

TRANSPORTATION COMMISSION OF WYOMING

The Transportation Commission of Wyoming met in the Commission Room of the Transportation Headquarters building in Cheyenne on June 17, 2010. The meeting was convened at 8:30 a.m. Vice Chairman Covello ran the meeting, as Chairman Monk participated by telephone. The following members were present constituting a quorum:

Charlie Monk, Chairman, Lovell (via telephone)
Cactus Covello Jr., Vice Chairman, Torrington
Susan Dziardziel, Commissioner, Douglas
Jim Latta, Commissioner, Pinedale
Ted Ertman, Commissioner, Newcastle
Jim Hladky, Commissioner, Gillette
John F. Cox, Director
Sandra J. Scott, Commission Secretary

Also present at and participating in the meeting were: Delbert McOmie, Chief Engineer; Gregg Fredrick, Assistant Chief Engineer of Engineering and Planning; Tim Hibbard, Assistant Chief Engineer of Operations; Tom Loftin, Support Services Administrator; Lieutenant Colonel Jess Oyler, Interim Highway Patrol Administrator; Dennis Byrne, Aeronautics Administrator; Jackson Engels, Assistant Attorney General; Kevin Hibbard, Budget Officer; Doug McGee, Public Affairs Manager; and Vern Mickelsen, Assistant Division Administrator, Federal Highway Administration.

Commissioner Sandi McCormick, of Rock Springs, was absent.

Others present: Paul Bercich, State Highway Development Engineer, and Sandy Pecenka and Tony Laird, Project Development Engineers.

1. Secretary Scott presented a correction to the April 15, 2010, Commission minutes. On Page 10, Item 11, Paragraph 3, the second sentence should read, “. . . the Union Pacific Railroad’s (UPRR) financial responsibility in closing the crossing would be about *five percent of the \$10.7 million*” (emphasis added).

It was recommended by Secretary Scott, moved by Commissioner Latta, seconded by Commissioner Dziardziel, and carried to approve the above correction to the April 15, 2010, Commission minutes.

2. Director Cox presented the Director’s report.

United States Department of Transportation (USDOT) Field Hearing: Director Cox attended a USDOT meeting held in Bismarck, North Dakota, on June 4, 2010. The purpose of the meeting was to field comments regarding the transportation needs of the rural Great Plains states. Director Cox served on a plenary panel with the Department of Transportation directors from North Dakota, South Dakota, and Montana, discussing topics that affect rural states. The session generated several positive comments from USDOT senior staff. This was the first of the USDOT field hearings regarding the future transportation bill that was held in a rural environment. Director Cox advised

the Commission that it appeared the trip was very productive. Also attending the meeting from Wyoming were Senator Michael Von Flatern, Chairman of the Wyoming Senate Transportation Committee; Mr. Jonathan Downing, Executive Director for the Wyoming Contractor's Association; and Mr. John Davis, WYDOT Management Services Program Manager.

Joint Transportation, Highways and Military Affairs Interim Committee (JTC) Meeting: Director Cox, executive staff members, and Commissioners McCormick and Latta attended the first interim committee meeting in Evanston, June 9 and 10, 2010. Director Cox thanked the commissioners for attending the meeting and encouraged other commissioners to attend in the future, if possible. Discussion topics at the meeting included revisions to Wyoming statutes as a result of changes to the Federal Motor Carrier Safety Act, possible fuel tax increases, county road speed limit authority, and safe transportation of railroad employees. Director Cox advised that the division administrators would elaborate on these topics later in the meeting.

Lander-Area Flooding: Director Cox and Chief Engineer McOmie toured the Lander area on June 11, 2010, to view the significant flood damage in the area. State highways have not been deeply impacted yet, but Director Cox believes that some damage is inevitable because of continuing spring runoff. City and county roads and bridges have suffered the brunt of the damage.

Joint Minerals, Business and Economic Development Interim Committee Meeting: Director Cox has been invited to participate in a panel discussion at the June 28-29, 2010, interim committee meeting in Gillette. State construction contracts and WYDOT's business practices will be discussed. The School Facilities Commission will also participate on the panel.

Director's Extra Mile Awards: Mr. McOmie introduced Messrs. Bercich, Laird, and Kevin Hibbard and Mrs. Sandy Pecenka.

Director Cox extended Extra Mile Awards and a letter from the Commission to Messrs. Bercich, Laird, and Kevin Hibbard and Mrs. Pecenka for their part in executing ARRA projects.

Director Cox offered his sincere appreciation toward the entire Highway Development Program for their extraordinary efforts in preparing the plethora of projects that were let to contract with American Reinvestment and Recovery Act (ARRA) funding. The Budget Program was also recognized for its part in tracking and reporting of ARRA expenditures. An exorbitant amount of work has been done over the last several years to coordinate activities with field personnel and to prioritize projects in anticipation of the funding. Director Cox indicated that their efforts did not go unnoticed. Mr. McOmie also offered his sincere appreciation for the ARRA efforts statewide.

Mr. Bercich humbly accepted the award on behalf of the entire Highway Development Program and acknowledged all of its employees for their part in realizing the end product. Wyoming led the pack in getting project plans printed and let to contract while other states struggled to make deadlines. Mr. Hibbard advised that the projects would not have come to fruition without the many hands that were involved in designing the projects and in navigating ARRA guidelines.

Vice Chairman Covello offered his sincere appreciation to the award recipients for their work.

3. Mr. Kevin Hibbard presented the Budget report.

Monthly Budget Report: Mr. Hibbard advised that the Department has distributed motor fuel revenues that were outstanding last month.

ARRA Report: As of May 31, 2010, the Department has paid out 62 percent of its ARRA funds. About 70 percent of ARRA funds are expected to be expended by the end of June and 90 percent by September 30, 2010. Wyoming was ranked sixth in the nation in ARRA expenditures in May.

JTC Meeting: Mr. Hibbard briefed the Commission about the following topics from the June 9-10, 2010, JTC meeting in Evanston.

- Motor Fuel Tax – The committee discussed a potential 10 cents per gallon increase in motor fuel tax. If implemented, the Department would receive 67 percent of the total revenue, which equates to about \$45.8 million for surface transportation. The remaining 33 percent would be designated for cities and counties.

A 4-cent sales tax on fuel was also suggested at the meeting, with an optional additional 2-cent tax that could be imposed by cities and counties. Mr. Hibbard cautioned that a sales tax is much more volatile than a per-gallon fuel tax because of the potentially dramatic fluctuation in fuel prices.

The committee ultimately voted to draft two bills, one for a 10-cent fuel tax increase and a second bill for a 4-cent sales tax on fuel with an optional additional 2-cent tax for the cities and counties. The draft bills will be brought for consideration at their August 12-13, 2010, interim committee meeting in Casper.

- State Park Road Maintenance – Representatives from Wyoming State Parks testified before the JTC about a shortage of park road funding. According to State Park representatives, about \$26.5 million is needed to bring park roads up to an acceptable level. An additional \$2.5 million per biennium was also requested for park road maintenance. Mr. Hibbard testified that State Parks currently receives \$500,000 annually from the highway fund for their maintenance. Mr. Hibbard recommended to the JTC that the \$2.5 million requested by State Parks come from over-the-cap funds so that the Department isn't negatively impacted by their request.

4. Mr. Fredrick presented the Engineering and Planning report.

It was recommended by Mr. Fredrick, moved by Commissioner Dziardziel, seconded by Commissioner Latta, and carried to approve the following project authorizations:

COMMISSION DISTRICT 1

Rural Local

SPR 0.00 B102087; Platte County; Glendo State Park, Lakeshore Drive, Airport Section; chip seal; fiscal year (FY) 2010; supply funds; request state preliminary engineering funds of \$10,000; request state construction engineering and construction funds of \$215,000

COMMISSION DISTRICT 2

Rural Interstate

IM 297.66 I805167; Albany County; Walcott Junction to Laramie, Herrick Lane Interchange; reference marker (RM) 297.66; emergency deck repair; FY 2010; request state preliminary engineering funds of \$50,000; request federal construction engineering and construction funds of \$550,000

COMMISSION DISTRICT 3

Rural Local

SPR 0.00 B103086; Uinta County; Fort Bridger State Historical Site; grading gravel road; FY 2010; supply funds; request state construction funds of \$6,500

COMMISSION DISTRICT 5

Rural Principal Arterial

STP-E 0.00 N371028; Big Horn County; Greybull Streets, enhancements; RM 0.00 to 0.06; decorative lighting, sidewalk, landscaping; FY 2011 construction; request federal preliminary engineering funds of \$23,000

Rural Local

SPR 0.00 B105085; Big Horn County; Medicine Lodge State Historical Site; chip seal; FY 2010; supply funds; request state construction funds of \$50,473

COMMISSION DISTRICT 6

Rural Principal Arterial

SSP-TO 40.79 N402022; Niobrara County; Lusk Port of Entry, North Lusk; RM 40.79; electronic open/closed signs; FY 2010; request state construction engineering and construction funds of \$81,000

COMMISSION DISTRICT 7

Rural Local

SPR 0.00 B105084; Fremont County; Boysen State Park; chip seal and striping; FY 2010; supply funds; request state construction funds of \$167,000

COMMISSION DISTRICT M (Miscellaneous)

Various

RHC 0.00 B109083; statewide; Burlington Northern Santa Fe Railroad at-grade crossings; LED lights; FY 2010; request federal preliminary engineering funds of \$1,000; request federal construction engineering and construction funds of \$428,838

5. It was recommended by Mr. Fredrick, moved by Commissioner Latta, seconded by Commissioner Ertman, and carried to approve the following resolution.

RESOLUTION FOR RELINQUISHMENT

WHEREAS, under the provisions and authority of W.S. 24-3-126, the Transportation Commission of Wyoming may abandon or relinquish any portion of state highways upon reconstruction or relocation of an existing state highway; and

WHEREAS, a portion of Wyoming Department of Transportation's right-of-way for State Highway 789, Fremont County, Wyoming, established under Federal Highway Project No. F-78 (4) is no longer needed for state highway purposes.

All that portion of Section 21, T34N, R98W, of the 6th P.M., Fremont County, Wyoming, being portions of those certain tracts of land described in Book 89, Page 530, of the Fremont County Records and being described as follows:

Lot 7, Block 42, of the town of Hudson, as shown on the map on file in the office of the Fremont County Clerk, together with all easements of record thereunto appertaining.

NOW, THEREFORE BE IT RESOLVED, the Transportation Commission of Wyoming hereby relinquishes the above-described land to the Town of Hudson, Wyoming, as provided for under provisions and authority of W.S. 24-3-126.

Commissioner Ertman asked if the Town of Hudson was the original property owner, and, if not, should the property be relinquished to its original owner. The property consists of severed land that was sold to the Department for Project F-78(4) in 1955. The property surrounding Lot 7 that was abandoned through the Resolution and General Abandonment of June 1957 was taken over by the adjacent landowner. This property was later transferred to the Town of Hudson. The Fremont County Clerk did not discern this because there were two deeds granted to the Commission for the abandoned property. As such, the County still deems that WYDOT has an interest in Lot 7, Block 42. This relinquishment, through a Quit Claim Deed, will transfer only the interest that WYDOT has in the property to the Town of Hudson.

6. It was recommended by Mr. Fredrick, moved by Commissioner Hladky, seconded by Commissioner Ertman, and carried to approve the following resolution where property for public use cannot be acquired through good faith negotiation by purchase or gift:

RESOLUTION FOR EXERCISE OF EMINENT DOMAIN

WHEREAS, pursuant to W.S. 1-26-512, 1-26-801, and 24-2-102, the Transportation Commission of Wyoming is authorized to institute condemnation proceedings where property for public use cannot be acquired through good faith negotiation by purchase or gift; and

WHEREAS, the public interest and necessity require the construction of Project N432050, Gillette to Douglas Road, in Campbell County, that the property shown on the right-of-way plans for this project be acquired for highway purposes; and

WHEREAS, the Transportation Commission of Wyoming has determined that the aforementioned project is planned or located to be most compatible with the greatest public good and the least private injury; and

WHEREAS, the drainage facility and/or temporary construction easements to be acquired are identified as being located in Lots 1, 2, 7, 8, and 10 of Section 13; Lots 1, 8, 9, and 16 of Section 12; Lots 13 and 20 of Section 1, T48N, R72W; Lots 11, 12, 19, and 20 of Section 6, T48N, R71W; Lots 6, 10, 11, 13, 14, and 17 of Section 31; Lots 7, 8, 10, 11, 14, 15, 18 and 19 of Section 30; Lots 16 and 17 of Section 19, T49N, R71W; Lots 1, 8, and 9 of Section 24, T49N, R72W of the 6th Principal Meridian, Campbell County, Wyoming, and constitutes approximately 1.49 acres of property for drainage facility easements and approximately 93.31 acres of property for temporary construction easements.

NOW, THEREFORE BE IT RESOLVED, that the property sought to be acquired is necessary for the proposed project and in the event successful negotiations cannot be effectuated with any of the owners thereof, condemnation proceedings shall be commenced and prosecuted to acquire the necessary right-of-way and/or temporary construction easements.

7. Mr. Fredrick briefed the Commission about a proposed revised rule for Consultant Service Agreements, Chapter 18, from the Wyoming Department of Transportation Rules and Regulations. The rule was revised to amend the definition of a selection committee in Section 2(d), to amend the consultant selection process described in Section 4, and to delete the provision for amendment by supplemental agreement as described in Section 5.

One comment was received during the 45-day comment period, which suggested removing the definition of “qualification-based selection” since defining a term not used elsewhere in the rule is confusing and unnecessary. The rule was revised to reflect this suggestion.

It was recommended by Mr. Fredrick, moved by Commissioner Ertman, seconded by Commissioner Latta, and carried to approve the following resolution:

RESOLUTION

WHEREAS, the Wyoming Department of Transportation with the approval of the Transportation Commission of Wyoming, pursuant to authority of W.S. 24-2-105 and W.S. 24-2-108, is authorized to promulgate rules and regulations as described in the following; and

WHEREAS, the Wyoming Department of Transportation through the Transportation Commission of Wyoming desires to adopt General Section, Chapter 18, Consultant Services Agreements, to administer the process for engaging consultants who provide professional services to the Department; and

WHEREAS, a forty-five day public comment period and a public hearing was held to solicit comments concerning revisions to these rules; and

WHEREAS, the comments received during the comment period were considered by the Transportation Commission of Wyoming;

NOW THEREFORE BE IT RESOLVED that the Transportation Commission of Wyoming officially approves General Section Chapter 18, Consultant Services Agreements.

8. Lieutenant Colonel Oyler presented the Highway Patrol report.

The Fatal Crash Summary through May 31, 2010, includes 29 fatal crashes involving 35 deaths. The fatalities include 13 involving rollover crashes, 14 involving multi-car crashes, 9 involving commercial vehicles, 3 involving motorcycles and all-terrain vehicles, and 5 involving fixed objects.

There have been 11 crashes to date deemed alcohol related, resulting in 12 deaths. Of those deaths, 9 were attributed to not using restraints.

Of the 35 deaths that have occurred in 2010, 23 can be attributed to the non-use of occupant restraints, with 11 involving rollover crashes, 8 involving multi-car collisions, and 4 involving fixed objects. Of the 23 deaths that occurred from non-use of occupant restraints, 15 were Wyoming residents and 8 were non-residents.

Patrol-Investigated Crash Summary: The Patrol-Investigated Crash Summary reflects activity through April 30, 2010. The summary depicts 2,071 crashes statewide, of which 1,812 involved non-commercial vehicles and 259 involved commercial vehicles.

Patrol Field Arrest Activity: Field arrest activity indicates that the majority of arrests made as of May 31, 2010, have been DUI related. Field arrests total 716 to date, including the following:

- DUI arrests from crashes – 47
- DUI arrests from traffic stops – 284
- DUI arrests from the REDDI Program – 57
- DUI arrests from ports-of-entry – 1
- NCIC hits (person) – 22
- Wyoming warrants hits – 86
- Drug arrests – 114
- Other arrests – 105

Lieutenant Colonel Oyler indicated that fatalities and crashes continue to be fewer than what has been experienced in recent years.

9. Mr. Byrne presented the Aeronautics report, including the May Aircraft Passenger Summary and the Aircraft Accident Reports.

Repair of Cessna Citation: Mr. Byrne provided an update on the repair of N102WY. Aeronautics staff continues to work with Cessna Corporation in Kansas City, Kansas, about the repairs, which may ultimately involve complete engine repair or replacement. Cessna's Power Advantage Program will pay for the daily operating rate for the rental engine, the hourly operating rate for the rental engine, and the repair or replacement of the existing engine. The insurance does not cover the removal and replacement of the existing engine with a rental engine, shipping the rental engine from the factory to Cheyenne, or shipping the existing engine from Cheyenne to the factory, and hotel, meals, vehicle rental, and other expenses incurred by the Pratt & Whitney aircraft mechanics. Mr. Byrne advised that the Power Advantage Plan that was purchased by the Department in 2006 has been a very good investment.

10. Mr. Loftin presented the Support Services report.

JTC Update: Mr. Loftin briefed the Commission about changes in the Wyoming Statutes that are necessary to comply with the Federal Motor Carrier Safety Administration (FMCSA) Regulations. The WYDOT Driver Services Program was recently audited by the FMCSA in the areas of legal review of statutes, computer system review, and how the Department's system ties in with other states, and a process review of Wyoming commercial drivers license issuances. Nine areas were cited in the audit findings that require modification. The JTC voted at its June 9-10, 2010, meeting to draft a bill to address the audit findings, which will be considered at the August 12-13 committee meeting.

11. Mr. Tim Hibbard presented the Operations report.

It was recommended by Mr. Hibbard, moved by Commissioner Ertman, seconded by Commissioner Hladky, and carried to approve purchase for bid number 10-198 to furnish four each vertical storage tanks, double wall and liquid transfer station, for delivery at Dayton, Pole Creek Maintenance

Station, Moorcroft, and Wright, Wyoming. The contract was awarded to VariTech Industries, of Alexandria, Minnesota, for the sum of \$60,074.04.

It was recommended by Mr. Hibbard, moved by Commissioner Latta, seconded by Commissioner Hladky, and carried to approve purchase for bid number 10-215 to furnish 1,822,000 gallons of unleaded gasoline and 1,700,000 gallons of diesel fuel, for delivery at 54 WYDOT locations statewide. The contract was awarded to various vendors, as listed on the tabulation of bids, for the sum of \$8,950,165.20.

It was recommended by Mr. Hibbard, moved by Commissioner Hladky, seconded by Commissioner Latta, and carried to approve purchase for Requisition Number 0000018340 to furnish 125 each, computer-aided drafting and design software licenses for use at various statewide locations, for the period of May 1 through July 31, 2010. The contract was awarded to Bentley Systems, Inc., of Exton, Pennsylvania, for the sum of \$83,925.60.

It was recommended by Mr. Hibbard, moved by Commissioner Ertman, seconded by Commissioner Dziardziel, and carried to approve purchase for Requisition Number PURC-10-01 to furnish unleaded gasoline and diesel fuels, for pick up at the joint fueling facility on an as-needed basis in Buffalo. The contract was awarded to the City of Buffalo Joint Powers Board, Buffalo, Wyoming, for the sum of \$160,000.

It was recommended by Mr. Hibbard, moved by Commissioner Latta, seconded by Commissioner Dziardziel, and carried to approve purchase for Requisition Number PURC-10-02 to furnish unleaded gasoline and diesel fuel for pick up at the joint fueling facility on an as-needed basis in Newcastle. The contract was awarded to Weston County Road and Bridge, of Newcastle, Wyoming, for the sum of \$100,000.

WYOLINK Update: Mr. Hibbard updated the Commission about the status of the WYOLINK implementation. The team has recently made significant headway on the low-level tower sites. The initial estimate to provide one tower site and communications equipment per county was \$12 million, which was funded by the 2008 Legislature. Some cities and counties have identified their needs and have expressed an interest in participating in the system, but some entities have not responded at all. The Public Safety Communications Commission (PSCC) sent a second request to cities and counties asking that they provide a statement of their needs, which has spurred further interest. Actual costs so far have exceeded initial estimates of two years ago. Two change orders have been executed to cover the increase, and the Wyoming Department of Homeland Security has funding available to cover the associated costs. Motorola will work with WYDOT and the PSCC to contract the identified low level sites. The project will take about two years to complete, but it will ultimately provide the necessary infrastructure for cities and counties to link to the system and to supply statewide communications coverage.

12. Mr. McOmie presented the Chief Engineer's report.

Kaycee Streets Project Update: Mr. McOmie advised that the Department has made numerous attempts this winter and spring to contact Haggem Construction concerning the completion of the Kaycee Streets project. A notice of termination letter has been sent to the contractor, with a copy to EMC Insurance, the contractor's bonding company. Haggem received the letter the week of June 14, 2010, and they have 10 days to respond before the bonding company assumes responsibility for completing the project. If another contractor is hired, the Department could complete the project by this fall.

Statewide Flooding: Severe flooding has occurred around the state, with Fremont County experiencing the worst damage in Lander, Hudson, Riverton, and the Wind River Indian Reservation. Fourteen bridges have been damaged so far. Albany County has also had significant flooding, particularly in the Laramie area. Carbon County has also seen flooding of the Platte River drainage areas, and one bridge was damaged. A full damage assessment will be done when the water subsides.

Slides: Landslide activity has increased this spring, particularly in highway districts 3 and 5. District 1 is performing some routine cleanup from spring runoff. District 2 has had no reported problems, except for some erosion due to spring runoff. The Blue Trail Slide in the Snake River Canyon in District 3 has moved significantly in the last three weeks, and repairs are estimated at \$5 million. District 4 has two slides that appeared within ongoing slide repairs at Alva, Wyoming, and will cost about \$720,000 to repair. District 5 has five slides so far this spring, two on South Pass, one near Lander, 10 back slope failures on the Togwotee Pass, and one in the Wind River Canyon. Estimates to repair slides in these five areas are about \$2 million to \$5 million.

Montana Department of Environmental Quality (DEQ)/Cooke City, Montana, Gold Mine Reclamation: The Montana DEQ has begun a reclamation project at the McLaren Mine near Cooke City. An estimated 65,000 tons of mill tailings will be hauled to the Golden Sunlight Mine via the Chief Joseph Highway (Sunlight Basin) in Park County, Wyoming. The Department has been working with the Montana DEQ and the contractor to discern hauling operations and to address the impact of the heavy loads on the Wyoming roads since the project was let to contract. The Montana DEQ and the contractor have been very responsive and, although WYDOT still has some concerns, Mr. McOmie believes a reasonable solution can be reached should hauling operations cause any damage.

13. Mr. Fredrick provided additional information about the rightful recipient of the property described in the Resolution for Relinquishment under Item 5 above. According to the Right of Way Program, the property to be relinquished from Federal Highway Project No. F-78(4), can be transferred to the Town of Hudson, as they were the property owners before it was deeded to the Transportation Commission in 1957.

14. It was moved by Commissioner Hladky, seconded by Commissioner Latta, and carried to move into executive session. The Commission went into executive session at 10:55 a.m.

15. It was moved by Commissioner Latta, seconded by Commissioner Hladky, and carried to move out of executive session. The Commission came out of executive session at 11:18 a.m.

16. It was moved by Commissioner Latta, seconded by Commissioner Dziardziel, and carried to adjourn the meeting. Vice Chairman Covello adjourned the meeting at 11:18 a.m., on Thursday, June 17, 2010.