

## TRANSPORTATION COMMISSION OF WYOMING

The Transportation Commission of Wyoming met in the Commission Room of the Transportation Headquarters building in Cheyenne on August 15, 2013. The meeting was convened at 8:33 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  
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; Ken Shultz, Assistant Chief Engineer of Operations; Tom Loftin, Support Services Administrator; Colonel John Butler, Highway Patrol Administrator; Dennis Byrne, Aeronautics Administrator; Doug Moench, Senior Assistant Attorney General; Kevin Hibbard, Budget Officer; Doug McGee, Public Affairs Manager; and Joe Dailey, Division Administrator, Federal Highway Administration.

Others present: Paul Neidermuller and Janae Myers, of Clifton Larson Allen, LLP, external auditors; and Kristin Burkart, WYDOT Internal Review Services Manager; David Stearns, Financial Services Administrator; and Ron Downey, Financial Services Accountant.

1. Pledge of Allegiance: Chairman Ertman led the attendees in the Pledge of Allegiance.
2. Chairman Ertman advised that he would like to move Item 12.a(1), Preliminary Briefing on External Audit by Clifton Larson Allen, LLP, up on the agenda. The audit briefing will be presented following Agenda Item 6, Director's report.
3. 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 July 18, 2013, teleconference business meeting and executive session.
4. Director Cox presented the Director's report.

Etna North Project Update: WYDOT and Governor Mead's office have received comments and concerns about the Etna North project. The project is currently designed as a five-lane roadway that extends for nine miles along US 89 in Lincoln County. The new road will replace an existing two-lane highway that is beginning to decline, there are documented safety concerns, and traffic volumes are at full capacity at certain periods of the day.

Governor Mead's office and WYDOT have received a significant amount of correspondence from area residents who have expressed concern about the negative impact that the project will have on the character of the valley, from their perspective, and the need for an improvement as large as a five-lane section. Director Cox attended a public meeting in June at the Etna Community Center, with about 75 area residents attending. Residents have since gathered over 150 petition signatures opposing the project, and the petition was sent to Governor Mead and WYDOT for consideration. WYDOT executive staff members, design and traffic engineers, and district staff met on August 14 2013, to discuss the future of the project. Another design alternative is being drafted that will involve a three-lane road, northbound and southbound, with a continuous center turn lane, some alternating passing lanes, and some right-turn capability throughout the nine-mile stretch of highway to accommodate the inordinate number of accesses along the way.

The Department has encouraged public involvement throughout the planning process, and a project-specific website will be developed to keep the public informed of its progress.

Director Cox advised that it appeared that the majority of the residents who attended the public meeting don't believe that the highway should be built to the extent of the proposed design. The department is working to develop an improvement project that will address safety concerns that might meet with a higher level of public approval.

2013 Western Association of State Highway and Transportation Officials (WASHTO) Meeting: Some WYDOT executive staff members attended the recent WASHTO conference in San Francisco. Discussion was heard at the meeting about highway funding alternatives, including some ideas that would be considered "futuristic" by current regional standards.

Director Cox was voted as the WASHTO candidate to serve as the 2014 vice president of the American Association of State Highway and Transportation Officials (AASHTO). The appointment will be formalized at the October 2013 AASHTO meeting to be held in Denver, Colorado.

Upcoming Meetings: Director Cox advised that he will not attend the September 19, 2013, Transportation Commission meeting, as he will be in Washington, D.C., attending the AASHTO Reauthorization Steering Committee meeting.

The October 17, 2013, Transportation Commission meeting overlaps the beginning of the AASHTO meeting in Denver. Director Cox invited the commissioners to attend the AASHTO meeting.

Mr. Jason Gay, of the Wyoming Liberty Group, entered the meeting.

5. 2013 A-133 Audit Presentation: Ms. Myers and Mr. Neidermuller briefed the Commission about the intent of the 2013 A-133 organization-wide audit.

August 15, 2013/Page 3 of 11

The Clifton Larson Allen audit team is comprised of Paul Neidermuller, Engagement Partner; Bill Petri, Unassociated Review Partner; Janae Myers, Manager; John-Paul LeChevallier, Senior Associate; Jake Huolihan, Associate; and Andrew Suazo, Associate.

Single audit procedures will be performed with the assistance of the WYDOT Internal Review Services Program. Preliminary data show that the Highway Planning and Construction Program, formula grants for other urbanized areas, alcohol open container requirements, the office of surface mining – abandoned mine land reclamation, and the Airport Improvement Program will be major programs to be considered in the 2013 audit. Findings and recommendations will be provided to WYDOT and to the Commission for consideration.

The auditors are responsible for carrying out the audit under the United States Generally Accepted Auditing Standards (GAAS). Some of the key responsibilities are:

- Expressing opinions whether financial statement are in conformity with the United States Generally Accepted Accounting Principles (GAAP) in all material respects.
- Expressing opinions only over information identified in the audit report. Other information included in the financial statement package will be read and/or reviewed, but are not subject to testing.
- Performing the audit in accordance with GAAS; the standards applicable to financial audits contained in the *Government Office of Management and Budget (OMB) Circular A-133, audits of States, Local Governments and Non-profit Organizations*.
- Communication of significant matters related to the audit, information required by law, regulation, or other information agreed upon.

An audit in accordance with GAAS does not relieve management of its responsibilities, and it considers internal controls as a basis for the audit procedures. However, it does not give an opinion of the effectiveness of the internal controls. It is designed to obtain reasonable, but not absolute assurance about whether statements are free of material misstatement.

The five audit phases include continuous communication between the auditors and WYDOT, planning and strategy, systems evaluation, testing and analysis, and reporting. The audit will focus on risks, test controls and compliance, substantiate procedures (combination of tests of details and analytical procedures), provide an element of unpredictability, have a high level of partner/manager involvement, and retain its team members.

Focus will be made on accounts that are judged as being quantitatively and/or qualitatively material in nature. The auditors will obtain an understanding of the risk of error and/or fraud, and the control environment for each. The nature of the account and the identified risks will dictate whether a test will be performed on the operating effectiveness.

Significant accounts to be audited include:

- Cash and investments and related investment income/loss
- Accounts receivable
- Inventory
- Capital assets
- Accounts payable
- Compensated absences
- Federal, state, and local grants
- Motor fuels and registration taxes
- Severance taxes and royalties
- Operating expenses
- Project/construction expenses

Some unique topics will also be audited, including:

- Clarity standards (clarification of auditing standards, primarily impacts Clifton Larson Allen, impact to WYDOT - some changes to audit report language, and group audits)
- Major 2013 transactions/events
- New Governmental Accounting Standards Board (GASB) pronouncements on the horizon
- Other topics to be identified

The pre-engagement and internal planning procedures were completed in June 2013, and the interim field work was completed in July 2013. Completion dates for the final field work is estimated to be November or December 2013, and the financial and compliance report will be finished in February 2014.

Mss. Myers and Burkart, and Messrs. Neidermuller, Stearns, and Downey left the meeting.

6. Mr. Hibbard presented the Budget report.

Monthly Budget Report: The August 2013 budget report revealed that the Commission budget is 76 percent expended, and the Legislative budget is 81 percent expended, which is within budget tolerances. The Department has a current cash balance of \$15.4 million, but expects that will drop significantly in September. Mr. Hibbard anticipates receiving WYDOT's federal mineral royalty and severance tax funding distributions in October and January.

Commissioner Coulter asked when the first \$0.10 per gallon fuel tax will be distributed. Mr. Hibbard advised that the new tax was imposed on July 1, 2013, and that WYDOT will receive its first payment in September.

Director Cox suggested that the FY 2013 A-133 department-wide audit include the new H02 account, the account that will sequester the new \$0.10 fuel tax receipts and expenditures. Mr.

Hibbard advised of two areas within the H02 account to consider in the upcoming audit. First, the H02 will have been active for only one month in FY 2013, so Mr. Hibbard recommended waiting until FY 2014 to audit H02 account transactions. Second, the internal controls of the account could be audited this fall before the FY 2014 transactions occur to ensure that the proper controls are in place. Chairman Ertman and Director Cox agreed with Mr. Hibbard.

Chairman Ertman inquired about the damage repair and risk management accounts. Mr. Hibbard explained the difference between the accounts, and advised that the Department incurs about \$2.7 million in damages annually to guardrails, bridges, delineators, fences, and other property along the highway system. WYDOT recovers about 45 percent of that expense from those who can be identified as the cause of the damage.

Chairman Ertman also asked whether WYDOT has been reimbursed for its snow removal efforts that were required last spring to open Yellowstone National Park. Mr. Hibbard advised that all the snow removal charges have been billed and that payment has been received for the work.

FY 2014 Operating Budget Review: Mr. Hibbard briefed the Commission about some of the key items in the proposed draft of the FY 2014 operating budget.

7. Mr. Fredrick presented the Engineering and Planning report, beginning with the bid tabulations from the informal letting held August 13, 2013, in Cheyenne.

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

Federal project STP-DR41380, involving grading, draining, placing crushed base, and miscellaneous work on WYO 24, at reference markers (RM) 31.65 and 31.93, west of Hulett, in Crook County.

Engineer's Estimate	\$2,451,696.05	
<b>Johner &amp; Sons, Spearfish, SD</b>	<b>\$2,007,280.50</b>	<b>-18.1%</b>
Zandstra Construction, Inc., Rapid City, SD	\$2,059,098.00	
McMurry Ready-Mix Co., Casper, WY	\$2,067,420.12	
Wilson Bros. Construction, Inc., Cowley, WY	\$2,287,327.70	
Oftedal Construction, Inc., Casper, WY	\$2,494,424.56	

It was recommended by Mr. Fredrick, moved by Commissioner Anderson, seconded by Commissioner Coulter, and carried that **Johner & Sons, Spearfish, 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.

8. It was recommended by Mr. Fredrick, moved by Commissioner Dooley, seconded by Vice Chairman McCormack, and carried to approve the following project authorizations:

**COMMISSION DISTRICT 4**

Rural Major Collector

STP-GM 13.00 DR41810; Sheridan County; Sheridan to Ucross, Tiff Slide; RM 13.00; slide repair; FY 2014; request federal preliminary engineering funds of \$60,000; estimated construction engineering and construction cost is \$660,000

Rural Local

ARSCT 0.00 1006A02; Johnson County; Trabing Road, County Road 13; overlay; FY 2014; request preliminary engineering funds of \$7,350; estimated construction engineering and construction cost is \$257,250; to be reimbursed by Johnson County

**COMMISSION DISTRICT 7**

Urbanized Principal Arterial Expressway

ARSCT 0.00 P471A01; Natrona County; Casper Streets; sanitary sewer work; FY 2014; request preliminary engineering funds of \$11,600; estimated construction engineering and construction cost is \$360,212; to be reimbursed by City of Casper

ARSCT 0.00 P471A02; Natrona County; Casper Streets; water system; FY 2014; request preliminary engineering funds of \$16,950; estimated construction engineering and construction cost is \$222,542; to be reimbursed by Central Wyoming Regional Water System Joint Powers Board

9. Right-of-Way Update: Mr. Fredrick provided a list of resolutions for the exercise of eminent domain that have been brought before the Commission for the period of October 2008 through July 2013. Since 2011, when the Department changed its time line for requesting permission for the exercise of eminent domain, only seven resolutions, representing 37 landowners, have come before the Commission for consideration. WYDOT has successfully negotiated with 370 landowners on 33 projects without a resolution. Since October 2008, of approximately 970 landowners affected by WYDOT projects, only 23 complaints have been filed, and 4 have resulted in a hearing.

10. Proposed \$0.10 Fuel Tax Projects: Mr. Fredrick provided a map of the tentative projects to be completed using the newly implemented \$0.10 per gallon fuel tax. So far, 53 projects are proposed for construction in FY 2013 through 2016, which includes a wide variety of work. The projects are off the interstate system, as federal funds will be used for interstate work. The funds will be used to maintain the highways in their current condition. No new construction is proposed at this time.

Vice Chairman McCormack asked how the Department prioritized the projects. Mr. Fredrick advised that only non-interstate routes were considered when preparing the list. The State Transportation Improvement Program (STIP) was reviewed, necessary projects were moved forward, and new projects that were not yet in the design phase will be added to a future year of the STIP.

11. At its July 18, 2013, Commission meeting, the Commission voted to reject the low bid on State project SCP-TC-P142046, Farson to Lander, in Fremont County, and to award the project to the

second low bidder. The low bidder, Lewis & Lewis, Inc., of Rock Springs, provided a bid bond that contained an incorrect project number, which deemed its bid irregular.

Commissioner Coulter asked if the Commission would consider writing a resolution to allow no exceptions for rejecting bids that do not meet the exact specifications of the project. Mr. Fredrick advised that the Commission has broad discretion in deciding whether to accept a bid. Director Cox suggested that the Commission not make a move that would limit its discretionary latitude. It is Mr. Fredrick's role to decipher and to make a recommendation to the Commission based upon the "black and white separation between jot and tittle." It is the Commission's role to hear all the details and circumstances, and to ultimately make a decision based upon the information that is provided. Mr. Moench agreed with Director Cox's comments, and believes that the current method works very well to maintain the integrity of the bid process. Mr. McOmie also advised that Commission participation is invaluable in developing or making necessary changes to rules, regulations, and Department policy on various issues.

Mr. Dailey advised that, from a federal perspective, his job is to verify that proper rules and procedures have been followed, and that funds are expended in accordance with federal mandate. The Transportation Commission's review and approval is a good means of providing checks and balances when federal funds are involved.

Chairman Ertman stated that the Commission's ultimate goal is to make the best decision for the Wyoming taxpayer. Mistakes will be made, and consideration must be given on a case-by-case basis, weighing all the rules and circumstances.

12. Colonel Butler presented the Highway Patrol report.

The Fatal Crash Summary through July 31, 2013, includes 48 fatal crashes involving 54 deaths. The fatalities include 31 rollover crashes, 13 multi-car crashes, 2 fixed objects, 7 motorcycles and all-terrain vehicles, and 2 pedestrians. Of the 48 crashes that occurred so far this year, 11<sup>1</sup> involved commercial vehicles.

There have been 10<sup>2</sup> crashes to date deemed alcohol related, resulting in 12<sup>2</sup> deaths. Of those deaths, 9<sup>2</sup> were attributed to not using occupant restraints.

Of the 54 deaths that have occurred to date this year, 30 can be attributed to the non-use of occupant restraints, with 25 involving rollover crashes, and 5 involving multi-car collisions. Of the 30 deaths that occurred from non-use of occupant restraints, 22 were Wyoming residents, and 8 were non-residents. Twelve of those who perished were under 20 years of age, and 7 of those fatalities were attributed to the failure to use proper occupant restraints.

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<sup>1</sup>Number not included in total deaths (sub-crash data).

<sup>2</sup>Not all chemical test results were available at the time of report.

Patrol-Investigated Crash Summary: The Patrol-Investigated Crash Summary reflects activity through June 30, 2013. The summary depicts 2,958 crashes statewide, of which 2,381 involved non-commercial vehicles, and 577 involved commercial vehicles.

Patrol Field Arrest Activity: Field arrest activity indicates that the majority of arrests made as of July 31, 2013, have been DUI related. There have been 752 field arrests made so far this year, including:

- DUI arrests from crashes – 42
- DUI arrests from traffic stops – 267
- DUI arrests from the REDDI Program – 76
- DUI arrests from ports-of-entry – 4
- NCIC hits (person) – 30
- Wyoming warrants hits – 119
- Drug arrests – 127
- Other arrests – 87

Overall, crashes and fatalities in 2013 remain lower than in recent years, particularly with Wyoming drivers where seat belt usage appears to be on the rise. Colonel Butler believes that seat belt enforcement has perhaps played a role in the success.

2013 Hulett Ham 'n Jam Event: Portable message signs were used in the Hulett area to make drivers aware that there were a significant number of motorcycles in the area. The Wyoming Highway Patrol sent about 30 troopers to assist with law enforcement efforts. Twelve crashes occurred during the event, which resulted in one fatality when a motorcycle driver, who was not wearing a helmet, hit a deer and later succumbed to a head injury from the crash. For the first time ever, Wyoming joined with the South Dakota Highway Patrol on Wednesday during the event, the busiest day, to provide law enforcement and, as a result, there were no crashes on I-90 that day. There were 1,725 vehicle stops during the Ham 'n Jam, and 969 citations were issued. There were also four drug and nine DUI arrests made, and one arrest warrant was served. The 2013 Ham 'n Jam traffic count was the lowest since 2007, with 11,982 motorcycles on the road. Colonel Butler anticipates a significant increase in the number of attendees in two years, as 2015 will be the 75<sup>th</sup> anniversary celebration of the Ham 'n Jam.

The Wyoming Highway Patrol received a commendation for its efforts in assisting some congressional aids to traverse through the area.

I-80 Challenge Highway Safety Initiative: The Wyoming Highway Patrol participated in the I-80 Challenge Highway Safety Initiative on July 24-31, 2013. Wyoming partnered with 10 other states during the 8-day event to target driving under the influence of drugs or alcohol, speeding, distracted driving, and safety restraint violations. The goal of the program was to achieve a no-fatality rate during the 8-day period, but two fatalities occurred, one in Nebraska and another in Ohio. Wyoming realized 45 crashes on I-80 during the 8-day challenge, with no fatalities. Almost 800 citations and

August 15, 2013/Page 9 of 11

500 warnings were issued, including 17 commercial vehicle citations, and 7 DUI arrests and 14 drug arrests were made.

13. Mr. Byrne presented the Aeronautics report, including the July 2013 Aeronautics Flight Operations Passenger Summary Report.

14. Mr. Shultz presented the Operations report.

It was recommended by Mr. Shultz, moved by Vice Chairman McCormack, seconded by Commissioner Coulter, and carried to approve, by consent, the following bids:

- Bid number 13-271 to furnish two vehicle lifts, for delivery in Laramie. The bid was awarded to Kubat Equipment & Service Co., of Denver, Colorado, for the sum of \$218,511.29.
- Bid number 13-275 to furnish a Co-Ray-Vac Heating System, for delivery at WYDOT in Laramie. The contract was awarded to Mountain Air Mechanical, Inc., of Cheyenne, Wyoming, for the sum of \$120,835.00.
- Bid number 13-276 to furnish a 76' x 154' salt/sand asphalt pad and pond liner, for delivery in Shoshoni. The contract was awarded to 71 Construction, of Riverton, Wyoming, for the sum of \$125,271.00.
- Bid number 13-278 to furnish snow removal from the parking lot and sidewalks at the southeast Wyoming Welcome Center, located at the High Plains Interchange in Laramie County. The contract was awarded to Joe Farris Laws L & S, of Cheyenne, Wyoming, for the sum of \$54,600.00.
- Bid number 13-293 to furnish 6,932 tons of bulk sodium chloride, for delivery statewide. The contract was awarded to Dustbusters, Inc., of Evanston, Wyoming, for the sum of \$16,962.50 (District 1); Tri-state Commodities, Inc., of Greeley, Colorado, for the sum of (District 2) \$93,800.00; Innovative Companies, of West Jordan, Utah, for the sum of \$137,170.00 (District 3); Dustbusters, Inc., of Evanston, Wyoming, for the sum of \$54,274.92 (District 4); and Dustbusters, Inc., of Evanston, Wyoming, for the sum of \$117,361.70 (District 5); for a total sum of \$419,569.12.
- Bid number 13-298 to furnish 12 months of janitorial maintenance at the Bitter Creek Rest Area. The contract was awarded to Ethan Call, of Afton, Wyoming, for the sum of \$71,988.00.
- Bid number 13-308 to furnish 225 each Wyoming Highway Patrol mobile broadband installations. The contract was awarded to Astral Communications, Inc., of Boulder, Colorado, for the sum of \$187,650.00.

It was recommended by Mr. Shultz, moved by Commissioner Ruwart, seconded by Commissioner Dooley, and carried to reject all bids for bid number 13-277 to furnish snow removal at WYDOT Headquarters Complex in Cheyenne, the future Driver Services building located at I-25 and College Drive in south Cheyenne, the Aeronautics hangar on Airport Parkway, and numerous other Cheyenne-area, WYDOT-maintained sidewalks. The low bid met the specifications and the bid

requirements, but the scope of work has changed since the pre-bid meeting. The bid specifications will be amended and readvertised in the future.

It was recommended by Mr. Shultz, moved by Commissioner Coulter, seconded by Vice Chairman McCormack, and carried to reject all bids for bid number 13-279 to furnish snow removal at the High Plains Interchange south of Cheyenne, and at the Vandehi Interchange in north Cheyenne. The low bid met the specifications and the bid requirements, but the scope of work has changed since the pre-bid meeting. The bid specifications will be amended and readvertised in the future.

It was recommended by Mr. Shultz, moved by Commissioner Anderson, seconded by Commissioner Ruwart, and carried to reject all bids for bid number 13-280 to furnish snow removal from the parking lot and sidewalks at the I-25, I-80, and US 85 ports-of-entry in the Cheyenne area. The low bid met the specifications and the bid requirements, but the scope of work has changed since the pre-bid meeting. The bid specifications will be amended and readvertised in the future.

15. Chairman Ertman recessed the meeting at 11:45 a.m. to attend the service award luncheon held at the Cheyenne Country Club.

16. Chairman Ertman reconvened the meeting at 1:50 p.m. Messrs. Hibbard, McGee, Moench, and Dailey did not return to the meeting.

It was recommended by Mr. Shultz and moved by Vice Chairman McCormack to approve purchase for bid number 13-281 to furnish a 40' x 60' salt/sand storage building, for delivery at the Powder River Rest Area, and to award the bid to the second low bidder, O'Dell Construction, Inc., of Sheridan, Wyoming. The motion failed for the lack of a second.

It was moved by Commissioner Anderson, seconded by Commissioner Coulter, and carried to reject all bids and to readvertise bid number 13-281 later.

It was recommended by Mr. Shultz, moved by Commissioner Dooley, seconded by Commissioner Seeton, and carried to reject all bids for bid number 13-289 to furnish a roof replacement at the WYDOT shop building in Lyman, and to readvertise the bid later. The scope of work will be slightly scaled back to include only the necessary items to be replaced on the roof.

It was recommended by Mr. Shultz, moved by Vice Chairman McCormack, seconded by Commissioner Anderson, and carried to approve purchase for bid number 13-296 to furnish 154,000 gallons of liquid organic accelerator, for use statewide. The bid was awarded to SFG Road Maintenance, of Knoxville, Iowa, for the sum of \$197,860.00.

It was recommended by Mr. Shultz, moved by Commissioner Anderson, seconded by Commissioner Seeton, and carried to approve purchase for bid number 13-297 to furnish 405,500 gallons and 7,533 tons of liquid anti-icers/de-icers for use at various Department-wide locations statewide. The bid was awarded to Desert Mountain Corp., of Riverton, Wyoming, for the sum of \$1,396,615.46.

August 15, 2013/Page 11 of 11

17. It was moved by Commissioner Coulter, seconded by Commissioner Seeton, and carried to adjourn the meeting. Chairman Ertman adjourned the meeting at 2:20 p.m., Thursday, August 15, 2013.