( )

07. Underground Facility Operator. Any underground facility owner, as defined in Section 55-2202(19), Idaho Code, with the right to control, operate, bury, install, maintain, or access an underground facility in any public right-of-way or underground facility easement. An underground facility operator does not include a utility customer who owns a service lateral that terminates at an underground facility operator's main utility line. ( )

**008. FUNDING OF BOARD ACTIVITIES.**

Each owner of an underground facility shall pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as required by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner shall be collected by the one-number notification service, and shall be payable to the board in accord with the following schedule: (3-24-17)

**01. Fee Assessed.** The fee shall be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-24-17)

**02. Payment Submission.** The one-number notification service shall submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground utility facility owner is received after the seventy-day (70) period, the one-number service shall include late payments in its next payment to the board. (3-24-17)( )

**03. Notices Issued.** The one-number notification service shall also submit a detailed list of notices issued, including the facility owner's contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list shall be updated on a monthly basis to reflect the status of all past-due payments due from underground utility facility owners that have not been received. (3-24-17)( )

**04. Civil Penalties.** Underground facility owners failing to submit payment to the one-number notification service in a timely manner shall be subject to the imposition of civil penalties and other remedies referenced in Title 55, Chapter 22, Idaho Code. (3-24-17)

**009. AUDIT OF ONE-NUMBER SERVICE RECORDS.**

The board shall have the right to review and audit the payment records of any one-number notification service relating to the collection of the ten cent (\$.10) fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board shall provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. (3-24-17)

**010. -- 014. (RESERVED)**

**015. EDUCATIONAL AND TRAINING MATERIALS.**

**01. Approval of Training and Educational Programs.** The Damage Prevention Board shall approve and provide public notice through the Division of Building Safety acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities.

(9-1-17)T

**02. Scope of Training and Educational Programs.** Such training programs and educational materials shall relate to various aspects of underground facility damage prevention, and shall contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho.

(9-1-17)T

**03. Accessibility of Training and Educational Programs.** The Division of Building Safety shall maintain a database of approved educational materials and training programs, and periodically update such as may be required by the board. The Division of Building Safety shall cause such educational materials and the identity of such training programs to be placed on its website so that interested persons may view it online.

(9-1-17)T

**04. Purposes of Training and Educational Programs.** Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. Should completion of a training course by a stakeholder be required as a result of a violation of this chapter in accordance with Section 55-2211, Idaho Code, The Division of Building Safety shall record and maintain validation of successful completion of any such required training for two (2) years from date of completion.

(9-1-17)T

**016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.**

The board shall review all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders shall take remedial actions to improve line-locating performance and shall monitor and report performance improvements to the board.

(9-1-17)T

**017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.**

**01. Adoption of Technology and Communications Materials.** On an annual basis the board shall review and adopt any available technology and communications materials which promote effective underground facility locating. The board shall make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division of Building Safety website at <http://dbs.idaho.gov>.

(9-1-17)T

**02. Availability of Technology and Communications Materials.** The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder's ability to gather and analyze data related to underground facility damage. The board shall review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety shall maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website.

(9-1-17)T

**018. DAMAGE PREVENTION COMPLAINTS.**

**01. Complaint Forms.** Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division of Building Safety. Forms are available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. They may also be accessed electronically on the Division of Building Safety's website at

<http://dbs.idaho.gov/>. Notice of the complaint shall be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator shall also be provided to the administrator. (9-1-17)T

**02. Contents.** Complaints shall include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints shall be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. Complaint forms shall be subject to Title 74, Chapter 1, Idaho Code. (9-1-17)T

**03. Complaint Procedures and Timelines.** The following timelines and procedure shall govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the Damage Prevention Board. (9-1-17)T

**a. Initial Filing.** Complaints shall be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. (9-1-17)T

**b. Response.** The administrator shall notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. (9-1-17)T

**c. Recommendation.** Within thirty (30) days of receipt of the response, or if no response is received, within fifteen (15) days from the deadline for filing a response, the administrator shall notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. (9-1-17)T

**d. Contest.** In accordance with Section 55-2211, Idaho Code, the alleged violator shall have the right to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest shall be provided by the alleged violator not more than thirty (30) days after receipt of the administrator’s recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. (9-1-17)T

**019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.**

**01. Claims.** Claims for the cost of repairs for damaged underground facilities shall be enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners shall provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. (9-1-17)T

**02. Reports.** Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations shall report such information to the board on forms or by such method adopted for such by the board. Forms are available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642; 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814; and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. They may also be accessed electronically on the Division’s website at <http://dbs.idaho.gov/>. (9-1-17)T

**020. CIVIL PENALTIES.**

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by

administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section shall subject the violator to a civil penalty of not more than one thousand dollars (\$1,000) for a second offense and a civil penalty of not more than five thousand dollars (\$5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. (9-1-17)T

**01. Violations of Title 55, Chapter 22, Idaho Code.** The following acts shall subject a person to civil penalties: (9-1-17)T

**a. Pre-marking Excavation Site.** Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**b. Notice of Excavation.** Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**c. One-Number Notification to Facility Owner.** A one-number notification service that fails to provide notice of a scheduled excavation upon notification from an excavator shall be subject to a civil penalty. (9-1-17)T

**d. Failure to Locate or Mark.** An underground facility owner, including an underground facility operator, who fails to locate or mark its underground facilities in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein shall be subject to a civil penalty. ~~(9-1-17)T( )~~

**e. Failure to Wait for Locate or Maintain Markings.** An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**f. Failure to Cease Excavation or Report Unidentified Facilities.** An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**g. Failure to Identify Facilities in Contract Documents.** Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**h. Precautions to Avoid Damage.** An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities shall be subject to a civil penalty. (9-1-17)T

**i. Reporting of Damage to Facility.** An excavator who fails to report to a facility owner and a one-number notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**j. Reporting to the Board.** An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section

55-2208(5), Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**k. Failure to Participate.** Any person who fails to participate or cooperate with a one-number notification service as required by Section 55-2206, Idaho Code, shall be subject to a civil penalty. (9-1-17)T

**02. Second Offense.** For the purpose of this section, a second offense shall be deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. (9-1-17)T

**03. Multiple Violations.** Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein shall constitute a separate offense. (9-1-17)T

**04. Judicial Review.** Any party aggrieved by the final action of the Idaho Damage Prevention Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (9-1-17)T

**021. FACILITY OPERATOR LOCATION OF SERVICE LATERALS.**

Only an underground facility operator is required to locate and mark service laterals. An underground facility operator shall locate and mark service laterals in accordance with Section 55-2205(2), Idaho Code. Other underground facility owners are prohibited from locating and marking service laterals. ( )

**022.-- 999. (RESERVED)**

# DAMAGE PREVENTION BOARD

**Agenda Item No. 10**

**Virtual DIRT Update**

**PRESENTER:** Nichole Rush, Board Member

---

**OBJECTIVE:** Inform the Board on the status of Idaho's Virtual Private DIRT reporting system.

---

**ACTION:** Informational

---

**BACKGROUND:** January 2018 – A subcommittee was created to address with the Common Ground Alliance ways to simplify this program by removing some of the impediments currently in place.

---

**PROCEDURAL HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

## Agenda Item No. 11

## Definition of Business Day--Update

**PRESENTER:** Nichole Rush, Board Member

---

**OBJECTIVE:** Provide the Board with an update on what constitutes a “business day”.

---

**ACTION:** Informational

---

**BACKGROUND:** November 2018 – In Idaho law, the definition of a business day is any day other than Saturday, Sunday or holiday, and a day is a period of 24 hours as a unit of time; i.e., midnight to midnight. This topic was brought up based on discrepancy between the law and one-number notification services on the understanding of a business day.

January 2018 – Although Digline and Password are two separate entities; a recommendation was for both call centers to agree upon one definition. At the February 2018 Kootenai County UCC meeting, Board Member Chandler will encourage Password to unite with Digline. As a member of the Advisory Board representing Idaho Power, Board Member Rush will request Digline change its process to reflect what the law says so contractors are not confused when their ticket is due. Speaking for Intermountain Gas, Chairman Van Slyke supported that direction.

The Board will wait until after the February advisory meeting to determine whether to send a letter to one-call businesses within the state, informing them of the State’s definition of a business day.

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

**Agenda Item No. 12**

**Compliance Report**

**PRESENTER:** Amy Kohler, Compliance Program Specialist

---

**OBJECTIVE:** Update the Board on the Damage Prevention Program's current activities.

---

**ACTION:** Informational

---

**BACKGROUND:** This topic is addressed at all regularly scheduled Damage Prevention Board meetings.

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

**Agenda Item No. 12a**

**Damage Prevention Case Report**

**PRESENTER:** Amy Kohler, Compliance Program Specialist

---

**OBJECTIVE:** Discuss reformatting the report with fields to represent the Board.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** Report to be provided at meeting.

---



# DAMAGE PREVENTION BOARD

**Agenda Item No. 13**

**Administrator Report**

**PRESENTER:** Chris L. Jensen, Administrator

---

**OBJECTIVE:** Provide an overview of the Division's current activities.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---



# DAMAGE PREVENTION BOARD

**Agenda Item No. 13a**

**Financial Report**

**PRESENTER:** Chris L. Jensen, Administrator

---

**OBJECTIVE:** Review the Damage Prevention Board's Financial Report.

---

**ACTION:** Informational

---

**BACKGROUND:** This topic is addressed at all regularly scheduled Idaho Electrical Board meetings.

---

**PROCEDURAL HISTORY:**

---

**ATTACHMENTS:** Financial Report

---





**Division of Building Safety**  
**UNDERGROUND FACILITIES DAMAGE PREVENTION**  
 Fiscal Year 2018 Financial Statements  
 As of 02/28/2018

Statement of Revenues and Expenditures - 0229-27 Dedicated Fund

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	50,000	32,098	64%	17,902	25,836	57,934	116%
Expenditures							
Personnel:	-	9,755	0%	(9,755)	5,738	15,494	0%
Operating:	50,000	7,999	16%	42,001	16,795	24,794	50%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	50,000	17,754	36%	32,246	22,534	40,288	81%
Net for FY 2018	-	14,344			3,302	17,646	

Statement of Cash Balance - 0229-27 Dedicated Fund

July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of February 28, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
18,775	32,098	17,754	0	33,119	3,302	36,421

Statement of Revenues and Expenditures - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2016)

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	-	(22,432)	0%	22,432	-	(22,432)	0%
Expenditures							
Personnel:	15,580	16,820	108%	(1,240)	-	16,820	108%
Operating:	54,802	31,398	57%	23,403	-	31,398	57%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	70,382	48,219	69%	22,163	0	48,219	69%
Net for FY 2018	(70,382)	(70,650)			-	(70,650)	

Statement of Cash Balance - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2016)

July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of February 28, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
70,381	(22,432)	48,219	0	-269	-	(269)

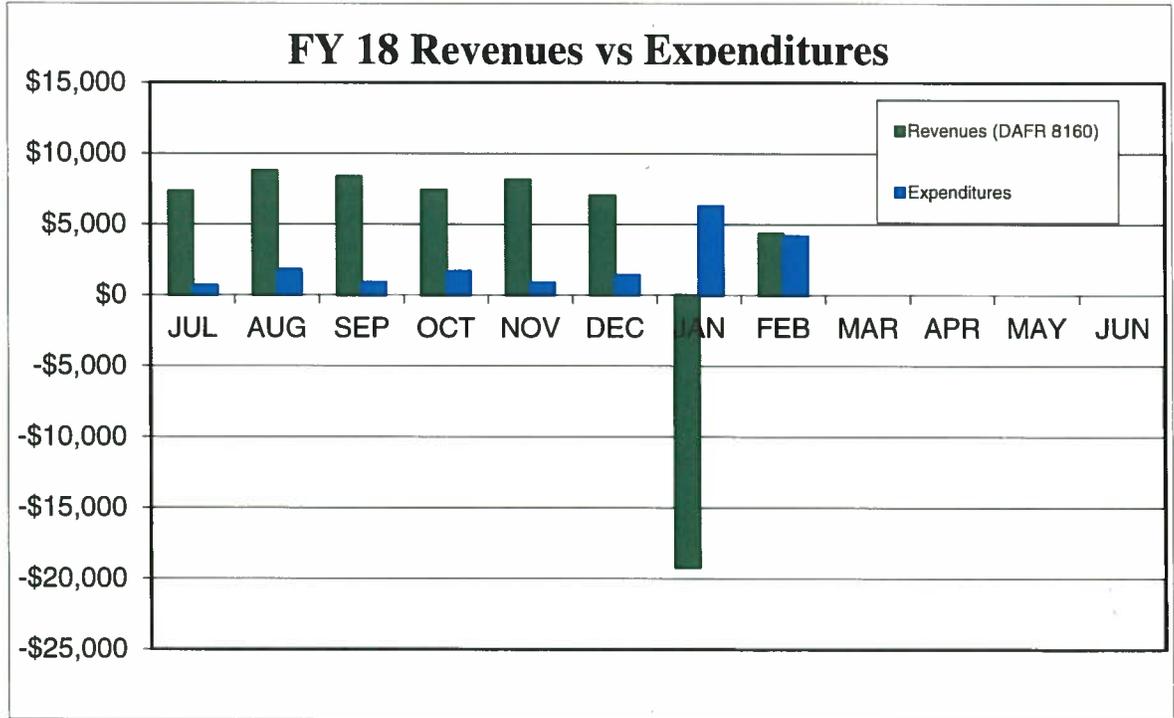
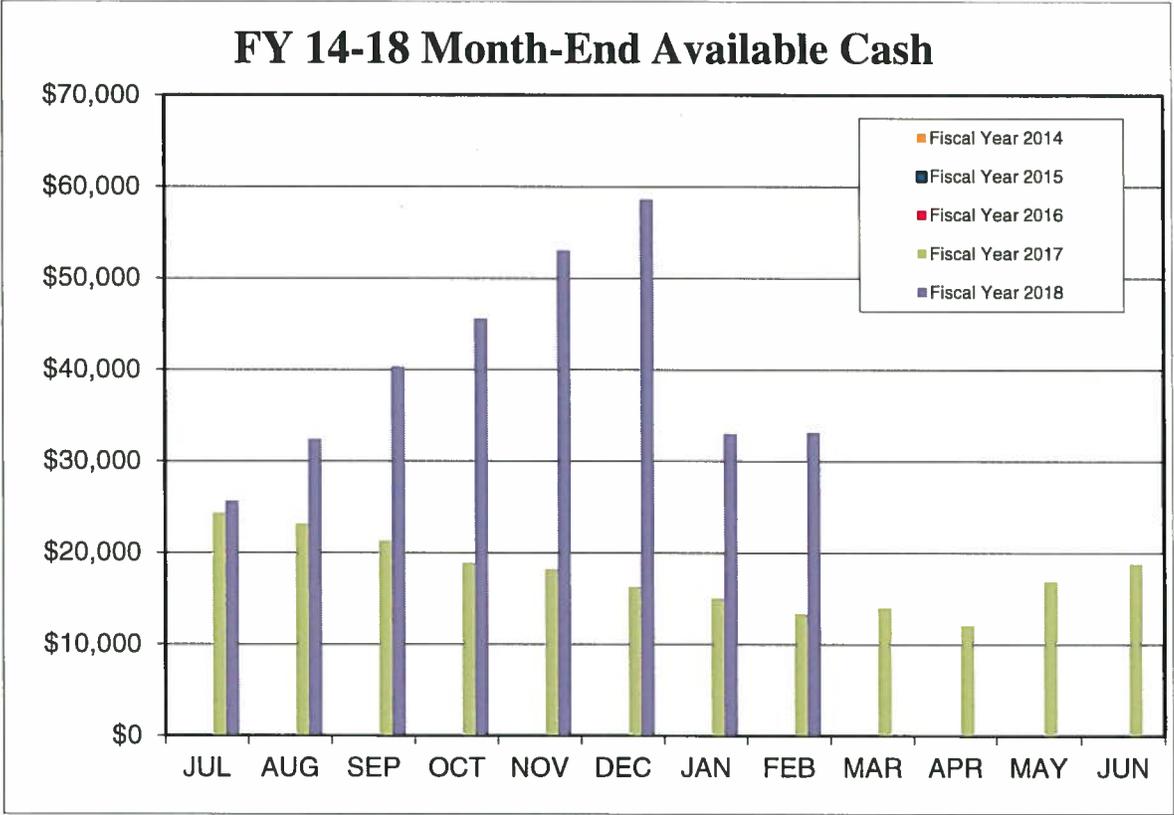
Statement of Revenues and Expenditures - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2018)

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	90,000	-	0%	90,000	-	-	0%
Expenditures							
Personnel:	66,328	4,208	6%	62,120	-	4,208	6%
Operating:	23,672	-	0%	23,672	-	-	0%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	90,000	4,208	5%	85,792	0	4,208	5%
Net for FY 2018	-	(4,208)			-	(4,208)	

Statement of Cash Balance - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2018)

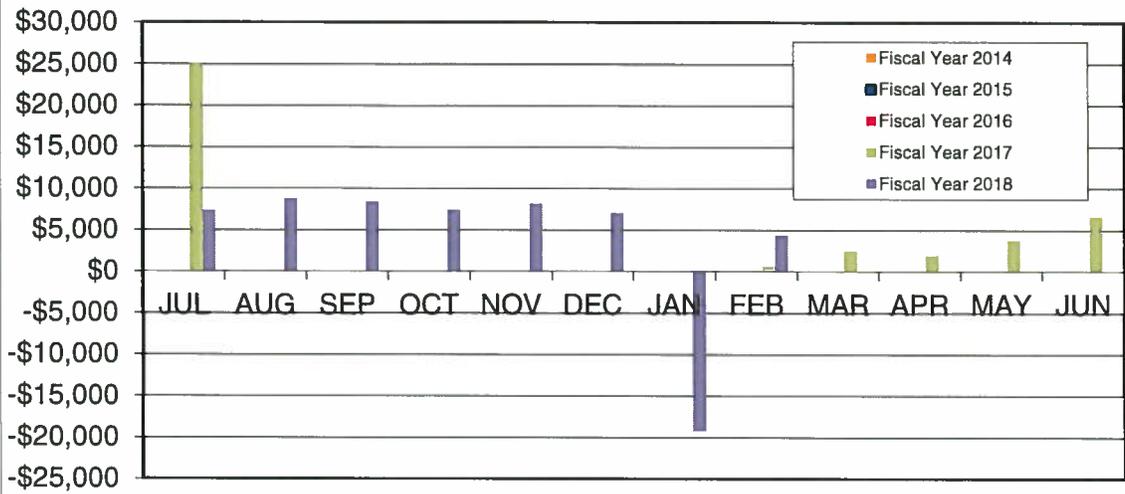
July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of February 28, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
0	-	4,208	0	-4,208	-	(4,208)

# UNDERGROUND FACILITIES DAMAGE

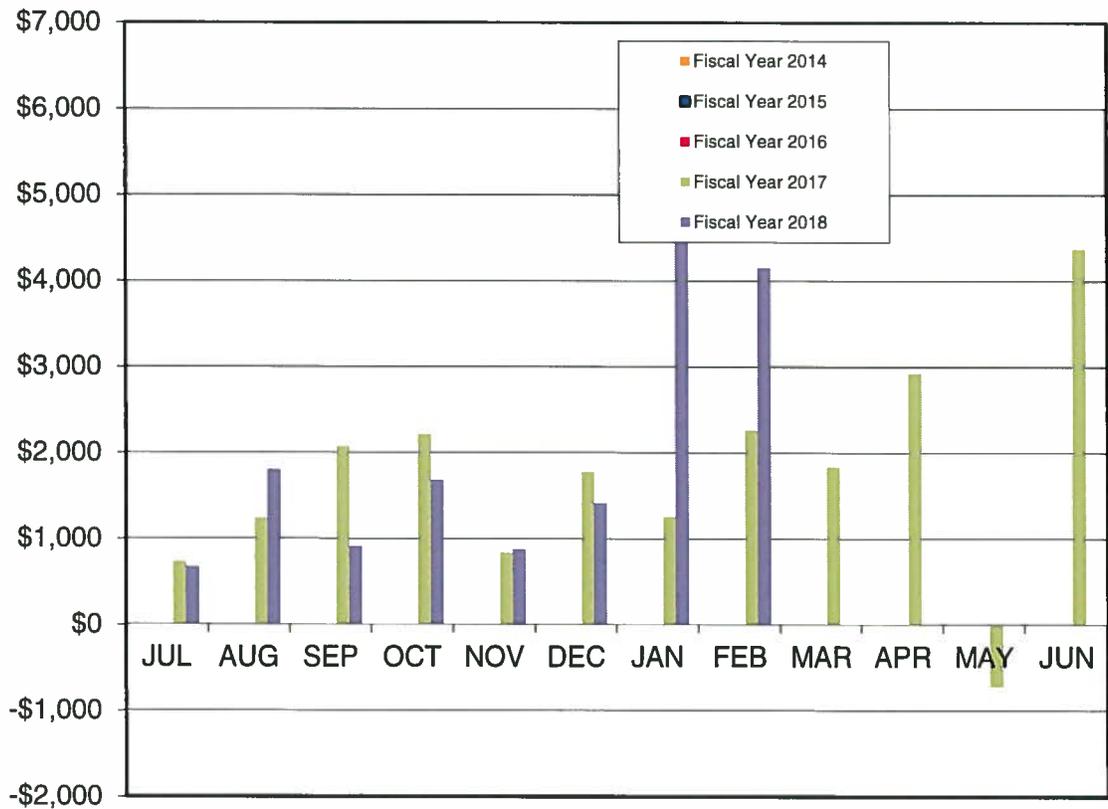


# UNDERGROUND FACILITIES DAMAGE

## FY 14-18 Revenues



## FY 14-18 Expenditures



# DAMAGE PREVENTION BOARD

**Agenda Item No. 13b**

**Financial Report Format**

**PRESENTER:** Chris L. Jensen, Administrator

---

**OBJECTIVE:** Reformat to simplify the financial report.

---

**ACTION:** Informational

---

**BACKGROUND:**

---

**PROCEDURAL  
HISTORY:**

---

**ATTACHMENTS:** No Documentation

---

