Agenda item: DELEGATION

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **North Meridian Road – Kalispell**

Background
This is a continuation of a discussion from the February 2004 commission meeting regarding funding of the North Meridian Road project in Kalispell. Kalispell officials requested authority to borrow funds beyond the five-year limit of the Transportation Commission Urban Borrow Policy for construction of this project.

The project involves reconstruction of an existing two-lane, 1.2-mile corridor located in northwest Kalispell (see attachment 1). The project will be ready for construction this summer, but has a funding shortfall of about $5,791,000, largely due to additional right-of-way and utility costs. The most recent construction estimate is about $6,345,000, while available funding for the project is approximately $554,000 of STP-Urban funds. Kalispell's urban allocation is about $455,600 per year. Consequently, Kalispell would have to borrow over 12 years of its future allocation to construct this project in FFY 2004.

Summary
At the February meeting, the Commission suggested that MDT and the city explore the use of city bonding authority, with repayment through Kalispell's future urban allocations, to expedite construction of this project. Since that time, the Kalispell city council passed a resolution indicating its intent to bond for construction of the N. Meridian Road project (please see attachment 2). In addition, MDT and city staff met with FHWA Western Resource Center staff on April 7 to discuss this funding option. MDT and Kalispell officials intend to update the commission on the progress and status of this innovative effort to address Kalispell's transportation needs.

Staff recommendations
Staff recommendations may be presented at the commission meeting.

Notes/discussion

Commission action

Agenda item: DELEGATION
City of Bozeman in conjunction with Mitchell Development Group, LLC

Staff person handling: Joel M. Marshik, Chief Engineer

Date/location: April 27, 2004 in Butte, MT

Item: **Fowler Avenue extension** to Huffine Lane (US 191) – Bozeman

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Background

As per statute, the Transportation Commission is being asked to approve the addition of a public road connection for Fowler Avenue to US Highway 191 – Huffine Lane –in Bozeman. This will facilitate the development of the property indicated on exhibit I, which is being developed by the Mitchell Development Group. This public road connection was not designed into the original F 5-2(11)82, *Bozeman – Four Corners* project, which included limited access control.

EXHIBITS – The following exhibits are attached :

Exhibit I: An overall map of the area, showing the location of the access request in relation to the general area.

Exhibit II: A detail showing the location of the parcel in relation to Huffine Lane, including the existing striping for the highway and the adjacent access points.

Exhibit III: A letter from the city of Bozeman in support of this access point.

STATUTORY REFERENCE – MCA 60-5-106(2): "After establishment of any controlled-access highway or facility, no private or public highway or street which is not a part of the highway or facility shall intersect it at grade, except as may be provided in the resolution designating it a controlled-access highway or facility. No street, road, highway or other public or private way shall be opened into or connected with any controlled-access highway or facility without the prior consent and approval of the appropriate highway authority which adopted the controlled-access resolution."

REASON FOR REQUEST – The purpose of this action is to allow for the addition of a Fowler Avenue connection, which will provide continuity of Fowler as a minor arterial and will serve to connect the future road system as planned by the city of Bozeman. Currently, the limited access control in this area does not allow for this connection.

PROPOSED USE OF APPROACH – Fowler Avenue is identified as a minor arterial both north and south of Huffine in the Greater Area Transportation Plan 2001 Update prepared for the city. North of Huffine it is currently constructed to a two lane local street. Signalization of the intersection is also listed as a recommended improvement. The city fully

supports the proposed Fowler connection, and will be the applicant for the access permit for the construction of this facility with a public easement. Exhibit III Is a letter from the city of Bozeman confirming this information.

LOCATION and DESCRIPTION – The Bozeman Gateway project is located on the southwest edge of Bozeman between the Main Street (Huffine Lane)/College Street intersection and the proposed Fowler Avenue extension. The site is located in an area of mixed retail and office uses including the Gallatin Valley Mall directly opposite the property. The 73-acre property is presently vacant and undeveloped.

HISTORY OF AREA – Initially, the developer had requested multiple direct access points onto Huffine Lane, as well as a connection onto College Street just north of the intersection with Main Street (Huffine). Through review by MDT the number of access points allowed was reduced to three:

1. One private access that the property was allowed under the existing limited access control.
2. One new connection onto College Street that lies just outside of the limited access control limits.
3. One new access directly across from existing Fowler Avenue. This new access will be public, but the developer will bear the cost of construction and signalization of the street.

The developer will also reconfigure the existing Main Street/College intersection in such a manner as to allow the addition of the access off College without significantly affecting the operation of the public street system.

EXISTING HIGHWAY CROSS-SECTION – The cross-section of Huffine Lane in this area is that of a five-lane facility, two lanes in each direction and a center turning lane.

SIGHT DISTANCE – The alignment is relatively straight and level, and sight distance exceeds that which is required in both directions.

ADJACENT APPROACHES – Exhibit II shows distances from the requested street connection to the approaches in the area, both sides of the road. There are no anticipated conflicts with the adjacent approaches if this approach is allowed.

ACCIDENT HISTORY – The accident history is not applicable for this location, as the current intersection is only on the north side and is limited to right-in, right-out, as well as being un-signalized. The final intersection configuration will be a four-legged intersection, complete with a traffic control signal.

OTHER SAFETY CONCERNS – The middle private access will be a ¾ movement access, not allow left turns out of the property. This is meant to address concerns of accident potential for left turns out of the property. The access off College will be a right-in/right-

out access, to address the same concerns over left turning movements, as well as operational concerns.

NEPA DOCUMENT – Not required for this access change, as this is an action between the city of Bozeman and MDT, and this is not considered a disposal of access rights. Therefore, this action does not fall under the disposal process that requires an environmental document. Other reasons besides the access control modification may precipitate environmental review.

OPPOSITION – There is no known opposition to this amendment at this time. The developer has met with the business owners opposite the Bozeman Gateway commercial development, and those that he has been able to contact have not expressed opposition to the modifications.

FAIR MARKET VALUE – As MDT is not disposing to the city a right MDT previously acquired from them, there is not an issue of fair market value for the access rights.

DISTRICT REVIEW – The Butte district office and Helena traffic staff have been involved in review of this process through the systems impact action process, coordinated through MDT's planning division. All are in agreement that the Fowler Avenue extension is appropriate, and should be allowed.

CONDITIONS OF USE – If the public street is approved, the city will be the applicant for the access permit for the construction of this facility within a public easement. Conditions of use will be established through agreement with the city.

Staff recommendations
Staff recommends approval.

Notes / discussion

Commission action

Agenda item: DELEGATION

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Custer Avenue Interchange in Helena**

Background
The Record of Decision (ROD) for the Helena I-15 Corridor Study is now completed and signed, and the Custer Avenue Interchange is included as a recommendation. The proposed interchange is located on I-15 at RP 193.6 in Helena. The improvement will consist of replacing the old structure over I-15 at Custer Avenue and widening Custer Avenue to five lanes at an estimated cost of $3.8; million, new on and off ramps; addressing drainage issues estimated at $2.7 million; and minor frontage road realignment estimated at $600,000. Including a 10% contingency the total project cost is estimated at $7.8 million.

The proposed interchange will address anticipated increases in traffic volumes due to the expanding development of the area adjacent to and accessing Custer Avenue. A firm commitment on a funding source for actual construction of the interchange has not been secured, but in anticipation of future expansion and development of the area, MDT would like to initiate the design.

Funding for the construction of the project will be considered in the annual review of the Tentative Construction Plan and will be added to the plan when fundable.

Summary
MDT is asking the commission to approve partial preliminary engineering for design of the Custer Avenue Interchange in the amount of $250,000 in Interstate Maintenance funding. Additional funds will be made available to ensure the design for this interchange will move forward expeditiously.

Staff recommendations
Staff recommends that the commission approve the preliminary engineering program for the Custer Avenue Interchange in the partial amount of $250,000.

Notes/discussion

Commission action

Agenda item: DELEGATION

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **South Helena Interchange on Interstate 15**

Background

The Record of Decision (ROD) for the Helena I-15 Environmental Impact Study is now completed and signed, and the South Helena Interchange is included as a recommended improvement. The ROD also eliminates the access approval for the Forestvale interchange.

Local developers, citizens, and local governments are now eager to see the interchange advance to construction. An approach supported by Helena and Lewis and Clark County in the attached resolution would be to use the $5.8 million reserved in NH construction funds from the now abandoned Forestvale project towards the construction of this interchange and (to the extent possible) its western connecting link.

Landowners have offered to provide all of the right-of-way for the South Helena Interchange. In addition, right-of-way is in public ownership for the connecting road to the west, which is also identified in the ROD and must be constructed before the interchange is open to traffic. The value of all the donated right-of-way is $1.45 million based on the developer's evaluation and before MDT review.

The developers have committed to provide a complete set of construction plans for the interchange and the West Side Frontage Road. The cost of this work is estimated by the developers at $675,000. The proposed interchange will be located on I-15 at RP 190.5 approximately 1 mile south of Helena. Construction cost estimates for the interchange are currently being refined, but early estimates are $5.25 million, which includes the interchange and the western connecting road estimate provided by landowner and before detailed MDT review.

In addition to the significant cost participation by the developers, the city of Helena has volunteered to take a leadership role in identifying other potential funding sources to complete the package.

Summary

We are asking the commission to approve a preliminary engineering program of $100,000 for MDT staff to review project design and right-of-way plans provided by developers. These funds will be expended from the $5.8 million available from the now abandoned Forestvale interchange.

In addition, staff also requests commission support to develop a comprehensive agreement with the developers and local governments relative to funding, maintenance and standards that will result in the construction of this interchange at the earliest possible date.

Staff recommendations

Staff recommends that the commission approve the allocation of $100,000 for MDT preliminary engineering cost with the intent to advance this project to construction.

Notes / discussion

Commission action

Agenda item: DELEGATION

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Scenic-Historic Byways Advisory Council delegation**

Background

On March 27, 2003, representatives from the Department of Commerce and the Tourism Advisory Council offered their services to the Department of Transportation and the Transportation Commission to assist is the development of a state scenic byways program. The Transportation Commission accepted this offer subject to the following conditions:

1. Consistent with the requirements of MCA 60-2-601, the membership of the Scenic-Historic Byway Program Advisory Council must be approved by the Transportation Commission and must not include more than 11 members. In addition:
    - The Montana Chamber of Commerce representative must be recommended by that organization.
    - The member with expertise in Montana history must be a representative of the Montana Historical Society.
    - To ensure coordination with existing byway programs, on of the members must be an employee of either the US Forest Service or the Bureau of Land Management.
    - The member with expertise in transportation must be from MDT.

2. The draft Scenic-Historic Byway Program rules developed by the Scenic-Historic Byway Program Advisory Council for consideration by the Transportation Commission must comply with all requirements of MCA 60-2-602. The Transportation Commission must approve the rules before MDT solicits nominations for the first round of designations.

3. Funding for support of the Scenic-Historic Advisory Council and the development of the draft rules for the programs must be provided by non-MDT sources.

4. Draft program rules developed by the Scenic-Historic Byway Program Advisory Council for consideration by the Transportation Commission will constrain eligible highways to routes crossing public or tribal lands with no adjacent private property.

The committee has completed draft rules for a limited state Scenic-Historic Byways Program that comply with the Transportation Commission's conditions and are presenting them for commission approval (see attachment).

Summary

The Montana Scenic-Historic Byways Advisory Council delegation wishes to present draft program rules for a State Scenic Historic Byways Program to the Transportation Commission for their consideration. The draft program rules are limited to roads that cross public or tribal lands with no adjacent private property. If the Transportation Commission approves these draft rules, MDT would begin the administrative rules process for the proposed program rules. The Transportation Commission would have ultimate decision-making authority for the rulemaking process.

Staff recommendations

Staff recommends the commission approve the draft rules and direct staff to begin the rulemaking process.

Notes / discussion

Commission action

Montana Scenic-Historic Byways Program Rules
Final Draft

Mission, Goals and Objectives

The following mission statement establishes an overall directive from which to govern the Montana Scenic-Historic Byways Program.

Mission:

Provide all Montanans and visitors to Montana a quality-oriented system of designated byways and backways, and ensure the long-term benefits, enjoyment, enhancement, and preservation of the intrinsic values which define their designation, while respecting the integrity of Montana's transportation system.

Although many criteria must be met for a route to be eligible for consideration as a byway or backway, intrinsic values serve as the foundation of the designation process. The following goals and objectives have been established to further support the intent of the program's mission:

Goals:

1. *Expand the traveling public's awareness of Montana's superb scenic, natural, historic, cultural, archeological, recreational, and educational resources.*

2. *Enhance the scenic, cultural, historic, natural, archeological, recreational, and educational assets within the byway and backway corridors.*

3. *Provide alternative opportunities to experience Montana.*

4. *Ensure compatibility with other important activities on Montana's transportation system.*

5. *Promote and enhance tourism in Montana.*

6. *Ensure designation allows roadways to accommodate commerce and commercial vehicle use and respects private property rights when applicable.*

Objectives:

1. *Develop a quality-oriented Montana Scenic-Historic Byways program based on adherence to the mission, goals, and criteria set for designation eligibility.*

2. *Encourage proactive, local involvement in the application, planning, management, and commitment to byways/backways.*

3. *Require route specific corridor management plans. (To guide applicants through the process of corridor planning, a detailed procedures manual will be developed. The manual will address the public involvement process, securing support from jurisdictional entities, marketing, goals and objectives, etc.)*

4. *Develop an active promotion strategy, and continue a statewide, public awareness campaign.*

5. *The Montana Scenic-Historic Byways Program is not intended to impact zoning processes.*

Montana has many routes that are "off the beaten path" therefore the program will have two tiers of designation. The most improved roads would be designated as Montana Byways, while less improved roads would be designated as Montana Backways.

In order to be designated as a Montana Byway or Backway, local stakeholders must prepare an application that follows the rules and procedures provided by the Montana Department of Transportation (MDT) by the date specified for submitting each year. MDT will have the applications reviewed by the Montana Scenic-Historic Byways Advisory Council. The Council will then recommend routes that qualify to the Montana Transportation Commission for final approval of designation. The application must adhere to the following requirements in order to be designated a Montana Byway or Backway.

Requirements for Montana Byways or Backways Nomination

1. In order to be designated as a Montana Byway or Backway, all land abutting the proposed byway must be either in public or tribal ownership.

2. Each route nominated must possess at least one of the following intrinsic qualities:
   a. Scenic Quality: Offers a heightened visual experience derived from the view of natural and manmade elements of the visual environment of the byway corridor. The characteristics of the landscape are strikingly distinct and offer a pleasing and most memorable visual experience. All elements of the landscape – landform, water, vegetation, and manmade development – contribute to the quality of the corridor's visual environment. Everything present is in harmony and shares in the intrinsic quality.

   b. Natural Quality: Applies to those features in the visual environment that are in a relatively undisturbed state. These features predate the arrival of human populations and may include geological formations, fossils, landform, water bodies, vegetation, and wildlife. There may be evidence of human activity, but the natural features reveal minimal disturbances.

c. Historic Quality: Encompasses legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or manmade, that are of such historic significance that they educate the viewer and stir an appreciation for the past. The historic elements reflect the actions of people and may include buildings, settlement patterns, and other examples of human activity. Historic features can be inventoried, mapped, and interpreted. They possess integrity of location, design, setting, material, workmanship, feeling, and association.

d. Cultural Quality: Evidence and expression of customs or traditions of a distinct group of people. Cultural features including, but not limited to, crafts, music, dance, rituals, festivals, speech, food, special events, vernacular architecture, etc., are currently practiced. The cultural qualities of the corridor could highlight one or more significant communities and/or ethnic traditions.

e. Archeological Quality: Characteristics of the byway corridor that are physical evidence of historic or prehistoric human life or activity that is visible and capable of being inventoried and interpreted. The byway corridor's archeological interest, as identified through ruins, artifacts, structural remains, and other physical evidence have scientific significance that educate the viewer and stir an appreciation for the past.

f. Recreational Quality: Outdoor recreation activities directly associated with and dependent upon the natural and cultural elements of the corridor's landscape. The recreational activities provide opportunities for active and passive recreational experiences. They include, but are not limited to, downhill skiing, rafting, boating, fishing, and hiking. Driving the road itself may qualify as a pleasurable recreational experience. The recreational activities may be seasonal, but the quality and importance of the recreational activities as seasonal operations must be well recognized.

3. Only existing roads that can safely accommodate expected traffic volumes will be considered for either a Montana Byway or Backway. Nominated byways (only) must be paved.

4. All nominated routes must have local government concurrence with a byway and backway designation, and the support of the agencies and landowners with jurisdiction adjacent to the proposed route.

5. Each agency, entity, or government with jurisdiction and responsibility for any roadway nominated for designation shall approve of any application submitted for a byway or backway designation.

6. A conceptual plan describing the process in which a corridor management plan is to be developed and the components to be included is required for designation. A corridor management plan that meets the standards of the National Scenic Byways Program may be substituted for the conceptual plan. The Conceptual Plan should discuss how the nominating

organization proposes to enhance and protect, interpret, develop essential services and promote and market the route and its features on the local and regional level. As required by MCA 60-2-602, the conceptual plan – and when developed, the byway/backway corridor management plan – shall:

(i) serve as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a land management document, zoning tool or mandate, highway improvement scoping or prioritization document, or highway management document;

(ii) accommodate commerce and commercial vehicles and maintain a safe and efficient level of highway services;

(iii) protect private property rights, including assurances that the private property rights of a person who owns land adjacent to or visible from the road are not in any way diminished by the road being designated a Montana Byway/Backway or are accommodated through mutually agreeable compensation;

(iv) preclude the locality having adopted the corridor management plan from establishing goals or commitments outside the locality's jurisdiction; and

(v) accommodate all jurisdictions affected or to be affected by the designation of a road as a Montana Byway/Backway.

7. Montana Byways must accommodate two-wheel drive vehicles. Montana Backways may require four wheel drive or high clearance vehicles.

8. Segmentation- An important criterion is continuity. A road should not have too many gaps but rather should be as continuous as possible and should minimize intrusions on the visitor's experience. However, all abutting or contiguous landowners and governmental entities shall have the right to require that the portion of a proposed scenic byway abutting their land or in their jurisdiction be excluded from designation as a Montana Byway or Backway.

9. Signage- Within an excluded segment, a locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws. Signage recognized as exceptions or as information signs may be used in all areas along a designated route, provided it complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part 1, and all applicable state or locally adopted rules, requirements, and restrictions.

10. Each Montana Byway/Backway must have a management group to provide long-term oversight and marketing for the byway/backway.

Additional Criteria to be Considered for Route Nominations

The evaluation of each application for route designation would be based on how well it meets the requirements identified above and the additional criteria summarized below. The following criteria are not requirements; rather, they are considerations to be used by the Montana Scenic-Historic Byways Advisory Council to evaluate route designation applications.

Roadway characteristics to be considered:

- Length of route.
- Identifiable beginning and end points.
- Route is as continuous as possible without too many gaps.
- Route is a link between existing and proposed points of interest.
- Route accommodates alternative usage.
- Route includes complementary facilities.
- Protection for sensitive areas.
- Safety and road type conditions
- Seasonality of route accessibility

The Scenic-Historic Byways Advisory Council (SHBAC) will assist MDT with writing the procedures and application process for the Montana Byways and Backways Program.

Once a road is designated as a Montana Byway, local stakeholders can nominate the road for designation as a National Scenic Byway or All-American Road by completing the requirements for nomination provided by the United States Department of Transportation and submitting the application to the Montana Scenic-Historic Byways Coordinator to be approved by the Montana Department of Transportation and Montana Transportation Commission and forwarded to the Federal Highway Administration.

De-Designation Proceedings

To maintain the quality oriented nature of the program, there is a de-designation process built into the system. There are two circumstances which could cause a route to be de-designated: 1) when local stakeholders no longer want its route designated (voluntary removal), and 2) when a route loses the intrinsic values specified in the original nomination for designation (non-conformance).

1.) In order to be voluntarily de-listed, the following steps would have to be taken:
   a) The general public and all stakeholders along the route have to be notified of the intent to de-list and a public meeting has to be held on the route no sooner then 30 days after notification.
   b) Written notification must be sent to the Scenic-Historic Byways Coordinator at the Montana Department of Transportation.
   c) Proof that a majority of the stakeholders along the route desire to have it de-designated must be presented to the Montana Department of Transportation after the meeting has been held.
   d) The request will be reviewed by the Montana Scenic-Historic Byways Advisory Council. If the Council agrees that a majority of the stakeholders want the route to be de-listed, the request will be forwarded to the Montana Transportation Commission for de-designation.

2.) In the case of non-conformance, the steps for de-designation include:
   a) Anyone can report a case of non-conformance to the MDT Scenic-Historic Byways Coordinator.
   b) The coordinator will then visit with the management group to see if it actually is in non-conformance.
   c) If the route is determined as being in non-conformance the case will be sent to the Montana Scenic-Historic Byways Advisory Council.

d) If the Council agrees that the route is in non-comformance, it will provide public notice of the intent to de-designate to stakeholders along the route. If after 30 days the route is still in non-comformance, then the Council will make recommendations to the Montana Transportation Commission that the route be de-designated.

e)

Agenda item: 02-04-01

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Huffine Lane/College Street/Garfield Street improvements**
Mitchell Development Group, Bozeman Gateway Commercial Development

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Background
Roadway improvements have been proposed for Huffine Lane (US-191/P-50) and N 19th Avenue (U-1201) in Bozeman. The developer of the Bozeman Gateway Commercial Development will fund all of the improvements, which consist of installing a traffic control signal at the intersection of Huffine Lane and Fowler Avenue, intersection improvements at Huffine Lane and College Street, and intersection improvements at N 19th Avenue and Garfield Street. Diagrams of the proposed improvements are attached.

Butte district and Helena traffic staff have been involved in review of this development through the system impact action process. The city of Bozeman has also been involved in the review of this development and has agreed to request a new public road connection at this location, which is consistent with the urban transportation plan.

All are in agreement with the proposed improvements.

Staff recommendations
Staff recommends the commission approve the project and delegate its authority to allow the developer to let the project, pending concurrence by the chief engineer. Also, please note that concurrence will not be requested until signal warrants and justifications are demonstrated.

Notes/discussion

Commission action

Agenda item: 02-04-02

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Special speed zones**

Background
Staff has performed traffic and engineering studies for the following:

a. US 2 – Nashua
b. US 2 – Glasgow East
c. US 2 – Glasgow West
d. Secondary 269 – Hamilton to Corvallis
e. MT 80 – Geraldine

Please see the attachments for more detail.

Summary
The appropriate local government concurs with the recommendations put forth by MDT.

Staff recommendation
Staff recommends the commission approve the special speed zones as proposed.

Notes/discussion

Commission action

Montana Department of Transportation
Helena, Montana 59620-1001

Memorandum

To: Montana Transportation Commission

From: Joel Marshik, P.E. - Administrator
Highways and Engineering Division

Date: March 17, 2004

Subject: Speed Zone Investigation – US 2 - Nashua

- **Request:** **Valley County March, 2003**
- **Study Completion:** **November, 2003**
- **Jurisdiction:** **State Maintenance**
- **Functional Class:** **Arterial**
- **Speed Limit:** **70 mph**
- **2003 Traffic Volume:** **1,630**
- **Accident Rate:** **2.80 accidents per mvm**
  1.31 Statewide Average
- **Issues:** **Reduce 70 mph Speed Limit at the Intersection with MT 117**
- **Recommendation:** **55 mph Speed Limit**
- **Local Comments:** **Local Officials Concur with 55 mph**

In response to concerns expressed by local residents Valley County Commissioners requested a speed limit investigation along the segment of US 2 that passes by the community of Nashua. Local residents have expressed a firm desire for a reduction in the statutory 70 mph speed limit particularly along the segment of roadway encompassing the intersection with MT 117.

MT 117 begins at a "T" intersection with US 2 and continues south into the community of Nashua. US 2 passes along the north side of Nashua. The main body of the community sets

back away from the roadway. The level of nearby development and its orientation to US 2 is not having much if any effect on the travel speeds. Through moving traffic along US 2 is maintaining speeds in the 70 mph range. Any speed reduction observed along this segment is associated with access to and from MT 117.

Under the present travel speeds and traffic volumes the intersection itself has functioned with no reported accidents in the last three years. This intersection is programmed to receive a left-turn lane and an improved right-turn lane this year. These improvements will further foster the safe and effective operation of this intersection.

Based on the prevailing travel speeds and the operation of the intersection the Department originally proposed a no change speed limit recommendation to Valley County officials. Valley County officials firmly opposed that recommendation and requested a 45 mph speed limit for the intersection of US 2 and MT 117. In an effort to address local concerns and resolve the speed limit issue the Glendive District office met with county officials. From that meeting it was determined that it would be in the best interest to have the District Administrator and the Highways and Engineering Division Administrator establish a Departmental position taking all of the local issues into account. It was determined that the Department would submit an alternative 55 mph speed limit recommendation to Valley County Commissioners and the Nashua Town Council. Both Valley County and the Town of Nashua concurred with the proposed 55 mph speed limit. Their comments are attached.

Recommendation

A 55 mph speed limit beginning at station 736+00, project F 144(3) (800 feet west of the intersection with MT 117) and continuing east to station 752+00, an approximate distance of 1,600 feet.

In advance of the 55 mph speed zone we also recommend the installation of “Reduced Speed 55” signs with supplemental distance plaques.

attachments

cc: D.E. Williams
D.R. Bailey

Montana Department of Transportation
Helena, Montana 59620-1001

Memorandum

To: Joel Marshik, P.E. - Administrator
Highways and Engineering Division

From: Duane E. Williams, P.E.
Traffic and Safety Engineer

Date: March 18, 2004

Subject: Speed Zone Investigation US 2 – Glasgow East

- **Request:** **Valley County – April, 2003**
- **Study Completion:** **December, 2003**
- **Jurisdiction:** **State Maintenance**
- **Functional Class:** **Arterial**
- **Speed Limit:** **Statutorily 70 mph**
- **2003 Traffic Volume:** **5750**
- **Accident Rate:** **1.83 per MVM Traveled**
  1.31 Statewide Average
- **Issues:** **Reduce Statutory 70 mph Speed Limit**
- **Recommendation:** **Post Approved 55 mph Speed Limit &**
  Introduce a new 65 mph Speed Limit
- **Local Comments:** **Concur**

This investigation was also requested by Valley County. Residents have voiced desires for a 55 mph speed limit along the 1.4-mile segment of US 2 from the Glasgow city limits east to the intersection with MT 24. This portion of US 2 is a 5-lane roadway consisting of two 12-foot travel lanes with 8-foot shoulders in each direction separated by a 16-foot two-way-left-turn lane. The adjacent side culture consists of farm implement dealerships, lumber- yard

and other businesses located along both sides of the roadway. This development is dispersed over an approximate one-mile segment and intermixed with agricultural land. The intersection with MT 24 is located further east and is isolated from the outer fringes of Glasgow. At the intersection with MT 24 the typical section transitions to a two-lane roadway with 4-foot shoulders.

The current posted special speed limit configuration ends at the Glasgow city limit boundary. At this point the speed limit transitions from 45 mph to 70 mph. In researching our records we identified that in 1962 the Montana Highway Patrol Board established a 1200-foot 55 mph speed zone beginning at the end of the 45 mph speed zone and continuing east. The 55 mph speed limit is official and should be included in the posted speed limit configuration east of Glasgow.

Accidents

The accident history was reviewed for a three-year period from June 1, 2000 to May 31, 2003. During this period there were 12 accidents reported within the study area. The accident rate is 1.83 accidents per million vehicle miles traveled. This is above the statewide average of 1.31 accidents per million vehicle miles traveled for rural NHS routes.

The accident experience consists of nine single vehicle accidents, two rearend accidents and one angle accident. Six of the nine single vehicle accidents involved conflicts with wild animals. The two rearend accidents occurred near the intersection with Newton Avenue. The angle accident occurred at the intersection with MT 24.

Speed

Vehicular travel speeds were sampled six locations to develop a speed profile along US 2 east of Glasgow. The following table lists the 85th percentile speeds and the pace of the traffic stream at various locations within the study area.

	85th % Speed		Pace of Traffic Stream	
	East	West	East	West
45/70 Transition	53 mph	49 mph	(41-51) 47%	(38-48) 52%
Newton Ave	65 mph	65 mph	(52-62) 40%	(49-59) 37%
MP 543.2	70 mph	65 mph	(58-68) 40%	(52-62) 39%
MP 543.5	69 mph	67 mph	(55-65) 39%	(55-65) 37%
MT 24	69 mph	67 mph	(61-71) 29%	(34-44) 32%
MP 544	72 mph	71 mph	(61-71) 49%	(61-71) 47%

Between Glasgow and the intersection with MT 24 the 85th percentile speeds at seven of the eight directional speed samples collected were below the statutory 70 mph speed limit. The upper limit of the pace was also below the 70 mph speed limit and typically 2 mph to 4 mph below the 85th percentile speeds. In terms of motorist compliance 85 percent to 98 percent of the traffic stream was traveling at or below 70 mph and 70 percent to 85 percent of the traffic stream was traveling below 65 mph.

The 85th percentile speeds are typically between 65 mph and 70 mph along this segment of roadway. However, in consideration of the pace of the traffic stream and its relationship to the 85th percentile speeds a 65 mph speed limit is more representative of the desired travel speeds than the statutory 70 mph speed limit.

Conclusions and Recommendations

There is a reduction in the 85th percentile speeds and pace of the traffic stream along the segment of US 2 between Glasgow and the intersection with MT 24. The adjacent roadside culture and the number of access points along this segment are also distinguish this segment of roadway from that to the east. For the level of development along this segment the 85th percentile speeds are at or slightly above 65 mph. The majority of accidents are associated with animal related conflicts. Based on the accident trends and the low volume of traffic for this multi-lane roadway there is very little interaction between vehicles. The additional travel lane in each direction and the two-way-left-turn lane are successfully providing for safe and efficient access to the roadway in an environment with rural type travel speeds.

From the information gathered we recommend posting the 55 mph speed limit as established by the Montana Highway Patrol Board in 1962 and the introduction of a 65 mph speed limit to the intersection with MT 24. A 65 mph speed limit is more representative of the actual travel speeds along this segment.

A 65 mph speed limit beginning station 60+00, project F 144(6) (400 feet west of the intersection with Hewton Ave) and continuing east to station 128+00, an approximate distance of 6,800 feet.

A 55 mph speed limit will be posted from the end of the 45 mph speed zone to station 60+00, as approved in 1962.

attachments

cc: D.E. Williams
D.R. Bailey

Montana Department of Transportation
Helena, Montana 59620-1001

Memorandum

To: Joel Marshik, P.E. - Administrator
Highways and Engineering Division

From: Duane E. Williams, P.E.
Traffic and Safety Engineer

Date: March 18, 2004

Subject: Speed Zone Investigation US 2 – Glasgow West

- **Request:** **Valley County – April, 2003**
- **Study Completion:** **December, 2003**
- **Jurisdiction:** **State Maintenance**
- **Functional Class:** **Arterial**
- **Speed Limit:** **Statutorily 70 mph**
- **2003 Traffic Volume:** **1975**
- **Accident Rate:** **1.73 per MVM Traveled**
  1.31 Statewide Average
- **Issues:** **Reduce Statutory 70 mph Speed Limit**
- **Recommendation:** **55 mph & 65 mph Speed Limits**
- **Local Comments:** **Do not Concur – Left up to MDT Discretion**

In response to concerned citizens Valley County Commissioners requested a speed limit investigation along US 2 west of Glasgow. This investigation began at the bowling alley located west of town and continued east to the beginning of the 45 mph speed zone, a distance of 1.3 miles. There is a concentration of residential development approximately one mile west of Glasgow. The majority of these residences are located along two local roads that parallel US 2

to the north. In addition to this development there is scattered residential development and some commercial development located along both the north and south sides of US 2.

This portion of US 2 was reconstructed under project F 1-9(3) in 1980 and improved in 2000. The typical section consists of two 12-foot travel lanes with 8-foot shoulders throughout most of the study area. At the intersection with Skylark Road the roadway widens to four 12-foot travel lanes (two in each direction) as it approaches the Glasgow city limits and the existing 45 mph speed zone. The average annual daily traffic volume approaching Glasgow is 1975.

The roadway alignment is almost entirely straight and flat. There is one gradual horizontal curve near the intersection with Scotsman Drive. The entire study area is striped with no pass pavement markings supplemented with "Do Not Pass" regulatory signs. There are seven intersections with public roads and numerous intersections with private approaches located throughout the study area. Intersection and stopping sight distances are good.

Accidents

The accident history was reviewed for a three-year period from June 1, 2000 to May 31, 2003. During this period there were six accidents reported within the study area. The accident rate is 1.73 accidents per million vehicle miles traveled. This is above the statewide average of 1.31 accidents per million vehicle miles traveled for rural NHS routes.

The accident types consisted of one angle accident and five single vehicle accidents. The angle accident occurred during daytime hours near the intersection with Kilty Road. All five of the single vehicle accidents occurred at night. Four of the five single vehicle accidents occurred at milepost 540.2 and involved conflicts with animals (2 domestic and 2 wild).

Other than the animal related conflicts at milepost 540.2 there are no recent accident trends along this segment of roadway. Traffic operation in this environment is functioning very well under the present travel speeds.

Speed

Vehicular travel speeds were sampled at eight locations at approximate 1,000 feet intervals along a 1.6-mile segment of roadway. The following table lists the 85th percentile speeds and the pace of the traffic stream at various locations within the study area.

	85th Percentile Speed	Pace of Traffic Stream
45 mph / 70 mph Transition	51 mph EB – 53 mph WB	(38 – 48) EB – (41 – 51) WB
Skylark Road	62 mph EB – 63 mph WB	(46 – 56) EB – (49 – 59) WB
Holter Drive	64 mph EB – 67 mph WB	(49 – 59) EB – (52 – 62) WB

MP 540	63 mph EB – 68 mph WB	(49 – 59) EB – (55 – 65) WB
Scotsman Drive	65 mph EB – 69 mph WB	(52 – 62) EB – (55 – 65) WB
MP 539.5	67 mph EB – 69 mph WB	(52 – 62) EB – (55 – 65) WB
Bowling Alley	67 mph EB – 71 mph WB	(55 – 65) EB – (58 – 68) WB
West of Jensen Dr.	71 mph EB – 70 mph WB	(61 – 71) EB – (58 – 68) WB

East of bowling alley the vehicular speed samples indicate that both the 85th percentile speeds and the pace of the traffic stream are below the statutory 70 mph speed limit. The upper limit of the pace is 3 mph to 5 mph below the 85th percentile speeds with typically 40 percent to 45 percent of the traffic stream traveling within the pace.

Beginning at the western edge of the development (bowling alley) and continuing east towards Glasgow to the intersection with Skylark Road, the downward trend in the speed profile remains constant. There is a gradual and consistent reduction in the 85th percentile speeds and the pace of the traffic stream along this 1.1-mile segment of roadway. The 85th percentile speeds ranged from the 67 mph and 71 mph range at the beginning of the segment to 63 mph and 68 mph along the central portion of the segment and 62 mph to 63 mph near the intersection with Skylark Road. At the intersection with Skylark Road the speed profile changes more rapidly as it nears the Glasgow City limits. Along this 1,500- foot segment of roadway the 85th percentile speeds range between 62 mph to 63 mph near Skylark Road to 51 mph to 53 mph at the beginning of the 45 mph speed zone.

Conclusions and Recommendations

This investigation has identified that there is a steady reduction in the travel speeds within the semi-developed area west of Glasgow. The adjacent development is intermixed with rural agricultural land and is dispersed over a 1.1-mile segment of roadway. The change in environment from rangeland to a semi-developed rural area and the travel speeds associated with this environment support a downward adjustment in the statutory 70 mph speed limit.

The speed profile indicates that a 65 mph speed limit would be more representative of the directional 85th percentile speeds and the pace of the traffic stream from the bowling alley to the intersection with Skylark Road.

At the intersection with Skylark Road the downward trend in the profile is more evident. In addition to the change in the speed profile along this segment there is also an increase in the traffic volume and the proximity of adjacent roadside development as US 2 enters the community of Glasgow. This is a transitional area in that there is a 10 mph change in the 85th percentile speeds within a 1,500-foot segment of roadway. This change in the speed profile supports a second reduction in the speed limit in advance of the 45 mph speed zone and the curb & gutter section. A 55 mph speed limit is the most logical choice in that it is the midpoint

between the 85th percentile speeds identified on either end of this segment. It would also signify the change in operation associated with the additional development and access demands. In maintaining uniform 10 mph increments in the speed limit configuration we recommend the following 55 mph – 65 mph speed limit configuration west of Glasgow.

Recommendation

A 55 mph speed limit beginning at station 939+00, project F 1-9(3) 100 feet west of the intersection with Airport Road and continuing west to station 922+50, an approximate distance of 1,650 feet.

A 65 mph speed limit beginning at station 922+50, project F 1-9(3) 200 feet west of the intersection with Skylark Road and continuing west to station 866+00 (300 feet west of the approach to the Bowling Alley, an approximate distance of 5,650 feet.

attachments

cc: D.E. Williams
D.R. Bailey

Montana Department of Transportation
Helena, Montana 59620-1001

Memorandum

To: Joel Marshik, P.E. - Administrator
Highways and Engineering Division

From: Duane E. Williams, P.E.
Traffic and Safety Engineer

Date: March 18, 2004

Subject: Speed Zone Investigation - Secondary 269

- **Request:** **Ravalli County – April, 2003**
- **Study Completion:** **January, 2004**
- **Jurisdiction:** **State Maintenance**
- **Functional Class:** **Collector**
- **Speed Limit:** **Interim 60 mph Speed Limit**
- **2003 Traffic Volume:** **4660**
- **Accident Rate:** **2.00 per MVM Traveled**
  1.71 Statewide Average
- **Issues:** **Variation in Speeds and Accident Trends**
- **Recommendation:** **Finalize 60 mph Interim Speed Limit**
- **Local Comments:** **Concur**

This investigation is a follow-up to the 60 mph interim speed limit set on the rural portion of Secondary 269 from Hamilton to Corvallis. In this investigation we identified that this portion of the route is incorrectly posted with a 65 mph speed limit. The study began at the intersection with Fairground Road and continued north 3.8 miles to the beginning of the 45 mph speed zone approaching Corvallis. The adjacent side culture consists primarily of agricultural land with scattered residential development near intersections along the route. There are ten intersections with local roads and numerous private approaches. Nearly all of

the public and private approaches are located in the northern half of the study area between milepost 3.0 and milepost 5.3. Some of these intersections tend to blend in with the adjacent environment, as there are large trees located next to Secondary 269 at some approaches.

This first 3.3 miles of the study area was reconstructed under projects S 4 (6) and FAS 4 E in 1949 and 1947 and improved in 1991. The typical section consists of two 12-foot travel lanes with 3-foot shoulders. The last 0.5-mile segment near Corvallis was reconstructed under project STPS 269-1 in 1997. The design speed is 50 mph along the first segment and 55 mph along the last segment. There is good intersection and stopping sight distance for 60 mph travel speeds under AASHTO's 2001 gap acceptance design criteria. There are two horizontal curves within the study area that have a design speed of 60 mph. Neither curve is signed. These curves are located between milepost 2.160 and milepost 2.350, and milepost 3.290 and milepost 3.430. We also identified that the intersections with Black Lane, Christoferson Road, Mint View Road, Wombat Road, Selway View Road, Haymaker Lane and Marshall Lane do not have passing restrictions in advance of the intersection. There are also concentrations of private approaches located in the vicinity of these intersections.

Accident History

The accident history was reviewed for a three-year period from June 1, 2000 to May 31, 2003. During this period there were 39 accidents reported from the end of the 50 mph speed zone north of Hamilton to the beginning of the 45 mph speed zone approaching Corvallis. The accident rate is 2.00 accidents per million vehicle miles traveled. This is above statewide average of 1.71 accidents per million vehicle miles traveled for rural secondary routes. The following table lists the accidents by type and location.

	Angle	Rearend	Other	Single Veh.
Intersection	3	4	6	3
Non - Intersect.	3	2	3	15

The most obvious trends in the accident experience is that 12 of the 18 single vehicle accidents occurred within the first half of the study area and that 16 of the 21 multiple vehicle accidents occurred along the second half of the study area. The accident rate and the single vehicle accident trend along the first portion of the study area are consistent with the rates and trends commonly associated with rural secondary highways.

There are 10 intersections with public roads located within the second half of the study area. Along with the public approaches there are many private approaches within this portion of the study area. These intersections are contributing to the above average accident rate and the trend in multiple vehicle accidents.

Within these general accident trends there were four multiple vehicle accidents and one single vehicle accident located at the intersection with Hamilton Heights Road. Another trend that stood out within this segment is that 22 percent of the accidents were sideswipe in type. Sideswipe accidents typically account for approximately 5 percent of the accident experience on rural secondary routes. Six of the 7 sideswipe accidents within this segment were associated with intersections. The majority of the intersections within this segment are not striped with passing restrictions in advance of the intersection.

There were also two accidents involving bicyclists within this segment.

Travel Speeds

Vehicular travel speeds were sampled directionally at three locations. Six hundred feet north of the intersection with Fairground Road the 85the percentile speeds were 61 mph. The pace of the traffic stream ranged between (46 mph – 56 mph) and (49 mph – 59 mph) with 40 percent to 56 percent of the traffic stream traveling within the pace. At milepost 2.5 in an area with no nearby development the 85th percentile speeds were 65 mph and 67 mph. The pace of the traffic stream was (55 mph – 65 mph) in both directions with 54 percent to 60 percent of the traffic stream traveling within the pace. The final station was collected at the intersection with the Corvallis Cemetery Road near milepost 4.6. The 85th percentile speeds were 62 mph and 63 mph. The pace of the traffic stream ranged between (49 mph – 59 mph) and (52 mph – 62 mph) with 50 percent of the traffic stream traveling within the pace.

In general the 85th percentile speeds are typically between 60 mph and 65 mph. There is a tendency for the 85th percentile speeds to be at or slightly above 65 mph along the straight and level segments with no nearby development. Closer to Corvallis where the adjacent side culture is made up of more residences and a higher density of approaches the 85th percentile speeds and the upper limit of the pace are closer to 60 mph.

Conclusions and Recommendations

This segment of Secondary 269 is 3.8 miles in length. The environment along the southern half of the study area is made up of mostly agricultural land with few or no side approaches. The posted 65 mph speed limit is consistent with the 85th percentile speeds within this segment. The accident experience is within the norm commonly associated with rural secondary highways.

From the intersection with Hamilton Heights Road north the operational characteristics change. The number of public and private approaches intersecting the roadway and the level of nearby development increases substantially. This is also a definite change in the accidents trends and the accident rate associated with the change in environment. This change in the environment and the operation of the roadway is also reflected in the 85th percentile speeds and the pace of the traffic stream. The 85th percentile speeds and the upper limit of the pace were closer to 60 mph within the segment north of Hamilton Heights Road.

Proportionally this 3.8-mile segment is evenly divided. The two most prominent distinctions in the operational characteristics are the number and location of the side approaches and the

difference in the accident trends. The 85th percentile speeds were found to be both above and below the 65 mph speed limit. The benefit of having two rural speed limits with difference of 5 mph along a 3.8-mile segment of roadway is negligible. In choosing between a 60 mph or 65 mph speed limit we took into account that the approved 60 mph interim speed limit would be more representative of the roadways design features. Based on the travel speeds and their relationship to the roadway and adjacent environment we recommend finalizing the 60 mph interim speed limit for this segment of Secondary 269.

A 60 mph speed limit beginning at station 73+00, project S-4 (6) (just south of the intersection with Fairground Road) and continuing north to station 220+00, project STPS 269-1(11), an approximate distance of 3.8 miles.

We also recommend advance curve warning signs for the horizontal curves at milepost 2.160 and milepost 3.290. Passing restrictions should be striped in advance of the intersections identified within the main body of the report. All areas open to passing should be at least 1,000 feet in length.

attachments

cc: D.E. Williams
D.R. Bailey

Montana Department of Transportation
Helena, Montana 59620-1001

Memorandum

To: Montana Transportation Commission

From: Joel Marshik, P.E. - Administrator
Highways and Engineering Division

Date: March 18, 2004

Subject: Speed Zone Investigation – MT 80 - Geraldine

- **Request:** **Great Falls District Office - July, 2000**
- **Study Completion:** **August, 2003**
- **Jurisdiction:** **State Maintenance**
- **Functional Class:** **Arterial**
- **Speed Limit:** **Officially 70 mph vs Posted 45 mph**
- **2003 Traffic Volume:** **370**
- **Accident Rate:** **No Reported Accidents**
- **Issues:** **Validate Posted 45 mph Speed Limit**
  Study Supports 55 mph Speed Limit
- **Recommendation:** **45 mph Speed Limit**
- **Local Comments:** **Local Officials Concur**

This investigation was requested by the Great Falls District office with the support of local officials. In reviewing this segment of MT 80 it was determined that the posted 45 mph speed limit had never been formally sanctioned by the Montana Transportation Commission. Therefore, the official speed limit on MT 80 is statutorily 70 mph as it passes by the community of Geraldine. Both the District office and local officials felt that the statutory 70 mph speed limit was inappropriate and that the posted 45 mph speed limit should remain in place until an investigation was conducted. From the beginning local officials informed the Department that

the posted 45 mph speed limit had been in place for years and that "the present 45 mph speed limit does not need to be changed or altered."
MT 80 passes along the eastside of Geraldine. There is a Burlington Northern Sante Fe Railroad Line located between MT 80 and the main body of the community. There is some adjacent development consisting of grain elevators and other agriculturally based industry located along the railroad. There is good visibility of the environment and a minimal amount of roadside friction. This segment of MT 80 has functioned successfully with no reported accidents within the last three years.

The results of a consultant's investigation favored a 55 mph speed limit over the posted 45 mph speed limit. In following the standards of practice as established by state law the Department presented a proposal for a 55 mph speed limit to local officials. Both the Town of Geraldine and Chouteau County firmly opposed the 55 mph speed limit recommendation. Based on the effect a 55 mph speed limit would have on the community's impression of traffic operation on MT 80 and that historically there have been no concerns about the posted 45 mph speed limit the Department recommends validating the 45 mph speed limit.

Recommendation

A 45 mph speed limit beginning at station 1400+00, project S 290(16) (1000 feet north of the intersection with the county road) and continuing south to station 1431+00 (200 feet south of the intersection with Flager Avenue, an approximate distance of 3,100 feet.

attachments

cc: D.E. Williams
D.R. Bailey

Agenda item: 02-04-04

Staff person handling: Joel M. Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Amend access control resolution, RF 77(20)**
East Helena – East and West

Background

Mr. Spencer, owner of Casey Truss, has requested a direct access onto US Highway 12 on the eastern edge of East Helena. This is an access control facility, with limited access control across the entire property frontage. No access for this parcel was allowed within the initial access control resolution. At the time the highway was constructed, the affected property was not encumbered by deed, and no other real property interests were acquired, as the highway was constructed entirely on purchased railroad property in this area.

EXHIBITS – The following exhibits are attached:

Exhibit I: An overall map of the area, showing the location of the access request in relation to East Helena.

Exhibit II: A detail showing the location of the parcel in relation to US Highway 12, including the existing striping for the highway and the adjacent access points.

Exhibit III: A letter from the City of East Helena in support of this access point.

REQUESTED CHANGE – The purpose of this amendment is to allow for a single commercial access to the Casey Truss business. This will allow the landowner to develop the property beyond its current use.

PROPOSED USE OF APPROACH – The request is for a commercial approach. The exact use of the property has not been determined. Any mitigation of impacts due to development will be addressed during the permitting process, as the landowner will be required to apply for an approach permit before any physical construction within the right-of-way can take place. The Butte district will be responsible for the permitting process and enforcement of any stipulations agreed to on the approach permit.

Any access granted would not only serve the Spencer property but also the Palmer parcel that lies adjacent to the applicant's parcel. The access would connect into the existing public street system as well.

REASON FOR REQUEST – The current access is not preferable for the level of economic development planned in this area. The access is circuitous, and involves traveling through an area of mixed industrial and residential use. The city of East Helena has confirmed that this is a logical area of expansion and infill for the community.

LOCATION – The property is located at mile marker 50, just east of the junction of US Highway 12 and Secondary 518 on the easterly edge of East Helena, on the north side of the highway.

PROPERTY DESCRIPTION – The Spencer property consists of approximately 5.7 acres. This parcel contains his building truss fabrication plant. A similar sized tract owned by Mr. Larry Palmer that currently holds a cabinet construction business bounds the Spencer parcel on the west. To the east of the Spencer parcel is East Helena Rental, a commercial equipment rental shop. The Spencer parcel is currently accessed by Clark Street abutting its north boundary. US Highway 12 abuts over 400 feet of the parcels south boundary.

CURRENT ACCESS TO PARCEL – Both the Spencer and Palmer parcels access US Highway 12 via Clark Street to Lane Avenue to the west, and Clark Street onto the public approach locally designated as "Cemetery Road". Cemetery Road accesses the highway by an approach on the east side of East Helena Rental's property.

HISTORY OF AREA – The eastern area of East Helena is continuing to see development of parcels along US 12. The development is a mix of smaller commercial uses.

HISTORY OF PARCEL – This parcel has not seen much development outside of the Casey Truss manufacturing facility. The city of East Helena has recently extended a water service main into this parcel for future commercial business use. This was undertaken in the city's latest water service infrastructure upgrades.

No access rights were acquired from this parcel at the time of construction. The highway in this section was constructed entirely on railroad right-of-way, and no notification was made to the original landowner that access control was to be implemented in this area. Further, no document is on record that a title search would identify that indicates any access restriction specific to this property.

EXISTING HIGHWAY CROSS-SECTION – The cross-section of highway in this area is that of a transition between a three-lane and a five-lane facility. Shoulders are adequate in both directions of travel. Modifications may be required in this area to accommodate the additional left turning traffic. These modifications may include the addition of a left turn bay.

SIGHT DISTANCE – The alignment is relatively straight and level, and sight distance exceeds that which is required in both directions.

ADJACENT APPROACHES – Exhibit II shows distances from the requested approach to the approaches in the area, both sides of the road. There are no anticipated conflicts with the adjacent approaches if this approach is allowed.

ACCIDENT HISTORY – There is no accident history for the access point, as this is a new access request. The wide shoulder will provide right-turning vehicles an emergency refuge area if needed. The access will need to be located in such a manner as not to conflict with the Secondary 518 intersection to the west of the property.

OTHER SAFETY CONCERNS – The City of East Helena submitted a letter of support for this access. The letter also outlined the City's concerns over the present access to the Spencer property. The mayor states *"Presently, traffic exit off the main highway onto Lane Avenue and then onto Clark Street. When traffic uses this route, it raises several safety concerns. As well as commercial property, Clark Street is a residential area. A residential area should not be used as a thoroughfare for traffic. The safety of people in our community and should not be jeopardized."*

NEPA DOCUMENT – Not required, as no funds were expended on purchasing access for this parcel.

OPPOSITION – There is no known opposition to this amendment at this time.

FAIR MARKET VALUE – No access rights or right-of-way was obtained from the landowner at the time of construction in this area. As MDT is not disposing of a previously acquired right, there is not an issue of fair market value for the access rights.

PORTION OF RESOLUTION TO BE AMENDED – The affected area of the resolution is under item B.2., Private Road Approaches, from Station 184+00+/- left and right to Station 286+50+/- left and right. Language will be added that states, **"on the left side, one (1) private approach will be allowed between Stations 245+00 and 250+00…"**.

DISTRICT REVIEW – The Butte district office has reviewed the request, and has determined that this additional approach will not adversely impact the roadway system in this area. They recommend that the approach be allowed.

CONDITIONS OF USE – If the access is approved, an approach permit will be issued. The final location of the access will be determined at the time of issuance of the permit by the Butte District office. The access will connect with Clark Street to the north and will not restrict travel through the parcel and the connecting roadways. Any additional conditions of use will be established at that time.

Staff recommendations
Staff recommends approval.

Notes/discussion

Commission action

A M E N D E D R E S O L U T I O N

DESIGNATION OF CONTROLLED ACCESS HIGHWAY AND FACILITY

PROJECT NO. RF 77(20)

EAST HELENA, EAST & WEST

LEWIS AND CLARK COUNTY, MONTANA.

The State of Montana Transportation Commission, in regular meeting assembled, does hereby concur in the following findings and Resolution:

THAT a state highway known as Montana Department of Transportation Highway Project No. RF 77(20) has been approved for construction by the Federal Highway Administration of the United States Department of Transportation, and federal funds will be expended to aid the State of Montana in the construction of said highway;

THAT in order to facilitate the flow of traffic; preserve the public peace, health, and safety; for the promotion of the general welfare and efficient travel; and to otherwise facilitate implementation of the purposes and intents set forth in Mont. Code Ann. §§ 60-1-101 and 60-1-102, the Montana Department of Transportation has recommended that any and all rights and/or easements of access claimed by the owners or occupants of land abutting said state highway should be controlled and/or limited by the State by exercise of its police power, or if it be determined that the police power does not apply to any parcel involved in this project, then the same should be acquired by eminent domain;

THAT the purpose of controlling access for said Highway Project No. RF 77(20) is to improve safety and efficiency by reducing vehicular conflicts;

THAT vehicular conflicts will be reduced by controlling and limiting the type and location of access points within the limits of said Highway Project No. RF 77(20);

THAT this Commission has found and determined and does hereby find and determine that said Highway No. RF 77(20), generally described as located in Lewis and Clark County, Montana, and is 7.1 miles in length, as shown on the right-of-way plans for said project No. RF 77(20) and more specifically described on the "Description of Route" attached hereto and hereby made a part hereof, shall be designated as a "Controlled Access Highway and Facility";

THAT, pursuant to Mont. Code Ann. § 60-5-103, this Commission has found and determined and does hereby find and determine that it is necessary and desirable that the owners or occupants of abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view so as to prevent such portion of highway from becoming unsafe for or impeded by unrestricted access of traffic from intersection streets, alleys, public or private roads, or ways of passage. In the event it is hereafter determined that the project shall leave any abutting landowner without reasonable access, then such rights of or easements to access, light, air, or view shall be acquired by the state; and

THAT there shall be no direct access to, from, or across the limits of said Controlled Access Highway and Facility beginning at project Station 58+00+/- left and 74+95+/- right, and ending at project Station 397+26.7 (end project), except as follows:

A. From Stations 58+00+/- left and 74+95+/- right to Station 184+00 left and right (2.4 miles +/- to East Helena Main Street).

1. <u>Public Road Approaches</u> – Not more than two (2) public at-grade road approaches may be allowed per side per mile.

2. Private Road Approaches – Private approaches not to exceed four (4) per side per mile.

B. From Station 184+00+/- left and right to Station 286+50+/- left and right (to junction with P.T.W. east of East Helena).

1. Public Road Approaches – No more than six (6) on the left and four (4) on the right public at-grade approaches will be allowed.
2. Private Road Approaches – Along this portion: on the left side one (1) private approach will be allowed at Station 263+03, one (1) private approach will be allowed between Stations 245+00 and 25+00; on the right side no private approaches will be allowed onto the subject roadway.

C. From Station 286+50+/- left and right to Station 397+26.7 left and right (end of project).

1. Public Road Approaches – No more than two (2) public at-grade approaches per side per mile.
2. Private Road Approaches – Private approaches not to exceed two (2) per side per mile.

Public road approaches up to these limits may be constructed now or in the future. Those approaches added at a later date will require the approval of the local planning agency having jurisdiction over the area, the Board of County Commissioners, and the Department of Transportation.

Private access rights will be acquired by purchase. No additional private approaches, except for farm field approaches as provided in "3" below, will be allowed after the purchase of access rights.

3. Field Approaches – Private field approaches may be allowed for access to farm fields. The agreement allowing such approaches must limit the use served to farm field access. These approaches may not serve occupied residences, commercial enterprises, or any other use except farm field access. Farm field approaches will be allowed by temporary permits issued by the Department of Transportation.

WE, the undersigned, do hereby certify that the above Resolution was passed, adopted, and executed upon the favorable vote of at least three members of the State of Montana Transportation Commission at a meeting of said commission, held on the _____ day of _____, 20___.

DATED this _____ day of _____, 20_____.

STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION

_____
David A. Galt, Director

STATE OF MONTANA
TRANSPORTATION COMMISSION

_____
Shiell Anderson aka Shiell W. Anderson,
Chairperson

ATTEST:

_____
Lorelle Demont, Secretary

[COMMISSION SEAL]

STATE OF MONTANA)
):ss
LEWIS & CLARK COUNTY)

This instrument was acknowledged before me on the _____ day of January, 20___, by

David A. Galt as Director of The Montana Department of Transportation.

_____
_____, Notary Public
Residing at _____
My Commission Expires: _____

[NOTARIAL SEAL]

STATE OF MONTANA)
):ss
LEWIS & CLARK COUNTY)

This instrument was acknowledged before me on the _____ day of January, 20___, by Shiell Anderson aka Shiell W. Anderson as Chairperson of The Montana Transportation Commission.

_____
_____, Notary Public
Residing at _____
My Commission Expires: _____

[NOTARIAL SEAL]

DESIGNATION OF CONTROLLED ACCESS HIGHWAY AND FACILITY

DESCRIPTION OF ROUTE
FOR
PROJECT NO. RF 77(20)
EAST HELENA – EAST AND WEST
IN
LEWIS AND CLARK COUNTY, MONTANA

AN ACCESS CONTROL FACILITY

The route for State of Montana, Department of Transportations' Project No. RF 77(20) begins at a point on U.S. Highway No. 12 approximately three tenths of a mile east of the easterly city limits line of Helena, Montana, and extends thence in an easterly direction a distance of approximately seven and one-tenth miles over and across Sections 28, 27, 26, 25 and 36, Township 10 North, Range 3 West, M.P.M., Sections 31, 32, 29, 33 and 34, Township 10 North, Range 2 West, M.P.M., Lewis and Clark County, Montana, to a point of ending on said U.S. Highway No. 12 approximately three miles east of the intersection of Washington Avenue and Main Street in the City of East Helena, Montana, as the route for said Project No. RF 77(20) has been located, surveyed, planned and designed by the State of Montana, Department of Transportation.

Agenda item: 02-04-05

Staff person handling: Dave Galt or Drew Livesay

Date/location: April 27, 2004 in Butte, MT

Item: **Revocation of special permit privileges**

Background

At the February 19, 2004 commission meeting, the commission learned of an infrequent but critical problem that occurs when a commercial motor carrier establishes a history of chronic non-compliance with commercial motor carrier laws and regulations. The department suggested a structured permit privilege revocation process as the solution, and submitted a draft permit revocation policy for the commission's consideration. After discussion, Director Galt suggested that a summary of violations might be appropriate. Director Galt instructed Drew Livesay to provide a summary of violations at the next scheduled commission meeting.

Summary

As requested, the following is a summary of the ROCON, Inc. violations that occurred between May 2003 and October 2003. This summary is an appropriate example of the degree of carrier non-compliance that would prompt MDT to initiate the permit privilege revocation process.

Date		*Violation*	*Status*
05-13-2003	61-10-107	Operating overweight vehicle on highway	Fined
06-11-2003	61-10-103	Exceeding the 14 foot height limit	Fined
06-11-2003	61-10-107	Exceeding the 20,00 Lb single axle weight limit	Fined
06-11-2003	44-1-1005	CFR 393.42, Vehicle not equipped with breaks as required	Fined
06-11-2003	61-10-102	Exceeding the 102 inch (8'6")width limit measured 30 feet wide	Fined
06-11-2003	61-10-123	Fail to have pilot cars proper flag vehicles operating with two when four were required	Fined

06-11-2003	44-1-1005	CFR 393.75b, tire tread depth violation	Fined
06-11-2003	61-10-146	Fail to follow conditions of a special permit.	Fined
06-11-2003	44-1-1005	CFR 369-17, Fail to have annual vehicle inspection	Fined
06-18-2003	61-10-107	Exceed the single axle weight limit by 16,100 lbs	Fined
06-18-2003	61-10-103	Exceeding the 14 foot height limit. Measured 15 feet	Fined
06-18-2003	61-10-102	Exceeding the 120 inch (8'6") width limit. Measured 30 feet wide	Fined
09-30-2003	44-1-1005	CFR 396.9c, Driving commercial motor vehicle placed out of service.	Fined
10-22-2003	44-1-1005	CFR 382.115, Motor carrier not in compliance with Drug and Alcohol testing requirements.	Fined
10-22-2003	44-1-1005	CFR 396.9c2, Operating vehicle after being placed out of service	Fined
10-22-2003	44-1-1005	CFR 396.117a, fail to have periodic vehicle inspections	Fined
10-22-2003	44-1-1005	CFR 395.8a, no drivers log book in possession	Fined
10-22-2003	44-1-1005	CFR 396.3b, Fail to maintain proper vehicle maintenance records.	Fined

Staff recommendations

MDT recommends approval of the "Revocation of Special Permit Privileges" policy submitted to the Commission in draft on February 19, 2004.

Notes / discussion

Commission action

02/04/2004

Draft policy
for
Revocation of special permit privileges

Purpose: The purpose of this policy is to establish the process by which revocation of a commercial carrier's special permit privileges may occur.

Definition of Commercial Carrier: Within the context of this policy, commercial carrier means any individual, business, company, co-op or corporation using a vehicle for commercial purposes.

Scope: Revocation of special permit privileges may occur as a result of violation of the laws of Montana, violation of conditions attached to a permit, or violation of regulations established by the Department of Transportation (MDT).

Apellant Authority: The Montana Transportation Commission shall be the appellant authority regarding revocation of special permit privileges.

Revocation Decision: MDT may decide to take revocation action when, in MDT's opinion, violations have occurred sufficient to justify revocation of special permit privileges in the best interest of the traveling public.

Revocation Process: After deciding to take revocation action, MDT shall provide the commercial carrier with a letter of revocation. The letter of revocation shall:

(a) Notify the carrier of MDT's decision to revoke the carrier's special permit privileges.

(b) Clearly state the reason or reasons for the revocation decision.

(c) Advise the carrier of the right of appeal before the Montana Transportation Commission.

(d) Advise the carrier of the time, date and location of the Montana Transportation Commission meeting at which the carrier may present an appeal.

(e) Advise the carrier that revocation of the carrier's special permit privileges will become effective five calendar days after the date of the Montana Transportation Commission meeting that appears in the letter, unless the Montana Transportation Commission votes to take other action.

(f) Advise the carrier of the duration of the revocation, consistent with 18.8.902 of the Administrative Rules of Montana.

(g) Advise the commercial carrier that operating without a special permit when a special permit is required is illegal under Montana law.

Agenda item: 02-04-06

Staff person handling: Tim Reardon and right-of-way staff

Date/location: April 27, 2004 in Butte, MT

Item: **New outdoor advertising rules**

Background

The right-of-way bureau has undertaken a review and rewrite of various portions of the commission's administrative rules controlling the permitting and enforcement of outdoor advertising signs. The last major revision was done in 1996.

Both the bureau staff and the director's office have been receiving complaints about certain types of signs such as local community "Welcome to ___" signs and those identifying local ranch/farm locations. The complaints claim that the present rules are too restrictive.

Since the bureau staff was rewriting those rules, a review was undertaken to examine all of the rules. The result is the proposed draft notice as attachment 1, which includes two new rules to be adopted, and the amendment of 9 existing rules.

This is one of the areas where the transportation commission by law must adopt the rules, not the department (§75-15-121 MCA). Because it is always a good idea to hold a public hearing when adopting such rules, the proposed notice contains the appointment of a hearing officer, Tim Reardon, and a proposed date to be set at least 28 days after the notice is printed in the Montana Administrative Register.

If the commission approves staff's recommendation, the following actions will result:

- public hearing will be conducted and comments taken
- staff will finalize the proposed changes to the rules
- that document will be submitted to the commission for final review and adoption
- once adopted in final form by the commission, the new rules will be filed with the secretary of state's office for printing in the Administrative Rules of Montana.

Staff recommendations

Legal and right-of-way bureau staff recommend that the commission approve the propose notice and have the chairperson sign the "notice to file" with the secretary of state's office for publication in the register.

Notes/discussion

Commission action

BEFORE THE TRANSPORTATION COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of new rule I through II; and the amendment of ARM 18.6.202, 18.6.203, 18.6.211, 18.6.212, 18.6.213, 18.6.231, 18.6.242, 18.6.245, and 18.6.262 pertaining to outdoor advertising.	))))))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Interested Persons.

1. On _____,2004, at _____ _____.m., a public hearing will be held in room 123, auditorium of the Department of Transportation building at 2701 Prospect Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

The Transportation Commission will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on _____ _____, 2004, to advise us of the nature of the accommodation that you need. Please contact _____, P.O. Box 201001, Helena, MT 59620-1001; telephone: (406) 444-_____; fax: (406) 444-_____; e-mail: _____@state.mt.us.

2. The proposed new rules provides as follows:

RULE I. COMMERCIAL ELECTRONIC VARIABLE MESSAGE SIGNS (1) Off-premise commercial electronic variable message signs, regardless of the message, are prohibited in controlled areas.

AUTH: 75-15-121;
IMP: 75-15-111, 75-15-113

RULE II. ILLEGAL OUTDOOR ADVERTISING REMOVAL (1) When the department removes a sign; the sign owner, landowner or other person responsible for erecting the sign shall pay the cost of removal to the department. The department will store the sign for 30 days immediately following removal, during which time the sign may be claimed upon payment of the cost of removal and any costs associated with the removal and storage of the sign and collection of the cost of removal. A sign that is not claimed within 30 days after removal shall be deemed the property of the department, and may be disposed of by the department. Any money received from the disposal will be credited first towards the costs of removal and storage of the sign. Money in excess of such costs will be deposited with the state treasurer for credit to the state highway fund to offset the cost of issuing permits for signs. If the income generated from disposal of the sign does not meet or exceed the costs of removal and storage of the sign and the cost of collecting the cost of removal, the owner of the sign, landowner or other person responsible for erecting the sign shall pay the remaining costs.

AUTH: 75-15-121;
IMP: 75-15-131

3. The following rules proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted in interlined.

18.6.202 DEFINITIONS (1) "Advertising device" means any outdoor-sign, display, device, figure painting, drawing, contrivance designed, intended, or sued to advertise or to give information in the nature of advertising and having the capacity of being visible from the main traveled way of any interstate or federal-aid primary highway, including any device located outside or on the outside of any building which identifies or advertises any business, enterprise, organization or project, product or service, including all parts of such device including frames and supporting structures located on any premises by means of painting on or attached bills, letters, numerals, pictorial matter or electric or other devices including any airborne device tethered to any building, structure, vehicle or other anchor and an announcement, notice, directional matter, name, declaration, demonstration, display, mural or insignia, (monuments, grave stones and dedication markers are not considered advertising devices) Advertising device is synonymous with sign.

(2) "Conforming sign" means one which was lawfully erected and which complies with spacing, zoning, size, lighting and all other requirements under the Outdoor Advertising Act and the outdoor advertising regulations.

(3) "Federal/state agreement" means the agreement entered into January 27, 1972, by and between the United States of America, represented by the secretary of transportation and the state of Montana, through it department of transportation to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in interstate and primary highways, to promote the safety and recreational value of public travel and to preserve the natural beauty. At a minimum the state of Montana shall implement and carry out the provisions of 23 USC 131, and the national policy in order to remain eligible to receive the full amount of all federal-aid highway funds apportioned under 23 USC 104.

(4) "Main traveled way" means the interstate and federal-aid primary highway system on which through traffic is carried.

(5) "~~Noncommercial~~ Non-commercial sign" means a sign that does not display a commercial message. For the purpose of this rule, only "welcome to" community and "public service" signs such as DARE or ABATE are considered ~~noncommercial~~ non-commercial signs. The Montana department of transportation shall make the determination of a noncommercial sign designation on a case-by-case basis.

(6) "~~Nonconforming~~ Non-conforming sign" means one which was lawfully erected but which does not comply with the provisions of state law or state regulations passed at a later date, or which fails to comply with state law or state regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(7) "Off-premise signs" means all signs, which are not on- premise signs as defined in (8).

(8) "On-premise sign" means signs erected on property for the sole purpose of advertising its sale or lease or of advertising an activity conducted on the property. Physical facts rather than property lines determine the premise on which an activity is conducted to qualify as an on-premise sign, ~~a sign advertising an activity conducted on the property must be located on the land actually used or occupied by the activity. The extent of the property used for the activity includes its buildings, parking area and incorporated landscaped areas, but does not include vacant land, land used for unrelated activities, or land that is separated~~

~~by other ownerships or roadways.~~ the sign must be located on the same premises as the activity or property advertised. Premises include the area occupied by the buildings and appurtenances such as parking lots, storage areas, processing areas or areas for the physical uses that are customarily incidental to the activity, including open spaces arranged and designed to be used in connection with the buildings or activities, but does not include vacant land, land used for unrelated activities, or land that is separated by other ownerships or roadways. The purpose of the advertising sign must be the identification of the establishment or activity located on the premises or its products or services; or the sale or lease of the property on which the sign is located. If the activity is over 660 feet from the nearest point of the highway and is accessed by an approach and road from the highway, any sign, landscaped area or other appurtenance associated with the activity that is adjacent to the approach and access road shall not be used to qualify off-premise signs.

(9) "Sign face" means that portion of the sign structure visible from a single direction of travel and available for advertising. It includes border and trim, but excludes the base or apron, supports, and other structural members. The total area of all sign faces may also be referred to as the "sign area."

(10) "Sign structure" means an advertising device including the sign face, base or apron, supports, and other structural members.

(11) “Commercial or Industrial Activity” means an activity, which is permitted only in a commercial or industrial zone or a less restrictive zone by the nearest zoning authority within the state or if prohibited by the authority is generally recognized as commercial or industrial activity by other zoning authorities within the state, except that none of the following is a commercial or industrial activity:

(a) Any erection or maintenance of an outdoor advertising structure;

(b) Any agricultural, forestry, ranching, grazing, farming or related activity, or operation of a wayside stand for sale of fresh fruit;

(c) Any activity normally and regularly in operation less than 3 months of the year;

(d) Any transit or temporary activity;

(e) Any activity not visible from the traffic lanes of the main-traveled way;

(f) Any activity more than 660 feet from the nearest edge of the right-of-way;

(g) Any activity conducted in a building principally used as a residence;

(h) Any operation of railroad tracks, a minor siding or a passenger depot;

(i) Any activity that has been in business less than one year.

(12) “Commercial Electronic Variable Message Signs” means signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or the characteristics of one or both of the following classifications:

(a) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of no illumination.

(b) Patterned illusionary movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(c) Environmentally activated: Animated signs or devices motivated by wind, thermal changes or other natural environmental input, including spinners, pinwheels, pennant

strings, reflective disks, rotating slates, glow cubes and/or other devices or displays that respond to naturally occurring external motivation to include light-sensitive devices.

(d) Mechanically activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

AUTH: 75-15-121, MCA;

IMP: 75-15-121, 75-15-111, 75-15-112, and 75-15-113, MCA

18.6.203 UNZONED COMMERCIAL OR INDUSTRIAL ACTIVITY

(1) As clarification of the statutory requirements, the following criteria shall be used to determine whether an activity qualifies an area to be considered unzoned commercial or industrial:

(a) The permanent buildings or improvements comprising a

business used to qualify an area must be located within 660 feet of the right-of-way of an interstate or primary highway. A business located on what is primarily used as residential property will not qualify an area as an unzoned commercial or industrial area. Commercial and industrial activities shall have been in business at least one year prior to being considered as qualifying the area as an unzoned commercial or industrial area.

(b) The permanent buildings or improvements comprising a business intended to serve the traveling public must be clearly visible to the traveling public and be easily recognizable as a commercial ~~or industrial~~ activity. A commercial activity shall be occupied and open to the public during regularly scheduled hours in excess of 20 hours per week. ~~Commercial and industrial activities shall have been in business at least one year prior to being considered as qualifying 'the area as an unzoned commercial or industrial area.~~ Signs, displays or other devices identifying the business may be considered in the determination of visibility. Seasonal (but not temporary or transient) activities may be considered as qualifying activities at the discretion of The Montana department of transportation. ~~A business located on what is primarily used as residential property will not qualify an area as an unzoned commercial or industrial area. Seasonal (but not temporary or transient) activities may be considered as a qualifying activity at the discretion of the department.~~ Industrial activities is the area occupied by the regularly used buildings, parking lot or storage or processing area of an industrial activity located within 660 feet of an interstate or primary highway not predominantly used for commercial purposes.

(c) If the activity is over 660 from the nearest point of the highway, and is accessed by an approach and road from the highway, any sign, landscaped area or appurtenance associated with the activity adjacent to the approach and access road shall not be used to qualify off-premise signs.

(d) A maximum of two signs shall be permitted from a qualifying activity, and they shall be located on the same side of and adjacent to the controlled highway of the qualifying activity. There can be no roadways between the controlled highway and the qualifying business.

(e) No industrial or commercial activity which is located either partially or totally within an area which has been zoned by a bona fide state, county, or local zoning authority may be used to qualify an area as an unzoned commercial or industrial area.

(f) A commercial or industrial activity engaged in or established primarily for the purpose of qualifying an area for the displaying of outdoor advertising will not create an unzoned commercial or industrial area. It shall be rebuttably presumed that any such activity

is for the primary purpose of qualifying an area for outdoor advertising if the activity is not reason- ably accessible to the public, if it is not connected to one or more utilities, or if no business is actually conducted on the premises.

AUTH: 75-15-121, MCA;

IMP: 75-15-103, 75-15-111, and 75-15-113, MCA

18.6.211 PERMITS (1) A permit must be obtained for each sign. A check payable to The Montana department of transportation in the amount of the nonrefundable inspection fee must accompany the sign permit application. ~~and the application for the permit must be accompanied by a nonrefundable initial application fee. The application fee is~~

(2) A nonrefundable inspection fee in the amount of $40.00 will be assessed for each off-premise outdoor advertising sign erected within any area subject to state control by the department.

(3) The initial permit fee shall be 24/36 of the three-year renewal fee plus 1/36 of said renewal fee for each full month remaining in each calendar year following application approval.

(4) Signs shall be assigned a permit number and given a permanent identification plate that must be attached to the structure and may be renewed every three years thereafter upon payment of a renewal fee as follows:

(a) 20 cents per square foot.

(b) If the sign structure has multiple sign faces, the renewal fee is based on the total square footage of the sign area.

(5) Permits for new signs in conforming areas may be issued only after the proposed location and sign site has been checked in regard to spacing, size and lighting criteria and approved by the department.

(6) A new sign may not be erected without first applying for and receiving a permit.

~~based on the maximum width times the maximum length of the sign face. If the sign has multiple faces, the initial application fee will be determined by the square footage of the largest single sign face.~~

~~32 sf or less . . . . . $20~~

~~33 sf to 64 sf. . . . . $25~~

~~65 sf to 128 sf . . . . . $30~~

~~129 sf to 256 sf. . . . . $35~~

~~257 sf to 512 sf. . . . . $40~~

~~513 sf to 672 sf. . . . . $45~~

~~(2) The initial permit fee shall be 24/36 of the three - year renewal fee plus 1/36 of said renewal fee for each full month remaining in the calendar year following application approval.~~

~~(3) Signs shall be assigned a permit number and given a permanent identification plate that must be attached to the structure and may be renewed every three years thereafter upon payment of a renewal fee as follows:~~

~~(a) $15 for signs with a face(s) of 50 square feet or less;~~

~~(b) 30 cents per square foot for signs that have face(s) exceeding 51 square feet. If the sign structure has multiple sign faces, the renewal fee is based on the total square footage of the sign area.~~

~~(4) Permits for new signs in conforming areas may be issued only after the proposed location and sign size has been checked in regard to spacing, size and lighting criteria and approved by the department.~~

~~(5) A new sign may not be. erected without first receiving a new permit.~~

AUTH: 75-15-121 and 75-15-122, MCA;

IMP, 75- 15-122, MCA

18.6.212 PERMIT APPLICATIONS -NEW SIGN SITES (1) Appli- cations for permits must contain a minimum of the following:

(a) Name, address, and signature of sign owner and land owner;

(b) Location of proposed sign including Highway number, nearest milepost, side of highway, county, and distance and direction to nearest sign.

(c) Acknowledgement of zoning, if any, by local authority;

(d) Signature of appropriate local government authority;

(e) Description of structure including width of sign, height of sign, height of structure, type of sign (single-faced, double-faced, v-type, multi-faced), lighted (yes/no), estimated cost of construction to include labor and material.

(f) Landowner consent.

(2) Applications for permits must be accompanied by the following:

(a) Sketch of the area to include the legal description of the proposed sign location.

(b) Non-refundable application fee.

~~(3) Applicant shall place a stake or some other identifying object at the proposed sign location to assist department personnel in finding the proposed sign site.~~ The applicant must clearly mark the exact location of the proposed sign site to enable department personnel to perform the required site inspection.

AUTH: 75-15-121, MCA;

IMP: 75-15-122, MCA

18.6.213 PERMIT ATTACHMENT (1) It is the responsibility of the sign owner to see that the proper permit is continuously attached to the sign or device for which it was issued.

(2) The permit shall be attached to the sign or the supporting structure near the lower left corner of the sign (or supporting pole/beam) facing the traffic. The permit plate must be visible from the roadway.

(3) Permits, which are affixed to the wrong sign or are otherwise in violation of requirements may be canceled by the department if the deficiency continues for more than 30 days.

(4) If the department cancels a permit, the sign for which the permit was issued becomes an illegal sign and must be removed.

(5) If the original permit plate has been lost or destroyed, a substitute permit plate may be obtained from the department upon payment of a ~~$10.00~~ $20.00 fee.

AUTH: 75-15-121, MCA;

IMP: 75-15-122, MCA

18.6.231 SIGN SPACING (1) Alleys, undeveloped rights-of- way, private roads and driveways shall not be regarded as intersecting streets, roads or highways.

(2) Only roads, streets and highways which enter directly into the main-traveled way of the primary - highway shall be regarded as intersecting.

(3) Official and "on-premise" signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with the above spacing requirements.

(4) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs.

(5) Multi-faced, back-to-back, and v-type signs shall be considered as a single sign or structure.

(a) Multi-faced signs may be positioned side-by-side on a single structure or stacked vertically on a single structure, and are to be considered as one sign for spacing and permitting purposes.

(b) Side-by-side signs on individual structures are considered as two signs for both spacing and permit require- ments.

(c) V-type sign means two signs erected independently of each other with multiple display surfaces having single or
multiple messages visible to traffic from opposite directions, with an interior angle between the two signs of not more than 120 degrees and the signs separated by not more than 10 feet at the nearest point.

AUTH: 75-15-121, MCA;

IMP: 75-15-113 and 75-15-121, MCA

18.6.242 RANCH AND RURAL DIRECTIONAL SIGNS (1) In rural residential areas, slat-type directory signs are allowed at the outer edge of the right of way of the intersecting roadway, giving the name only. Each slat is not to exceed 8" x 36".

(2) In cases where operations do not abut the highway, but have access via a non-public access road across other owner- ships, directional signs may be located along this roadway leading to the operation, may bear the name of the operation or owner and distance to headquarters, but shall include no advertising.

(3) Ranch and rural directional signs may only be erected along the federal-aid primary highway system. The message content on rural directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial; or photographic representations further describing the activity or its environs are prohibited.

(4) The signs shall:

(a) Not be erected or maintained within the highway right- of-way;

(b) Not be erected or maintained if they exceed 32 square feet in area, including border and trim, but excluding base or apron, supports and other structural members;

(c) Not exceed 12 feet in length.

(5) The maximum height of the sign structure, including the sign face, is 30 feet measured at a right angle from the surface of the roadway at the centerline of the primary highway.

(6) A permit must be obtained for each sign accompanied by a nonrefundable application fee as set forth in ARM 18.6.211(1). The renewal fee for the ranch and rural directional signs required by ARM 18.6.211(2) is waived.

(7) Not more than one ranch sign may be erected visible to traffic proceeding in any one direction on any one primary highway and advertising activities being conducted upon the real property, including ranching, grazing, and farming activities.

AUTH: 75-15-121, MCA;

IMP: 75-15-111 and 75-15-121, MCA

18.6.245 ~~NONCOMMERCIAL~~ NON-COMMERCIAL SIGNS (1) If a ~~noncommercial~~ non-commercial sign is located on-property of the owner of the sign, it shall be considered to be an on-premise sign and not subject to the provisions of this rule.

(2) A Non-Commercial "Welcome to" community signs shall not exceed 150 square feet in size. A non-commercial sign of a local government may be erected anywhere adjacent to an interstate and primary highway within its jurisdiction, except in a scenic area or parkland, so long as the sign does not create a safety hazard to the traveling public.

~~(a) not be erected or maintained that feet in area, including border and trim, but apron, supports and other structural members;~~ A non-commercial sign will not be considered in determining the spacing required between conforming outdoor advertising signs located off premises;

(b) ~~not exceed 12 feet in length;~~ Public officials may erect, within the limits of their jurisdiction, non-commercial signs welcoming travelers and describing the services and attractions available but may not advertise private business or brand names.

(c) not ~~exceed 30 feet in height when measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway;~~ more than one non-commercial sign welcoming visitors or providing information about a community is allowed on each highway subject to OAC regulations entering the community.

~~(d) not exceed more than two signs for each community and may not be located more than one mile from the outer edge of the community.~~

~~(3) Non-Commercial "Welcome to" community signs may be placed outside of zoned and unzoned commercial or industrial areas, except they may not be placed in public forest, public playgrounds, and designated scenic areas.~~

(4) "Public service" signs shall:

(a) Not be erected or maintained that exceed 32 square feet in area, including border and trim, but excluding base or apron, supports and other structural members;

(b) Not exceed 10 feet in length;

(c) Not exceed 15 feet in height when measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway;

(d) Not be placed outside of zoned or unzoned commercial or industrial areas.

(5) A permit must be obtained for each sign accompanied by a nonrefundable application fee as set forth in ARM 18.6.211(1).

The renewal fee for noncommercial signs required by ARM 18.6.211(2) is waived.

AUTH: 75-15-121, MCA;

IMP: 75-15111, MCA

18.6.262 SIGN STRUCTURES THAT ARE BLANK, ABANDONED OR IN DISREPAIR (1) Sign structures that have no face or have faces without 100 percent advertising copy shall be considered blank.

Blank is defined as all faces not leased, rented or otherwise occupied by an advertising or public service message. The sign owner is not prohibited from noticing the sign for rent

or lease, however, for the purposes of this rule, the sign shall be considered blank while being noticed for rent or lease.

(2) Sign structures are considered abandoned if the sign structure:

(a) Has not been erected,

(b) Has been removed, and

(c) The sign owner fails to pay the appropriate sign fees.

(3) The department may determine a sign is in disrepair if

the structure is unsafe or if the sign face is unreadable or not visible to the ~~travelling~~ traveling public.

(4) When a sign has been blank, abandoned, or in disrepair for a period of six continuous months, the department shall notify the sign owner of the violation and require remedial action within 45 days. If such action is not taken, the permit will be canceled and action for the removal of the sign will be taken as provided in 75-15-131, MCA.

AUTH: 75-15-121, MCA;

IMP: 75-15-111, 75-15-113, and 75-15-121, MCA

4. (rationale)_____.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to _____, and must be received no later than _____.

6. Timothy W. Reardon has been designated to preside over and conduct the hearing.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

MONTANA TRANSPORTATION COMMISSION

By:_____

Shiell Anderson, Chairperson

_____

Lyle Manley, Rule Reviewer

Certified to the Secretary of State , 2004.

Agenda item: 02-04-07

Staff person handling: Dave Galt

Date/location: April 27, 2004 in Butte, MT

Item: **Partnership agreement**

Background
The purpose of the partnering agreement is to establish a general framework for cooperation between the Federal Highway Administration (FHWA), the Montana Transportation Commission (MTC), and the Montana Department of Transportation (MDT) in the delivery and oversight of Montana's Federal-aid highway program.

The various responsibilities and authorities are explicitly defined within the underlying federal and state laws, regulations, and policies governing the program. This partnering agreement does not alter these governing precepts in any way. However, it describes the manner in which oversight will be carried out including cooperative processes through which decisions will be made relative to program assessments and reviews.

In addition, it lists which authorities of the Secretary are delegated, which authorities are retained by FHWA, and which oversight actions FHWA, MDT or MTC may perform. The intended purpose of the agreement is to ensure a collaborative approach to the Federal-aid program in an effort to support quality transportation in Montana.

Summary
FHWA and MDT staffs have worked cooperatively in developing this draft and it is now being presented to the Montana Transportation Commission for their consideration.

Staff recommendations
Staff recommends the commission be a signatory to the partnership agreement (see attached).

Notes/discussion

Commission action

PARTNERSHIP AGREEMENT

Edited last 04-01-04

Montana Transportation Commission

Montana Department Of Transportation

Montana Division, Federal Highway Administration

David A. Galt
Director
Montana Department of Transportation

_____

Date _____

Janice Weingart Brown
Division Administrator
Federal Highway Administration

_____

Date _____

Shiell Anderson
Chairman
Montana Transportation Commission

_____

Date _____

I. PREAMBLE

This agreement constitutes a commitment by the Montana Transportation Commission (MTC), Montana Department of Transportation (MDT) and the Montana Division of the Federal Highway Administration (FHWA) to pursue effective, innovative, and cooperative Federal-aid Highway Program (FAHP) management methods for assuring the delivery of quality transportation products and services in full compliance with State and Federal Laws and regulations. Parallel purposes are to foster and support a spirit of teamwork, employee growth, and to strengthen the partnership that now exists between MTC, MDT and FHWA.

FHWA has stewardship and oversight responsibilities for all FHWA programs. While. MTC and MDT may assume certain project approval authorities in accordance with 23 USC 106, FHWA is ultimately responsible for ensuring that the Federal highway program is delivered consistent with the established requirements. In addition, and as consistent with 23 USC 145, the appropriation of federal funds or their expenditure in no way infringes on the sovereign right of the state of Montana to determine which projects shall be federally funded.

In order to ensure that this partnering agreement is consistently interpreted, the following definitions are established.

Stewardship:	The efficient and effective management of the public funds that have been entrusted to the Montana Transportation Commission, Montana Department of Transportation and the Federal Highway Administration
Oversight:	The act of ensuring, which constitutes reviewing and approving actions, that the Federal highway program is delivered consistent with laws, regulations and policies.

Stewardship reflects MTC's, MDT's and FHWA's accountability for the development and implementation of the Federal highway programs. It involves all MTC, MDT and FHWA activities in delivering the Federal highway program, such as leadership, technology deployment, technical assistance, problem solving, program administration and oversight

Oversight reflects the compliance or verification component of MTC, MDT and FHWA stewardship activities. Narrowly focused, oversight activities ensure that the implementation of these Federal highway programs is done in accordance with the applicable laws, regulations, and policies. More broadly focused, oversight activities enable the MTC, MDT and FHWA to ensure the effective delivery and operation of the transportation system envisioned in base statutes, Montana's long-range multimodal transportation plan, all applicable Montana statutes, and MTC policies.

II. PURPOSE

The purpose of this partnership agreement is to establish a general framework for cooperation between the Montana Transportation Commission, Montana Department of Transportation and Federal Highways Administration – Montana Division. The agreement also outlines roles, responsibilities, and authorities of MTC, MDT and FHWA as they work together in a spirit of collaboration and partnership to ensure the delivery of the Federal aid Highway Program in Montana at the programmatic and project levels.

The Agencies desire to work together to achieve the common goals of pursuing effective, innovative and cooperative management methods for assuring the delivery of quality transportation products. This collaborative effort seeks to foster understanding of transportation goals, encourage economic advancement in the State, and enhance the quality of transportation in Montana; and to be mindful that available resources are limited and that Montana's unmet transportation needs are vast.

III. AUTHORITIES

Federal-aid transportation program management, policies, procedures, and stewardship responsibilities are described under the provisions of the Transportation Equity Act for the 21st Century (TEA-21) or a successor Federal-aid authorizing act; Title 23 U.S.C.; 23 CFR; and applicable parts of 49 CFR; Title 60 of Montana Code Annotated; and others such as NEPA, the Uniform Act, the Davis-Bacon Act, rules associated with Montana Code Annotated, and MTC policies. These documents are controlling.

This agreement acknowledges the requirement for full compliance with all federal laws and regulations except where Federal statute allows State laws, policies and regulations to apply. All current agreements between MTC, MDT and FHWA will remain in effect until it is mutually agreed to modify or replace them.

IV. STATEMENT OF MUTUAL INTEREST AND MUTUAL BENEFITS

The goals of the Agencies signing this Agreement denote creation of a mutually agreed-upon framework for carrying out the Federal aid Highway Program in Montana.

- **Human Resource Management** - MDT agrees that an "adequately staffed and equipped" agency, as described under 23 U.S.C. 302 will be maintained to provide adequate FAHP controls. MDT and FHWA will:

    - Promote development of multi-skilled employees,
    - Seize opportunities for cross training and/or development,
    - Place trust and empowerment in employees to contribute to decision-making, and
    - Utilize joint training sessions.

- **Communications Management** - The MDT will provide oversight, technical assistance, and guidance to local public agencies and Tribal Governments where programs involve those entities, and FHWA will provide assistance and support to MDT and others as necessary to carry out any part of the FAHP. Policies and procedures will be jointly developed to permit participation in the FAHP by qualified local governments as determined cooperatively with MTC and MDT.

  Improved communications between all interested offices, contractors, consultants, and other agencies and the public will be emphasized. Frequent meetings and personal discussions between all involved individuals are encouraged so information exchanges and decisions can be timely. The MTC, MDT and FHWA will cooperatively provide direction in accordance with this agreement to routinely evaluate FAHP actions and accountability for expenditure of public funds. The MTC, MDT and FHWA will:

  - Continue to promote and implement electronic data sharing procedures,
  - Openly discuss concerns and issues before decisions are made, then jointly stand behind those decisions,
  - Jointly attend as appropriate regularly scheduled meetings, such as for example the Montana Transportation Commission, District Administrator sessions, Administrative Staff Meetings, and Montana Contractor's Association Meetings,
  - Hold peer group meetings/discussions, and
  - Seek customer feedback.

- **Quality Management** – FHWA, MTC and MDT commit to actively pursue continuous quality improvement methods. MTC, MDT and FHWA will:

  - Promote internal efficiency and reduce waste and cost,
  - Improve quality and reliability of products and services, and
  - Promote continuous improvement in policies, practices, and management.

Risk Management - MDT, FHWA, or both may initiate process and program evaluations of the FAHP. All evaluations are intended to evaluate procedures and policies used in delivering the FAHP, along with identifying deficiencies and opportunities for improvement. These reviews will also recognize good procedures and policies as well as acknowledge employees performing work assignments of an extraordinary quality or who provide exceptional service to Montana taxpayers or the nation's highway users. FHWA will employ a risk assessment process in consultation with MDT to review and evaluate program areas that endeavor to balance risk with consideration of limited staffing resources, funding within FAHP and highway needs within the state. It will be the function of the Management Team, as defined below, to mutually endorse the results, agree to the recommendations, and make resources available as soon as practical to address the recommendations from the program/process evaluations.

Management Systems - The MDT management systems will serve as key tools for Transportation Program development. The outputs from each system will be monitored

by both MDT and FHWA, will be used to make decisions relating to transportation system conditions and needed improvements, and will be used by MTC and MDT to make informed resource allocation decisions.

V. MANAGEMENT TEAM

The Agencies will create an inter-agency Management Team to provide oversight and coordination, in close communication with field staff. The Management Team will consist of the MDT Director and Deputy Director, and the FHWA Division Administrator and Assistant Administrator, and will meet semi-annually or more often as needed to:

- Endorse annual Risk Assessment process and results,
- Discuss any program assessments or reviews in advance of staff involvement,
- Mutually agree to all recommendations from process/program evaluations and reviews,
- Discuss program related issues, and
- Foster communication between MDT and FHWA.

VI. GENERAL

The MTC and MDT will exercise direct control over project development and advancement, and will act for FHWA for required FAHP actions in accordance with agreements and approved procedures between MTC, MDT and FHWAMTC and MDT will exercise direct control over project selection consistent with federal and state statute.

Federal Highway Administration's annual Risk Assessment documentation will become the basis for determining if MDT is exercising adequate quality control to support continued Federal-aid funding authorizations.

To the extent of federal law, FHWA will exercise direct control over the NEPA process. MDT will prepare NEPA documents with FHWA furnishing guidance, participating in the preparation and independently evaluating the documents.

This Agreement in no way restricts either Agency from participating in activities or arrangements with other public or private agencies.

This Agreement may be modified or amended upon written request of any party and the concurrence of the other. Participation in this Agreement should be reviewed biannually for appropriateness and acceptability.

The MTC, MDT and FHWA involvement in Federal-aid projects will be as shown in Attachment A. As provided in 23 U.S.C. 106, MTC/MDT will exercise direct control over project development and advancement, and will act for FHWA for required FAHP actions not specifically addressed in Attachment A in accordance with agreements and approved procedures between MTC/MDT and FHWA

VII. PRINCIPAL CONTACTS

The ultimate responsibility for the success and implementation of this agreement rests solely with the following principal individuals.

Director, Montana Department of Transportation
P.O. Box 201001
Helena, MT 59620
Phone: (406) 444-6201

Division Administrator, Federal Highway Administration
2880 Skyway Drive
Helena, MT 59602
Phone: (406) 449-5303, Ext. 235

Chair, Montana Transportation Commission
P.O. Box 201001
Helena, MT 59620

Delegated Authorities for Administering the FAHP

At the request of MDT, the FHWA Division Office (DO) will be more involved in project development, construction inspections, and other technical assistance on FA projects than is intended in TEA-21. However, FHWA DO priority will be given to Interstate and NHS projects, to controversial or environmentally sensitive projects, and those with experimental features or new specifications.

The FHWA has oversight (review and approval authority) for specific program and project level actions as noted below. MTC and MDT will be accountable for program and project level actions within their authority for *all other* Federal-aid projects. For the purpose of this agreement, the terms Pavement Preservation, Rehabilitation, and Reconstruction are as defined in the "*Guidelines for Nomination and Development of Pavement Projects*." Reconstruction would also include bridge replacement and new rest areas.

FHWA will have specific approval authority for the following program level actions including but not limited to:

1. Authorization and obligation of Federal-aid funds for all FA Projects (PE, IC, ROW, Const,)
2. Right-of-Way actions, including change in access control or other use or occupancy of acquired property along the Interstate. Procedures for acquisition, rental, leasing, maintenance, and disposal of real property acquired with 23 USC funds will be in accordance with the MDT ROW Manual,
3. Approval of MDT ROW Manual,
4. Approval of MDT Indirect Cost Allocation Plan,
5. Environmental documents for all FA projects,
6. Civil Rights and DBE programs,
7. Federal-aid project final vouchers for all FA projects,
8. MDT Standard and Supplemental Specifications and Detailed Drawings,
9. Statewide Transportation Improvement Program (STIP) is based on a transportation planning process that substantially meets the requirements of 23 U.S.C. Sections 134 and 135 and 49 U.S.C. Sections 5303-5305, and
10. Vehicle Size and Weight, Heavy Vehicle Use Tax, and other required certifications.

Oversight actions that may be performed by FHWA, MDT or MTC include:

1. Approving project concept/development documents, such as preliminary field review, scope of work, or plan-in-hand reports; pavement surfacing designs; and final PS & E's for these projects,
2. Approving design exceptions,
3. Authorization to advertise projects (constitutes PS&E approval,)
4. Award or Concurrence in award of construction contracts,
5. Approving contract claims,
6. Approving contract change orders, defined as scope of work changes, change of termini, design changes, major quantity changes, negotiated items not found in the original contract, and change of materials prior to the work being done, and
7. Project final acceptance reports.

FHWA retains oversight authority for the follow types of projects:

1. For all reconstruction projects of at least $3 million on the NHS (at least $1 million on the Interstate System) and.
2. For all pavement preservation and rehabilitation projects on the NHS (including the Interstate System) with a total estimated construction cost of at least $3 million.

MTC/MDT are delegated oversight authority:

1. For all other Federal-aid projects on the NHS (including Interstate System,).
2. For all Federal-aid CTEP, guardrail, striping/pavement marking, and traffic signal projects regardless of the total construction cost or highway system (i.e NHS or Interstate,) and
3. For all Federal-aid projects not on the NHS.

MDT can also request FHWA assistance and/or formal action on any other FAHP program or project level issue.

Agenda item: 02-04-08

Staff person handling: Tim Reardon, Chief Counsel

Date/location: April 27, 2004 in Butte, MT

Item: **Construction contracts – changes**

Background
During the 2003 legislative session, a law was passed prohibiting the inclusion of absolute indemnification in certain public construction contracts. The rationale advanced was because the cost of insurance was prohibitive for smaller subcontractors. The state was not included in the prohibition and depending on who you listen to, the lack of naming the state was inadvertent or intentional. Either way, the Montana Contractors' Association (MCA) asked Director Galt to consider a "pilot" effort to delete the indemnification language in our contracts and to insert an owner's protective policy requirement with negligence apportioned to fault.

Summary
After numerous meetings, including presentations to the commission on several occasions, we proposed language changes to the contracts to address MCA's request. The director concurred and the commission gave an okay to proceed. The contracts have been changed and I believe it is appropriate to ask the commission for formal approval.

Staff recommendations
Proceed with the contract provisions in the "pilot" program.

Notes/discussion

Commission action

Agenda item: 02-04-09

Staff person handling: Dave Galt

Date/location: April 27, 2004 in Butte, MT

Item: **Policy review**

Background
There are a few policies and guidelines that are recorded in the minutes as having been adopted by the commission, however, they were never formalized into official policy documents.

Summary
Excerpts from past commission minutes are attached, indicating the following:

- In November 1985, the commission delegated authority to the department for traffic control device projects under $50,000 needed to protect school children crossing state-maintained highways.
- On July 11, 1991The commission delegated authority to the department to enter into contracts for equipment rental services not to exceed $25,000 and for emergency work not to exceed $50,000.
- In October 1991, the commission reviewed a policy to govern the collection of charitable contributions on highway facilities.
- On December 6, 1991The commission gave the department blanket authority to do all hazard elimination projects up to $50,000.
- On April 6, 1995, the commission adopted a systems action policy for state designated highway systems.
- On May 12, 1995, he commission delegated their authority to negotiate small safety contracts with cities and counties up to $50,000 to the department.
- There was discussion regarding draft guidelines on funding transportation partnerships for project acceleration on March 12, 1998.
- The commission reviewed a set of guidelines for contract award on March 16, 2000. No action was requested.
- On July 17, 2003, the commission adopted guidelines for re-approving projects prior to contract award if costs increase beyond certain parameters.

Staff recommendations
Staff recommends the commission consider formalizing these positions into official policy statements.

Notes/discussion

Commission action

Excerpt from the November 22, 1985 meeting minutes of the Transportation Commission
Helena, Montana

The regular meeting of the State Highway Commission convened in Helena Montana at 10:30 am with Chairman Ilert Hellebust presiding. Commissioners present: Vice Chairman Gerald T. Archambeault, Roy Duff, Paul M. Foster and Marla N. Murray. Others present: Director of Highways Gary J. Wicks, Administrator – Legal Division James R. Beck and Administrator- Engineering Division Don M. Harriott, Roger Scott, Division Administrator for the Federal Highway Administration also attended. Colleen Vetsch served as recorder.

MINOR TRAFFIC CONTROL PROJECTS

Champion informed the Commission that every year the Department investigates a number of locations where minor traffic control improvements or school crossing protection is desired. When these projects are warranted, the work needs to be done promptly. The annual project nomination/ranking/selection process is usually too slow and the Department requested approval of the following policy.

INITIATION AND CONTRACTING OF MINOR TRAFFIC CONTROL ITEMS FOR SCHOOL

The Montana Highway Commission delegates to the Montana Department of Highways authority to initiate, engineer, and submit for contract letting, projects for installation of minor traffic control devices deemed warranted in connection with the protection of school children crossing or adjacent of highways under the jurisdiction of the Montana Department of Highways. This policy applies only where all of the following conditions exist:

1. The devices being installed are warranted on the basis of applicable traffic engineering criteria and standards.
2. Accomplishment of the project is too urgent to allow handling of the project through the normal nomination/selection/execution process normally followed for larger highway projects.
3. The estimated project cost is less than $50,000.

Foster moved the Commission approve the policy as submitted. Archambeault seconded; motion carried.

DELEGATION OF AUTHORITY TO AWARD HIGHWAY CONTRACTS

Barnard informed the Commission that State statute gives the Montana Highway Commission the authority to award contracts for work on the highway system. Strictly speaking this would include an equipment rental agreement for an asphalt paver to place a maintenance patch or to perform emergency work to preclude flood damage.

To request and obtain the Commission approval for all situations would require a substantial amount of time for the Department's staff as well as the Commission and delays would occur in our operations.

Smith moved the Commission delegate to the Department the authority to enter into contracts for equipment rental services not to exceed $25,000.00 and for emergency work not to exceed $50,000 contingent upon the Department submitting a quarterly report of all contracts entered into. Ehlers seconded; motion carried.

From the minutes of a State Highway Commission meeting held July 11, 1991 in Helena, Montana, chaired by Dan Huestis.

Excerpt from the October 9, 1991 meeting minutes of the Montana Transportation Commission
Kalispell, Montana

The regular meeting of the State Highway Commission convened in Kalispell, Montana at 9:00 am with Chairman Dan Huestis presiding. Commissioners present: Vice Chairman Roy M.Duff, and members Murray Ehlers, Dennis Shea and Ed Smith. Others present: Director of Transportation John Rothwell, Deputy Director of Transportation Bob Champion, Administrator, Highways Division-Engineering & Operations Thomas J. Barnard, Administrator-Legal Division James R. Beck and Strategic Planning Engineer Steve Kologi. Duane Lewis represented the Federal Highway Administration. Colleen Stephenson served as recorder.

CONTRIBUTION COLLECTIONS ON HIGHWAY FACILITIES

Barnard reviewed the following policy for contribution collections on highway facilities and requested approval. If approved, the policy would be distributed to the cities and towns in Montana.

Contribution Collection on Highway Facilities Background.

Collection of contributions on the driving lanes of streets and highways of the State of Montana has been an ongoing activity in some areas of the state for several years. This activity can however seriously jeopardize the safety of the individuals making the collection as well as the safety of the traveling public. There is a need to insure that adequate safety measures are taken if this practice is to continue.

Policy

Local governments may allow non-profit organizations to collect charitable contributions in the driving lanes of highways under the jurisdiction of the Montana Department of Transportation provided:

1. That the permanently posted speed limit in the area is 35 miles per hour or less, and
2. That appropriate special traffic control measures, e.g. signing, flagging, lane closures, are provided by local government, and
3. That the Montana Department of Transportation district office is given advance notice.

_____ _____

John Rothwell, Director Effective Date
Department of Transportation

Duane Lewis asked how much traffic disruption was going to be allowed.

Barnard stated that traffic impairment will have to be controlled by whoever is handling the traffic control. The city can make the initial judgment but the district engineer must be informed. If the district engineer feels that there is not enough traffic control he can insist on more.

Ehlers stated that he envisioned no disruption in traffic.

Champion stated that this practice is occurring now and is impeding traffic and the Department needs to have some kind of policy to discourage the practice and not be totally heavy handed.

Huestis stated that the policy is an attempt to instill some safety where there is none.

Ehlers stated that we need to tighten up the traffic control now.

Barnard stated that the Department is putting the responsibility on the local government and this will put some control where there is none at this time.

Ehlers moved to approve the policy for contribution collections on highway facilities. Smith seconded; motion carried.

Excerpt from the December 6, 1991 meeting minutes of the Montana Transportation Commission
Helena, Montana

The regular meeting of the State Highway Commission convened in Helena Montana at 9:00 am with Chairman Dan Huestis presiding. Commissioners present: Vice Chairman Roy M.Duff, and members Murray Ehlers, Dennis Shea and Ed Smith. Others present: Director of Transportation John Rothwell, Deputy Director of Transportation Bob Champion, Administrator, Highways Division-Engineering & Operations Thomas J. Barnard, Administrator-Legal Division James R. Beck and Strategic Planning Engineer Steve Kologi. Hank Honeywell represented the Federal Highway Administration. Colleen Stephenson served as recorder.

<u>HES projects greater than $50,000.</u>

Kologi stated that previous Commission action determined that only those safety projects totaling $50,000 or greater need to be reported to the Commission prior to programming and presented three projects which fall within those parameters from the 1991 highway safety improvement project benefit cost list.

Duff moved the Commission approve the three HES projects as submitted. Shea seconded.

Ehlers asked what would happen if the projects were not approved.

Kologi stated the Department would be in a position of violating a process with the Federal Highway Administration to repair hazardous situations.

Huestis stated that the Commission has given the Department blanket authority to do all HES projects up to $50,000 but the Commission should be provided a master list of all projects including those under $50,000 and such list be made a matter of record in our minutes.

Kologi stated a master list would be provided. Motion carried.

for
STATE DESIGNATED HIGHWAY SYSTEMS

WHEREAS the 1991 ISTEA eliminated the federal-aid Primary, Secondary and Urban systems as known by the states prior to December 19, 1991; and

WHEREAS the State of Montana has subsequently created a **state designated** system of Primary, Secondary, Urban highways and also a category of roads known as State Highways; and

WHEREAS there is a need to further clarify the definition of State Highways; and

WHEREAS the Commission has the authority by state law to designate public roads and streets to be placed on these three systems and State Highways; and

WHEREAS the federal government does not recognize these systems; and

WHEREAS there is a need for rules and regulations at the state level governing these state designated systems; and

WHEREAS these rules and regulations will provide the forum for sound highway systems development in keeping with generally accepted planning principles, therefore:

The following rules, regulations and procedures shall constitute the department's policy when establishing, modifying, and maintaining the state designated Primary, Secondary, and Urban highway systems and State Highways.

A. DEFINITIONS

- "**Commission**" means the Montana Transportation Commission.

- "**Department**" means the Montana Department of Transportation.

- **"National Highway System"(NHS)** means the system of public highways designated by the Commission and approved by the secretary of transportation as provided in Title 23, U.S.C. [MCA 60-2-125(2)].

- "**Primary highway system**" means the highways that have been functionally classified by the department as either principal or minor arterials and that have been selected by the Commission to be placed on the Primary highway system. [MCA 60-2-125(3)]

- "**Secondary highway system**" means the highways that have been functionally classified by the department as either minor arterials or major collectors and that have been selected by the Commission, in cooperation with the boards of county commissioners, to be placed on the Secondary highway system. [MCA 60-2-125(4)]

- "**State highways**" means the highways throughout the state that are not located on a defined highway system but that are on the state maintenance system. [MCA 60-2-125(5)]

- Because of the broad range in functional classification, only a portion of the State Highways are eligible for federal funding. To more clearly identify which roads are or are not eligible, the following definitions apply:

  "**Major State Highways**" means those roads of the State Highways that are eligible for federal funding (major collector or above).

  "**Minor State Highways**" means those roads of the State Highways that are not eligible for federal funding (minor collector or below).

- "**Urban highway system**" means the highways and streets that are in and near incorporated cities with populations of over 5,000 and within urban boundaries established by the department, that have been functionally classified as either urban arterials or collectors, and that have been selected by the Commission, in cooperation with local government authorities, to be placed on the Urban highway system. [MCA 60-2-125(6)]

- "**On-System**" means any route of the National Highway System (including Interstate), Primary, Secondary, or Urban systems.

- **"Urban area"** means an urbanized area or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the U.S. Secretary of Transportation. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census.

- **"Urbanized area"** means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.

- "**Rural area**" means all areas of the state not included in the boundaries of urban areas.

- "**Public road**" means any road under the jurisdiction of, and maintained by, a public authority and open to public travel.

- "**Rural arterial routes**" means those public roads that are functionally classified as a part of the rural principal arterial system or the rural minor arterial system.

- "**Rural collector routes**" means those public roads that are functionally classified as a part of the major or minor collector sub-classifications of the rural collector system.

- "**Urban arterial routes**" means those public roads that are functionally classified as a part of the urban principal arterial system or the urban minor arterial system.

- "**Urban collector routes**" means those public roads that are functionally classified as a part of the urban collector system.

- "**Appropriate local officials**" means: (i) In urbanized areas, principal public officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor, or (ii) in rural areas and urban areas not within any urbanized area, principal public officials of general purpose local governments.

- For purposes of the above definition, the term Metropolitan Planning Organization means that organization designated by the Governor as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as required by 23 U.S.C. 104(f)(3), and capable of meeting the requirements of 49 U.S.C. 1602(a)(2) and (e)(1), 49 U.S.C. 1603(a) and 49 U.S.C. 1604(g)(1) and 1604(1). This organization is the forum for cooperative decision-making by principal public officials of general purpose local governments, the Montana Department of Transportation and the U.S. Department of Transportation.

B. SYSTEM FUNCTIONAL CLASSIFICATION

(1) The **Primary highway system** shall consist of an adequate system of connected main roads important to interstate, statewide and regional travel, consisting of rural arterial routes and their extensions into or through urban areas.

(2) The **Secondary highway system** shall consist of rural minor arterial and rural major collector routes.

(3) The **Urban highway system** shall consist of arterial routes and collector routes, exclusive of urban extensions of the NHS and Primary systems.

C. GENERAL PROCEDURES

(1) Area classification.

(a) All areas of the State shall be classified as either rural or urban in accordance with the definitions described above.

(b) Urban area boundaries and rural areas shall be established in accordance with CFR 470.103(1) and (2).

(2) Functional classification.

(a) The routes of the Primary, Secondary, and Urban highway systems shall be designated on the basis of their anticipated functional usage.

(b) As per 23 USC, the Department has the primary responsibility for initially developing and periodically updating a statewide highway functional classification to determine anticipated functional usage. Functional classification evaluations may be conducted by the Department at any time. The Department shall cooperate with appropriate local officials, or appropriate Federal agency in the case of areas under Federal jurisdiction, in developing and updating the functional classification.

(c) The results of the functional classification shall serve as an official document for designation of the Primary, Secondary and Urban highway systems.

(d) In addressing the functional classification of roads, streets, and highways, the Department shall follow the latest available version of the "Highway Functional Classification – Concepts, Criteria, and Procedures" as published by the Federal Highway Administration.

(3) Maintenance responsibilities

(a) The Department is required to assume maintenance responsibilities on all paved Secondary system roads by January 1, 2001 [MCA 60-2-203(2)]. The Commission will not approve any subsequent additions of paved roads to the Secondary system whereby the county desires the Department to assume maintenance responsibilities if 1) the road in question falls below the MDT Maintenance Division's pavement condition criteria used for preventive maintenance measures, or 2)
until adequate funding is available to the Department to maintain that road.

(4) Designation of systems – Selection and approval procedures

(a) The routes of the Primary highway system shall be designated by the Commission. Primary routes may be designated in both rural and urban areas.

(b) The routes of the Secondary highway system shall be selected by the Commission, in cooperation with appropriate local officials. Any entity or individual may initiate a modification to the Secondary system, however it must go through the county commission No Secondary route shall be designated in urban areas.

(c) The routes of the Urban highway system shall be selected in each urbanized area and such other urban areas by the Commission in cooperation with the appropriate local officials. Any entity or individual may initiate a modification to the Urban system, however, it must go through the appropriate local officials. No Urban system route shall be designated outside the boundaries of an urban area.

(d) In urbanized areas, the designation of on-system routes shall be in accordance with the planning process required pursuant to the provisions of 23 U.S.C. 134(a).

(e) In areas under Federal jurisdiction, the designation of on-system routes shall be coordinated with the appropriate Federal agency.

(f) The modification or revision of highway systems shall be carried out in accordance with the above provisions for the designation of such systems.

(5) Extent of systems.

(a) The Primary, Secondary, and Urban highway systems do not have a statutory limit on designated mileage, but these systems are limited in extent to the functional arterial and collector routes prescribed in the definitions above.

(b) State Highways do not have a statutory limit on designated mileage nor does their designation bear any relationship to functional usage. The extent of State Highways mileage is limited to those roads maintained by the Department and on the state maintenance system as prescribed in MCA 60-2-125(a) and 60-2-128. For the purpose of defining federal funding eligibility, State Highways shall be subclassified as either the "Major State Highways" or "Minor State Highways" as defined in Section A above.

(c) When mileage is added to the Secondary system, a reasonably equal amount of mileage may be required to be removed from the Secondary system. The mileage removed must have the concurrence of the appropriate local officials in the affected county or counties. The Commission shall have the sole discretion of determining whether mileage must be removed and the meaning of “reasonably equal mileage” on a case by case basis.

(d) When mileage is added to the Urban system, a reasonably equal amount of mileage may be required to be removed from the Urban system. The mileage removed must have the concurrence of the appropriate local officials in the affected urban area. The Commission shall have the sole discretion of determining whether mileage must be removed and the meaning of “reasonably equal mileage” on a case by case basis.

(6) Designation of systems - Principles

The designation of eligible routes should adhere to the following principles:

(a) In each system, routes should be designated on the basis of a planned connected system.

(b) System mileage should be distributed on a reasonable and fair basis within the geographic area the system is designed to serve.

(7) Integration of systems.

All systems should be properly integrated with each on-system route connected to another on-system route.

(a) Primary routes should connect at each end to routes of the NHS (including Interstate) or other Primary routes with the exception of routes that connect at the Canadian border or other adjacent state borders or terminate in urban areas. In the latter case, the terminus of a Primary route may also connect to routes of the Urban system.

(b) Primary spur routes may be justified in some instances such as connections to important cities, transportation terminals, defense centers, industrial centers and recreational areas not directly served by the Primary through route. Primary spur routes may connect to routes of the Secondary and Urban systems.

(c) Where feasible, Secondary routes should connect at each end to routes of the NHS (including Interstate), Primary, Secondary, or Urban systems.

(d) Secondary routes should connect to other Secondary routes or higher level systems at state and county lines except in unusual circumstances where to do so may penalize or impose a hardship on an adjacent state or county.

(e) Secondary stub routes are permissible as routes reach outward from other on-system routes to serve traffic generators of intra-county importance.

(f) Where feasible, Urban system routes should connect at each end to routes of the NHS (including Interstate), Primary, Secondary, or Urban systems.

(g) Stub routes on the Urban systems are permissible at urban area boundaries and as urban system routes reach out from other on-system routes to directly serve major centers of urban activity as well as local traffic generators such as residential neighborhoods, transportation terminals and commercial and industrial areas.

(h) State Highways, by their nature, may consist of segments without continuity to other on-system routes or other State Highways.

(8) On-system route numbers.

A route number shall be assigned to each route. An NHS (non-Interstate) or Primary route shall not exceed three digits; a Secondary route shall not exceed three digits; and an Urban route shall not exceed five digits. State Highways shall not exceed not five digits.

(9) On-system maps.

(a) All on-system routes shall be delineated on county and urban area maps.

(b) Each on-system route shall be identified on the maps by a different map symbol, and each on-system route shall be identified by route number.

D. SPECIFIC SYSTEM PROCEDURES FOR CONSIDERATION AND ACTION BY THE COMMISSION

(1) Primary highway system.

(a) Proposals for Primary system actions shall include a brief route description and other appropriate information including beginning and ending reference posts, route length, and functional classification.

(b) Proposals shall include a system map or maps.

(2) Secondary highway system.

(a) Proposals for the Secondary highway system shall include a brief route description and other appropriate information including beginning and ending reference posts, route length, and functional classification.

(b) Proposals shall include a system map or maps.

(3) Urban highway system.

(a) Proposals for the Urban highway system shall include a table listing each route by number, name, termini and other appropriate information including beginning and ending reference posts, route length, and functional classification.

(b) Proposals for the Urban highway system shall include a map or maps, with the urban area boundaries delineated thereon.

E. PROPOSALS FOR SYSTEM ACTIONS

(1) Department staff shall have the responsibility for proposing to the Commission all official actions regarding the designation, modification or revision of the subject highway systems.

(2) In justification of a proposed system action, Department staff shall include a statement to the Commission that the proposed system action is in conformance with:

(a) The system classification, general procedures and specific procedures of this policy;

(b) the requirements for participation with appropriate local officials; and

(c) in urbanized areas the planning process required pursuant to the provisions of 23 U.S.C. 134(a).

F. APPROVAL AUTHORITY

(1) The Commission will approve system actions involving the designation, modification or revision of the Primary, Secondary, or Urban highway systems.

(2) The designation of State Highways shall be in accordance with MCA 60-2-125(5) and 60-2-128.

(3) The Federal Highway Administration's Division Administrator and the Commission will approve the statewide functional classification as well as any individual route(s) functional classification modifications.

G. EXCLUSION OF THE NHS IN THIS POLICY

Because the federal government recognizes the National Highway System (including the Interstate System) and because there are specific federal guidelines for designation of the NHS, this policy excludes designation procedures for the NHS. When designating or modifying the NHS, relevant federal laws, procedures and guidelines will be followed, which includes involvement by the MDT.

H. CONSISTENCY WITH STATE AND FEDERAL LAWS

This policy has been developed in careful consideration of relevant state and federal laws. It is intended to be in concert with those laws. The Commission recognizes that state and/or federal law will take precedence in any case where this policy may conflict with those laws.

APPROVED BY THE MONTANA TRANSPORTATION COMMISSION

By: _____
Thorm Forseth, Chairman
Montana Transportation Commission

Originally adopted: April 6, 1995
Amended: _____

Delegation of Authority to Negotiate Contracts

Barnard told the Commission that a new state law was passed that would allow the Department to negotiate small safety project agreements with cities and counties up to a dollar amount of $50,000. The Department needs the Commission to delegate their authority to negotiate a contract to the Department. We would try to keep the contracts to $25,000 but there will be a few that go up to $50,000. If they do go up to $50,000 they will be an exception rather than the general rule. The Commission will always be kept informed of these negotiated contracts. It costs a great deal of money to get the small safety projects ready for contract and it would save money to be able to negotiate the contract.

Smith moved the Commission delegate their authority to negotiate small safety contracts with cities and counties up to $50,000 to the Department. Bell seconded; motion carried.

From the minutes of a State Highway Commission meeting held May 12, 1995 in Helena, Montana, chaired by Thorm Forseth.

Excerpt from the March 12, 1998 Transportation Commission meeting – page 53

Discussion Draft – Guidelines on Funding Trans. Partnerships for Project Acceleration

Saindon distributed a draft copy of the document and said it discusses how to move a project like the South Arterial or Highway 16 when there isn't enough money. This is a draft of a philosophy that the Commission may want to adopt on how local governments may want to cost share to accelerate projects. We will go into this further at the April meeting.

Saindon said you may want to see the papers the Department is going out for public comment soon on developing a new way to actually prioritize projects and how we are going to select projects and get them into the program. We have management systems giving us information and how we use that information. We have other things and we have gone out in the last few years and developed out long range plan and it has given us an overall guidance as to how we will do business. We have a public involvement process that says we have to give everyone the opportunity to comment. It doesn't flow well so we are putting together a new process to decide how we will select projects based on need, putting together a process as how to take it to the public and local governments for them to comment on the process. If you see something in the paper that is what they are talking about. We don't want to Commission to be called and asked about it and not know what is going on. You will also hear more of this as the process develops and hope to have something in place by the first of October.

Currie said part of this process is to establish performance measures. For example, the ride index is different in each district. Butte is probably the worst but the east is different. We want to establish one benchmark performance measure and look for best strategy on how to achieve that. We want to see how to best nominate and do projects to best serve each district. FHWA has their own strategic plan and is looking at performance measures. The Helena Division will be developing their own performance measures that are a part of FHWA's overall plan and one of the things we will do with the stewardship plan is develop these performance measures to be the same as FHWA. It will be more and more important in the future to have established performance measures document that shows the bang we got from our buck. We know the system is getting better but it is tough to put a measurement on it.

Radliff said that FHWA does have a strategic planning issue and DOT's and FHWA both regional and divisional are doing the same thing. We have performance measures and we have to abide by them on a national and divisional level. We hope that we can parallel and mesh with what the MDT is doing and they can help us to help them. It is a joint effort we will be going through had hope we can update you on what FHWA is doing in conjunction with the Department.

Guidelines and mechanisms for transportation partnerships (pdf file)

Excerpt from the March 16, 2000 meeting minutes of the Transportation Commission

Helena, Montana

The Montana Transportation Commission meeting was called to order at 8:06 a.m. by Chairman Thorm R. Forseth in Helena. Commissioners present: Vice Chair Patricia Abelin and members Nancy Espy, Dan Larson and Bob McKenna. Others present: Director of Transportation Marv Dye, Chief Counsel Tim Reardon, Transportation Planning Administrator Patricia Saindon and Administrator Highways and Engineering Division Gary Gilmore. Jan Brown represented the Federal Highway Administration. Colleen Stephenson served as recorder.

COMMISSION DISCUSSIONS

Gilmore distributed a set of guidelines for contract award and told the Commission staff did not need action on this item. It only needs your review. This is what the Department follows as a guideline for making recommendations to the Commission. We have run into several issues on our smaller contracts. Smaller contracts are real tough to come within 10 percent of the engineer's estimate. We have a real tough time estimating. We have put a scale together that says for smaller projects we give ourselves more leeway and this does not mean we wouldn't do any less analysis of bids.

Abelin asked if we haven't had a sliding scale in the past.

Gilmore responded not really. We have justified being outside the 10 percent but we didn't have a sliding scale. Withthe upgrades to the electronic bidding system it will have the capability to do some analysis to point out areas where there may be cause for additional review. If you have comments we'd like to hear from you. This is how we will establish our recommendations to you.

MONTANA DEPARTMENT OF TRANSPORTATION

GUIDELINES FOR CONTRACT AWARD

AWARD OF CONTRACTS

1. The Commission will consider for award or rejection all bid proposals for contracts in accordance with the current edition of the Montana Standard Specifications for Road and Bridge Construction ("Specifications").
2. Using these guidelines, the Commission will award contracts to the lowest responsive, responsible bidder.

REJECTION OF BID

1. a. The Commission may reject all bids if the lowest responsive bid total is:
   For low bids under $50,000, that exceed the engineer's estimate by 30.0% or more;
   b. For low bids between $50,000 and $200,000, that exceed the engineer's estimate by 25.0% or more;
   c. For low bids between $200,000 and $500,000, that exceed the engineer's estimate by 20.0% or more;
   d. For low bids between $500,000 and $2,000,000, that exceed the engineer's estimate by 15.0% or more; and
   e. For low bids over $2,000,000 that exceed the engineer's estimate by 10.0% or more.
2. For each of the above situations, an analysis will be performed by the Department and its recommendation made based on results of the analysis.
3. The Commission may also reject any bid in accordance with the applicable Specifications, or for any violation for regulation, rule or law.
4. The Commission reserves the right to reject all bids in accordance with the Specifications and the Proposal.

JUSTIFICATION OF BIDS

1. Bids may be awarded regardless of conditions for possible rejection as stated above if proper justification is made. The Department will include a written justification with its recommendation for award.
2. The Commission may determine it is in the best public interest to award any contract.
3. The basis for awards may be for any of the following determinations, but not limited to them.
   a. Good Competition
   b. Emergency project
   c. Project is small
   d. The project is essential and deferring it would not be in the public interest.
   e. Engineer's estimate is clearly too low.
   f. Readvertising the project would not result in a significantly lower bid. The delay could bring higher prices due to inflation.

FEDERAL HIGHWAY ADMINISTRATION CONCURRENCE

Written concurrence is required by FHWA for all projects that are on the Interstate or NHS System. Concurrence is required for award of a contract or rejection of all bids received.

Excerpt from the July 17, 2003 meeting minutes of the Montana Transportation Commission
Helena, Montana

Chairman Shiell Anderson called the meeting to order at 8:07 a.m. Commissioners present: Vice Chair Nancy Espy and members, Dan Rice, Meredith Reiter and Kevin Howlett. Staff members representing the Department were Director Dave Galt, Deputy Director Jim Currie, Chief Counsel Tim Reardon, Administrator Transportation Planning Division Patricia Saindon and Chief Engineer Joel Marshik. Colleen Stephenson served as recorder.

PROJECT SUBMITTAL GUIDELINES

Saindon told the Commission that at the last meeting we had a discussion about projects and when the costs increase because of scope changes and whether or not we should bring them back to the Commission for approval or if we should just proceed.

The two primary elements that could be used to determine which items need Transportation Commission approval are 1) increase in project scope and 2) increase in project cost. While scope of the work is an important element in the decisions process, staff believes an increase in cost is the measurable result of scope changes. Using cost to determine which projects need to be returned to the commission for approval, we offer two solutions:

1. Guideline – Any Transportation Commission approved project that experiences and increase in project cost prior to contract award as a result of an increase in the scope of work must be taken back to the Transportation Commission for their approval if:

    a. Projects less than $2.0 million increase by $100,000, or
    b. Projects more than $2.0 million increase by 5% or more of the original Commission approved estimate.

2. Guideline – Any Transportation Commission approved project that experiences an increase in project cost prior to contract award as a result of an increase in the scope of work must be taken back to the Transportation Commission for their approval if the cost violates the following sliding scale:

PROJECT COST	**% INCREASE IN PROJECT COST**
UNDER $100,000	30%
$100,000 – 500,000	25%
$500,000 – 1,000,000	20%
$1,000,000 –2,000,000	15%
OVER $2,000,000	10%

Project cost increases not meeting this test under either alternative shall be considered incidental to the overall project cost and will not be presented to the Transportation Commission for their approval, but rather they will be handled by following program modification procedures currently in place.

Staff can implement either option. Whatever the Commission prefers. The first is very simple and the second will take a little more work but we have no preference.

Currie asked if you are interested in approving scope changes and the additional costs.

Saindon said when you have a major change in scope you will obviously have a change in cost. Sometimes we have a change in cost without a change in scope.

Anderson asked in the second option if the parameters were the same as the guidelines to award.

Saindon responded, "no", we are only talking about preliminary engineering phase.

Howlett asked if this is something that when we adopt it will give the department some greater flexibility at looking at the issues that were raised this morning.

Marshik responded, "no". Presently we would not come to you with the case of an increase in cost or change in scope. Normally you approve a project and then as we get to the letting. You recognize that there can be a change in scope or cost because when a project is approved it is in preliminary stages. A while back we added some distance to a project and we cam back to Commission because we added a length that wasn't originally approved. Normally we don't come back to the Commission. If we had a reconstruct there is no change in scope because with a reconstruction we know there are all kinds of things we will find and there would normally be a change in cost but no scope change because it's a reconstruct.

Howlett said what we were talking about this morning was a hard process, what we are talking about now is an already an approved project.

Galt said we take a list of projects to you for approval and those projects are usually six years out. The difference with the award issue is a budgetary issue but related to a detailed engineer's estimate. That is a lot more detailed than the guess that is put out when we are in the planning stage. What we are asking is when do you want to know about how much of a change we make to a project from its original programming. The issue of contract award is a lot more complicated.

Anderson said this won't really change anything other than keep us more informed.

Reardon said Pat and I have wrestled this around for several years. My concern has been that your statutory responsibility is to manage the money and it has seemed to me that I doubt you want to micro manage things but there is a point where you should be involved in the process even if it is in the nature of awareness. You ought to know when you are writing the check that you know what is in there. It sounds simplistic but when you look at the statute it says you manage the money.

Espy moved to approve Guideline No. 2. Howlett seconded.

Rice said I recognize our statutory obligation but I am concerned we are going to get in the business of micro managing preliminary engineering. I suspect that if we were to make a list of projects in PE now we impose these guidelines we would be doing this a considerable part of nearly every meeting. I bristle at speed limits but when you are talking about a $30,000 change that is about a half of a culvert.

Reardon said I don't disagree but $30,000 is not significant unless you consider it in the context of a project that costs $100,000. It can be raised or lowered. You can if you chose reject this all together and we will just do a catch as catch can when we think you need to get approval.

Saindon said one of the issues is for example is a bridge I brought to you a while back. We were going to do bridge and we had to do more of the approaches and we needed to widen the road. In another instance I can remember bringing and off system bridge. We were going to rehab the bridge and when we got there we found another off system bridge ½ mile away and we thought that instead of having to pay mobilization later on a 2nd bridge we added it to the original project. This is a significant project change and the cost is in some cases double from what you originally approved. Those are the ones when I called Tim and ask him to get this one through.

Howlett said I share Rice's concern about micro management but there needs to be clear direction given to the department in terms of what point these come back. My concern is no project would be diminished or carried out so there needs to be a reasonable time frame in terms of presenting them to the Commission before we build a bomber that doesn't have a left wing.

Saindon said we could bring you an information item and say these are the projects and how much they have increased by.

Espy said some of the concern is we approve a project and then we have an increase and it comes back to us and we say what happened. All this says is do we want to be notified or be a certain percentage that the department brings back to us not to approve the change but to be aware of the change. Are you asking us to re-approve it at that point.

Saindon said in the past when you see them they are because I am coming back and asking you to approve an addition to the project. I am actually asking for re-approval. You don't seen everything but when it gets a little beyond my authority I prefer to bring them back to you.

Anderson said I like it as it is. Doing it this way we protect ourselves and it acts as a front end work and if there is a change on a project and it is getting out of hand that gives us reason to lobby someone if we have to but for a starting point. I like the motion the way it is and I assume you would come to us with scope, cost and we would go from there.

Reardon said if it becomes too much minutia there is always the opportunity to come back and change the process.

Rice asked what kind of manpower it would take to put this together.

Saindon responded I don't think any additional. The staff will have to be let know that if this happens they have to comeback to us. It may be more of a training issue.

Call for question. Motion carried.

Agenda item: 02-04-10

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Amendment to Rest Area Plan regarding city park rest areas**

Background

In response to a recommendation from a performance audit of MDT's Rest Area Program by the legislative audit division, MDT has developed a proposed policy on the future of the city park rest area program. This policy would allow MDT to continue funding assistance to participating local governments for the maintenance and improvement of the existing facilities, contingent on necessary approvals by the legislature. Details are included in the following proposed amendment to MDT's Rest Area Program.

Proposed amendment to Montana Rest Area Plan – city park rest area program

MDT initiated the city park rest area program in 1991 as a low-cost way to help address rest area needs on Montana's primary and non-interstate national highways. The program also provided local governments with much-needed funding to construct or improve locally owned park facilities for other purposes. Local businesses have also benefited from the program due to the number of visitors that stop at the city park rest areas and then visit local businesses and attractions before proceeding with their trips.

Beginning in 1991, the city park rest area program provided up to $100,000 per site for the construction or improvement of thirteen locally owned facilities to serve as highway rest areas. In exchange, local sponsoring governments agreed to open and maintain the rest areas from April to November for a minimum of ten years. MDT provides directional signs on adjacent highways and shows the rest areas on the official Montana highway map.

Following is a list of Montana's city park rest areas with the year of the agreements:

Malta – 1991
Fort Belknap – 1991
Harlowton – 1991
Twin Bridges – 1991
Chester – 1992
Plentywood - 1992
Roundup – 1996
Big Sandy – 1996
Whitefish – 1996
Ennis –1996
Cut Bank – 1997
Havre – 1997
Lewistown – 1997

Policy

Although the 1999 update of the Montana Rest Area Plan increased MDT's emphasis on providing better designed and maintained state-owned rest areas, Montana's existing city park rest areas still provide an important service to highways users and benefit local communities and businesses. Subject to necessary approvals by the legislature, the city park rest area program will therefore continue with the following elements:

- MDT will offer additional funding assistance based on availability to participating local governments to maintain or improve city park rest area facilities that are older than ten years and that MDT determines are still serviceable. The parameters of this funding assistance, which will be formalized in amendments to the original funding agreements, will include the following basic requirements:
    - MDT will provide funding, based on availability, for maintenance following MDT inspection of the facilities. MDT will periodically inspect each facility to insure that the facility has been maintained and an inspection report will be completed. The reimbursement agreement can be discontinued at the discretion of MDT should the facility not be maintained in a satisfactory manner.
    - Although maintenance can be performed by other entities through local agreements, MDT will only reimburse local governments. Although the local agreements may include other facilities, MDT reimbursements will be limited to costs directly related to maintenance of the rest areas.
    - Proposals for funding assistance for improvements to rest area facilities must be reviewed and approved by MDT's facilities manager and the improvements must directly benefit the traveling public.
    - Eligible maintenance costs include janitorial supplies, labor, garbage disposal, grounds maintenance, and utilities necessary to provide a safe and clean rest area facility. Additional items will be considered on a case-by-case basis.

Summary
The proposed changes are consistent with the policies the transportation commission established in the 1999 plan update.

Staff recommendations
Staff recommends the adoption of the proposed amendment to the Rest Area Plan regarding the City Park Rest Area Program.

Notes / discussion

Commission action

Agenda item: 02-04-11

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Montana Rest Area Plan update**

Background

The Montana Rest Area Plan has guided department decisions regarding Montana's rest areas since the 1980s. The plan originally consisted entirely of a map that showed existing and proposed rest area locations. However, in the late 1990s, in response to increasing complaints about Montana's rest areas, MDT involved the public and representatives of key user groups in a comprehensive update of the plan to establish overall policy direction. The commission adopted the updated plan in 1999.

The resulting changes in the quality and maintenance of our rest areas have produced a significant reduction in the number of complaints MDT receives about its rest areas. The public reaction to MDT's newest rest areas at Sweet Grass, Bozeman, Lolo Pass, and Lost Trail Pass has also been overwhelmingly positive. Additional new rest areas at Dena Mora, Mosby, Dearborn, Bearmouth, Crow Agency, Harlowton, and Lima are either under construction or in the design process.

Although Montana's rest areas have improved over the last five years, funding limitations have forced MDT to delay several planned rest area projects in order to complete critical highway projects. Although this may affect MDT's recent practice of completing one new rest area per year, MDT will continue to work on the planned rest area projects and will construct them as funding is available and other priorities allow.

In response to a recommendation from a performance audit of MDT's Rest Area Program by the legislative audit division, MDT has developed an annual review process that involves MDT staff and the commission in proposing and approving amendments to the Rest Area Plan. The primary focus of these amendments is proposed changes to the planning map. However, the performance audit also recommended that MDT and the commission develop an amendment to the plan to establish a policy on the future of the City Park Rest Area Program. This proposed amendment is included as a separate agenda item.

Summary

Attached is the current planning map from the Montana Rest Area Plan along with a list of proposed changes based on input from district administrators and other MDT staff involved in rest area planning and maintenance. The proposed changes are consistent with the policies the commission established in the 1999 plan update.
Also attached is a copy of the annual Rest Area Status Report that provides detailed information about all MDT rest areas.

Staff recommendations

Staff recommends the approval of the suggested changes to the rest area planning map.

Notes / discussion

Commission action

Rest area map edits

Table showing rest area status for 2004

Agenda item: 02-04-12

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Cost changes for projects in the Helena Area**

Background

These two project cost increases are being presented to the commission consistent with the guidelines for project cost changes adopted on July 17, 2003.

Summary

CM 5805(8) Benton- Custer to Wilder

The Transportation Commission approved this urban highway pavement preservation project on September 26, 2002 for an estimated cost of $227,000 (all phases). This project on Benton Avenue in Helena was originally nominated as a preventive maintenance overlay that included milling, seal and cover, and some installation of gutters.

The most recent construction engineering and construction cost estimate for this project is $340,000. This new estimate is a result of increased plant mix cost estimates, ADA upgrades, inclusion of pavement markings, and traffic control costs. With these changes, the Benton Avenue project will exceed its original cost estimate by approximately $148,000. The additional funds needed to complete this project will be moved from the Helena signal upgrade project anticipated to be let in 2006 or 2007. The signal project will continue through the preliminary design phase. When plans are completed, MDT will meet with the local government to prioritize the locations that are fundable. This alternative has been discussed and agreed to by the city of Helena

CM 5815(4) Cruse - Park to 11th

The Transportation Commission approved this project on September 26, 2002 for an estimated cost of $199,500 (all phases). This urban highway pavement preservation project on Cruse Avenue in Helena was originally nominated for an overlay, seal and cover, and installation of ADA ramps.

The most recent construction engineering and construction cost estimate for this project is $248,600. This new estimate is a result of the addition of taper milling, pavement markings, and traffic control costs. With these changes, the Cruse Avenue project will exceed its original cost estimate by approximately $84,000. The additional funds needed to complete this project will be moved from the Helena signal upgrade project anticipated to be let in 2006 or 2007. The signal project will continue through the preliminary design phase. When plans are completed, MDT will meet with the local government to prioritize the locations that are fundable. This alternative has been discussed and agreed to by the city of Helena

Staff recommendations

Staff recommends the commission approve the additional funds for the above projects.

Notes / discussion

Commission action

Agenda item: 02-04-13

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Emergency relief project – Sula slide**

Background

On February 21, 2004 near the town of Sula on US highway 93 at reference post 12.8, a catastrophic failure of the roadside slope occurred. It appears that the slope cut adjacent to the highway failed due to inadequate soil and/or rock strength aggravated by water from snow melt. The collapsed slope placed debris across US 93 and destroyed guardrail on the west side of the highway. The temporary repair costs for excavation, materials, and traffic control are estimated to be $15,000. The estimated construction cost for the permanent fix including construction engineering is estimated at $805,900. Right of way acquisition to flatten the slope will be approximately $50,000.

To cover these costs and contingencies that may arise as the project is developed we have requested a total of $1,047,500 in Federal-Aid reimbursement under the Emergency Relief Program. Until we receive federal reimbursement, we will fund the improvement utilizing National Highway Program funds. The federal share of this project is at the normal pro-rata for the National Highway System at 86.58%. MDT may overspend NH funds for the Missoula district until we receive reimbursement from the Emergency Relief Program.

Staff recommendations

Staff recommends that the commission approve the use of NH funding to repair the slide at Sula until Federal-aid reimbursement can be secured.

Notes/discussion

Commission action

Agenda item: 02-04-14

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **FFY 2004 earmarks on MDT right-of-way**

Background

Attached are three projects that have received congressional earmark funding for federal fiscal year 2004. These projects are located on MDT right-of-way and require commission approval. Montana will receive funds from the following FHWA discretionary programs:

FBD – Ferry Boat Discretionary
PLHD – Public Lands Highway Discretionary
STP – Surface Transportation Project

Summary

FBD *$800,000* *Claggett Hill/Lewis & Clark ferry boat facilities*

Based on concurrence from the Chouteau, Fergus and Blaine County Commissioners, all of the funds from this earmark will be directed toward the Claggett Hill project. The proposed scope of work for this project is to realign a portion of Secondary 236. The project begins approximately 16 miles north of Winifred and extends northerly for about 3.75 miles to just south of the Missouri River Bridge. The design is complete and necessary right-of-way has been acquired. Funds will be used to construct a portion of the project. The exact location will be determined at a later date.

This project will be administered by MDT.

PLHD *$1,420,000* *Taylor Hill Road*

This project is located 18 miles south of Havre on Secondary 234 from beginning at RP 20.8 to RP 23.4. The scope of this project is to provide a reliable all-weather surface for a direct route from the eastern portion of the Rocky Boy's Reservation to the town of Havre. The improved surface and more direct route will decrease travel time and response time for emergency services. Design was completed by the Bureau of Indian Affairs. Earmark funds will be used for right-of-way and construction.

The Western Federal Lands Highway Division (WFLHD) of FHWA will administer this project.

PLHD *$1,000,000* *US 93 Evaro-Polson Wildlife Crossing*

This project is located along US 93, beginning at RP 6.3± and extending to RP 59.0±. This project enters the Flathead Reservation at RP 7.11. The purpose of this project is to create safe passage for wildlife across US 93. 42 sites for crossing structures have been identified in

the design process for the reconstruction of US 93. This earmark will aid in completing the design and construction of the wildlife crossings involved in the US 93 Evaro-Polson project. The benefits of this project include improving safety of the traveling public through reduced animal/vehicle collisions and reducing the barrier US 93 causes for wildlife moving from riparian to upland forested habitat.

This project will be administered by MDT.

STP *$2,000,000* *Billings Bypass Development*

The intent of this earmark is to provide funding for completing of the environmental review, detailed design, right-of-way acquisition and construction for the proposed by-pass connecting the I-90/94 interchange area east of Billings with MT Highway 3 northwest of Billings. This project will improve safety in Billings by providing a truck route for heavy truck traffic and traffic with hazardous cargo; reducing congestion along a number of Billings arterial streets and improving air quality in the city by reducing stopping and idling times for traffic.

This project will be administered by MDT.

STP *$3,500,000* *S-323 Alzada-Ekalaka*

This earmark will fund the reconstruction of a portion of Secondary 323 south of Ekalaka. This project is one of several reconstruction projects that will result in the reconstruction and paving of this 46.9-mile rural corridor. Secondary 323 does not have an all-weather surface and it is impassable under certain weather conditions. The overall corridor will require future investment to complete the corridor reconstruction.

This project will be administered by MDT.

STP *$3,500,000* *US 93 Kalispell Bypass*

The intent of this earmark is to aid in the purchase of right-of-way. The Kalispell Bypass project will provide an alternative route around Kalispell for commercial vehicles while also traffic congestion in Kalispell. The proposed bypass begins south of Kalispell at RP 108.75 on US 93 and travels on a new alignment in a northwesterly direction, west of Kalispell, tying back into US 93 at RP 115.85.

This project will be administered by MDT.

STP *$300,000* *Manhattan-West Gallatin River Trail*

The intent of this earmark is to provide funding for the completion of a two-mile bicycle/pedestrian path along the south side of Secondary 346 immediately east of Manhattan. A CTEP project approved by the commission in July 2003, identified as *Gallatin River Trail-East Manhattan* will construct the first half-mile of the proposed two-mile

bicycle/pedestrian path. This earmark will provide funding to complete the design and construction of the remaining one and one-half mile of path.

This project will be administered by MDT.

Staff recommendations

Staff recommends the commission approve these projects as listed.

Notes/discussion

Commission action

Agenda item: 02-04-15

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **FFY 2004 earmarks off MDT right-of-way**

Background

Attached are projects that have received congressional earmark funding. These projects are not located on MDT right-of-way and are presented as informational items.

Summary

PLHD *$1,500,000* *Fort Peck Reservoir Fishing Access Roads*

The project includes the crushing and stockpiling of gravel to be used by the surrounding counties to improve the safety and drivability of roads providing access to the Fort Peck Reservoir and CM Russell National Wildlife Refuge. The soils in this area have high concentrations of silt clays that cause difficult traveling conditions when roads are wet. By adding gravel to the surface, the project will provide all-weather roads to these areas.

FHWA's Western Federal Lands Highway Division will administer this project in coordination with the counties surrounding the Fort Peck Reservoir.

STP *$8,000,000* *Glacier National Park, Going-to-the-Sun Road*

This earmark will provide funding for the Going-to-the-Sun Road rehabilitation project. Tthe total cost of the 50-mile long project is estimated at between $140-170 million. Funds will be used for the following types of work: preliminary design, design engineering, survey information, rock fall hazard mitigation, repointing of masonry walls, drainage and structural repairs on the Logan Pass area, East and West Tunnel stone masonry, and stone sourcing.

FHWA's Western Federal Lands Highway Division will administer this project.

STP *$1,000,000* *Lewis & Clark 511 Coalition*

The Lewis and Clark 511 Coalition has been identified to receive an earmark in the amount of $1,000,000. This project will create a multi-state, public/private coalition to improve and expand the 511 national traveler information systems in five western states, which includes Montana. The goal of this coalition is to provide the most accurate and up-to-date information to the traveling public via the 511-phone number and the associated traveler information web sites in each coalition state.

When the system is fully implemented, this number will allow motorists to gain accurate and up-to-date information on road conditions, weather, construction, and congestion across the country. This project will directly improve the quality and reliability of the coalition states 511 systems. More importantly it will improve the road and weather information available to freight carriers, residents, and tourists, ensuring that people, goods and services can move safely and efficiently through the region.

The Western Transportation Institute in concert with the coalition states (Montana, North Dakota, South Dakota, Nebraska and Kansas) will administer these funds. Montana has been identified as the lead agency in coordinating and administering this project.

Agenda item: 02-04-16

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Increase in scope and cost of** *Turn Bay-W Three Forks Interchange* **project**

Background
The project increases are being presented to the commission consistent with the guidelines for project cost changes adopted July 17, 2003. Projects over $2,000,000 cannot increase more than 10% without commission approval.

Summary
IM-STPHS 8-4(34)108

In March 2000, the commission approved a two-way left turn project on US 287 at RP 107.89, identified as *Turn Bay-W Three Forks Intch.* During the alignment and grade review, district staff requested the limits of the project be extended approximately ¾ mile to the south to complete the section of road. This will require the use of STPP funds for the additional reconstruction. The Butte district is requesting this change to eliminate a ¾ mile section that exists as a gap on MT 287 and that may never be included in a future project.

The Butte district will fund this scope change with STPP funds in the amount of $700,000, bringing the total project cost estimate to $3,194,000. The addition of STPP funds to this project will not affect the current Tentative Construction Plan.

Staff recommendations
Staff recommends the commission approve the additional scope and funds for the above project.

Notes/discussion

Commission action

Agenda item: 02-04-17

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Increase in cost to** *1998 District 1 Slope Flattening & Guardrail* **project**

Background
The project increases are being presented to the commission consistent with the guidelines for project cost changes adopted July 17, 2003 and the $50,000 limitation established by policy allowing the department to delegate the authority to enter into contracts for work not exceeding $50,000.

Summary
STPHS 0002(645)
In March 2000, the commission approved the 1998 District 1 Slope Flattening and Guardrail project. Following a district request, safety staff reviewed the traffic crashes on East Broadway (Old MT 200), northeast of Missoula, between Edgewood Drive and Marshall Canyon Road. The review team recommended the replacement and extension of the existing guardrail. The project had a 1999 cost estimate of $38,650 with a benefit/cost ratio of 11.72. It was included in the 1998-1999 list of safety projects approved by the commission.

Additional earthwork and increased material and installation costs have resulted in a 2004 cost estimate of $101,995. With the increased costs and using the 1999 parameters, this project still has a high benefit/cost ratio of 4.7. As the cost of the project now exceeds $50,000 and has increased 62% (guidelines allow for a 30% increase) the commission needs to formally approve this hazard elimination project.

Staff recommendations
Staff recommends the commission approve the additional work and funds for the above project.

Notes/discussion

Commission action

Agenda item: 02-04-18

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Enhancement projects**

Background
The following enhancement projects require commission approval because they involve state right-of-way on US 2 and US 93 respectively.

US 2 Sidewalks-Wolf Point
Roosevelt County project in Wolf Point

This enhancement project involves the installation of sidewalks, landscaping and an irrigation system. The three locations in Wolf Point are:

1) Along US 2 (N-1) between 5th Avenue and Cascade Street
2) At the intersection of US 2 (N-1) and 6th Ave South
3) In Frog Park at the west entrance to Wolf Point

All construction will be in accordance with MDT design standards and ADA requirements.

Pedestrian Path-Florence
Ravalli County project in Florence

This project is located on US 93 beginning at approximately RP 74.3. The intent of this enhancement project is to construct an 8-10' wide hard surfaced pedestrian path approximately 2400' in length with landscaping and lighting. All construction will be in accordance with current design standards and ADA requirements.

Summary
With the addition of the *US 2 Sidewalks-Wolf Point* project, Roosevelt County will have obligated $376,052 of the $497,652 made available from CTEP.

With the addition of the *Pedestrian Path-Florence* project, Ravalli County will have obligated $1,305,181 of the $ 1,505,497 made available from CTEP.

Staff recommendations
Staff recommends the commission approve the projects.

Notes/discussion

Commission action

Agenda item: 02-04-19

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **Traffic Signals – Hamilton**

Background
The Missoula district has identified two intersections in Hamilton where it would like to install traffic signals. Review by MDT staff has determined that both intersections satisfy warrant requirements. The sites are located at RP 47.05, which is the intersection of Pine St. and US 93, and RP 47.55, which is the intersection of Ravalli St. and US 93. The total cost to construct both sites is estimated at $410,000.

The preliminary engineering, design, and ultimately construction will be performed with state funds due to the lack of federal funds for the Missoula district. The district has indicated that it will take about 18 months to design and purchase any right-of-way need for the project, which means the actual construction most likely will not occur until the beginning of state fiscal year 2006.

Summary
The commission is being asked to approve a project to perform preliminary engineering and final construction of two traffic signal improvement projects in Hamilton.

Staff recommendations
Staff recommends commission approve the traffic signal projects on US 93 in Hamilton, using state funds.

Notes/discussion

Commission action

Agenda item: 02-04-20

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte, MT

Item: **2004 MACI statewide air quality equipment project**

Background

This proposed project would address statewide air quality maintenance equipment needs using federal Congestion Mitigation & Air Quality Improvement (CMAQ) Program funds through the Montana Air & Congestion Initiative (MACI) – Discretionary Program. This project is similar to air quality equipment projects in 1998, 2000, and 2002 that provided equipment to MDT and 17 communities.

MDT developed the proposed equipment project through a two-step process. MDT first asked local governments in areas designated by the Environmental Protection Agency as nonattainment for PM_{10} (particulate matter less than 10 microns in diameter), and areas identified by the Department of Environmental Quality (DEQ) as "high-risk" for PM_{10} nonattainment designation, to submit a prioritized list of their equipment needs. The attached map shows the eligible areas and the areas that submitted requests. The requested equipment included sweepers, flush trucks, liquid deicer applicators and storage tanks. MDT's maintenance division also submitted a list of MDT's equipment needs for state-maintained routes in the same areas.

The second step in the development of this project involved representatives from MDT's maintenance and planning divisions, and DEQ cooperatively determining the proposed equipment distribution plan based on air quality conditions, previous equipment received by each area, and available funding. The resulting plan provides all participating areas with their number one priorities and approximately half of the areas will also receive their number two priorities. The list includes 28 sweepers, 4 flush trucks and 5 deicer applicators, for a total of $4.6 million in equipment. Local governments will provide the 13% in matching funds for their equipment and MDT will provide the matching funds for MDT's equipment.

In addition to the public health consequences of high PM_{10} concentrations, PM_{10} nonattainment areas are also subject to stringent federal requirements that can jeopardize highway improvement projects. MDT recently sponsored a research study that examined the projects that MDT has funded with CMAQ funds since 1991. The study concluded that previous maintenance equipment projects were among the most cost-effective uses of CMAQ funds to address PM_{10} problems. Previous projects have also been well received by local governments and have benefited MDT's Maintenance Program.

Staff recommendations

Staff recommends approval of the project.

Notes / discussion

Commission action

Agenda item: 02-04-21

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **STP-funded transit capital assistance**

Background

Federal flexible funding provisions originally created by ISTEA made it possible for states to use non-FTA Federal funding sources such as the Surface Transportation Program (STP) to fund transit. *TranPlan 21*, which was adopted in 1995 and updated in 2002, committed to transferring up to $300,000 in STP funds annually to purchase capital equipment for transit agencies. These funds are administered the same fashion as the Federal Transit Administration's (FTA) Section 5310 and 5311 capital assistance grant programs.

Each year, MDT's transit staff requests applications from eligible transit providers, conducts regional application training workshops, and works with representatives from Department of Public Health and Human Services (DPHHS) and the Governor's Office of Indian Affairs to review applications and develop a recommended list of projects. The transportation commission has the ultimate approval authority under MCA 60-2-110.

This transfer of STP funds to transit has greatly enhanced the services Montana's transit operators provide to Montana residents who depend on these services for basic transportation.

Staff recommendations

Staff recommends the transportation commission approve these capital assistance projects to be funded 80 percent with federal STP funds and 20 percent with local matching funds.

Notes/discussion

Commission action

FY2005 Capital Assistance
Program of Projects

Funding Source: Surface Transportation Program (STP)

Recipient	*Project Description*	*Federal Share*	*Local Share*	*Total*
City of Dillon Dillon	One 10-passenger bus with wheelchair lift	$32,800	$8,200	$41,000
Butte Silver Bow COA Butte	One 21-passenger bus with wheelchair lift	$41,600	$10,400	$52,000
Reach, Inc. Bozeman	One 12-passenger bus with wheelchair lift	$38,800	$9,700	$48,500
Eastern Montana Industries Miles City	One 12-passenger bus with wheelchair lift	$38,800	$9,700	$48,500
HRDC/Galavan Bozeman	One 18-passenger bus with wheelchair lift	$62,400	$15,600	$78,000
HRDC/Galavan Bozeman	One 12-passenger bus with wheelchair lift	$38,800	$9,700	$48,500
Park County Senior Citizens Livingston	One 12-passenger bus with wheelchair lift	$38,800	$9,700	$48,500
A.W.A.R.E., Inc. Anaconda (partial)	One 10-passenger bus with wheelchair lift	$8,000	$2,000	$10,000
Total		**$300,000**	**$75,000**	**$375,000**

All amounts are estimates.

Agenda item: 02-04-22

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Federal Transit Administration Section 5311 Capital Assistance Program**

Background

The goals of the Federal Transit Administration's Section 5311 Program are to:

- enhance the access of people in nonurbanized areas to health care, shopping, education, employment, public services and recreation
- assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas
- encourage and facilitate the most efficient use of all federal funds used to provide passenger transportation in nonurbanized areas through the coordination of programs and services

Program funds may be used for planning, capital, operating and administrative assistance to state agencies, local public bodies, nonprofit organizations, Indian Tribes and groups, and operators of public transportation services.

Each year, MDT's transit staff requests applications from eligible transit providers, conducts regional application training workshops, and works with representatives from the Department of Public Health and Human Services (DPHHS) and the Governor's Office of Indian Affairs to review applications and develop a recommended list of projects. The transportation commission has the ultimate approval authority under MCA 60-2-110.

Staff recommendations

Staff recommends the transportation commission approve these capital assistance projects to be funded 80 percent with Section 5311 federal funds and 20 percent with local matching funds.

Notes/discussion

Commission action

FY2005 Capital Assistance
Program of Projects

Funding Source: Federal Transit Administration (FTA)
Section 5311

Recipient	*Project Description*	*Federal Share*	*Local Share*	*Total*
Helena Area Transit Helena	One 21-passenger diesel bus with wheelchair lift	$46,400	$11,600	$58,000
Valley County Transit Glasgow	One 25-passenger diesel bus with wheelchair lift	$76,800	$19,200	$96,000
Flathead Area IX AOA Kalispell	Two 21-Passenger buses with wheelchair lifts	$93,600	$23,400	$117,000
Ravalli County Transit Hamilton	One 7-passenger mini-van	$20,800	$5,200	$26,000
Butte Silver Bow Transit Butte	One 25-Passenger trolley with wheelchair lift	$128,000	$32,000	$160,000
Total		**$365,600**	**$91,400**	**$457,000**

All amounts are estimates.

Agenda item: 02-04-23

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Transit Section 5310 Capital Assistance Program**

Background

The goal of the Federal Transit Administration's Section 5310 Program is to provide capital assistance to local agencies that provide transportation to elderly persons and persons with disabilities. In 2003, these agencies provided approximately one million rides to these transit-dependent Montanans. There are three categories of eligible recipients:

1) nonprofit corporations and associations for the specific purpose of assisting them to provide transportation services that meet the special needs of elderly persons and persons with disabilities for whom mass transportation services are unavailable, insufficient or inappropriate;

2) public bodies approved by the state to coordinate services for elderly persons and persons with disabilities; or

3) public bodies which certify to the governor that no nonprofit corporations or associations are readily available in an area to provide the service.

Each year, MDT's transit staff requests applications from eligible transit providers, conducts regional application training workshops, and works with representatives from Department of Public Health and Human Services (DPHHS) and the Governor's Office of Indian Affairs to review applications and develop a recommended list of projects. The transportation commission has the ultimate approval authority under MCA 60-2-110.

Staff recommendations

Staff recommends the transportation commission approve these capital assistance projects to be funded 80 percent with Section 5310 federal funds and 20 percent with local matching funds.

Notes/discussion

Commission action

FY2005 Capital Assistance
Program of Projects

Funding Source: Federal Transit Administration (FTA)
Section 5310

Recipient	*Project Description*	*Federal Share*	*Local Share*	*Total*
Liberty Co. COA Chester	One 10-passenger bus with wheelchair lift	$32,800	$8,200	$41,000
Confederated Salish & Kootenai Tribes Pablo	Two 21-passenger buses with wheelchair lifts	$93,600	$23,400	$117,000
Mission Mountain Enterprises Ronan	One 7-passenger Mini Van	$20,800	$5,200	$26,000
Opportunity Resources, Inc. Missoula	One 21-passenger bus with wheelchair lift	$41,600	$10,400	$52,000
MET Transit Billings	Two 16-passenger buses with wheelchair lifts	$83,200	$20,800	$104,000
Missoula Developmental Ser. Missoula	One 12-passenger bus with wheelchair lift	$38,800	$9,700	$48,500
St. Vincent Healthcare Found. Billings	One 16-passenger bus with wheelchair lift	$41,600	$10,400	$52,000
A.W.A.R.E., Inc. Anaconda (partial)	One 10-passenger bus with wheelchair lift	$24,800	$6,200	$31,000
Total		**$377,200**	**$94,300**	**$471,500**

All amounts are estimates.

Agenda item: 02-04-24

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: *Rock Creek-West of Philipsburg* **project**

Background

Earlier this year, our hydraulics staff designed a riprap scour mitigation project for the bridge over Rock Creek, approximately 14 miles west of Philipsburg on Secondary 348. Butte district maintenance was initially going to construct the project. However, after reviewing the work, they decided they did not have the necessary resources. The project is designed but still needs an environmental document and permits.

Summary

The bridge bureau plans to fund this project with 2005 bridge rehabilitation funds. The bridge bureau estimates the total cost of the project to be $115,000.

Staff recommendations

Staff recommends the commission approve preliminary engineering and construction funds for the *Rock Creek-West of Philipsburg* project.

Notes/discussion

Commission action

Agenda item: 02-04-25

Staff person handling: Sandra Straehl

Date/location: April 27, 2004 in Butte

Item: **Increase in scope to** *D2-Scour Protection* **project**

Background
The commission previously approved the *D2-Scour Protection* project on September 17, 2003. The scope of this project was to repair the scour on several bridges in the Butte district (D2) on the interstate, primary and secondary systems. The bridge bureau recently learned of another bridge in the Butte district that experienced severe scour.

This additional bridge is located over the Jefferson River on US 287 at RP 93.6. Prior to spring run-off, bridge staff will meet with maintenance to work out a temporary fix. While the temporary fix will address immediate needs there are problems with the piers and the end bent that will require a permanent solution.

Summary
The bridge bureau would like to add the subject bridge to the D2-Scour Protection project. The bureau estimates the additional cost to be $180,000 bringing the total project cost estimate to $875,000. The additional work will be funded with bridge rehabilitation funds from 2005 and 2006.

Staff recommendations
Staff recommends the commission approve the additional bridge and funding for the *D2-Scour Protection* project.

Notes/discussion

Commission action

Agenda item: 02-04-26

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Proposed letting dates for 2005**

Staff recommendations

Staff proposes the following letting schedule for 2005:

ACTIVITY	DEADLINE	ACTIVITY	DEADLINE
DUE INTO CONTRACT PLANS	28-Oct-04	DUE INTO CONTRACT PLANS	21-Apr-05
PRELIMINARY DISTRIBUTION	02-Dec-04	PRELIMINARY DISTRIBUTION	26-May-05
SUPPLEMENTAL SPECS	13-Dec-04	SUPPLEMENTAL SPECS	06-Jun-05
CHANGES FOR ADVERTISING	16-Dec-04	CHANGES FOR ADVERTISING	09-Jun-05
PS & E APPROVAL	23-Dec-04	PS & E APPROVAL	16-Jun-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	27-Dec-04	CERTIFIED DBE LIST FROM CIVIL RIGHTS	20-Jun-05
ADVERTISING	30-Dec-04	ADVERTISING	23-Jun-05
ADDENDUM INPUT DUE	12-Jan-05	ADDENDUM INPUT DUE	06-Jul-05
REVIEW BIDS	03-Feb-05	REVIEW BIDS	28-Jul-05
LETTING	**27-Jan-05**	**LETTING**	**21-Jul-05**
AWARD DATE	07-Feb-05	AWARD DATE	01-Aug-05
DUE INTO CONTRACT PLANS	25-Nov-04	DUE INTO CONTRACT PLANS	19-May-05
PRELIMINARY DISTRIBUTION	30-Dec-04	PRELIMINARY DISTRIBUTION	23-Jun-05
SUPPLEMENTAL SPECS	10-Jan-05	SUPPLEMENTAL SPECS	04-Jul-05
CHANGES FOR ADVERTISING	13-Jan-05	CHANGES FOR ADVERTISING	07-Jul-05
PS & E APPROVAL	20-Jan-05	PS & E APPROVAL	14-Jul-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	24-Jan-05	CERTIFIED DBE LIST FROM CIVIL RIGHTS	18-Jul-05
ADVERTISING	27-Jan-05	ADVERTISING	21-Jul-05
ADDENDUM INPUT DUE	09-Feb-05	ADDENDUM INPUT DUE	03-Aug-05
LETTING	**24-Feb-05**	**LETTING (OUT-OF-TOWN)**	**18-Aug-05**
REVIEW BIDS	03-Mar-05	REVIEW BIDS	25-Aug-05
AWARD DATE	07-Mar-05	AWARD DATE	29-Aug-05
DUE INTO CONTRACT PLANS	30-Dec-04	DUE INTO CONTRACT PLANS	23-Jun-05
PRELIMINARY DISTRIBUTION	03-Feb-05	PRELIMINARY DISTRIBUTION	28-Jul-05
SUPPLEMENTAL SPECS	14-Feb-05	SUPPLEMENTAL SPECS	08-Aug-05
CHANGES FOR ADVERTISING	17-Feb-05	CHANGES FOR ADVERTISING	11-Aug-05
PS & E APPROVAL	24-Feb-05	PS & E APPROVAL	18-Aug-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	28-Feb-05	CERTIFIED DBE LIST FROM CIVIL RIGHTS	22-Aug-05
ADVERTISING	03-Mar-05	ADVERTISING	25-Aug-05
ADDENDUM INPUT DUE	16-Mar-05	ADDENDUM INPUT DUE	07-Sep-05
LETTING	**31-Mar-05**	**LETTING**	**22-Sep-05**
REVIEW BIDS	07-Apr-05	REVIEW BIDS	29-Sep-05
AWARD DATE	11-Apr-05	AWARD DATE	03-Oct-05

DUE INTO CONTRACT PLANS	27-Jan-05
PRELIMINARY DISTRIBUTION	03-Mar-05
SUPPLEMENTAL SPECS	14-Mar-05
CHANGES FOR ADVERTISING	17-Mar-05
PS & E APPROVAL	24-Mar-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	28-Mar-05
ADVERTISING	31-Mar-05
ADDENDUM INPUT DUE	13-Apr-05
LETTING	**28-Apr-05**
REVIEW BIDS	05-May-05
AWARD DATE	09-May-05

DUE INTO CONTRACT PLANS	04-Aug-05
PRELIMINARY DISTRIBUTION	08-Sep-05
SUPPLEMENTAL SPECS	19-Sep-05
CHANGES FOR ADVERTISING	22-Sep-05
PS & E APPROVAL	29-Sep-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	03-Oct-05
ADVERTISING	06-Oct-05
ADDENDUM INPUT DUE	19-Oct-05
LETTING	**03-Nov-05**
REVIEW BIDS	10-Nov-05
AWARD DATE	14-Nov-05

DUE INTO CONTRACT PLANS	24-Feb-05
PRELIMINARY DISTRIBUTION	31-Mar-05
SUPPLEMENTAL SPECS	11-Apr-05
CHANGES FOR ADVERTISING	14-Apr-05
PS & E APPROVAL	21-Apr-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	25-Apr-05
ADVERTISING	28-Apr-05
ADDENDUM INPUT DUE	11-May-05
LETTING	**26-May-05**
REVIEW BIDS	02-Jun-05
AWARD DATE	06-Jun-05

DUE INTO CONTRACT PLANS	01-Sep-05
PRELIMINARY DISTRIBUTION	06-Oct-05
SUPPLEMENTAL SPECS	17-Oct-05
CHANGES FOR ADVERTISING	20-Oct-05
PS & E APPROVAL	27-Oct-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	31-Oct-05
ADVERTISING	03-Nov-05
ADDENDUM INPUT DUE	16-Nov-05
LETTING	**01-Dec-05**
REVIEW BIDS	08-Dec-05
AWARD DATE	12-Dec-05

DUE INTO CONTRACT PLANS	24-Mar-05
PRELIMINARY DISTRIBUTION	28-Apr-05
SUPPLEMENTAL SPECS	09-May-05
CHANGES FOR ADVERTISING	12-May-05
PS & E APPROVAL	19-May-05
CERTIFIED DBE LIST FROM CIVIL RIGHTS	23-May-05
ADVERTISING	26-May-05
ADDENDUM INPUT DUE	08-Jun-05
LETTING	**23-Jun-05**
REVIEW BIDS	30-Jun-05
AWARD DATE	04-Jul-05

Notes / discussion

Commission action

Agenda item: 02-04-27

Staff person handling: Joel Marshik, Chief Engineer

Date/location: April 27, 2004 in Butte, MT

Item: **Letting lists**

Background
Joel will distribute the most current lists of upcoming projects slated for advertisement and bid letting.

Staff recommendation
Staff recommends approval of the letting lists.

Notes/discussion

Commission action

Agenda item: 02-04-28

Staff person handling: Joel Marshik, Chief Engineer

Date/location: April 27, 2004 in Butte, MT

Item: **Certificates of completion**

Background
Attached are certificates of completion for February 2004 and revised certificates for December 2003.

Summary

Month	*Original contract amount (monthly total)*	*Final payment amount (monthly total)*
February 2004	$58,654,065	$60,236,661
December 2003 (revised)	$31,568,536	$33,313,336
December 2003 (original as approved 2/19/2004)	*$16,284,632*	*$16,588,998*

CERTIFICATES OF COMPLETION - FEB2004.PDF

CERTIFICATES OF COMPLETION - DEC2003 (revised).PDF

Staff recommendation
Staff recommends approval.

Notes/discussion

Commission action

Agenda item: 02-04-29

Staff person handling: Joel Marshik, Chief Engineer

Date/location: April 27, 2004 in Butte, MT

Item: **Work/change orders**

Background
Attached are work orders for January and February 2004.

Summary

Month	**Total**
January 2004	$312,146.42
February 2004	$532,492.17
	$844,638.59

Staff recommendation
Staff recommends approval.

Notes/discussion

Commission action

Agenda item: 02-04-30a

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – STPP 42-1(5)0 –** *MT 200-North*

Background

Prince, Inc. of Forsyth, MT overran the contract time by 24 days. On November 4, 2003, a letter was sent to the contractor notifying them of the overrun. Their response initiated an audit of contract time. Our review of the overrun of contract time on the subject project did not disclose any contractual justification for a change in the number of days assessed or an extension of contract time. Prince was notified in a letter dated March 29, 2004 of the decision to recommend 24 days of liquidated damages. In a phone conversation on March 31, 2004 the contractor stated that they do not intend to appear before the Commission or contest the liquidated damages.

Summary

Award date:	May 14, 2002	Proceed date:	June 24, 2002
Work began:	September 25, 2002	Completed date:	July 16, 2003
Contract time:	50 working days	Work extension:	0 Days
Time used:	74 days	Overrun:	24 Days

Staff recommendations

We recommend assessing 24 days at $ 1,397.00 per day for a total of $33,528.00.

Notes/discussion

Commission action

Agenda item: 02-04-30b

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – STPS-0NH-STPX-STPP-IM 0002(620)**
Durable Pavement Markings, Great Falls District

Background
United Rentals Highway Tech, Inc. of Billings, MT. overran the contract time by 24 days. On March 3, 2004, a letter was sent to the contractor notifying them of the overrun. Their response initiated an audit of contract time. The district, in their review of the project, recognized 9 days of liquidated damages that should not have been charged to the project. The 9 days were 2 holiday weekends (Memorial Day and the July 4th weekend) that the Great Falls District had requested contractors be off the roadways for the traveling public's safety and also the safety of the project construction personnel. As a result of this audit the liquidated damages were reduced to 15 days. The contractor states that they do not plan to contest the revised liquidated damages.

Summary

Award date:	March 25, 2002	Proceed date:	April 22, 2002
Work began:	April 24, 2002	Work completed:	July 24, 2002
Contract time:	calendar day–6/30/02	Overrun:	15 days

Staff recommendations
We recommend assessing 15 days at $ 299 per day for a total of $ 4,485.

Notes/discussion

Commission action

Agenda item: 02-04-30c

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – NH 23-1(19)48F** *Coalwood - North*

Background

E. H. Oftedal and Sons, Inc. of Miles City, MT, overran the contract time by 11 days. We wrote the contractor on February 5, 2004 of the overrun of contract time. They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. they were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. as there was no response from the contractor, our recommendation is as noted below.

Summary

Award date:	March 28, 2001	Proceed date:	April 30, 2001
Work began:	August 28, 2001	Work completed:	September 20, 2003
Contract time:	250 working days	Work extensions:	6 Days
Time used:	267 days	Overrun:	11 Days

Staff recommendations

We recommend assessing 11 days at $ 2,303.00 per day for a total of $25,333.00.

Notes/discussion

Commission action

Agenda item: 02-04-30d

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated Damages NH 23-2(20)56F –** *Coalwood-South*

Background

E. H. Oftedal and Sons, Inc. of Miles City, MT. overran the contract time by 8 days. We wrote the contractor on February 17, 2004 of the overrun of contract time . They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the Liquidated Damages would stand. As there was no response from the contractor, our recommendation is as noted below.

Summary

Award date:	December 19, 2000	Proceed date:	April 16, 2001
Work began:	February 13, 2001	Work completed:	September 20, 2003
Contract time:	180 Working days	Work extensions:	34 Days
Time used:	222 Days	Overrun:	8 Days

Staff recommendations

We recommend assessing 8 days at $2,303.00 for a total of $18,424.00.

Notes/discussion

Commission action

Agenda item: 02-04-30e

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – NH 23-2(18)64F –** *Olive-North & South*

Background

E. H. Oftedal and Sons, Inc. of Miles City, MT. overran the contract time by 15 days. We wrote the contractor on February17, 2004 regarding the overrun of contract time. They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is as noted below.

Summary

Award date:	November 27, 2000	Proceed date:	April 16, 2001
Work began:	March12, 2001	Work completed:	September19, 2003
Contract time:	240 working days	Work extensions:	1 day
Time used:	256 days	Overrun:	15 days

Staff recommendations

We recommend assessing 15 days @ $ 2,422.00 per day for a total of $ 36,330.00.

Notes/discussion

Commission action

Agenda item: 02-04-30f

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – STPP 54-1(7)9 –** *2 KM n. OF Biddle–N*

Background

Prince, Inc. of Forsyth, MT. overran the contract time by 9 days. We wrote the contractor on February 2, 2004 of the overrun of contract time . They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is as noted below.

Summary

Award date:	May 14, 2002	Proceed date:	June 24, 2002
Work began:	July 26, 2002	Work completed:	November 7, 2003
Contract time:	50 working days	Work extensions:	0 days
Time used:	59 days	Overrun:	9 days

Staff recommendations

We recommend assessing 9 days at $1,397.00 per day for a total of $12,573.00.

Notes/discussion

Commission action

Agenda item: 02-04-30g

Staff person handling: Joel Marshik

Date/location: April 27, 2004 in Butte, MT

Item: **Liquidated damages – SFCP 19-1(26)27** *Georgetown Lake – North and Tied Projects*

Background

Montana Materials (DBA L.S. Jensen) of Missoula, MT, overran the contract time by 1 day. We wrote the contractor on February 5, 2004 of the overrun of contract time . They were informed they had 30 days in which to respond if they intended to request a waiver from the commission. They were also informed that if a written reply was not received within 30 days, the liquidated damages would stand. As there was no response from the contractor, our recommendation is as noted below.

Summary

Award date:	April 11, 2002	Proceed date:	May 13, 2002
Work began:	June 24, 2002	Work completed:	June 16, 2003
Contract time:	120 working days	Work extensions:	4 days
Time used:	125 days	Overrun:	1 day

Staff recommendations

We recommend assessing 1 day at $1,818.00 per day for a total of $1,818.00

Notes/discussion

Commission action

Agenda item: 02-04-31

Staff person handling: Various

Date/location: April 27, 2004 in Butte, MT

Item: **Commission discussion and public comment**

Items for discussion:

- Jim Currie would like to discuss the level of funding for the urban program. We are opening up discussion with the urban areas to discuss funding levels and who has the authority to determine where and how the money will be spent (attachment provided).
- Update on the Milk River Bridge
- Commissioner Espy expressed an interest in soliciting more local participation in the commission meetings. As part of the commission meeting preparation, Lorelle could send letters of invitation to local government officials and local legislators. Is this something the commission would like to see? Additionally, commissions in years past have invited those same groups to a dinner the evening before the meeting. Is this something *this* commission would be interested in doing?
- Update on the emergency bridge project in Butte

Notes/discussion

Agenda item: 02-04-32

Staff person handling: Dave Galt, Director

Date/location: April 27, 2004 in Butte, MT

Item: **Schedule next commission meeting**

April 2004

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May 2004

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

June 2004

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July 2004

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

August 2004

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

September 2004

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

October 2004

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

November 2004

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 2004

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Staff's availability is good for the following dates:

- June 16
- August 5
- August 11
- September 8