

## **TRANSPORTATION COMMISSION OF WYOMING**

The Transportation Commission of Wyoming met in the Commission Room of the Transportation Headquarters building in Cheyenne on June 20, 2013. The meeting was convened at 8:35 a.m. by Chairman Ertman. The following members were present constituting a quorum:

Ted Ertman, Chairman, Newcastle  
Bruce McCormack, Vice Chairman, Cody  
Milt Coulter, Commissioner, Gillette  
Clair Anderson, Commissioner, Riverton  
K. John Dooley, Commissioner, Laramie  
Bob Ruwart, Commissioner, Wheatland  
Todd Seeton, Commissioner, Jackson (via telephone)  
John F. Cox, Director  
Sandra J. Scott, Commission Secretary

Also present at and participating in the meeting were: Delbert McOmie, Chief Engineer; Ken Spear, Contracts and Estimates Engineer; Dan Kline, Systems Planning and Railroads Supervisor; Ken Shultz, Assistant Chief Engineer of Operations; Tom Loftin, Support Services Administrator; Lieutenant Colonel Shannon Ratliff, Operations Commander, Wyoming Highway Patrol; Doug Moench, Senior Assistant Attorney General; Jackson Engels, Assistant Attorney General; Kevin Hibbard, Budget Officer; Doug McGee, Public Affairs Manager; and Joe Dailey, Division Administrator, Federal Highway Administration.

Others present: Paul Phillips, Territory Sales Manager, Wyoming Machinery Company, Cheyenne; John Walsh, Wyoming Sales Manager, and Shawn Johnson, Honnen Equipment Company, Casper; Taylor Rossetti, Local Government Coordinator, WYDOT; and Ken Ledet, Program Specialist for the Local Government Office, WYDOT.

Gregg Fredrick, Assistant Chief Engineer for Engineering and Planning, and Dennis Byrne, Aeronautics Administrator, were absent.

1. Pledge of Allegiance: Chairman Ertman led the attendees in the Pledge of Allegiance.
2. Approval of Minutes: It was recommended by Secretary Scott, moved by Commissioner Anderson, seconded by Commissioner Ruwart, and carried to approve the minutes from the May 16, 2013, breakfast meeting, regular business meeting, and executive session.
3. Correspondence: Secretary Scott presented a copy of a resolution that was sent to the state's elected officials, the members of the Wyoming State Legislature, and the members of the Wyoming Transportation Commission, subsequent to the 2013 Wyoming Trucking Association Convention that was held in Cheyenne, May 14-17, 2013. In the resolution, the Wyoming Trucking Association "commends the elected and appointed officials of the State of Wyoming for taking a leadership role in developing a plan for appropriate funding of the state's highway

system, to preserve and protect it and to provide the foundation for the future growth of the State of Wyoming; . . .”

4. Director Cox presented the Director’s report.

Joint Transportation, Highways and Military Affairs Committee (JTC) Meeting: Director Cox and other executive staff members attended the June 11, 2012, JTC meeting held in Cheyenne. Discussion topics at the meeting included towing regulations, trailers and vehicle inspection number (VIN) inspections, highway signage, the MAP-21 federal highway funding bill, use of the \$0.10 per gallon fuel tax increase, a WyoLink update, and highway speed limits and superintendent speed zones.

The towing regulation topic generated considerable discussion, which was spurred by constituent complaints regarding towing rates that are being charged by towing companies, particularly during times when a driver may not have a choice of who is hired for the job. The discussion resulted in the JTC directing the Legislative Services Office to draft legislation that will regulate towing fees through the Public Service Commission.

The recent passage of a bill that implements an additional \$0.10 per gallon fuel tax will provide much needed funding to maintain Wyoming’s surface transportation system. The additional fuel tax funding will be sequestered in a separate account and will be used exclusively for contractor payments. In accordance with Wyoming statutes, about one-third of the funds will be distributed to cities and counties, and to the Wyoming State Parks. A letter will be sent with the first 10 cent fuel tax distribution in September 2013 to alert local governments and the State Parks of the inclusion of the additional 10 cent revenue.

Western Association of State Highway and Transportation Officials (WASHTO) Meeting: The annual WASHTO meeting will be held in San Francisco, California, August 4-8, 2013. As president of WASHTO, Director Cox will chair the meeting. Commissioners were also invited to attend.

Public Meeting for the Etna North Project: At Governor Mead’s request, Director Cox will attend a public meeting on June 25, 2013, regarding a somewhat controversial project north of Etna, Wyoming. The original project design involved some condemnation of private property. The project has been redesigned to minimize the takings, and the revised plans will be presented at the meeting.

5. Mr. Hibbard presented the Budget report.

JTC Meeting: The question about how Wyoming’s fuel tax is distributed was raised at the June 11, 2013, JTC meeting. Mr. Hibbard explained the distribution to the JTC. A copy of an excerpt from the annual WYDOT budget presentation that exhibits the current distribution formula was also provided to the commissioners for their information. The current distribution formula will apply to the \$0.10 fuel tax increase, which will be implemented July 1, 2013.

Monthly Budget Report: The June 2013 Commission budget expenditures are at 63 percent, and the Legislative budget expenditures are at 66 percent, which is within budget tolerances.

Mr. Hibbard advised that the anticipated under-run in the snow control budget will not occur because of significant snowfall statewide in April and the opening of the mountain passes in May. The snow control budget is currently 98 percent expended, and anticipated September snow events may use up the remaining funds in that account.

6. Mr. Tim Young, Executive Director of Wyoming Pathways, presented *Bicycling and Walking Transportation in Wyoming: The Active Transportation Modes*. Wyoming Pathways is a non-profit organization that was established in 2012 to support the advancement through legislative and community endeavors regarding the well-being of Wyoming communities.

Mr. Young thanked the Department for its efforts in promoting and caring for pathways throughout the state. Wyoming ranks fifth of all states for bicycling to work and ninth in the nation for walking to work. Wyoming's pedestrian-bicycle fatality rate is 3.50 percent, and its injury rate is 3.22 percent.

During the past five years, about 1.22 percent of Wyoming's federal highway funds have been spent on pathways through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Under the new federal highway bill, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), funding is significantly less. According to Mr. Young, many more enhancements are still needed, and he asked that the Department assist in the following efforts:

- Support higher investment levels in transportation alternatives, above the federal minimum
- Use flexibility in the Surface Transportation Program, National Highway System Program, Bridge, Highway Safety Improvement Program, and the Congestion Mitigation Air Quality funding, to address bicycle and pedestrian infrastructure needs
- Update the Wyoming Bicycle and Pedestrian Plan
- Review operating policies and standards
- Gather better data on bicycle and pedestrian use, facility needs, and benefits
- Develop a transportation investment strategy for the active modes in collaboration with the Governor, legislature, and local governments
- Reach out to partners – the Wyoming Business Council Main Streets, Wyoming Department of Health, and the Wyoming Department of Travel and Tourism

Mr. Young advised that modest investments in bicycle and walking have created big enhancements for Wyoming communities, and continued investments and good planning can extend these benefits, including transportation options, community livability, economic development, and an improved health outcome.

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

Update on I-90, Powder River West, Project: Mr. McOmie briefed the Commission at its May 16 meeting about a significant change order that was necessary on the I-90, Powder River West, project. The contractor encountered significant problems during excavation, and about \$2.4 million in additional backfill material was needed to remedy the situation. The Department has negotiated with the contractor for an acceptable unit price for the material, the change order has been approved, and work is progressing.

Hoback Junction Project Update: Mr. McOmie and district personnel met with Wadsworth Brothers Construction and HNTB Engineers, the project design consultant, on Friday, June 14, 2013, regarding the structural steel contractor claim on the Hoback Junction project. The discussion focused on how to get the project moving again, and work resumed on the bridge following the meeting. Another claim was made for work to be done on the retaining wall, and issues still need to be resolved before work can commence on that portion of the project.

Fiber Optic Installation on Weber Property Update: Mr. Tony Weber, a Wheatland-area landowner, voiced his concerns at the May 16, 2013, Commission meeting about a fiber optic line that was being installed within the right-of-way bordering his property. The utility company that is installing the lines has acquired a permit to do so, but Mr. Weber feels that he should be compensated by the utility company, as it stands to make a considerable profit from the installation.

On May 20, 2013, Mr. Tony Weber called Commissioner Ruwart and left a voice mail message indicating that he had run off the utility workers who were there to install the fiber optic lines. WYDOT district personnel researched the county records to reaffirm that WYDOT owns the easement where the fiber optics are to be installed, and confirmed that the proper process has been followed. Law enforcement got involved, and the utility company has been able to proceed with the work.

WYDOT Employee Injury at Guernsey: A WYDOT employee was injured on the job on June 19, 2013. A plug on a hot plant machine popped off, and one individual was covered with 300-degree hot plant mix. He was taken to the Wheatland hospital, and was flown to a burn center in Colorado for treatment later that day. The employee has second and third degree burns. Mr. McOmie offered to provide updates to the Commission as they become available.

8. Mr. Spear presented the Engineering and Planning report in Mr. Fredrick's absence, beginning with the bid tabulations from the letting held June 13, 2013, in Laramie.

**COMMISSION DISTRICT 6**  
**Ted Ertman - Chairman**

Federal projects NH-N442061, STP-B014074, and ARSCT-N442A02 combined, involving reconstruction, including grading, draining, milling, placing bituminous pavement leveling and surfacing, structural, electrical, and miscellaneous work on 8.24 mile of US 16, between Newcastle and the South Dakota state line, in Weston County.

Engineer's Estimate	\$18,553,273.55	
<b>Foothills Contracting, Inc., Webster, SD</b>	<b>\$19,998,962.88</b>	<b>+7.8%</b>
Simon Contractors and its Subsidiaries, Cheyenne, WY	\$20,279,093.00	
McMurry Ready-Mix Co., Casper, WY	\$20,675,684.09	
Kirkland Construction, L.L.P., Rye, CO	\$21,302,111.80	
Intermountain Construction & Materials, Gillette, WY	\$21,962,617.05	
Oftedal Construction, Inc., Casper, WY	\$22,520,572.59	
Riverside Contracting, Inc., Missoula, MT	\$23,773,999.50	

It was recommended by Mr. Shultz, moved by Commissioner Anderson, seconded by Vice Chairman McCormack, and carried that **Foothills Contracting, Inc., Webster, South Dakota**, 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 IM-I904136, involving grading, milling plant mix, bituminous pavement surfacing, crack sealing, plant mix wearing course, seal coat, signing, and miscellaneous work on 8.92 miles of I-90, beginning at reference (RM) 176.80, between Moorcroft and Sundance, in Crook County.

Engineer's Estimate	\$6,992,516.00	
<b>McMurry Ready-Mix Co., Casper, WY</b>	<b>\$6,993,923.98</b>	<b>+0.0%</b>
Simon Contractors and its Subsidiaries, Cheyenne, WY	\$7,081,986.33	
McGarvin-Moberly Construction Company, Worland, WY	\$7,169,925.02	
Intermountain Construction & Materials, Gillette, WY	\$7,356,236.38	
Northern Improvement Company and Subsidiary, Fargo, ND	\$7,428,750.00	
Mountain Construction Company, Lovell, WY	\$7,730,494.75	
Riverside Contracting, Inc., Missoula, MT	\$7,953,140.00	

It was recommended by Mr. Fredrick, moved by Commissioner Ruwart, seconded by Commissioner Dooley, and carried that **McMurry Ready-Mix Co., Casper, 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 7**  
**Clair Anderson - Commissioner**

Federal project STP-U258010, involving grading, draining, milling plant mix, placing crushed base and bituminous pavement surfacing, concrete pavement, curb and gutter, sidewalk, electrical, and miscellaneous work on 0.44 mile of WYO 258, beginning at RM 12.48, in the city of Casper, in Natrona County.

Engineer's Estimate	\$2,497,299.25	
<b>Hedquist Construction, Inc., Mills, WY</b>	<b>\$2,414,981.00</b>	<b>-3.3%</b>
S & S Builders, LLC, Gillette, WY	\$2,640,608.20	

It was recommended by Mr. Fredrick, moved by Commissioner Anderson, seconded by Commissioner Dooley, 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.

9. It was recommended by Mr. Shultz, moved by Commissioner Dooley, seconded by Commissioner Anderson, and carried to approve the following project authorizations:

**COMMISSION DISTRICT 1**

Urban Major Collector

RHC 0.00 4022001; Laramie County; Cheyenne Streets, 23<sup>rd</sup> Street and Snyder Avenue; surfacing; FY 2013; request federal construction funds of \$105,986

**COMMISSION DISTRICT 3**

Rural Local

ARSCT 0.00 PEG3A10; Uinta County; Evanston; produce salt and sand mix; FY 2013; request preliminary engineering funds of \$500; request construction engineering and construction funds of \$64,500; to be reimbursed by the City of Evanston

**COMMISSION DISTRICT 5**

Rural Principal Arterial

ARSCT 0.00 N345A02; Big Horn County; Lovell Streets; RM 236.26 to 237.29; replace water and sanitary sewer lines; FY 2014; request preliminary engineering funds of \$20,000; estimated construction cost is \$3,146,250; to be reimbursed by the Town of Lovell

Rural Major Collector

STP 14.80 0201017; Big Horn County; Manderson to Hyattville; RM 14.80 to 19.20; overlay; FY 2018; request federal preliminary engineering funds of \$240,000; estimated construction engineering and construction cost is \$6,380,000

## **COMMISSION DISTRICT 7**

### Rural Major Collector

STP-E 5.93 0703019; Fremont County; Ethete South, Mill Creek; pathway; RM 5.93; FY 2014; request preliminary engineering funds of \$8,000; estimated construction engineering and construction cost is \$48,000

### Rural Local

HRRR 0.00 CN13070; Converse County; various county roads; signs and delineators; FY 2013; request federal construction funds of \$91,157

HRRR 0.00 CN13071; Converse County, various county roads, pavement markings; FY 2013; request federal construction funds of \$84,603

10. Petition for the Establishment of Two Public At-Grade Railroad Crossings, Irvine Road, Converse County: Mr. Kline presented a petition for the establishment of two public at-grade railroad crossings on Irvine Road in Converse County.

Four crude oil truck-to-train or pipeline-to-train facilities are planned or are under construction in Wyoming. The subject petition is directly associated with the ongoing construction of the Enserco Energy crude oil on-load facility about two miles south of Douglas.

A diagnostic review was conducted on May 9, 2013, at the proposed load-out facility location on Irvine Road in Converse County. The review meeting was attended by all parties, including representatives from the Converse County Commission, site developers, and WYDOT. The team reviewed proposed train movement frequency and speed, average daily traffic, site distance, and other geometric issues, and other related factors such as the number of proposed school bus and hazardous material haulers that would utilize the crossing. Utilizing this information, and proposed maximum train traffic counts, a "what-if" scenario was built using WYDOT's rail crossing hazard rating model. The model run ranked the two proposed crossings near the lower one-third for hazard potential (i.e., least hazardous) of all public crossings in the state. The team determined that flashing light and gate mechanisms were not warranted or recommended at this location. Although flashing light and gate mechanisms are not recommended, several highway, signing, and marking improvements must be incorporated to make the public crossings compliant and as safe as practical.

All expenses for the grade crossing installations and related improvements will be borne by the developer, the operator, and/or Converse County.

It was recommended by Mr. Kline, moved by Commissioner Anderson, seconded by Commissioner Coulter, and carried to approve the establishment of two public at-grade rail crossings on Irvine Road, south of Douglas, in Converse County.

Messrs. Hibbard, Kline, Rossetti, and Ledet left the meeting. Mr. Dennis Byrne, Aeronautics Administrator, entered the meeting.

11. Lieutenant Colonel Ratliff presented the Highway Patrol report in the absence of Colonel John Butler.

The Fatal Crash Summary through May 31, 2013, includes 31 fatal crashes involving 37 deaths. The fatalities include 22 rollover crashes, 11 multi-car crashes, 1 fixed object, 2 motorcycles and all-terrain vehicles, and 2 pedestrians. Of the 31 crashes that occurred so far this year, 9 involved commercial vehicles.

There have been 7 crashes to date deemed alcohol related, resulting in 8 deaths. Of those deaths, 6 were attributed to not using occupant restraints.

Of the 37 deaths that have occurred to date this year, 22 can be attributed to the non-use of occupant restraints, with 17 involving rollover crashes and 5 involving multi-car collisions. Of the 22 deaths that occurred from non-use of occupant restraints, 14 were Wyoming residents, and 8 were non-residents. Eight of those who perished were under 20 years of age, and 5 of those fatalities were attributed to the failure to use proper occupant restraints.

Patrol-Investigated Crash Summary: The Patrol-Investigated Crash Summary reflects activity through April 30, 2013. The summary depicts 2,114 crashes statewide, of which 1,660 involved non-commercial vehicles, and 454 involved commercial vehicles.

Patrol Field Arrest Activity: Field arrest activity indicates that the majority of arrests made as of May 31, 2013, have been DUI related. There have been 503 field arrests made so far this year, including:

- DUI arrests from crashes – 33
- DUI arrests from traffic stops – 185
- DUI arrests from the REDDI Program – 51
- DUI arrests from ports-of-entry – 4
- NCIC hits (person) – 15
- Wyoming warrants hits – 75
- Drug arrests – 84
- Other arrests – 56

12. Mr. Byrne presented the Aeronautics report, including the May 2013 Aeronautics Flight Operations Passenger Summary Report.

13. Mr. Shultz presented the Operations report.



Mr. Shultz briefed the Commission about Bid No. 13-240MD for the purchase of three all-wheel-drive articulated motor graders. The minimum buyback period requested in the bid proposal was to be not less than 42 months. Wyoming Machinery Company, of Cheyenne, Wyoming, inadvertently provided a bid that included a "3-yr/1750 hrs" guaranteed buyback price. Mr. Shultz advised that, although Wyoming Machinery Company's overall price was lower than the other bidders, and 1,750 hours equates to 42 months, its written "3 yr" buyback period, while meeting the WYDOT specification, does not meet WYDOT's requested buyback period. To maintain the integrity of the bid process, Wyoming Machinery Company's bid must be considered using the 3-year period specified by the bidder. The result of this comparison is that the buyback bid provided by Honnen Equipment is the apparent low bid.

Mr. Paul Phillips, of Wyoming Machinery Company, provided copies of a handout containing a cover letter that explained what was contained in the bid package, copy of the bid and related specifications, and the sales quote for the motor graders. Mr. Phillips asked the Commission to consider the mistake a very minor irregularity based on the complete contents of its sealed bid packet.

Mr. John Walsh, Wyoming Sales Manager for Honnen Equipment, addressed the Commission about its bid. The bid from Honnen Equipment met the specification criteria. Mr. Walsh indicated that his company carefully prepared and checked its bid before it was submitted and asked the Commission to consider its bid in the award.

It was recommended by Mr. Shultz, moved by Vice Chairman McCormack, seconded by Commissioner Coulter, and unanimously carried to approve purchase for bid number 13-240 to furnish three each, new, current model, all-wheel-drive, articulated motor graders, for delivery in Lander and Cheyenne. The bid was awarded to Honnen Equipment, of Casper, Wyoming, for the sum of \$815,994.00.

Messrs. Phillips, Walsh, and Johnson left the meeting.

It was recommended by Mr. Shultz, moved by Commissioner Dooley, seconded by Commissioner Anderson, and carried to approve, by consent, the following bids:

- Bid number 13-219 to furnish 91,300 tons of maintenance stockpiled material, for delivery at various locations statewide. The contract was awarded to 71 Construction, of Casper, Wyoming, for the sum of \$1,981,669.00, and Knife River - Cheyenne, of Cheyenne, Wyoming, for the sum of \$660,920.00, for a total sum of \$2,642,589.00.
- Bid number 13-224 to furnish one 65' x 160' fabric-covered salt/sand storage building to be built in Pinedale. The contract was awarded to A & B Construction LTD, of Harper, Iowa, for the sum of \$94,018.00.

- Bid number 13-226 to furnish a vehicle exhaust system for delivery in Casper. The bid was awarded to Sheet Metal Specialities, Inc., of Casper, Wyoming, for the sum of \$60,700.00.
- Bid number 13-239 to furnish one each, new, current model, articulated-wheel loader, for delivery in Laramie. The bid was awarded to Honnen Equipment, of Casper, Wyoming, for the sum of \$119,292.00.
- Bid number 13-241 to furnish one each, new, current model, 5,000 gallon fuel tank trailer, for delivery in Casper. The bid was awarded to West-Mark of Ceres, California, for the sum of \$63,784.00.

It was recommended by Mr. Shultz, moved by Commissioner Ruwart, seconded by Commissioner Coulter, and carried to approve purchase for an e-mail quotation of May 13, 2013, to furnish 17,000 tons of salt/sand material, for delivery in Laramie and Herrick Lane. The contract was awarded to Willits Company, Inc., of Cheyenne, Wyoming, for the sum of \$378,000.00.

It was recommended by Mr. Shultz, moved by Commissioner Ruwart, seconded by Vice Chairman McCormack, and carried to approve purchase for bid number 13-227 to furnish one 30' x 40' salt/sand storage building to be built in Guernsey. The contract was awarded to Norb Olind Construction, of Wheatland, Wyoming, for the sum of \$149,274.00.

It was recommended by Mr. Shultz, moved by Commissioner Dooley, seconded by Commissioner Anderson, and carried to reject all bids for bid number 13-228 to furnish one 30' x 40' salt/sand storage building at Shirley Rim. The storage building will be re-bid again in the future.

Mr. Young left the meeting.

14. Mr. Shultz presented a revised rule for Chapter 13, Access Facilities, from the *Wyoming Department of Transportation Rules and Regulations*, General Section. No public comments were received during the statutory comment period.

The proposed changes incorporate county and stakeholder input, update technical language and definitions, and seek to broaden public and private access.

It was recommended by Mr. Shultz, moved by Vice Chairman McCormack, seconded by Commissioner Coulter, 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 W.S. 24-2-105, W.S. 2-6-101, W.S. 31-7-305, and W.S. 24-6-111, 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 13, Access Facilities, a revised rule and regulation of the Wyoming Department of Transportation. This revised rule incorporates county and stakeholder input, updates technical language and definitions, and seeks to broaden public and private access.

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

**WHEREAS**, no public comments were received during the comment period for consideration by the Transportation Commission of Wyoming;

**NOW, THEREFORE, BE IT RESOLVED** that the Transportation Commission of Wyoming officially adopts General Section, Chapter 13, Access Facilities.

15. It was moved by Vice Chairman McCormack, seconded by Commissioner Coulter, and carried to move into executive session to discuss a legal matter. Messrs. Spear, Loftin, Byrne, Dailey, and McGee, and Lieutenant Colonel Ratliff left the room. The Commission went into executive session at 11:13 a.m., on Thursday, June 20, 2013.

16. It was moved by Vice Chairman McCormack, seconded by Commissioner Ruwart, and carried to move out of executive session. The Commission came out of executive session at 11:30 a.m., on Thursday, June 20, 2013.

15. It was moved by Vice Chairman McCormack, seconded by Commissioner Coulter, and carried to adjourn the meeting. Chairman Ertman adjourned the meeting at 11:30 a.m., on Thursday, June 20, 2013.