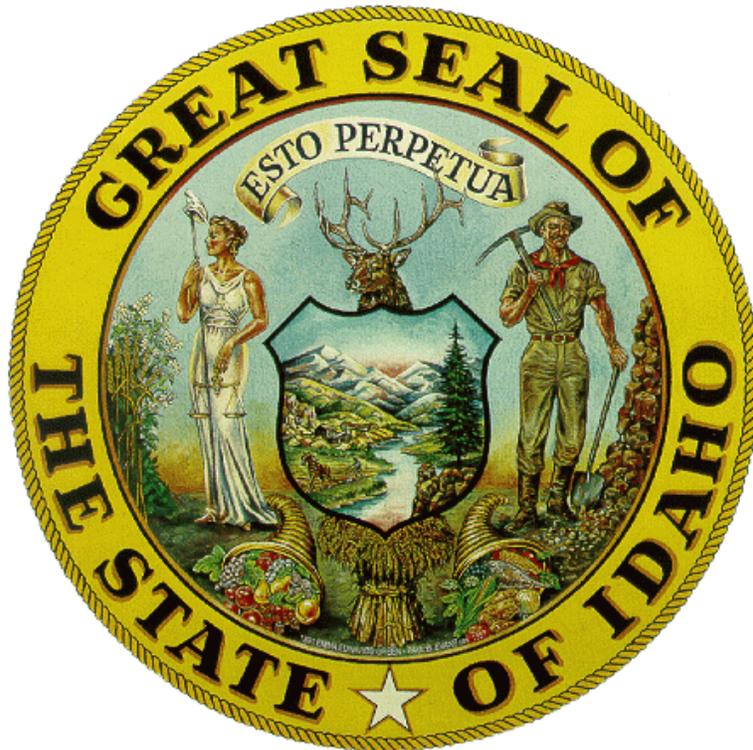


DIVISION OF BUILDING SAFETY

DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING

MAY 24, 2018



DAMAGE PREVENTION BOARD

Agenda Item No. 01

Agenda

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Approve agenda for the May 24, 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, May 24, 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 May 24, 2018 Agenda – Mark Van Slyke
2. Approval of the March 22, 2018 Board Meeting Minutes – Mark Van Slyke

ACTION AGENDA

3. **Administrative Appeals Hearing** – Amy Kohler, Compliance Program Specialist
 - a. **Titanium Excavation** – DAM1712-0105 – Idaho Power
 - b. **All Valley Fire Protection** – DAM1802-0003 – Intermountain Gas
 - c. **Adams Construction** – DAM1712-0055 – Intermountain Gas

INFORMATIONAL AGENDA

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

4. DPB/DBS Informational Seminars – Vaughn Rasmussen, Vice-Chairman
 - a. 2018 & 2019 Education and Training Plan Update
5. 2019 Proposed Legislation – Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General
6. PUBLIC HEARING – Negotiated Rulemaking – Patrick J. Grace & Spencer Holm
 - a. IDAPA 07.10.01.008.02 & 03 – Replace “Utility Owner” With “Facility Owner”
 - b. IDAPA 07.10.01.018.03 – Extend 30-Day Complaint Requirement

- c. IDAPA 07.10.01.003 – Require Payment Of An Appeal Bond
 - d. IDAPA 07.10.01.020.01 – Make Locators Eligible For Civil Penalties
 - e. IDAPA 07.10.01.007 & 021 – Sewer/Water Lines In Right-Of-Way
 - f. IDAPA 07.10.01.020.03 – Clarify Multiple Violations In One Day
 - g. IDAPA 07.10.01.008 – Ten Cent (.10¢) Per Call Fee
7. Virtual DIRT--Update – Nichole Rush, Board Member
8. Compliance Report – Amy Kohler
- a. Damage Prevention Case Report
 - b. e-TRAKiT System Presentation
9. Administrator Report – Chris L. Jensen, Administrator
- a. Financial Report (New 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. 05/17/2018rb

DAMAGE PREVENTION BOARD

Agenda Item No. 02

Minutes

PRESENTER: Mark Van Slyke, Chairman

OBJECTIVE: Approve the March 22, 2018 Damage Prevention Board meeting minutes.

ACTION: Consent

BACKGROUND:

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Draft Minutes



**DAMAGE PREVENTION BOARD
VIDEOCONFERENCE MEETING**

Thursday – March 22, 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**

***DRAFT MINUTES OF THE MARCH 22, 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 9:34 a.m. (MDT)

Board Members Present:

Mark Van Slyke, Chairman
Vaughn Rasmussen, Vice-Chairman
Joe Leckie
Bob Chandler
Jeffrey Diehl
Roy Ellis
Nichole Rush
Scott Spears
Jeanna Anderson
Linda Phillips – Teleconference

DBS Staff Members Present:

Chris L. Jensen, Administrator
Ron Whitney, Deputy Administrator
Spencer Holm, Deputy Attorney General
Jerry Peterson, Energy Program Manager
Larry Jeffres, Regional Manager, Region 1
Patrick J. Grace, Regional Manager, Region 2
Jeff Egan, Regional Manager, Region 3
Shelly Farris, Regional Supervisor, 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 March 22, 2018 Agenda**

MOTION: Jeffrey Diehl made a motion to approve the agenda as presented. Bob Chandler seconded. All in favor, motion carried.

◆ **Approval of the January 25, 2018 Board Meeting Minutes**

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

◆ **Approval of the February 12, 2018 Special Board Meeting Minutes**

MOTION: Jeffrey Diehl made a motion to approve the minutes as written. Jeanna Anderson seconded. All in favor, motion carried.

◆ **Administrative Appeal Hearing**

5J Excavation--DAM1801-0017 – JD Borges represented 5J Excavation, Compliance Program Supervisor Amy Kohler represented DBS, Terry Harpt with Intermountain Gas Company was

a witness, and Deputy Attorney General Spencer Holm was the facilitator. The Board did not object to the introduction of Exhibits A through J into the record.

All parties were sworn in and provided testimony to DAM1801-0017, violation of IDAPA 07.10.01.020.01.h *Precautions to Avoid Damage*. The Board upheld the appeal; dismissing training. The Deputy Attorney General explained to Mr. Borges his rights, and that the alleged violation will not be on his record.

MOTION: Roy Ellis made a motion to reject the recommendation. Bob Chandler seconded. Ten ayes and one nay, motion carried.

ACTION: The Deputy Attorney General will generate a Final Order on Appeal for the Chairman's signature, and provide a signed copy to Mr. Borges.

◆ **DPB/DBS Informational Seminars**

2018 Education and Training Plan – Jerry Peterson, Damage Prevention Education and Outreach Specialist, is creating a one-hour course for the 2018 Safety Fest in Pocatello. The subcommittee will review the course on April 5, 2018.

2018 Education and Training Meetings – In February and March, Mr. Peterson completed six field trainings with 307 signed participants. Currently, there are five trainings scheduled in April. Andeavor would like to collaborate with the Board to provide training and printed material for the AG community.

Mr. Peterson received the following feedback from his courses: 1) Small irrigation companies not a part of 811, 2) Fiber optics laid on top of marking tape in common trenches, 3) Cable TV not completely marked throughout property, and 4) Excavators reluctant to complain against customers for fear of retribution.

Training Souvenir Item – Board Member Joe Leckie suggested the Board consider building an inventory of mementos. The Education and Training subcommittee will work with Board Member Leckie on a budget for presentation at the May 2018 meeting.

ACTION: The topic *Training Souvenirs* will be placed on the May 2018 agenda as an informational item.

April--National 811 Month – It was questioned whether the Governor signed a declaration that April is National 811 month. Vice-Chairman Vaughn Rasmussen asked, and Board Member Leckie offered, to follow-up on this topic. Board Member Linda Phillips offered to follow-up with the call centers as well.

Remedial and Imposing Training – This topic was addressed at the January 2018 meeting where the Board was examining training approaches and the requirement for first time offenses; i.e., training. Board Member Jeffrey Diehl questioned whether the Board is responsible for creating those training recommendations or comfortable leaving it to DBS. The Training subcommittee will discuss and bring recommendations to the May Board meeting.

Compliance Program Specialist Amy Kohler brought forth a suggestion, based on other DBS Boards, to allow Damage Prevention Board meetings to count as the first offense training for attendees.

ACTION: The topic *Remedial and Imposed Training* will be placed on the May 2018 agenda as an informational item.

◆ **2019 Proposed Legislation**

Regional Manager Patrick J. Grace brought forth the following suggestions to refine statutes and rules.

Statutes

1. § 55-2202 – There are definitions in both statute and rule. Definitions can be in rule; however, if want more substance, definitions should be put in statute. Questioned was whether “Business Day” required further definition/revision. Digline is advising constituents they are adapting their practice of business day to better align with the state of Idaho’s definition. No changes are necessary at this time.
2. § 55-2205(2) – This section requires owners to locate and mark, with accuracy, identified but unlocatable underground facilities. In § 55-2202(9), identified but unlocatable underground facility is a facility that has been identified but cannot be located with reasonable accuracy. These sections are not consistent with each other, causing confusion with facility owners.

Board Member Diehl noted in § 55-2205(2) excavators shall not excavate until all known facilities have been marked. It is Mr. Diehl’s interpretation if an identified facility is “known” but unlocatable then there can be no excavation, including soft dig.

Deputy Attorney General Spencer Holm stated the problem could be solved by removing “... and with reasonable accuracy as defined in *section 55-2201(15), Idaho Code.*” from § 55-2205(2). This would then require locating and marking underground facilities in accordance with the best information available to the owner of the underground facilities.

Idaho Code 55-2205(4) also references those locating with reasonable accuracy; however, does not specify, “locatable underground facility” or “identified but unlocatable underground facility.” Another recommendation would be to change those references to “in accordance with subsection 2”; bringing it in line with the changes in the subsection. There was no definitive answer from the Board on this issue.

3. § 55-2208(5) – Eliminate the double reporting requirement where excavators and owners are required to report damage to facilities or downtime to the Board. The concern is if both entities report the same event, it could double the Division’s reporting figures. For the May meeting, Mr. Grace will provide a draft statute change requiring only the owner to report to the Board.
4. § 55-2211 – Currently, the complainant can only contest the imposition of civil penalties. DBS has been extending the right to contest the imposition of training on the first offense. Mr. Grace will include the imposition of training in the statute.

5. § 55-2211 – Clarify DBS has the authority to impose training and civil penalties, while the Board retains the ability to impose training/penalties on appeals. Mr. Grace will modify the statute.
6. § 55-2211 – Provide authority for the DBS Administrator to initiate complaints in the event a third party does not do so. PHMSA questioned whether the state has the ability to file a complaint on someone who violated the law. There was concern why the Division needs this provision. Upon a lengthy discussion, it was determined this issue needs to be a part of training and education. There will be no action on this issue at this time.
7. § 55-2211 – Consider authorizing DBS and/or Board to suspend a portion of any civil penalty for a probationary period. Board Member Diehl pondered the end-result, stating is it simply to demonstrate grace to the violator or in the case of a third violation be considered vindictive. This topic to be further discussed.
8. § 55-2211 – Currently, only the alleged violator has the ability to contest a matter before the Board. This would provide the complaining party the ability to appeal the Division’s final determination of a complaint before the Damage Prevention Board. Mr. Grace will modify the statute.
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. Regional Manager Grace deferred this topic until further notice.

Rules

1. 07.10.01.008.02 & 03 – For consistency, replace the term “utility owner” with “facility owner”. Mr. Grace will provide a proposed rule change at the May 2018 Board meeting.
2. 07.10.01.018.03 – Board Member Nichole Rush explained 30 days from the date of an incident to file a complaint with DBS is not enough time to gather all the information and ensure a complaint is valid. Board Member Rush requested extending the period to either 45 or 60 days. There was no definitive answer from the Board on this issue.
3. 07.10.01.018.03 – Require payment of an appearance bond for individuals who wish to contest a civil penalty. The bond can be \$200 or the amount of the penalty imposed, whichever is less. Other Boards under DBS have imposed appearance bonds to dispute the civil penalties. Regional Manager Grace will provide a proposed rule change at the May 2018 Board meeting.
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.

Regional Manager Grace stated there is a duty to report damages and downtime to the Board, as well as a report those to DIRT; however, there is no civil penalty for causing the damage. Board Member Rush explained the subcommittee determined the downtime was a result of a violation already in rule. No changes are necessary at this time.

5. 07.10.01.020.03 – Provide clarity that a single incident may result in multiple violations, and if there are multiple violations, it could be a second offense; thus, a single incident could result in civil penalties. Board Member Bob Chandler explained the subcommittee addressed this issue and no matter how many violations broken in one day, it would still constitute one offense. If on the same site the next day and violations occur, that would be a second offense. No changes are necessary at this time.
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. There was no decision from the Board.

The Deputy Attorney General briefly explained the negotiated rulemaking time line for publication in the Administrative Bulletin. At the Board’s request, the rules reviewed by Regional Manager Grace to be published in the Bulletin.

Wayne Hammon, CEO of Associated General Contractors, stated his agency is going to submit legislation, mark location and depth and require all new installations be locatable, to the 2019 legislative session. As requested, Mr. Hammon will provide the draft proposals to the Board for review.

◆ **DPB Idaho Statutes and Rules**

Idaho Code §§ 55-2203(13); 55-2203(16) (e) & (f); 55-2205(1)(b) & (c); 55-2205(4); and 55-2210(5) – Board Member Jerry Piper was unable to attend the meeting; therefore, this topic will be addressed at the May 2018 Board meeting.

ACTION: The topic *DPB Idaho Statutes and Rules* will be placed on the May 2018 agenda as an informational item.

IDAPA 07.10.01.002, .005, .008.01, .008.02, .009, .016, .017.01, .018.01 – Board Member Piper was unable to attend the meeting; therefore, this topic will be addressed at the May 2018 Board meeting.

ACTION: The topic *DPB Idaho Statutes and Rules* will be placed on the May 2018 agenda as an informational item.

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

Using portions of definitions from other state statutes for “underground facility owner”, “public right-of-way (ROW)”, “underground facility easement”, “end user” and “service laterals”, the Deputy Attorney General brought forth a draft proposal. Included in the proposal was *Facility Operator Location Of Services Laterals* where an underground facility operator is required to locate and mark service laterals.

Board Member Scott Spears suggested the following changes: 1) Utilize the definition of ROW in Idaho Code 40-117(9) as it is quite specific in terms of establishing what is a public ROW, and 2) For less confusion, remove the language “... the right to control, operate, bury, install, maintain, or access” from the definition of *Facility Operator Location of Service Laterals*.

Board members were confused as the proposal was unclear who the responsible party is for sewer/water lines in the ROW. Deputy Attorney General Holm explained an operator is a subset of an owner and only the subset is required to locate sewer laterals and not the rest of the owners. For clarification, Board Member Spears recommended adding a reference to the end user; i.e., the end user is not required to perform locating within the public right of way.

Upon further discussion, the Deputy Attorney General will draft a proposed statute change rather than a rule change.

ACTION: The topic *Sewer/Water Lines in Right-of-Way* will be placed on the May agenda as an informational item.

◆ **PHMSA Report**

The Board's formal report should be available in April 2018, as soon as it runs through concurrent channels in Washington, D.C.

◆ **Virtual DIRT Update**

The DIRT subcommittee met in March to review training material specific to DIRT. Idaho Code § 55-2208(5), as it pertains to dual reporting, is a concern of the subcommittee as well. A recommendation was to expand the language to require only facility owners enter violations; thus, reducing potential for redundant entries and simplify the training material. In addition, the subcommittee would like to eliminate the DIRT component from contractor training.

Another facet to § 55-2208(5) is alleged violations do need entered into DIRT; however, "downtime" is the result of a failure of a violation, a cause and effect, and when considered in that context, does not need on the record.

The Chairman requested the topic *Virtual DIRT Update* be addressed at the Board's May meeting to consider how the Board can align the recommendation to accommodate various groups.

ACTION: The topic *Virtual DIRT Update* will be added to the May 2018 agenda as an informational item.

◆ **Definition of Business Day—Update**

Digline, Inc. and Pass Word, Inc. have begun to move toward aligning with state statute by working with TelDig, programming changes, as well as sending educational material to excavators.

◆ **Compliance Report**

Reviewed were two Notice of Violation (NOV) Activity by Date reports for January 1, 2017 to March 20, 2018, and February 7, 2018 to March 20, 2018. The shades of blue in the pie charts are very similar and hard to distinguish from each other. Program Specialist Kohler will request staff change the colors, as well as place the number of issues next to the explanation boxes.

The Division has a program called e-TRAKiT where the public can access information on a complaint. Program Specialist Kohler offered to provide a tutorial at the May meeting on the system.

ACTION: A tutorial of the Division's e-TRAKiT system will be provided at the May 2018 Board meeting.

Provided was a new DBS Stats report. To keep track of when to impose the \$5,000 fine, a suggestion was to add another column titled *Facility Damage Yes or No* to the report.

◆ **Administrator Report**

Financial Appropriations and Grant – Recently the Joint Finance-Appropriates Committee removed \$225,000 from the Division's budget, to include \$40,000 donated funds for advertising. However, added to the budget was a line item for \$20,000 from the Public Utilities Commission (PUC) MOU.

There is \$90,000 in grant monies. DBS is obligated to present a progress report by April 1, 2018, and anticipates requesting the full grant amount. The Division would like to apply the \$20,000 from PUC towards the training and education program and grant money toward advertising on radio and television.

Financial Report – Reviewed was the Underground Facilities Damage Prevention Fund, FY 2018 financial statement, as of February 28, 2018.

Financial Report Format – Board members expressed concern the current financial report does not provide enough detail. Rather than a single line item report, the Board prefers a highlighted summary of revenue and expenses; i.e., set-up loan, travel expenses, office expenses, Digline revenue, Pass Word revenue, loan payback, etc., broken down by month.

The Administrator agreed to a new report for the May meeting. The Board would like to review the report prior to the meeting.

ACTION: A newly formatted financial report will be provided at the May 2018 Board meeting.

Legislature – All rules have passed the legislature and become effective at sine die.

◆ **Adjournment**

The Chairman adjourned the meeting at 3:17 p.m. (MDT)

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. 04/18/2018rb

DAMAGE PREVENTION BOARD

Agenda Item No. 03a

Titanium Excavation – DAM1712-0105

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Administer a ruling on Titanium Excavation – DAM1712-0105

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.b “Notice of Excavation”.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Documentation from Titanium Excavation and DBS



DAMAGE PREVENTION BOARD

Agenda Item No. 03b **All Valley Fire Protection – DAM1802-0003**

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Administer a ruling on All Valley Fire Protection – DAM1802-0003

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 All Valley Fire Protection and DBS



DAMAGE PREVENTION BOARD

Agenda Item No. 03c

Adams Construction – DAM1712-0055

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Administer a ruling on Adams Construction – DAM1712-0055

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.b “Notice of Excavation”.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: Documentation from Adams Construction and DBS



DAMAGE PREVENTION BOARD

Agenda Item No. 04a DPB/DBS Informational Seminar -- 2018 & 2019 Education & Training Plan Update

PRESENTER: Vaughn Rasmussen, Vice-Chairman

OBJECTIVE: Inform the Board of the plans for 2018 & 2019 DPB Education & Training.

ACTION: Informational

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

March 2018 – Jerry Peterson, Damage Prevention Education and Outreach Specialist, is creating a one-hour course for the 2018 Safety Fest in Pocatello. The subcommittee will review the course on April 5, 2018.

In February and March, Mr. Peterson completed six field trainings with 307 signed participants. Currently, there are five trainings scheduled in April. Andeavor would like to collaborate with the Board to provide training and printed material for the AG community.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 05

2019 Proposed Legislation

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

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: Proposed Statute Changes: Complainant Right to Contest, Definitions, Division Imposition, Double Reporting, Identified but Unlocatable Underground Facility, Right to Appeal Training and Service Laterals



Complainant Right to Contest

55-2211. VIOLATION--CIVIL PENALTY--DUTIES OF THE BOARD AND THE ADMINISTRATOR--OTHER REMEDIES UNIMPAIRED. (1) The damage prevention board established in section 55-2203, Idaho Code, may hear, but may not initiate, contested cases of alleged violations of this chapter involving practices related to underground facilities as set forth in rules by the board. Persons who violate the provisions of this chapter are subject to civil penalties in accordance with this section. Complaints regarding an alleged violation of this chapter may be made by any individual and shall be made to the administrator. Complaints shall include the name and address of the complainant and the alleged violator, and the violation alleged. If the alleged violation involves facility damage or a downtime event, the complaint must be submitted on such forms and contain such information as required by the board in rule. Upon review of the complaint, and any investigation conducted therewith, the administrator shall notify the person making the complaint and the alleged violator, in writing, of the administrator's recommended course of action to the board. The administrator shall recommend that a training course adopted by the board, by rule, be successfully completed for a first violation of this chapter, except that if the complaint is for a first violation of this chapter wherein a residential homeowner or residential tenant excavating on the lot of his residency failed to provide notice as required in section 55-2205, Idaho Code, and caused damage to underground facilities, the board shall direct the administrator to deliver to the violator a written warning and educational materials to prevent a future violation. The administrator may recommend the imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for a second violation of this chapter and in addition may recommend successful completion of a training course adopted by the board, by rule, and issue a notice of intent to impose such penalty on behalf of the board. If the administrator recommends the imposition of a civil penalty, the violator may pay the fine to the board upon receipt of such notice. If, upon the expiration of twenty-one (21) days, the violator has not responded in writing to the division, the board may impose the penalty provided for in the notice. A complainant or violator shall also have the right to contest the imposition of or failure to impose a civil penalty to the board and the opportunity to produce evidence in his behalf. Notice of the time and place of such hearing shall be provided by the board, and such proceeding shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In the event the board determines that a person has violated the provisions of this chapter a subsequent time within eighteen (18) months from an earlier violation, and where facility damage has occurred, the board may impose a civil penalty of not more than five thousand dollars (\$5,000) for each separate violation in accordance with the process described in subsection (1) of this section.

(3) All civil penalties recovered shall be deposited in the underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(4) The penalties provided in this section are in addition to any other remedy at law or equity available to any party subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

(5) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the

Complainant Right to Contest

provisions of this chapter affect any civil remedies for personal injury or property damage except as expressly provided for herein. The court in its discretion may award attorney's fees and costs to the prevailing party.

Definitions

55-2202. DEFINITIONS. As used in this chapter:

- (1) "Administrator" means the administrator of the division of building safety.
- (2) "Board" means the damage prevention board.
- (3) "Business day" means any day other than Saturday, Sunday, or a legal, local, state, or federal holiday.
- (4) "Damage" means any impact or exposure that results in the substantial weakening of structural or lateral support of an underground facility, or the penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the partial or complete destruction of the facility, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.
- (5) "Emergency" means any sudden or unforeseen condition constituting a clear and present danger to life, health or property, or a customer service outage, or the blockage of roads or transportation facilities that requires immediate action.
- (6) "Excavation" means any operation in which earth, rock, or other material in the ground is moved or otherwise displaced by any means including, but not limited to, explosives.
- (7) "Excavator" means any person who engages directly in excavation.
- (8) "Excavator downtime" means lost time for an excavation project due to failure of one (1) or more stakeholders to comply with applicable damage prevention regulations.
- (9) "Hand digging" means 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.
- (109) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.
- (110) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.
- (124) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.
- (13) "Locator" means a person acting on behalf of an underground facility owner to designate the location of an underground facility owned or operated by such underground facility owner.
- (142) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.
- (153) "One-number notification service" means a service through which a person can notify owners of underground facilities and request field-marking of their underground facilities.
- (164) "Person" means an individual, partnership, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.
- (175) "Reasonable accuracy" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.

Definitions

(186) “Rural underground facility owner” means an underground facility owner that is a public utility or a member-owned cooperative that serves fewer than five thousand (5,000) total customers in a county or counties with populations that do not exceed fifty thousand (50,000) people.

(19) “Soft digging” means 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.

(2017) “Stakeholder” means any party with an interest in protecting underground facilities including, but not limited to, persons, property owners, underground facility owners, excavators, contractors, cities, counties, highway districts, railroads, public entities that deliver irrigation water and those engaged in agriculture.

(2118) “Underground facility” means any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for irrigation), sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

(2219) “Underground facility owner” means any person who owns or operates an underground facility.

Division Imposition

55-2211. VIOLATION--CIVIL PENALTY--DUTIES OF THE BOARD AND THE ADMINISTRATOR--OTHER REMEDIES UNIMPAIRED. (1) The damage prevention board established in section 55-2203, Idaho Code, may hear, but may not initiate, contested cases of alleged violations of this chapter involving practices related to underground facilities as set forth in rules by the board. Persons who violate the provisions of this chapter are subject to civil penalties in accordance with this section. Complaints regarding an alleged violation of this chapter may be made by any individual and shall be made to the administrator. Complaints shall include the name and address of the complainant and the alleged violator, and the violation alleged. If the alleged violation involves facility damage or a downtime event, the complaint must be submitted on such forms and contain such information as required by the board in rule. Upon review of the complaint, and any investigation conducted therewith, the administrator shall notify the person making the complaint and the alleged violator, in writing, of the administrator's ~~findingsrecommended course of action to the board~~. The administrator shall ~~orderrecommend~~ that a training course adopted by the board, by rule, be successfully completed for a first violation of this chapter, except that if the complaint is for a first violation of this chapter wherein a residential homeowner or residential tenant excavating on the lot of his residency failed to provide notice as required in section 55-2205, Idaho Code, and caused damage to underground facilities, the board shall direct the administrator to deliver to the violator a written warning and educational materials to prevent a future violation. The administrator may ~~impose~~recommend the imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for a second violation of this chapter and in addition may recommend successful completion of a training course adopted by the board, by rule, and issue a notice of intent to impose such penalty on behalf of the board. If the administrator ~~imposesrecommends the imposition of~~ a civil penalty, the violator may pay the fine to the board upon receipt of such notice. ~~If, upon the expiration of twenty-one (21) days, the violator has not responded in writing to the division, the board may impose the penalty provided for in the notice.~~ A violator shall also have the right to appeal~~contest~~ the imposition of a civil penalty to the board and the opportunity to produce evidence in his behalf. Notice of the time and place of such hearing shall be provided by the board, and such proceeding shall be governed by the provisions of chapter 52, title 67, Idaho Code. The board is authorized to affirm, reject, decrease or increase the penalty imposed; however, the board shall not increase any penalty imposed to an amount exceeding one thousand dollars (\$1,000) for each separate violation or five thousand dollars (\$5,000) for each separate violation within eighteen (18) months from an earlier violation, and where facility damage has occurred.

(2) In the event the ~~administrator~~board determines that a person has violated the provisions of this chapter a subsequent time within eighteen (18) months from an earlier violation, and where facility damage has occurred, the ~~administrator~~board may impose a civil penalty of not more than five thousand dollars (\$5,000) for each separate violation in accordance with the process described in subsection (1) of this section.

(3) All civil penalties recovered shall be deposited in the underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(4) The penalties provided in this section are in addition to any other remedy at law or equity available to any party subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

Division Imposition

(5) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the provisions of this chapter affect any civil remedies for personal injury or property damage except as expressly provided for herein. The court in its discretion may award attorney's fees and costs to the prevailing party.

Double Reporting

55-2208. DAMAGE TO UNDERGROUND FACILITIES--DUTIES OF EXCAVATOR AND OWNER--REPORTING OF DATA. (1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the underground facility owner and the one-number notification service. If the damage causes an emergency condition or an actual breach of an underground facility that releases gas or hazardous liquids into the surrounding environment, the excavator causing the damage shall also alert the appropriate local public safety agencies by, at a minimum, calling 911, and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) The owner of the underground facilities damaged shall arrange for repairs or relocation as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

(3) Any party responsible for damages to an underground facility shall be liable for the cost of repairs.

(4) The board shall adopt by rule a procedure for the processing of claims related to damages to underground facilities.

(5) Underground facility owners ~~and excavators~~ who observe, or suffer ~~or cause~~ damage to an underground facility, and excavators who ~~or~~ observe, or suffer ~~or cause~~ excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention regulations shall report such information to the board in accordance with the rules promulgated by the board. Reporting of such data does not constitute a complaint provided for in section 55-2211, Idaho Code.

Identified but Unlocatable Underground Facility

55-2205. PERMIT COMPLIANCE--NOTICE OF EXCAVATION--RESPONSE TO NOTICE--COMPENSATION FOR FAILURE TO COMPLY—EXEMPTIONS. (1) Before commencing excavation, the excavator shall:

(a) Comply with other applicable law or permit requirements of any public agency issuing permits;

(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.

(2) Upon receipt of the notice provided for in this section, the underground facility owner or the owner's agent shall locate and mark its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities or the owner's agent shall locate and mark the underground facilities in accordance with the best information available to the owner of the underground facilities ~~and with reasonable accuracy as defined in section 55-2202(15), Idaho Code~~. The owner of the underground facility or the owner's agent providing the information shall respond no later than two (2) business days after the receipt of the notice or before the excavation time set forth in the excavator's notice, at the option of the underground facility owner, unless otherwise agreed in writing by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, or the owner's agent, the excavator is responsible for maintaining the markings. Unless otherwise agreed in writing by the parties, maintained markings shall be valid for purposes of the notified excavation for a period of no longer than three (3) consecutive weeks following the date of notification so long as it is reasonably apparent that site conditions have not changed so substantially as to invalidate the markings. If excavation has not commenced within three (3) weeks from the original notice to underground facility owners through the one-number notification service, the excavator shall reinitiate notice in accordance with this section.

(a) Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this chapter.

Identified but Unlocatable Underground Facility

(b) The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two (2) business days prior to the excavation except for notices given for discovered facilities after the owner has identified facilities.

(3) Emergency excavations are exempt from the time requirements for notification provided in this section.

(4) If the excavator, while performing the excavation, discovers underground facilities (whether active or abandoned) which are not identified or were not located in accordance with section 55-2205(2), Idaho Code~~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~~the locate information required under section 55-2205(2), Idaho Code, 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.

Right to Appeal Training

55-2211. VIOLATION--CIVIL PENALTY--DUTIES OF THE BOARD AND THE ADMINISTRATOR--OTHER REMEDIES UNIMPAIRED. (1) The damage prevention board established in section 55-2203, Idaho Code, may hear, but may not initiate, contested cases of alleged violations of this chapter involving practices related to underground facilities as set forth in rules by the board. Persons who violate the provisions of this chapter are subject to civil penalties in accordance with this section. Complaints regarding an alleged violation of this chapter may be made by any individual and shall be made to the administrator. Complaints shall include the name and address of the complainant and the alleged violator, and the violation alleged. If the alleged violation involves facility damage or a downtime event, the complaint must be submitted on such forms and contain such information as required by the board in rule. Upon review of the complaint, and any investigation conducted therewith, the administrator shall notify the person making the complaint and the alleged violator, in writing, of the administrator's recommended course of action to the board. The administrator shall recommend that a training course adopted by the board, by rule, be successfully completed for a first violation of this chapter, except that if the complaint is for a first violation of this chapter wherein a residential homeowner or residential tenant excavating on the lot of his residency failed to provide notice as required in section 55-2205, Idaho Code, and caused damage to underground facilities, the board shall direct the administrator to deliver to the violator a written warning and educational materials to prevent a future violation. The administrator may recommend the imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for a second violation of this chapter and in addition may recommend successful completion of a training course adopted by the board, by rule, and issue a notice of intent to impose such penalty on behalf of the board. If the administrator recommends the imposition of a civil penalty, the violator may pay the fine to the board upon receipt of such notice. If, upon the expiration of twenty-one (21) days, the violator has not responded in writing to the division, the board may impose the penalty provided for in the notice. A violator shall also have the right to contest the imposition of training or a civil penalty to the board and the opportunity to produce evidence in his behalf. Notice of the time and place of such hearing shall be provided by the board, and such proceeding shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In the event the board determines that a person has violated the provisions of this chapter a subsequent time within eighteen (18) months from an earlier violation, and where facility damage has occurred, the board may impose a civil penalty of not more than five thousand dollars (\$5,000) for each separate violation in accordance with the process described in subsection (1) of this section.

(3) All civil penalties recovered shall be deposited in the underground facility damage prevention board fund and used pursuant to section 55-2204(2), Idaho Code.

(4) The penalties provided in this section are in addition to any other remedy at law or equity available to any party subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

(5) Unless expressly provided herein, nothing in this chapter eliminates, alters or otherwise impairs common law, statutory or other preexisting rights and duties of persons affected by the provisions of this chapter; nor does anything in this chapter, unless expressly so provided, eliminate, alter or otherwise impair other remedies, state or federal, including those at common law, of an underground facility owner whose facility is damaged; nor do the provisions of this chapter affect any civil remedies for personal injury or property damage

Right to Appeal Training

except as expressly provided for herein. The court in its discretion may award attorney's fees and costs to the prevailing party.

Service Laterals

55-2202. DEFINITIONS. As used in this chapter:

- (1) "Administrator" means the administrator of the division of building safety.
- (2) "Board" means the damage prevention board.
- (3) "Business day" means any day other than Saturday, Sunday, or a legal, local, state, or federal holiday.
- (4) "Damage" means any impact or exposure that results in the substantial weakening of structural or lateral support of an underground facility, or the penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the partial or complete destruction of the facility, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.
- (5) "Emergency" means any sudden or unforeseen condition constituting a clear and present danger to life, health or property, or a customer service outage, or the blockage of roads or transportation facilities that requires immediate action.
- (6) "End user" means any utility customer or consumer of any utility service or commodity provided by an underground facility operator.
- (7) "Excavation" means any operation in which earth, rock, or other material in the ground is moved or otherwise displaced by any means including, but not limited to, explosives.
- (87) "Excavator" means any person who engages directly in excavation.
- (98) "Excavator downtime" means lost time for an excavation project due to failure of one (1) or more stakeholders to comply with applicable damage prevention regulations.
- (109) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.
- (110) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.
- (124) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.
- (132) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.
- (143) "One-number notification service" means a service through which a person can notify owners of underground facilities and request field-marking of their underground facilities.
- (154) "Person" means an individual, partnership, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.
- (16) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, lane, path, sidewalk, alley, or other right-of-way dedicated for compatible uses.
- (175) "Reasonable accuracy" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.
- (186) "Rural underground facility owner" means an underground facility owner that is a public utility or a member-owned cooperative that serves fewer than five thousand (5,000)

Service Laterals

total customers in a county or counties with populations that do not exceed fifty thousand (50,000) people.

(19) “Service lateral” means 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.

~~(2017)~~ “Stakeholder” means any party with an interest in protecting underground facilities including, but not limited to, persons, property owners, underground facility owners, excavators, contractors, cities, counties, highway districts, railroads, public entities that deliver irrigation water and those engaged in agriculture.

~~(2118)~~ “Underground facility” means any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for irrigation), sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

(22) “Underground facility easement” means a nonpossessory right to operate, control, bury, install, maintain, or access an underground facility.

(23) “Underground facility operator” means any underground facility owner who may operate, control, bury, install, maintain, or access an underground facility or who provides any utility service or commodity. An underground facility operator does not include an end user who owns or uses a service lateral that terminates at an underground facility operator’s main utility line.

~~(2419)~~ “Underground facility owner” means any person who owns or operates an underground facility.

55-2205. PERMIT COMPLIANCE--NOTICE OF EXCAVATION--RESPONSE TO NOTICE--COMPENSATION FOR FAILURE TO COMPLY—EXEMPTIONS. (1) Before commencing excavation, the excavator shall:

- (a) Comply with other applicable law or permit requirements of any public agency issuing permits;
- (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 Laterals

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.

(2) Upon receipt of the notice provided for in this section, the underground facility owner or the owner's agent shall locate and mark its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities or the owner's agent shall locate and mark the underground facilities in accordance with the best information available to the owner of the underground facilities and with reasonable accuracy as defined in section 55-2202(15), Idaho Code. The owner of the underground facility or the owner's agent providing the information shall respond no later than two (2) business days after the receipt of the notice or before the excavation time set forth in the excavator's notice, at the option of the underground facility owner, unless otherwise agreed in writing by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, or the owner's agent, the excavator is responsible for maintaining the markings. Unless otherwise agreed in writing by the parties, maintained markings shall be valid for purposes of the notified excavation for a period of no longer than three (3) consecutive weeks following the date of notification so long as it is reasonably apparent that site conditions have not changed so substantially as to invalidate the markings. If excavation has not commenced within three (3) weeks from the original notice to underground facility owners through the one-number notification service, the excavator shall reinitiate notice in accordance with this section.

(a) Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this chapter.

(b) The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two (2) business days prior to the excavation except for notices given for discovered facilities after the owner has identified facilities.

(3) 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. End users are not required to locate or mark service laterals.

(4) Emergency excavations are exempt from the time requirements for notification provided in this section.

(54) 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

Service Laterals

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.

55-2206. ONE-NUMBER NOTIFICATION SERVICE--ESTABLISHMENT--PARTICIPATION REQUIRED—FUNDING. Two (2) or more persons who own or operate underground facilities in a county may voluntarily establish or contract with a third person to provide a one-number notification service to maintain information concerning underground facilities within a county. Upon the establishment of the first such one-number notification service, all others operating and maintaining underground facilities within said county shall participate and cooperate with the service, and no duplicative service shall be established pursuant to this chapter. The activities of the one-number locator service shall be funded by all of the underground facility owners~~s/operators~~ required by the provisions of this section to participate in and cooperate with the service. All underground facility owners~~s/operators~~ who are required to participate in a one-number notification service are subject to the jurisdiction of the damage prevention board established in section 55-2203, Idaho Code.

DAMAGE PREVENTION BOARD

Agenda Item No. 06a

IDAPA 07.10.01.008.02 & .03

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.008.02 & 03 – Replace “Utility Owner” with “Facility Owner”

March 2018 – For consistency, replace the term “utility owner” with “facility owner”. Mr. Grace will provide a proposed rule change at the May 2018 Board meeting

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.008.02 & .03 – FUNDING OF BOARD ACTIVITIES-- Payment Submission and Notices Issued.



Agenda Item 6a

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 ~~facility~~ ~~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)

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)

DAMAGE PREVENTION BOARD

Agenda Item No. 06b

IDAPA 07.10.01.018.03

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.018.03 – Extend 30-Day Complaint Requirement

March 2018 – Board Member Nichole Rush explained 30 days from the date of an incident to file a complaint with DBS is not enough time to gather all the information and ensure a complaint is valid. Board Member Rush requested extending the period to either 45 or 60 days. There was no definitive answer from the Board on this issue.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 06c

IDAPA 07.10.01.003

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.003.01 & .02 – Require Payment of an Appeal Bond

March 2018 – Require payment of an appearance bond for individuals who wish to contest a civil penalty. The bond can be \$200 or the amount of the penalty imposed, whichever is less. Other Boards under DBS have imposed appearance bonds to dispute the civil penalties. Regional Manager Grace will provide a proposed rule change at the May 2018 Board meeting.

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.003.01 & .02 – ADMINISTRATIVE APPEALS--Governing Procedural Requirements and Appeal Bond. (NEW)



Agenda Item 6c

003. ADMINISTRATIVE APPEALS.

01. Governing Procedural Requirements. 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)~~

02. Appeal Bond. Upon notice of the imposition of training or a civil penalty, the notified party may contest the imposition of such penalty before the Damage Prevention Board in accordance with section 018 of these rules. An appeal bond in the amount of the penalty or two hundred dollars (\$200), whichever is less, shall accompany the request for hearing to contest the matter. ~~()~~

DAMAGE PREVENTION BOARD

Agenda Item No. 06d

IDAPA 07.10.01.020.01

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.020.01 – Make Locators Eligible for Civil Penalties

March 2018 – Include locators as stakeholders who may be eligible for civil penalties for violations of the damage prevention statutes and rules.

Regional Manager Grace stated there is a duty to report damages and downtime to the Board, as well as a report those to DIRT; however, there is no civil penalty for causing the damage. Board Member Rush explained the subcommittee determined the downtime was a result of a violation already in rule. No changes are necessary at this time.

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.020.01(d) – CIVIL PENALTIES--Failure to Locate or Mark



Agenda Item 6d

007. DEFINITIONS.

01. 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. (3-28-18)

03. Locator. A person acting on behalf of an underground facility owner to designate the location of an underground facility owned or operated by such underground facility owner. ()

032. 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. (3-28-18)

...

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. (3-28-18)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts shall subject a person to civil penalties: (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

d. Failure to Locate or Mark. An underground facility owner, owner's agent, or locator who fails to locate or mark ~~its~~ underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein shall be subject to a civil penalty. (~~3-28-18~~)

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. (3-28-18)

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. (3-28-18)

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

Agenda Item 6d

of excavation in accordance with Section 55-2207, Idaho Code, shall be subject to a civil penalty.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

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.

(3-28-18)

DAMAGE PREVENTION BOARD

Agenda Item No. 06e

IDAPA 07.10.01.007 & .021

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.007 & .021 – Sewer/Water Lines in Right-of-Way

PROCEDURAL HISTORY:

ATTACHMENTS: IDAPA 07.10.01.007 – DEFINITIONS (New)
IDAPA 07.10.01.021 – FACILITY OPERATOR LOCATIONS OF SERVICE LATERALS (New)



Agenda Item 6e

007. DEFINITIONS.

01. End User. Any utility customer or consumer of any utility service or commodity provided by an underground facility operator. ()

021. 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. (3-28-18)

03. Public Right-of-Way. The area on, below, or above a public roadway, highway, street, lane, path, sidewalk, alley, or other right-of-way dedicated for compatible uses. ()

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. (3-28-18)

06. Underground Facility Easement. A nonpossessory right to operate, control, 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, who may operate, control, bury, install, maintain, or access an underground facility or who provides any utility service or commodity. An underground facility operator does not include an end user who owns or uses a service lateral that terminates at an underground facility operator's main utility line. ()

...

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. (3-28-18)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts shall subject a person to civil penalties: (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

d. Failure to Locate or Mark. An underground facility owner who fails to locate or mark its underground facilities in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided

Agenda Item 6e

therein shall be subject to a civil penalty. (3-28-18)

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. (3-28-18)

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. (~~3-28-18~~)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. (3-28-18)

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. End users are not required to locate or mark service laterals. ()

DAMAGE PREVENTION BOARD

Agenda Item No. 06f

IDAPA 07.10.01.020.03

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.020.03 – Clarify Multiple Violations in One Day

March 2018 – Provide clarity that a single incident may result in multiple violations, and if there are multiple violations, it could be a second offense; thus, a single incident could result in civil penalties. Board Member Bob Chandler explained the subcommittee addressed this issue and no matter how many violations broken in one day, it would still constitute one offense. If on the same site the next day and violations occur, that would be a second offense. No changes are necessary at this time.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 06g

IDAPA 07.10.01.008

PRESENTER: Patrick J. Grace, Regional Manager & Spencer Holm, Deputy Attorney General

OBJECTIVE: Refine and/or create new/existing rules.

ACTION: Informational

BACKGROUND: IDAPA 07.10.01.008 – Ten Cent (.10¢) Per Call Fee

March 2018 – Review and possible revision of the (.10¢) per call fee for each notice an owner receives from the one-number notification service. There was no decision from the Board.

PROCEDURAL HISTORY:

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 07

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.

March 2018 – Using portions of definitions from other state statutes for “underground facility owner”, “public right-of-way (ROW)”, “underground facility easement”, “end user” and “service laterals”, the Deputy Attorney General brought forth a draft proposal. Included in the proposal was *Facility Operator Location Of Services Laterals* where an underground facility operator is required to locate and mark service laterals.

Board Member Scott Spears suggested the following changes: 1) Utilize the definition of ROW in Idaho Code 40-117(9) as it is quite specific in terms of establishing what is a public ROW, and 2) For less confusion, remove the language “... the right to control, operate, bury, install, maintain, or access” from the definition of *Facility Operator Location of Service Laterals*.

Board members were confused as the proposal was unclear who the responsible party is for sewer/water lines in the ROW. Deputy Attorney General Holm explained an operator is a subset of an owner and only the subset is required to locate sewer laterals and not the rest of the owners. For clarification, Board Member Spears recommended adding a reference to the end user; i.e., the end user is not required to perform locating within the public right of way.

Upon further discussion, the Deputy Attorney General will draft a proposed statute change rather than a rule change.

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 08

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. 08a

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

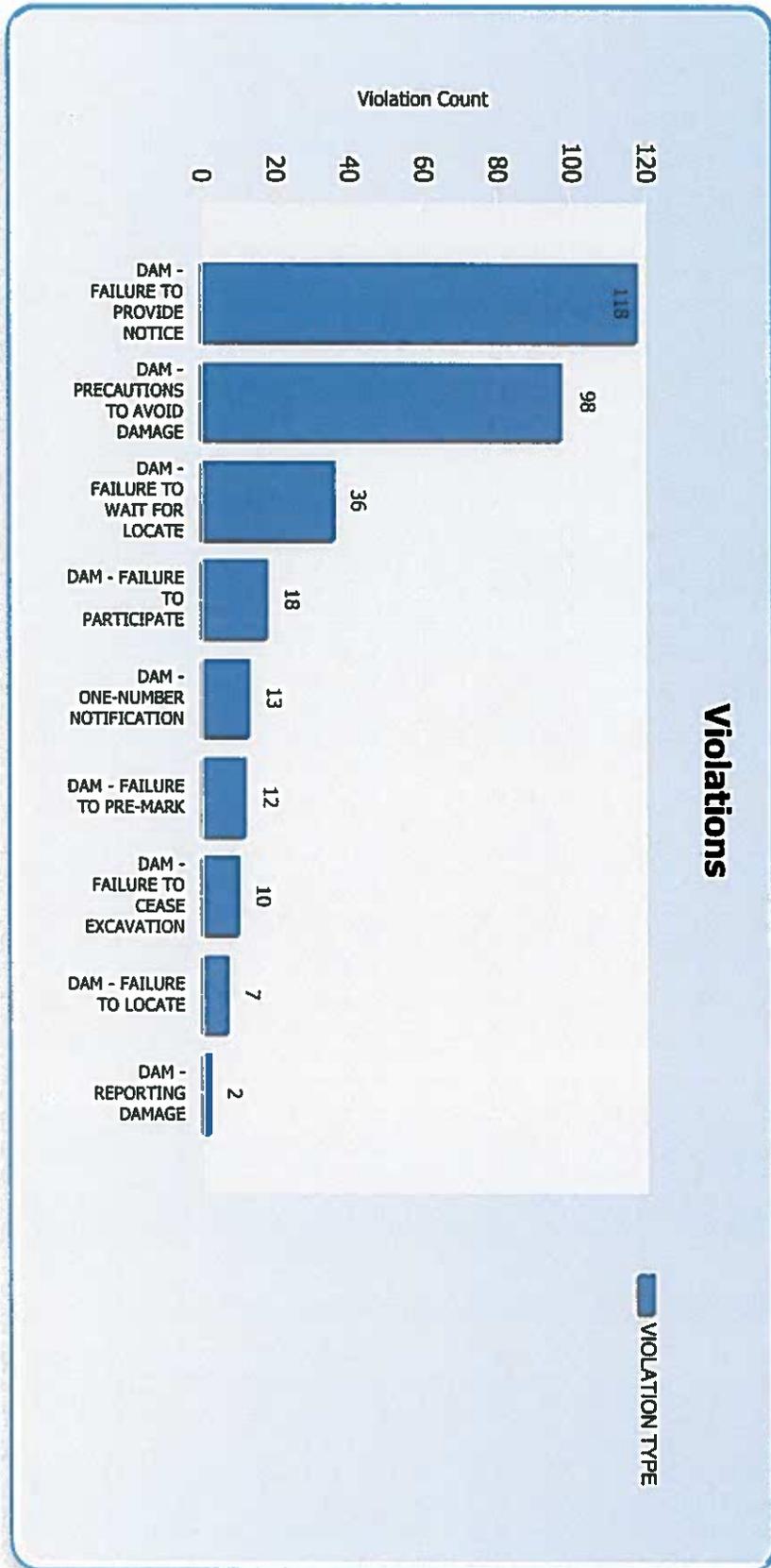




DAM% NOV Activity by Date

ICStakohler 5/14/2018 2:00:35 PM
From 1/1/2017 to 5/14/2018

266 Cases 314 Violations



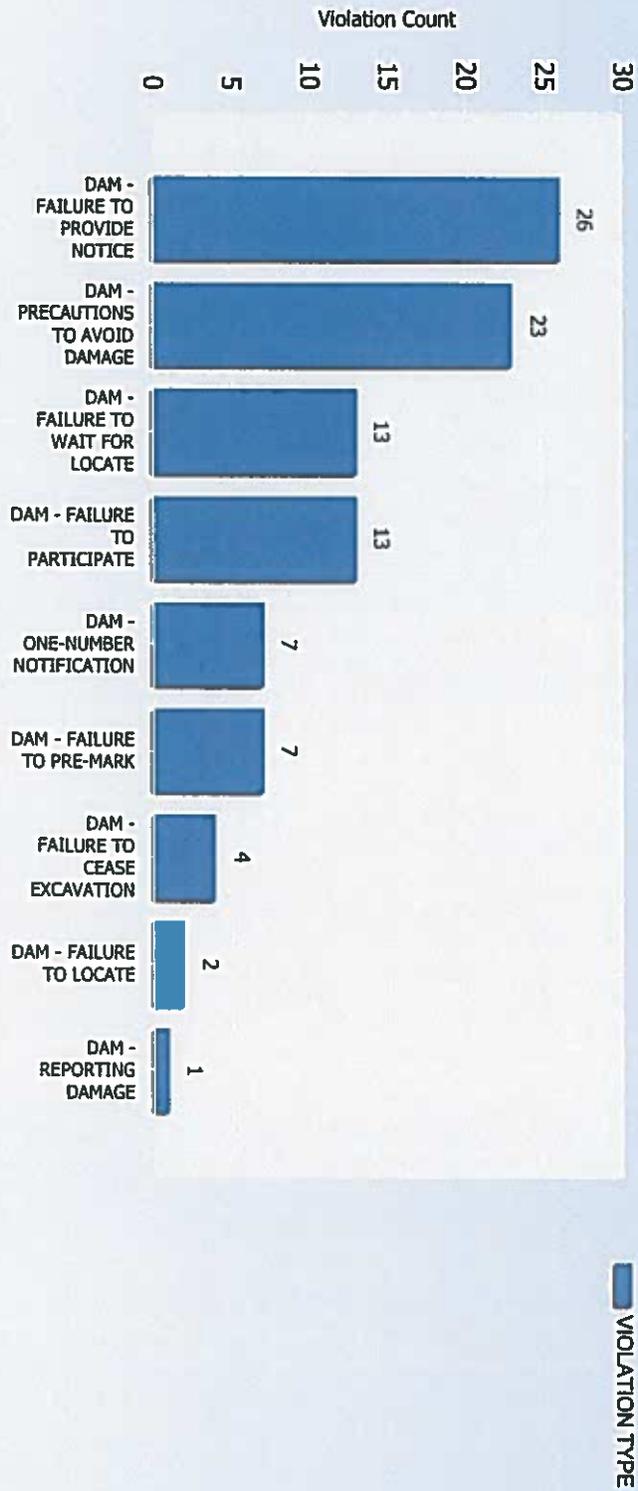


DAM% NOV Activity by Date

ICStakohler 5/14/2018 4:13:49 PM
 From 3/21/2018 to 5/14/2018

64 Cases 96 Violations

Violations



CASE NO	STARTED	CLOSED	Case Type	FEES CHARGED	FEES PAID	BALANCE DUE	STATUS	OFFENDER COMPLAINTANT
DAM1804-0001 EAGLE	3/21/2018		NOV	\$200.00	\$0.00	\$200.00	ACTIVE	EXCAVATION PLUS INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0007 KUNA	3/21/2018		NOV	\$0.00	\$0.00	\$0.00	CLOSED	MOUNTAIN VALLEY ELECTRIC INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0009 FRUITLAND	3/22/2018		NOV	\$0.00	\$0.00	\$0.00	CANCELLED	ESI INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0011 IDAHO FALLS	4/2/2018	5/8/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	SETHCO INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0013 IDAHO FALLS	4/2/2018	5/14/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	SHOOK CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0014 IDAHO FALLS	4/10/2018		NOV	\$0.00	\$0.00	\$0.00	CLOSED	CHRIS HANOSKY INTERMOUNTAIN GAS CO

VIOLATION: DAM - ONE-NUMBER NOTIFICATION

VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1804-0015	4/2/2018	NOV	\$200.00	\$0.00	\$200.00	ACTIVE	BOISE SAND AND GRAVEL LLC INTERMOUNTAIN GAS CO
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VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE

DAM1804-0016	3/28/2018	5/14/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	HIGH MARK EXCAVATION INTERMOUNTAIN GAS CO
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VIOLATION: DAM - FAILURE TO PROVIDE NOTICE

DAM1804-0017	3/30/2018	4/26/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	BOISE SAND AND GRAVEL LLC INTERMOUNTAIN GAS CO
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VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1804-0018	3/27/2018		NOV	\$0.00	\$0.00	\$0.00	ACTIVE	SAWTOOTH DIRECTIONAL DRILLING INTERMOUNTAIN GAS CO
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VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1804-0019	3/30/2018		NOV	\$0.00	\$0.00	\$0.00	ACTIVE	BIG BITE INC INTERMOUNTAIN GAS CO
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VIOLATION: DAM - FAILURE TO PROVIDE NOTICE

DAM1804-0020 MERIDIAN	3/30/2018		NOV	\$0.00	\$0.00	\$0.00	ACTIVE	CLASSIC ELECTRIC INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0021 MERIDIAN	3/29/2018		NOV	\$200.00	\$0.00	\$200.00	ACTIVE	GRANITE EXCAVATION INC INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0022 BOISE	3/21/2018		NOV	\$0.00	\$0.00	\$0.00	ACTIVE	DAHLE CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
VIOLATION: DAM - ONE-NUMBER NOTIFICATION								
DAM1804-0023 MERIDIAN	4/3/2018	5/10/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	POWER ENTERPRISES INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE								
DAM1804-0024 MERIDIAN	4/3/2018	4/24/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	IDAHO MATERIALS AND CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1804-0025 BOISE	3/30/2018	5/4/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	ELLIOT SCOTT EARTHMOVERS INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								

DAM1804-0026	3/27/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	LURRE CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
VIOLATION: DAM - REPORTING DAMAGE								
DAM1804-0027	4/5/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	NAILLON PLUMBING INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0028	4/10/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	MILLER PLUMBING INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0029	4/9/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	CLOSED	VALUE HOMES OF IDAHO LLC INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0030	4/6/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	MOON VALLEY LANDSCAPING INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								

DAM1804-0031 NAMPA	4/10/2018	4/27/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	CLOSED	PANCHERI LAND AND LIVESTOCK INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE									
DAM1804-0032 CALDWELL	4/5/2018		NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	OLSON AND SONS INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE									
DAM1804-0033 SHELLEY	4/10/2018		NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	ROCK SOLID LANDSCAPE INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE									
DAM1804-0034 GARDEN CITY	4/11/2018		NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	WILLOW BROOK DEVELOPMENT INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE									
DAM1804-0035 BOISE	3/28/2018		NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	ELKRIDGE LANDSCAPING INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO LOCATE									
VIOLATION: DAM - FAILURE TO PARTICIPATE									
VIOLATION: DAM - FAILURE TO PRE-MARK									
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE									
VIOLATION: DAM - ONE-NUMBER NOTIFICATION									
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE									

DAM1804-0036 BOISE	4/2/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	JOHN BROWN EXCAVATION INTERMOUNTAIN GAS CO
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE							
DAM1804-0037 MERIDIAN	4/13/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	IRA MAC INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE							
DAM1804-0038 BOISE	4/13/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	MILESTONE CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE							
DAM1804-0039 BOISE	4/15/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	MICHAEL KAMINSKI INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PRE-MARK							
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE							
VIOLATION: DAM - ONE-NUMBER NOTIFICATION							
DAM1804-0040 BOISE	4/16/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	PRECISION EXCAVATION INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE							
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE							

DAM1804-0042	4/11/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	ROTO-ROOTER INTERMOUNTAIN GAS CO
POCATELLO								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0043	4/16/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	BLAINE ROBBINS ELECTRIC CO INTERMOUNTAIN GAS CO
POCATELLO								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0044	4/13/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	JOHN CARLSON INTERMOUNTAIN GAS CO
POCATELLO								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1804-0045	4/9/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	EVERLAST CONCRETE INTERMOUNTAIN GAS CO
NANPA								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1804-0046	4/18/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	SUPERIOR CONSTRUCTION & EXCAVATION INTERMOUNTAIN GAS CO
MERIDIAN								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
DAM1804-0047	4/12/2018	5/7/2018	NOV	\$0.00	\$0.00	\$0.00	CLOSED	CITY OF EMMETT PUBLIC WORKS INTERMOUNTAIN GAS CO
EMMETT								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								

DAM1804-0048	4/20/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	AFFORDABLE CONCRETE INTERMOUNTAIN GAS CO
POCATELLO								
VIOLATION: DAM - FAILURE TO CEASE EXCAVATION								
VIOLATION: DAM - FAILURE TO PARTICIPATE								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1805-0001	4/17/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	CASCADE PIPELINE INTERMOUNTAIN GAS CO
BUHL								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1805-0002	4/19/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	CORY KENT IDAHO POWER
CALDWELL								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1805-0003	4/18/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	DENNIS PHIPPS WELL IDAHO POWER
CALDWELL								
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE								
DAM1805-0004	4/19/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	IDAHO POWER INTERMOUNTAIN GAS CO
BOISE								
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE								
DAM1805-0005	4/10/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	FRONTIER FENCE INTERMOUNTAIN GAS CO
BOISE								

VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0006 4/19/2018 NOV \$0.00 \$0.00 \$0.00 \$0.00 ACTIVE **EVOLUTION LANDSCAPING**
INTERMOUNTAIN GAS CO
GARDEN CTY

VIOLATION: DAM - FAILURE TO CEASE EXCAVATION

VIOLATION: DAM - FAILURE TO PARTICIPATE

VIOLATION: DAM - FAILURE TO PRE-MARK

VIOLATION: DAM - FAILURE TO PROVIDE NOTICE

VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE

VIOLATION: DAM - ONE-NUMBER NOTIFICATION

VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0007 4/20/2018 NOV \$0.00 \$0.00 \$0.00 \$0.00 ACTIVE **C&S EXCAVATION**
INTERMOUNTAIN GAS CO
KUNA

VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE

VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0008 4/25/2018 NOV \$500.00 \$0.00 \$500.00 ACTIVE **KING CONCRETE**
CONSTRUCTION, LLC
MERIDIAN INTERMOUNTAIN GAS CO

VIOLATION: DAM - FAILURE TO PROVIDE NOTICE

DAM1805-0009 4/25/2018 NOV \$0.00 \$0.00 \$0.00 \$0.00 ACTIVE **HOGAN & ASSOCIATES**
CONSTRUCTION
SODA SPRINGS WILLIAMS NORTHWEST PIPELINE

VIOLATION: DAM - FAILURE TO PARTICIPATE						
VIOLATION: DAM - FAILURE TO PRE-MARK						
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE						
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE						
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE						
DAM1805-0010	4/13/2018	NOV	\$0.00	\$0.00	\$0.00	EXTREME EXCAVATION ANDEAVOR
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE						
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE						
DAM1805-0011	4/27/2018	NOV	\$0.00	\$0.00	\$0.00	SPIERS CONSTRUCTION INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE						
DAM1805-0012	4/20/2018	NOV	\$0.00	\$0.00	\$0.00	CURTIS T RIGBY INTERMOUNTAIN GAS CO
VIOLATION: DAM - FAILURE TO PARTICIPATE						
DAM1805-0013	4/30/2018	NOV	\$0.00	\$0.00	\$0.00	PALOMINOS LANDSCAPING & LAWN CARE INTERMOUNTAIN GAS CO
VIOLATION: DAM - ONE-NUMBER NOTIFICATION						
DAM1805-0014	4/25/2018	NOV	\$0.00	\$0.00	\$0.00	NAMPA PAVING & ASPHALT COMPANY INTERMOUNTAIN GAS CO

VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE
 VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0015	4/21/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	DESTINY BUILDERS INTERMOUNTAIN GAS CO
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POCATELLO
 VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0016	4/28/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	DAN MURDOCH INTERMOUNTAIN GAS CO
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AMMON
 VIOLATION: DAM - FAILURE TO PARTICIPATE

DAM1805-0017	5/8/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	MARK OLSEN INTERMOUNTAIN GAS CO
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RIGBY
 VIOLATION: DAM - FAILURE TO PARTICIPATE

DAM1805-0018	5/7/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	KOYLE CLASSIC CONSTRUCTION INTERMOUNTAIN GAS CO
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TWIN FALLS
 VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE

DAM1805-0019	4/25/2018	NOV	\$0.00	\$0.00	\$0.00	\$0.00	ACTIVE	CU NEXT STORM INTERMOUNTAIN GAS CO
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HAILEY
 VIOLATION: DAM - FAILURE TO PRE-MARK

DAM1805-0020	4/20/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	DOUBLE A DAIRY IDAHO POWER
SHOSHONE							
VIOLATION: DAM - FAILURE TO LOCATE							
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE							
VIOLATION: DAM - ONE-NUMBER NOTIFICATION							
DAM1805-0021	4/26/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	IDAHO FISH & GAME INTERMOUNTAIN GAS CO
JEROME							
VIOLATION: DAM - FAILURE TO PRE-MARK							
VIOLATION: DAM - PRECAUTIONS TO AVOID DAMAGE							
DAM1805-0022	5/6/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	JUAN SANCHEZ INTERMOUNTAIN GAS CO
TWIN FALLS							
VIOLATION: DAM - FAILURE TO PARTICIPATE							
VIOLATION: DAM - FAILURE TO PRE-MARK							
DAM1805-0023	4/26/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	KNIFE RIVER INTERMOUNTAIN GAS CO
POCATELLO							
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE							
DAM1805-0024	4/24/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	MICKELSON CONSTRUCTION INTERMOUNTAIN GAS CO
BLACKFOOT							
VIOLATION: DAM - FAILURE TO PARTICIPATE							
VIOLATION: DAM - FAILURE TO WAIT FOR LOCATE							

DAM1805-0025	4/22/2018	NOV	\$0.00	\$0.00	\$0.00	ACTIVE	BRIAN & NYCOLE HOLBROOK IDAHO POWER
VIOLATION: DAM - FAILURE TO PROVIDE NOTICE							
Total Cases: 64			\$1100.00	\$0.00	\$1100.00		

DPB STATS AS OF 5/14/18	
INVALID COMPLAINTS	5
CANCELLED COMPLAINTS	14
ACTIVE (INCLUDES APPEALS)	70
APPEAL UPHELDS	1
CLOSED	176
TOTAL	266

TRAINING ASSESSED	181
TRAINING COMPLETED	41

		\$ CP	\$ CP PAID
# OF 2ND OFFENSES	23	\$3,400.00	\$0.00
# OF 3RD OFFENSES	4	\$200.00	\$0.00
# OF 4TH OFFENSES	1	\$200.00	\$0.00
# OF 5TH OFFENSES	5	\$200.00	\$0.00
# OF 6TH OFFENSES	1	\$500.00	\$0.00
	\$ CP ASSESSED	\$4,500.00	\$0.00

COMPLAINTS FILED BY:	
ANDEAVOR	1
AVISTA	2
IDAHO POWER	32
INTERMOUNTAIN GAS	224
TRACK UTILITIES	1
TRU FIBER	1
UTILITY SOLUTIONS	1
WILLIAMS NORTHWEST PIPELINE	4
TOTAL	266

DAMAGE PREVENTION BOARD

Agenda Item No. 08b

e-TRAKiT System Presentation

PRESENTER: Amy Kohler, Compliance Program Specialist

OBJECTIVE: Presentation of the Division's e-TRAKiT System.

ACTION: Informational

BACKGROUND: March 2018 – The Division has a program called e-TRAKiT where the public can access information on a complaint. Program Specialist Kohler offered to provide a tutorial at the May meeting on the system.

**PROCEDURAL
HISTORY:**

ATTACHMENTS: No Documentation



DAMAGE PREVENTION BOARD

Agenda Item No. 09

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. 09a

Financial Report

PRESENTER: Chris L. Jensen, Administrator

OBJECTIVE: Review the Damage Prevention Board's Newly Formatted 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 04/30/2018

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	38,506	77%	11,495	27,233	65,739	131%
Expenditures							
Personnel:	-	17,859	0%	(17,859)	4,252	22,111	0%
Operating:	50,000	9,325	19%	40,675	17,972	27,297	55%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	50,000	27,184	54%	22,816	22,224	49,408	99%
Net for FY 2018	-	11,322			5,009	16,330	

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 April 30, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
18,775	38,506	27,184	-172	29,925	5,009	34,933

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:	16,180	16,820	104%	(640)	-	16,820	104%
Operating:	44,020	31,398	71%	12,622	-	31,398	71%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	60,200	48,219	80%	11,981	0	48,219	80%
Net for FY 2018	(60,200)	(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 April 30, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
70,381	(22,432)	48,219	0	(269)	-	(269)

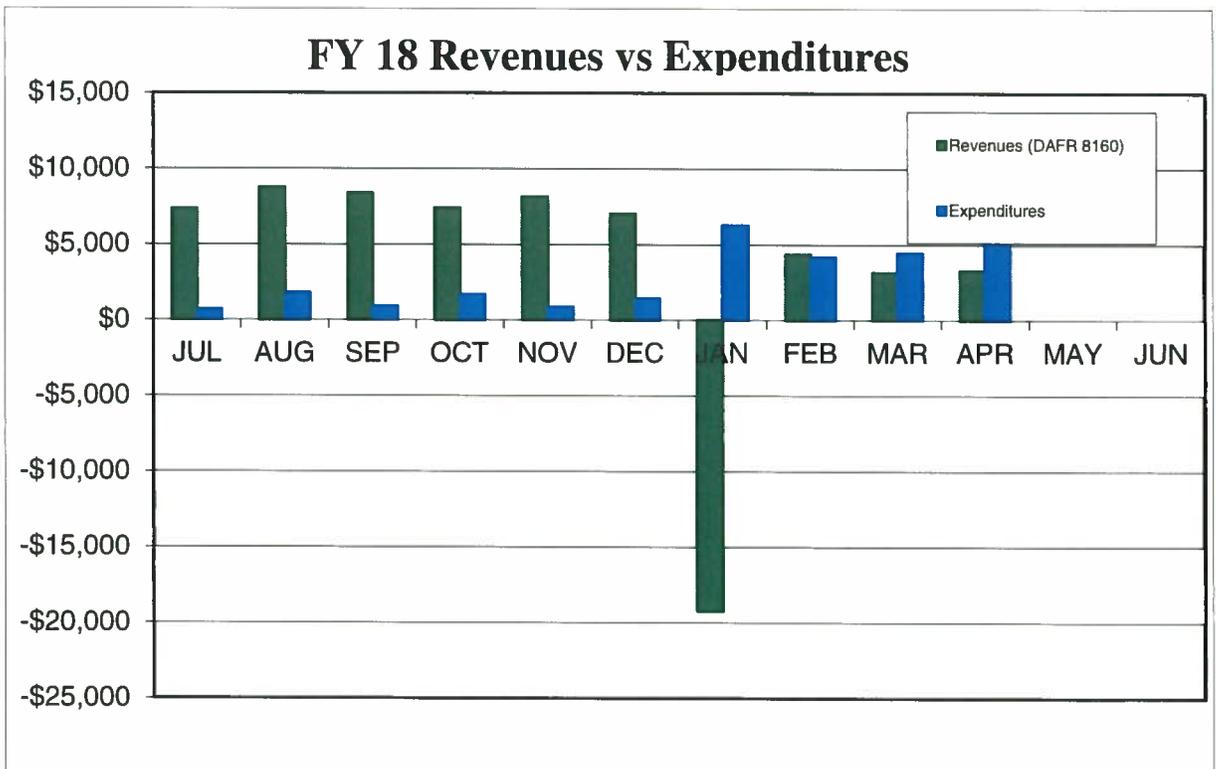
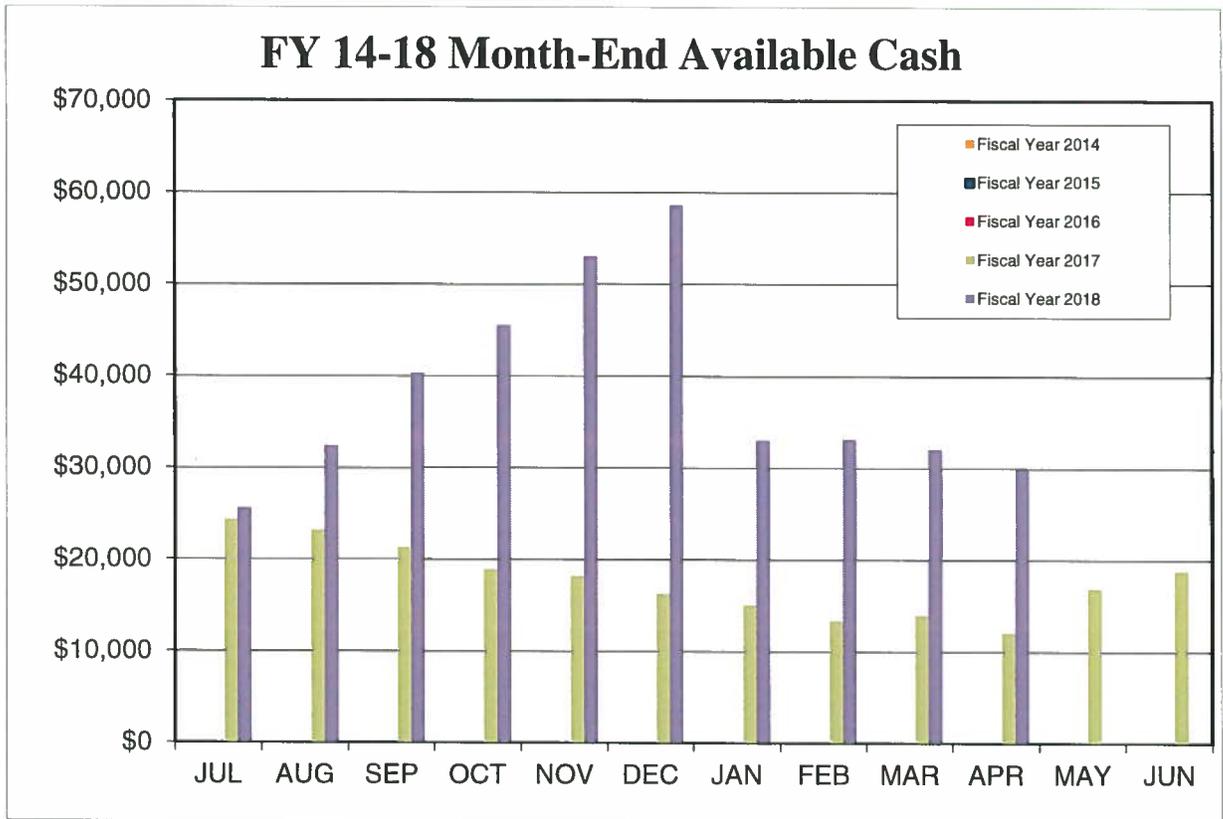
Statement of Revenues and Expenditures - 0348-00 Federal Grant (State Damage Prevention Program Grant - 2018)

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	13,960	21%	52,368	-	13,960	21%
Operating:	23,672	198	1%	23,474	-	198	1%
Capital:	-	-	0%	-	-	-	0%
Total Expenditures	90,000	14,158	16%	75,842	0	14,158	16%
Net for FY 2018	-	(14,158)			-	(14,158)	

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

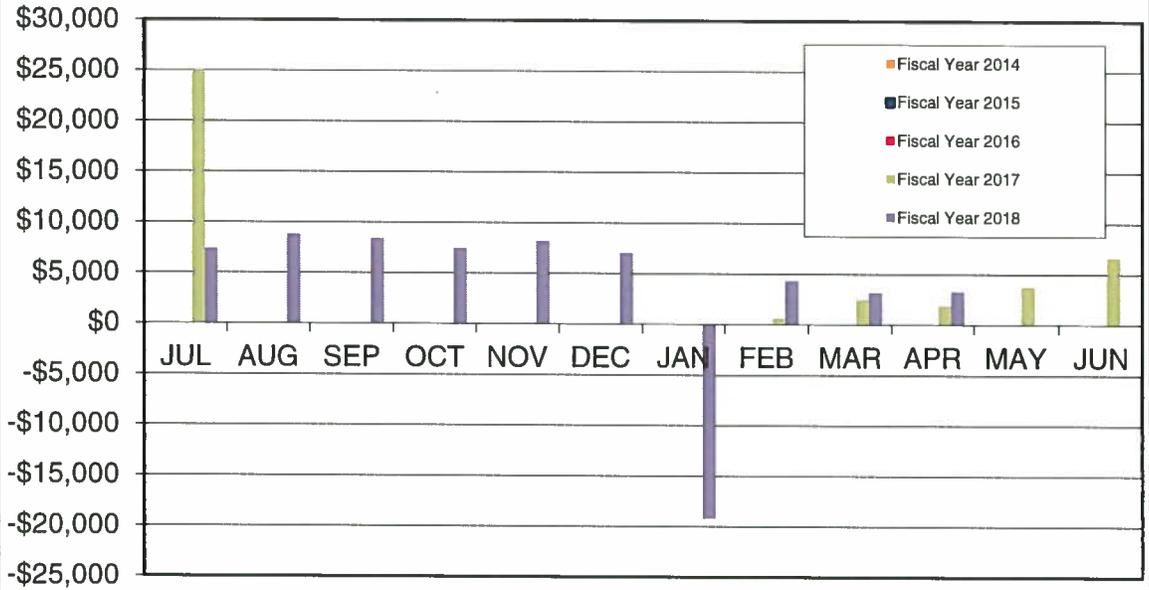
July 1, 2017 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of April 30, 2018	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
0	-	14,158	0	(14,158)	-	(14,158)

UNDERGROUND FACILITIES DAMAGE PREVENTION



UNDERGROUND FACILITIES DAMAGE PREVENTION

FY 14-18 Revenues



FY 14-18 Expenditures

