

## TRANSPORTATION COMMISSION OF WYOMING

The Transportation Commission of Wyoming met in the Commission Room of the Transportation Headquarters building in Cheyenne on February 18, 2010. The meeting was convened at 8:30 a.m. by Chair Dziardziel. The following members were present constituting a quorum:

Susan Dziardziel, Chair, Douglas  
Charlie Monk, Vice Chairman, Lovell  
Sandi McCormick, Commissioner, Rock Springs  
Cactus Covello Jr., Commissioner, Torrington  
Jim Latta, Commissioner, Pinedale (via telephone)  
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; Pat Collins, Assistant Chief Engineer of Engineering and Planning; Tim Hibbard, Assistant Chief Engineer of Operations; Tom Loftin, Support Services Administrator; Colonel Sam Powell, Wyoming Highway Patrol Administrator; Dennis Byrne, Aeronautics Administrator; Doug Moench, Senior Assistant Attorney General; Mike Kahler, Assistant Attorney General; Kevin Hibbard, Budget Officer; Doug McGee, Public Affairs Manager; and Joe Daily, Division Administrator, and Vern Mickelson, Assistant Division Administrator, Federal Highway Administration (FHWA).

Others present: Mark Gillett, District Engineer; John Sherman, Lands Management Administrator; Kristin Burkart, Internal Review Services Manager; David Stearns, Financial Services Administrator; Taylor Rossetti, Transit Specialist; and Sara Janes, Safe Routes to Schools Coordinator.

1. It was recommended by Secretary Scott, moved by Commissioner Ertman, seconded by Commissioner McCormick, and carried to approve the proposed correction to the December 20, 2009, minutes; the minutes from the January 20, 2010, Commission planning retreat and one-on-one meeting with Director Cox; and the January 21, 2010, business meeting. The amended December 20, 2009, minutes involved a correction in the meeting location on page 1.

2. Secretary Scott presented a letter received from Mr. Norman Pape, president of the Pape Ranches, Inc., in Daniel, Wyoming. In his letter, Mr. Pape expressed concerns about House Bill 0030, Highway Department Authority, which would allow WYDOT to erect snow fences on private property for highway safety reasons. Mr. Collins advised that HB0030 had failed introduction in the House of Representatives. Mr. McOmie offered to prepare a response to Mr. Pape's letter.

3. Mr. Tim Hibbard presented the Operations report.

It was recommended by Mr. Hibbard, moved by Commissioner Covello, seconded by Commissioner Hladky, and carried to approve purchase for bid number 10-102 to furnish six each, new, current model all-wheel-drive tractors with front-end loader attachments for delivery at various locations

statewide. The bid was awarded to Rose Brothers, Inc., of Lingle, Wyoming, for the sum of \$275,550.

It was recommended by Mr. Hibbard, moved by Commissioner Hladky, seconded by Commissioner McCormick, and carried to approve purchase for Requisition No. 0000017024 to furnish 125 each, computer-aided drafting design software licenses for various WYDOT programs statewide. 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 McCormick, and carried to approve purchase for Requisition No. 0000017216 to furnish one each snow machine and trailer for use by the Telecommunications Program. The contract was awarded to PBL Enterprises Inc., of McCoy, Colorado, for the sum of \$102,000.

4. Annual A-133 Audit Contract: The annual A-133 audit results will be presented to the Commission on March 17, 2010.

Mr. Stearns briefed the Commission about the history of the current audit contract with Porter, Muirhead, Cornia & Howard (PMCH), of Casper, Wyoming, which will expire in 2011. The Department will soon issue a request for proposals (RFP) for future auditing services. Mrs. Burkart expressed some minor concerns with PMCH, primarily involving communication, which are currently being addressed.

Mr. Hibbard indicated that the Department last requested bids for auditing services in 2008 and that there are only two qualified Wyoming firms that can perform the A-133 audit. Consequently, the Commission did not see a need to exclude PMCH from bidding on the next RFP. The Department will begin preparing a new RFP for the selection of the next auditor in time for the 2011 audit field work.

5. Director Cox presented the Director's report.

U.S. Department of Transportation (USDOT) Field Briefing: Director Cox attended the USDOT field briefing in Minneapolis, Minnesota, on January 25-26, 2010. The meeting was one of a series of nationwide gatherings that was used to address highway issues. Urban issues were the primary focus of discussion, but Mr. Francis Zigler and Director Cox were able to speak on behalf of rural states. The pending Federal Highway Bill was also discussed.

American Association of State Highway and Transportation Officials (AASHTO) Washington Briefing: Director Cox, Mr. McOmie, and Mr. John Davis, WYDOT Policy Analyst, will attend the AASHTO Washington Briefing in Washington, D.C., February 28-March 4, 2010. Agenda topics include the transportation economic outlook; a legislative outlook on economic recovery, job creation, and transportation; and surface transportation authorization perspectives.

Legislative Update: The Joint Appropriations Committee (JAC) moved to eliminate a number of vacant positions from state government in an effort to cut the budget. Some Commission positions may also be removed from WYDOT's pool of vacant positions. It is unknown what impact this action will have on the Department's overall operations over time, but Director Cox expressed concern about the affect it will have on the Department's ability to hire personnel.

Colonel Powell entered the meeting. Mr. Tim Hibbard left the meeting.

6. Mr. Kevin Hibbard presented the Budget report.

Monthly Budget Report: Mr. Hibbard indicated that monthly gasoline tax revenues are performing as anticipated, but diesel fuel collections are lagging behind revenue projections by about 4 percent through January because of the current economy.

American Recovery and Reinvestment Act (ARRA) Report: The January ARRA report was submitted to the Office of Management and Budget. Wyoming is part of a small group of states that continues to lead other states in expending ARRA funds.

Quarterly Inactive Obligations Report: FHWA recently provided the Department with a report that indicates dormant federal funding that states are not utilizing. According to the report, Wyoming, through much diligent work, is approaching zero inactive obligations. Wyoming is second in the nation in obligating and managing ARRA and traditional federal funds simultaneously. WYDOT recognizes the importance of utilizing all of its available funds, particularly under the current economic conditions.

State Appropriations Bill: Mr. Hibbard reported that the Appropriations Bill currently includes \$50 million for surface transportation, of which \$100,000 is designated to supplement the living snow fence budget, \$2.4 million for the WYOLINK program, and \$13 million for airport improvement and air surface enhancement programs. The bill does not include the Department's current \$100 million in borrowing authority for emergency use, which raises significant concern as the Federal Highway Trust Fund is not expected to be solvent by the end of fiscal year 2010. The borrowing authority provision will be presented as a floor amendment. Mr. Hibbard stressed the importance of having the borrowing authority provision in place to ensure that contractors can be paid in the event of anticipated federal funding restrictions.

7. Colonel Powell presented the Highway Patrol report.

The Fatal Crash Summary through January 31, 2010, includes four fatal crashes involving four deaths. The fatalities include one involving a multi-car crash, one involving a commercial vehicle, and three involving a fixed object.

There have been no alcohol-related crashes recorded yet this year. Of the four deaths that have occurred to date in 2010, two can be attributed to the non-use of occupant restraints, and both

involved fixed objects. Of the two deaths that occurred from non-use of occupant restraints, one was a Wyoming resident.

Patrol-Investigated Crash Summary: The Patrol-Investigated Crash Summary reflects activity through December 31, 2009. The summary depicts 6,557 crashes statewide, of which 5,656 involved non-commercial vehicles and 901 involved commercial vehicles.

Patrol Field Arrest Activity: Field arrest activity indicates that the majority of arrests made as of January 31, 2010, have been DUI related. Field arrests total 149 to date, including the following:

- DUI arrests from crashes – 9
- DUI arrests from traffic stops – 62
- DUI arrests from the REDDI Program – 9
- DUI arrests from ports-of-entry – 0
- NCIC hits (person) – 5
- Wyoming warrants hits – 14
- Drug arrests – 32
- Other arrests – 18

Colonel Powell provided a comparison between 2008 and 2009 alcohol-related fatalities and noted that 2009 may be the lowest overall and alcohol-related fatality rates in Department history.

Legislative Update: Colonel Powell briefed the Commission about various Patrol-related bills.

Trooper Staffing: Colonel Powell advised that six new troopers will be commissioned before the Legislature on February 19, 2010, after enduring a six-month training program at the Wyoming Law Enforcement Academy. Patrol currently has six remaining vacancies, and recruiting will be addressed as soon as possible. The state hiring freeze has impacted advertising and hiring much-needed troopers.

8. Mr. Byrne presented the Aeronautics report, including the January Aircraft Passenger Summary Report and the annual Wyoming airports passenger boarding summary.

FY 2010 Legislative Appropriations: Mr. Byrne reported that the current Appropriations Bill includes \$20,640,000 for airport and air surface enhancement projects.

9. Mr. Loftin presented the Support Services report.

Legislative Update: Mr. Loftin briefed the Commission about Support Services-related bills.

Mr. Stearns left the meeting.

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

Legislative Update: Mr. McOmie briefed the Commission about engineering-related bills. The Appropriations Bill in its current form includes \$50 million in general funds for surface transportation. Another bill would require state employees to contribute 1.43 percent of their gross salary toward the state retirement fund.

Pape Ranch Letter: Mr. McOmie indicated he would respond to the letter received from the Pape Ranch regarding House Bill 0030, Highway Department Authority. The bill would have allowed the Department to exercise eminent domain to install snow fence for highway safety reasons, but it failed House introduction. Commissioner Latta offered to contact Mr. Pape to discuss the matter and other potential options, such as a live snow fence. Mr. McOmie will respond to the letter after Commissioner Latta makes contact with Mr. Pape.

FHWA Distribution of ARRA Funds: Mr. McOmie reported that the FHWA requested a list of projects for possible redistribution of ARRA funds. WYDOT provided a list of projects totaling \$540,820,968. WYDOT met the March 2, 2010, deadline for obligating its ARRA highway funds.

Transportation Investment Generating Economic Recovery (TIGER) Funds: The Department had submitted \$230.5 million in TIGER fund requests for the Hoback Junction, Togwotee Pass, and Beartooth Highway projects. The Beartooth Highway project received \$6 million in funding. The Hoback Junction and Togwotee Pass projects were not funded.

Mr. Collins entered the meeting.

Jobs Work Bill: The U.S. House of Representatives passed legislation in December to provide funding for highways and transit, similar to what was passed a year ago under the ARRA. Mr. McOmie advised that the Department has projects that are ready to be let if the “Jobs Work Bill” passes the U.S. Senate. The House version of the bill includes a provision to extend the highway program through fiscal year 2010 and to transfer money from the general fund to the highway trust fund to maintain solvency. Action on the Jobs Work Bill may be taken in late February.

Kaycee Streets Project: Mr. McOmie briefed the Commission about some potential problems that have occurred with the contractor on the Kaycee Streets project. Heggem Construction has allegedly not been paying its subcontractors and has been assessed liquidated damages on the project. There are also concerns that employees have not been paid proper wages. The Department continues to keep the bonding company informed of the situation. Heggem Construction will be denied bidding privileges, and future subcontracts will not be approved until the matter has been resolved.

District Employment Statistics: Pursuant to the Commission’s request at the December 10, 2010, meeting, Mr. McOmie presented employment statistics from each district. A handout was provided that included the number of potential retirees in each district and the percentage of overall workforce which would be impacted by the retirements.

11. Colonel Powell introduced six recent Wyoming Law Enforcement Academy graduates to be commissioned on February 19, 2010.

12. Mr. Collins presented the Engineering and Planning report beginning with the bid tabulations from the letting held February 11, 2010, in Cheyenne.

**COMMISSION DISTRICT 1  
Cactus Covello – Commissioner**

Federal project NH-I806196 involving drainage repair, removal and replacement of storm sewer and miscellaneous work at the Trails End in Laramie County. Completion date – July 31, 2010

Engineer's Estimate	\$123,435.00	
<b>Don Kehn Construction, Inc., Fort Collins, CO</b>	<b>\$ 82,656.40</b>	<b>-33.0%</b>
Connell Resources, Inc., Fort Collins, CO	\$ 85,994.00	
4 Quarters Excavation & Development, Inc., Cheyenne, WY	\$ 86,561.20	
Schmidt Earth Builders, Inc., Windsor, CO	\$ 91,432.00	
Mechanical Systems, Inc., Cheyenne, WY	\$ 94,236.00	
Aztec Construction Co., Inc., Cheyenne, WY	\$112,601.90	
Simon Contractors and Subsidiaries, Cheyenne, WY	\$113,505.91	
J Wright Development, LLC., Riverton, UT	\$122,109.00	
Merrill Incorporated, Cheyenne, WY	\$134,200.20	

It was recommended by Mr. Collins, moved by Commissioner Covello, seconded by Commissioner Latta, and carried that **Don Kehn Construction, Inc., Fort Collins, Colorado**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

**COMMISSION DISTRICT 2  
Sandi McCormick – Commissioner**

Federal project IM-I803142, involving median repair, including grading, draining and miscellaneous work on 0.21 mile of I-80, beginning at reference marker 128.76 in Sweetwater County. Completion date – August 31, 2010

Engineer's Estimate	\$204,230.00	
<b>J Wright Development, LLC., Riverton, UT</b>	<b>\$183,839.99</b>	<b>-10.0%</b>
DeBernardi Construction Company, Inc., Rock Springs, WY	\$213,167.00	
Flare Construction, Inc. and Subsidiary, Coalville, UT	\$235,475.00	
EHC, LLC., Deaver, WY	\$246,010.00	
Hout Fencing of Wyoming, Inc., Worland, WY	\$253,010.25	
Reiman Corp., Cheyenne, WY	\$255,155.00	

It was recommended by Mr. Collins, moved by Commissioner McCormick, seconded by Commissioner Hladky, and carried that **J Wright Development, LLC., Riverton, Utah**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

**COMMISSION DISTRICTS 3, 5 and 7**

**Jim Latta – Commissioner**  
**Charlie Monk – Vice Chairman**  
**Susan Dziardziel – Chair**

Federal project STP-B105018, involving contract patching and miscellaneous work on 14.56 miles of various roads in Transportation District 5 in Big Horn, Fremont, Hot Springs, Park, Teton and Washakie counties. Completion date – August 31, 2010

Engineer’s Estimate	\$2,223,780.00	
<b>Mountain Construction Company, Lovell, WY</b>	<b>\$2,684,470.00</b>	<b>+20.7%</b>
Western Wyoming Construction Co., Lander, WY	\$2,686,730.00	
Century Companies, Inc. and Affiliates, Lewistown, MT	\$2,729,381.00	
McGarvin-Moberly Construction Company, Worland, WY	\$2,729,834.70	

It was recommended by Mr. Collins, moved by Commissioner Monk, seconded by Commissioner Hladky, and carried that **Mountain Construction Company, Lovell, Wyoming**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

**COMMISSION DISTRICT 4**

**Jim Hladky – Commissioner**

State project SCP-PEB1318, involving grading, draining, placing crushed base, bituminous pavement surfacing, water systems, fencing and miscellaneous work on WYO 336 at approximate milepost 1.70, at the Junction of East Ridge Road and WYO 336, in Sheridan County. Completion date – April 30, 2011

Engineer’s Estimate	\$1,371,652.50	
<b>DRM, Inc., Gillette, WY</b>	<b>\$1,021,268.80</b>	<b>-25.5%</b>
Tripoli Management, LLC dba Dwire Earthmoving & Excavating, Colorado Springs, CO	\$1,072,512.44	
Irregular Check Digit		
Hot Iron, Inc., Gillette, WY	\$1,087,863.71	
Irregular Proposal		
High Country Construction, Inc., Lander, WY	\$1,093,433.50	

Bemas Construction, Inc. and Affiliates, Englewood, CO	\$1,145,668.70
Foothills Contracting, Inc., Webster, SD	\$1,147,200.00
DCM Construction, LLC., Sheridan, WY	\$1,163,239.88
Earth Works Solutions (WY) Gillette, WY	\$1,244,088.29
Weeden Construction, LLC., Banner, WY	\$1,288,790.65
Paul Reed Construction & Supply, Inc., Gering, NE	\$1,292,348.74
Caylor & Genz Earthmovers, Inc., Torrington, WY	\$1,298,401.67
Platte Valley Construction Company, LLC and Affiliate, Grand Island, NE	\$1,239,053.50
Altfillsch Contractors, Inc., Corona, CA	\$1,340,124.75
Intermountain Construction and Materials, Inc., Gillette, WY	\$1,468,103.32
Three Way, Inc., Buffalo, WY	\$1,548,811.65
Excel Construction, Inc. & Affiliated Companies, Sheridan, WY	\$1,742,000.00
JEM Contracting, Inc. and JEM Enterprises, Billings, MT	\$1,787,038.45
Oftedal Construction, Inc., Miles City, MT	\$1,830,459.05
C & S Construction, Inc. and Affiliates, Billings, MT	\$1,887,750.76

It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner Hladky, and carried that **DRM, Inc., Gillette, Wyoming**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder.

**COMMISSION DISTRICT 5**  
**Charlie Monk – Vice Chairman**

Federal project NH-N331026, involving grading, milling plant mix, bituminous pavement surfacing, chip seal, and miscellaneous work on 4.49 miles of WYO 120, beginning at reference marker 27.50 between Thermopolis and Cody, in Hot Springs County. Completion date – September 15, 2010

Engineer's Estimate	\$1,754,028.50	
<b>LeGrand Johnson Construction Co., Logan, UT</b>	<b>\$1,695,619.25</b>	<b>-3.3%</b>
Mountain Construction Company, Lovell, WY	\$1,732,242.11	
Knife River, Cheyenne, WY	\$1,744,746.71	
McGarvin-Moberly Construction Company, Worland, WY	\$1,837,968.66	
Western Wyoming Construction Co., Lander, WY	\$1,855,570.00	
Century Companies, Inc. and Affiliates, Lewistown, MT	\$1,928,278.75	
McMurry Ready-Mix Co., Casper, WY	\$1,965,574.08	

It was recommended by Mr. Collins, moved by Commissioner McCormick, seconded by Commissioner Covello, and carried that **LeGrand Johnson Construction Co., Logan, Utah**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.



**COMMISSION DISTRICT 7**  
**Susan Dziardziel – Chair**

Federal projects IM-I253112 and STP-SR-P581022 combined, involving grading, draining, placing crushed base and bituminous pavement leveling and surfacing, structure, electrical, and miscellaneous work on 10.82 miles of I-25, and on 0.56 mile of the Douglas Bypass structure, for a combined project length of 11.382 miles, beginning at reference marker 134.90 on the Douglas Marginal just outside of the town of Douglas in Converse County. Completion date – September 30, 2010

Engineer's Estimate	\$6,468,527.00	
<b>Knife River, Casper, WY</b>	<b>\$7,147,711.06</b>	<b>+10.5%</b>
Hedquist Construction, Inc., Mills, WY	\$7,149,265.96	
McMurry Ready-Mix Co., Casper, WY	\$7,264,646.83	
Concrete Foundations, Inc., New Hampton, IA	\$7,635,168.46	
Irregular Proposal		
Simon Contractors and Subsidiaries, Cheyenne, WY	\$7,689,099.90	
McGarvin-Moberly Construction Company, Worland, WY	\$9,156,995.22	

It was recommended by Mr. Collins, moved by Commissioner Hladky, seconded by Commissioner McCormick, and carried that **Knife River, Cheyenne, Wyoming**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

Federal projects STPU-CA-HP-4109010 and ARSCT-4109A01 combined, involving milling plant mix, removal and replacement of sidewalk, curb and gutter, removal and replacement of storm sewer, placing crushed base and bituminous pavement surfacing, concrete pavement, water systems, electrical systems, and miscellaneous work on 0.36 mile of an urban collector located between David Street and Spruce Street on West Yellowstone Highway in the city of Casper, in Natrona County. Completion date – October 31, 2010

Engineer's Estimate	\$3,131,791.00	
<b>Hedquist Construction, Inc., Mills, WY</b>	<b>\$3,061,931.90</b>	<b>-2.2%</b>
Reiman Corp., Cheyenne, WY	\$3,274,299.25	
S & S Builders, LLC., Gillette, WY	\$3,505,538.70	
71 Construction, Gillette, WY	\$3,584,879.70	
Zak Dirt, Inc., Longmont, CO	\$3,872,455.45	
Knife River, Cheyenne, WY	\$4,365,743.00	

It was recommended by Mr. Collins, moved by Commissioner Latta, seconded by Commissioner Covello, and carried that **Hedquist Construction, Inc., Mills, Wyoming**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be

awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

Federal project STP-E-P581021, involving enhancements, including landscaping, a roadway lighting system, and miscellaneous work on US 20/26/87 (Yellowstone Highway) in the town of Douglas, in Converse County. Completion date – August 31, 2010

Engineer's Estimate	\$283,680.00
<b>H &amp; H Electric, LLC., Douglas, WY</b>	<b>\$229,685.00 -19.0%</b>
Irregular Proposal	
Modern Electric Co., Casper, WY	\$276,425.00

It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner McCormick, and carried that **H & H Electric, LLC., Douglas, Wyoming**, having prequalified in accordance with rules and regulations adopted by the Transportation Commission of Wyoming, be awarded the contract as low bidder. The Federal Highway Administration concurred with this decision.

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

#### **COMMISSION DISTRICT 1**

##### Various

SRTS 0.00 SR10001; Headquarters; Safe Routes to Schools; SRTS coordinator salary; fiscal year 2010; request federal funds of \$60,000

#### **COMMISSION DISTRICT 4**

##### Rural Principal Arterial

NH 77.32 N372039; Sheridan County; Burgess Junction to Dayton; reference markers 77.32 to 83.54; mill, level and overlay; fiscal year 2010; request federal preliminary engineering funds of \$150,000

##### Urban Principal Arterial

STP-E 1.33 0300046; Campbell County; Gillette, WYO 50 and US 14/16; reference markers 1.33 to 3.05; pathway; fiscal year 2011 construction; request federal preliminary engineering funds of \$27,000

##### Rural Major Collector

STP 143.86 0303023; Campbell County; Gillette to Moorcroft, west of railroad; reference markers 143.86 to 144.25; fiscal year 2010 reconstruction; request state preliminary engineering funds of \$15,000; and federal construction engineering and construction funds of \$380,000

**COMMISSION DISTRICT 6**

Rural Interstate

IM 168.50 I904134; Crook County; Moorcroft to Sundance; reference markers 168.50 to 177.00; fiscal year 2010 overlay; request federal preliminary engineering funds of \$300,000

Rural Local

STP 8.04 0608002; Weston County; I-90 Service Road, Sundance - Aladdin; reference markers 8.04 - 18.37; fiscal year 2010 overlay; request federal preliminary engineering funds of \$150,000

14. It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner McCormick, and carried to approve the following resolution where property for public use cannot be acquired through good faith negotiation by purchase or gift. Commissioner Hladky voted no.

**RESOLUTION FOR THE 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 N131051, the Rock Springs to Pinedale Road, in Sweetwater County, and that the property shown on the right-of-way plans for this project is required 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 right-of-way and/or temporary construction easements to be acquired are identified as being located in the W $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 16, E $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 17, E $\frac{1}{2}$ E $\frac{1}{2}$  of Section 8, W $\frac{1}{2}$ W $\frac{1}{2}$  of Section 9, all of T24N, R106W of the 6th P.M. Sweetwater County Wyoming, and constitute approximately 0.55 of an acre of property for right-of-way and approximately 33.85 acres of property for temporary construction easements.

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

15. Considerable discussion ensued about exercising eminent domain on highway projects. Mr. Moench explained the legal negotiation process leading up to the enforcement stage. Mr. Collins

advised that eminent domain resolutions are presented to the Commission for consideration long before work commences to give landowners as much notice as possible about the project. Mr. Collins also noted that Commission approval of a resolution for eminent domain does not necessarily mean it will have to be used. Resolutions are enforced only as a last resort and are used in cases where all other means of landowner negotiations have been exhausted.

The topic was slated for discussion in an education session later in the day, and Mr. Collins assured the commissioners that their questions could be answered by Mr. John Sherman, WYDOT's Lands Management Administrator, and/or Mr. Doug Moench, Senior Assistant Attorney General.

16. FY 2009 Congestion Mitigation/Air Quality (CMAQ) Supplemental Funding Request: Mr. Rossetti presented three projects as an addendum to the FY 2009 CMAQ Program. The Commission had previously approved \$1,195,00 in CMAQ projects in 2009, leaving a balance of \$805,000 to be awarded. The CMAQ Advisory Committee recommended approval of the following additional projects, leaving a balance of \$599,000 to be awarded at a later date.

Nine air quality monitoring projects statewide	\$ 36,000
Purchase monitoring equipment for the Energy, Minerals Counties Coalition	\$ 20,000
144.3 Miles of magnesium chloride applied to various roads, Sublette Co.	<u>\$150,000</u>
TOTAL FY 2009 FUNDING:	\$206,000

It was recommended by Mr. Collins, moved by Commissioner Hladky, seconded by Commissioner Covello, and carried to approve the above FY 2009 supplemental CMAQ projects.

17. FY 2010 CMAQ Project Funding Request: The CMAQ Advisory Committee met January 21, 2010, to review the fiscal year 2010 CMAQ applications totaling \$4,132,597. Mr. Rossetti presented the proposed FY 2010 CMAQ projects. Eight counties were selected by the committee to receive \$1,999,197 in funding as follows:

15 Miles of amended surface with gravel, grade road, and dust suppressant application, Campbell Co.	\$ 220,000
9 Miles of 4-inch gravel application and magnesium chloride to three impacted roadways, Carbon Co.	\$ 320,000
20.5 Miles of dust suppressant application on various county roads, Crook Co.	\$ 69,197
129.18 Miles of Calcium Chloride applied to county impacted roadways, Johnson Co.	\$ 300,000
233 Miles of magnesium chloride applied to impacted county and Bureau of Land Management roads, Lincoln Co.	\$ 260,000
114.5 Miles of magnesium chloride applied to various roads, Sheridan Co.	\$ 300,000
103.35 Miles of magnesium chloride applied to various roads, Sweetwater Co.	\$ 250,000
82.33 Miles of magnesium chloride applied to various roads, Weston Co.	<u>\$ 280,000</u>
TOTAL FY 2010 FUNDING:	\$1,999,197

It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner Latta, and carried to approve the above FY 2010 CMAQ projects.

18. Safe Routes to Schools (SRTS) Projects: Mr. Collins introduced Mrs. Sara Janes, SRTS coordinator. Mrs. Janes explained the history of the SRTS Program, reviewed the selection process, and explained the proposed FY 2010 projects for Commission consideration. The SRTS Advisory Committee received 14 applications totaling over \$2 million for funding consideration. Project funding is contingent upon continuation of the present Federal Highway Bill. The following projects were recommended for approval by the SRTS Advisory Committee:

Chugwater SRTS Phase 2, Chugwater, WY	\$ 115,434
Arp Elementary Pathway, Cheyenne, WY	\$ 200,000
Hardin Street Sidewalk Project, Ranchester, WY	\$ 200,000
SRTS, City of Sheridan, WY	\$ 200,000
Worland SRTS, Worland, WY	\$ 20,000
Safe Route to Meeteetse Schools, Meeteetse, WY	\$ 10,000
Burlington Safe Routes to School, Burlington, WY	\$ 199,731
City of Cody/Park County School District #6 Sunset School, Cody, WY	\$ 197,550
Lusk Police Department, Lusk, WY	\$ 10,000
Dubois Youth Activities, Dubois, WY	\$ 13,000
Shoshoni SRTS, Shoshoni, WY	\$ 10,000
Lander SRTS Phase 1	<u>\$ 200,000</u>
TOTAL	\$1,375,715

It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner Covello, and carried to approve the proposed FY 2010 SRTS projects contingent upon approval of the Federal Highway Bill.

19. Mrs. Janes provided names of two SRTS Advisory Committee nominees. Mr. David Koskelowski, of the Wyoming Department of Education, was nominated to fill a position vacated by Mr. Leeds Pickering, whose term doesn't expire until June 30, 2011. Ms. Arlene Zerbst Rapp, of the Wyoming County Commissioners Association, was nominated to fill an existing vacant position on the advisory committee.

It was recommended by Mr. Collins, moved by Commissioner Ertman, seconded by Commissioner Hladky, and carried to approve Mr. David Koskelowski and Ms. Arlene Zerbst Rapp as SRTS Advisory Committee members.

Mrs. Janes and Mr. Rossetti left the meeting.

20. Proposed Buffalo Shop Site: Mr. Gillett presented information about a proposed new WYDOT shop site in Buffalo. The site is located along I-25, south of Buffalo, and the present landowners have expressed an interest in selling the Department the 20.95-acre tract, which is valued at approximately

February 18, 2010/Page 14 of 14

\$400,000. Funding to purchase the property would come from the funds remaining in the original Authority for Expenditure issued for the purchase of property, the sale of a 140-foot by 316-foot tract (approximately 1.1 acres) that runs along the east edge of the current WYDOT shop site in Buffalo, and the delay of replacement housing at the Burgess Junction maintenance site. Mr. Gillett has been contacted by Johnson County officials about the possibility of WYDOT selling the 1.1 acres of land to the County.

Mr. Gillett advised that the current shop site would remain intact until a new shop facility could be built at the new location.

It was recommended by Mr. Collins, moved by Commissioner Latta, seconded by Commissioner Covello, and carried to approve the sale of the described 1.1 acres, at the appraised market value, from the east edge of the current WYDOT maintenance facility in Buffalo, and the purchase of 20.95 acres of land for the proposed new WYDOT shop site along I-25 south of Buffalo, not to exceed the appraised market value.

21. It was moved by Commissioner Covello, seconded by Commissioner Ertman, and carried to adjourn the meeting. Chair Dziardziel adjourned the meeting at 11:50 a.m., on Thursday, February 18, 2010.