

# Montana Transportation Commission

**December 12, 2019 Meeting  
Commission Room  
2701 Prospect Avenue  
Helena, Montana**

## **IN ATTENDANCE**

Barb Skelton, Transportation Commission Chair  
Greg Jergeson, Transportation Commissioner  
Noel Sansaver, Transportation Commissioner  
Tammi Fisher, Transportation Commissioner  
Mike Hope, Transportation Commissioner  
Mike Tooley, Director MDT  
Kevin Christensen, MDT  
Lori Ryan, Commission Secretary  
Dustin Rouse, MDT  
Jake Goettle, MDT  
Val Wilson, MDT  
Lynn Zanto, MDT  
Larry Flynn, MDT  
Doug Hecox, FHWA  
Brian Hasselbach, FHWA  
Ivan Evilsizer, Helena  
Craig Rickert, Bozeman

*Please note:* the complete recorded minutes are available for review on the commission's website at [https://www.mdt.mt.gov/pubinvolve/trans\\_comm/meetings.shtml](https://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml). You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or [lryan@mt.gov](mailto:lryan@mt.gov). Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

## **OPENING – Commissioner Barb Skelton**

Commissioner Skelton called the meeting to order with the Pledge of Allegiance. After the Pledge of Allegiance, Commissioner Skelton asked for introductions.

## **Approval of Minutes**

The minutes for the Commission Meetings of June 25, 2019, October 1, 2019, and November 11, 2019 were presented for approval.

Commissioner Jergeson moved to approve the minutes for the Commission Meetings of June 25, 2019, October 1, 2019, and November 11, 2019. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item 1: Highway Safety Improvement Program SF 179 I-90 Jans Safety Improvements**

Lynn Zanto presented the Highway Safety Improvement Program – SF 179 I-90 Jans Safety Improvements to the Commission. The Highway Safety Improvement (HSIP) Program makes federal funding available to states to assist with the implementation of a data-driven and strategic approach to improving highway safety on all public roads. In Montana, the primary focus of the HSIP program involves identifying locations with crash trends (where feasible countermeasures exist) and prioritizing work according to benefit/cost ratios.

In recent years, a crash trend has developed along the Interstate 90 (I-90) corridor near the town of Jens. At this location, MDT has noted a significant increase in vehicle collisions with wild animals (specifically elk). To mitigate crashes at this location, MDT is proposing a wildlife fencing project to direct animals to existing underpass locations – thus significantly reducing the number of wild animals crossing the roadway. The anticipated benefit/cost ratio associated with this roadway improvement is 1.47.

The estimated total cost for all project phases is \$4,470,000 (\$4,020,000 federal + \$450,000 state match) – with the entirety of the federal funding originating from the Highway Safety Improvement (HSIP) Program.

*Summary:* MDT is requesting Commission approval of a wildlife fencing project on the I-90 corridor near the town of Jens. The proposed project is consistent with the goals and objectives identified in the Performance Programming (P3) Process – as well as the policy direction established in TranPlanMT. Specifically, traveler safety will be enhanced with the addition of this project to the HSIP program. The estimated total cost for all project phases is \$4,470,000.

Staff recommends that the Commission approve the addition of this HSIP project to the highway program.

Commissioner Jergeson asked on these safety projects do we determine that some of them require a state match. What is the distinguishing feature of whether a safety project requires a match or not? As I understand it, we have some that don't require a match at all. What's the difference? Lynn Zanto said most projects we have to match at 87% and with safety projects we can go up to 100%, but since we are spending more federal aid, we are not impacting as many miles of roadway. When we were having a State Fund issue, we went toward maximizing our federal participation. We were concerned we couldn't match the federal program period, so we maximized the use of federal funds. If we lessen the federal participation, then our federal dollars can go that much further. Larry Flynn is our Chief Financial Officer is here today. We use it in our Administration Division as a fund management tool to get the most we can get done with the funding we have. With safety projects you will see that we are not going to maximize federal participation as much as we were because our State Fund has stabilized.

Commissioner Jergeson said if a fencing project is 1,000 feet you can get another 100 feet by using state money that's not a required match but uses the resources available to get that much longer of a project. Lynn said right, maybe another safety project somewhere else in the state. It just allows us to impact more miles, more locations in the state if we stretch those federal dollars.

Commissioner Fisher moved to approve the Highway Safety Improvement Program – SF 179 I-90 Jens Safety Improvements. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item 2: Surface Transportation Program – Urban 9<sup>th</sup> Street NW/Watson Coulee Road – Great Falls**

Lynn Zanto presented the Surface Transportation Program – Urban, 9<sup>th</sup> Street NW/Watson Coulee Road, Great Falls to the Commission. The Surface Transportation Program Urban (STPU) provides funding for improvements on the Urban Highway System in Montana's 19 urban areas. STPU allocation amounts are based on a per capita distribution and are recalculated after each decennial census.

Priorities for the use of STPU funds are established via local planning processes with final approval by the Transportation Commission.

At this time, MDT is requesting the addition of the following project to the STPU program:

9<sup>th</sup> Street NW / Watson Coulee Rd - GF: This project is located within the City of Great Falls on 9<sup>th</sup> Street NW (U-5238), from Northwest Bypass to Central Avenue, and on Watson Coulee Road (U-5237), from Northwest Bypass to Vaughn Road. The proposed project scope is reconstruction to current MDT design standards.

The estimated total cost for all project phases is \$5,680,000 (including indirect costs and inflation). The Great Falls annual STPU Allocation is \$1,430,409 with an anticipated letting year (FFY 2023) balance of \$8,077,837.

*Summary:* MDT is requesting Commission approval for a reconstruction project on 9<sup>th</sup> Street NW and Watson Coulee Road (in Great Falls). The estimated total cost (for all project phases) is \$5,680,000.

The proposed project has been prioritized via local planning processes and is consistent with the policy direction established in TranPlanMT. Specifically, roadway system performance and traveler safety will be enhanced with the addition of this project to the STPU program.

Staff recommends that the Commission approve the addition of this STPU project to the highway program.

Commissioner Jergeson moved to approve the Surface Transportation Program – Urban, 9<sup>th</sup> Street NW/Watson Coulee Road, Great Falls. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item 3: Billings District Project US-87 Rumble Strip Mitigation**

Lynn Zanto presented the Billings District Project, US-87 Rumble Strip Mitigation to the Commission. The National Highway System (NH) Program finances highway projects to rehabilitate, restore, resurface, and reconstruct Non-Interstate routes on the National Highway System. Montana's Transportation Commission allocates NH funds to MDT Districts based on system performance.

In recent months, the Billings District has received numerous complaints regarding the noise generated by recently installed rumble strips along the US-87 (N-16) corridor between Billings and Roundup. Three residences (between RP 35.5 and 44.0) have been identified as being significantly impacted. Each of these residences is within 200 feet of the US-87 centerline.

At this time, the Billings District is proposing a project to modify the existing rumble strips (at these locations) in order to mitigate noise impacts to local residents. Proposed mitigation measures would include all options – from reduced depth rumble strips to complete removal of rumble strips (for certain roadway segments).

The estimated total cost for all project phases is \$226,000 (\$196,000 federal + \$30,000 state match) – with the entirety of the federal funding originating from the National Highway System (NH) Program.

*Summary:* The Billings District is requesting Commission approval of a rumble strip mitigation project on the US-87 (N-16) corridor between Billings and Roundup. The proposed project is consistent with the goals and objectives identified in the Performance Programming (P3) Process – as well as the policy direction established in TranPlanMT. Specifically, MDT’s commitment to environmental stewardship will be demonstrated with the addition of this project to the NH program. The estimated total cost for all project phases is \$226,000.

Staff recommends that the Commission approve the addition of this NH project to the highway program.

Commissioner Fisher asked when the rumble strips were installed. Lynn said they were installed in 2017. Commissioner Fisher said so we had a project to install them and now we have a project to essentially remove them. Lynn said correct. Commissioner Fisher asked how much the project to install them was. Duane Kailey said it was the entire Billings District. I forget the exact amount but it was around \$3 million for the entire district. To help explain this better, our traditional method is to grind them in with a half circle which are fairly abrupt on each edge. We’ve now experimented with what’s called Sinusoidal and they are more curved so they don’t have those abrupt edges on either end of the rumble strip. We did an experimental project in the Glendive District and we’re finding they still have the tactile impact and vibration, they still have the noise emittance signal to the driver but the noise is well-reduced outside of the vehicle. We’re experimenting with those because we’re going to Missoula next and plan to use the Sinusoidal much more often in the Missoula District because there are so many residences next to the roadway. We think that’s a good option here, with homes close to the roadway it will significantly reduce the noise impact. Commissioner Skelton said then you really won’t remove these, you are going to adjust them. Duane Kailey said our plan is to try and use the Sinusoidal and still keep them in there. Where this is happening is on a very long tangent after a lot of curves and hills, and a lot of people are passing to get beyond the slower vehicles, so there are a lot of vehicles crossing the rumble strips to get around other vehicles. We don’t want to remove them but we do want to reduce the impact to landowners.

Commissioner Jergeson since I do drive that road once in a while and there are a lot more residences in the nine mile area than just three. Is this project to remodel near those three complaining residences or is the whole nine mile being modified? Lynn said it is the whole nine miles. Commissioner Skelton said the other residences aren’t within the 200 feet. I drive that road a lot and it is noisy. Those rumble strips are really a safety issue. It’s a crazy stretch when they come out of that thing. Commissioner Sansaver said I understand that obviously this is being done for your district and obviously public comment is reaching out to abate these rumble strips, are we prepared then for each district should this come up again. Are we looking at going to the new system whenever somebody complains? Do we have the funding to deal with that? Duane said this area is a little unique, we have measured the sound out there and we believe that those landowners are impacted. We also think the rumble strips in that area were a little more aggressive than our standard specs now and we do think this is one unique area. Is that to say we won’t find other areas? I can’t say that but I’m not aware of any other areas that had this kind of impact to the adjoining landowners. Commissioner Sansaver said we haven’t had a lot of feedback from a lot of different districts on the rumble strips. Duane said we’ve had a lot of feedback but not as much as concentrated in one area as this has been. Commissioner Sansaver said my only concern and certainly if I lived there I’m sure I’d be complaining about it too, but my concern as far as funding, are we going to start seeing these in five-year programs for each district where we have this removal of rumble strips. Duane said he did not anticipate that.

Commissioner Fisher said I would be worried about approving complete removal without replacement of some sort for safety. Commissioner Skelton said I don't think they are going to remove them, they are going to adjust them. Duane said it is absolutely our plan to adjust them with the same soil. Commissioner Sansaver asked if they would refill the rumble strips and then scarf them again. Duane said our plan is to go in and mill out the section so the asphalt will adhere and is more solid, then after we replace the milling we will re-grind the rumble strips after that. Commissioner Skelton asked if they'd done that somewhere else. Duane said we've had some issues where they came apart and we went in and milled those out and repaved and regrind them in. Commissioner Jergeson said that is an awful busy highway and a good highway but it has virtually no passing lanes. Would these people actually prefer that you engineer a passing zone in that section between the two lanes and the passing zone you wouldn't have rumble strips? Now that would be a big construction project but it would be one on a permanent basis and, as that population and traffic grows on that corridor, it should be something we're looking at. Duane said I'm not sure we've looked at that, usually those projects are looked at by the District. I can reach out to them and see if they have investigated that. Commissioner Skelton said right-of-way would be difficult in that area.

Commissioner Sansaver moved to approve the Billings District Project, US-87 Rumble Strip Mitigation. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

#### **Agenda Item 4: Speed Zone Recommendation Montana 59 – Jordan South**

Duane Kailey presented the Speed Zone Recommendation – Montana 59, Jordan South to the Commission. We were requested by the Garfield County Sheriff's office to take a look at the traveling speeds in this area. Through our investigation, we have looked at them and we did recommend an adjustment. We sent that to the county for their comments and they've asked us to adjust it a little further. Based on their comments and our review we are in concurrence with that. Our recommendation is:

A 55 mph speed limit is recommended to begin at straight-line station 27+00 (1,400' south of the intersection with Business Ln) and continuing north to the intersection with MT 200, an approximate distance of 3,100 feet.

Garfield County is concurring with that recommendation.

Commissioner Sansaver moved to approve the Speed Zone Recommendation for Montana 59 – Jordan South. Commissioner Fisher seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

#### **Agenda Item 5: Speed Zone Recommendation Secondary 245 – Brusett Highway**

Duane Kailey presented the Speed Zone Recommendation – Secondary 245, Brusett Highway to the Commission. This was requested by the Garfield County Sheriff's office. They are looking for a 35 mph speed limit where it is currently 45 mph. Based on our review and analysis and investigation, we believe an addition of a 35 mph speed limit is appropriate. We have sent our recommendation to the county.

They've asked for an extension to the Fertilizer Plant. We've reviewed that and we think that is appropriate. Therefore our recommendation is:

The 25 mph statutory speed limit as established, beginning at the intersection with MT 200 and continuing west to straight-line station 12+00, an approximate distance of 1,200 feet.

With our adjustment, we are in concurrence with the county and their request.

Commissioner Jergeson moved to approve the Speed Zone Recommendation-Secondary 245, Brusett Highway. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Public Comment**

### *Ivan Evilsizer, Helena*

My name is Ivan Evilsizer, 384 Best Place Road, in the Helena valley. I'm here on my own behalf today. I want to thank you for giving me an opportunity to address you. I'm addressing the proposal to install a new roundabout at the corner of Lincoln Road and Applegate Drive and my comments are limited to that proposal.

I've lived in Helena for about 30 years. I've lived at my current location for about 14 years. I've driven through that particular intersection almost every day twice a day for 14 years so I think my comments are relevant in terms of the traffic flow. I go to work at regular business hours, I come home so I go through that intersection at rush hours and on weekends I go through that intersection at various times. My comments to you are, based on my personal experience, I do not see any need for a roundabout at that location. I don't see a problem with traffic or traffic flow. When I came here this morning, there was one truck in front of me at the intersection. Sometimes I'll have to wait for one car coming west on Lincoln or a car turning left in front of me but that's about the extent of how much I have to wait or the extent of the traffic flow. I was actually there the day there was a serious accident at that intersection a few years ago. I was actually there that day. There's often cases of gross negligence no matter what you do, there's going to be people that do things they shouldn't do. So I just wanted to offer my comments that, based on my 14 years of experience, I think that intersection is fine the way it is. It has a stop sign on Applegate.

With that said, I would like to address the speed limit. The speed limit in that area is 55 mph and because people have been coming down that highway, they often are going 60-65 mph when they get to Applegate. When I look at those cars coming from the west, I always have to be aware that they are going very fast and be careful about pulling in front of them. I would make that observation especially since it is 55 mph until right when you get to Darcy School, then it's 35 mph. So if I had any recommendation at all, based on my experience, I think that from Green Meadow to Darcy School should be at the most 45 mph so there is a transition between the highway speeds. I don't know what it is on the other side of Green Meadow, probably 65-70 mph. I think there needs to be a transition between 55 mph and 35 mph. When I pull out on Lincoln, I don't speed up to 55 mph because it is just a quarter of a mile until the school and there's kids walking to school along Lincoln Road where people are going 55 mph and they are crossing the road. If I had any comments at all it would be to consider a reduction in that speed limit just for that stretch, one and half miles between Green Meadow and Montana Avenue. Then at the most, if you really firmly believe that there's too much traffic there, I would say you could consider a four-way red flashing light. There's been one at Lincoln and

Montana Avenue for as long as I can remember and it's still there. That intersection is getting pretty busy but it's different at Applegate. I would say at the very most would be a four-way flashing light. My conclusion is it is fine the way it is perhaps with a speed limit reduction. I appreciate you hearing my comments. If you have any questions, I'd be glad to answer them.

Commissioner Sansaver asked what his opposition was to a roundabout. Ivan Evilsizer said the cost. How much does a speed limit sign cost – \$100? How much does a roundabout cost – \$1 million? I think it is an unnecessary expenditure of public funds. I work as an attorney for the State of Montana and I do the public's business and I'm a taxpayer. Number one I think the expenditure of money. Number two I don't see a need for it. I might have an underlying fear because I was at DuPont Circle in Washington DC which is a four-lane roundabout with six streets going off it. So maybe there is some psychological thing going on.

Commissioner Sansaver said the speed studies and the history of the roundabouts has been researched by Mr. Kailey's office and traffic flow is the most important aspect that the state tries to consider. Are we being efficient with traffic flow? Are we being efficient with pedestrian safety? Are we being efficient with vehicular safety? These things just don't come out of the clear blue sky – oh, here's a spot, let's put one here. Certainly there's been some history and some study behind that particular area. I'm not trying to rebut anything you're saying, that you've driven it for 14 years, and I appreciate your comments but there is history behind why we do what we do. You should go to work for the state with all the recommendations you have for speed limits and the lineal footage of where they should be and the reductions. I appreciate those comments. Ivan Evilsizer said I don't work in this area, I work in a different area of the state but I've been around state government for 30 years in one capacity or another. Commissioner Sansaver said I mean as an attorney. Ivan Evilsizer said we have way too many of those. I appreciate your comments. I'm just saying I see the traffic flow, I see it both off hours and at busy hours, and I just think it is an unnecessary expenditure of money in all due respects.

Commissioner Jergeson asked if Applegate was west of Montanan Avenue intersection. Ivan Evilsizer said the area we're talking about is between Bob's Valley Market on the corner of Lincoln Road and Montana Avenue. West of there you have Jim Darcy School, then Applegate, and then Green Meadow Drive. So we're talking about that stretch of road between Green Meadow on the west side and Bob's Valley Market on the east side and Jim Darcy School, where my grandchildren will be going before too long, is right there just west of Bob's Valley Market. Commissioner Jergeson asked the department about the status of the project – is it in pre-engineering, engineering or in somebody's dream. Duane Kailey said it is currently in the design phase. They've been having public meetings and it's now in the design process. Commissioner Jergeson said it will be before the Commission at some future date. How much has been spent on design and engineering that might conceivably be repaid to the federal government if we don't do the project. Duane Kailey said I don't know how much has been spent on preliminary engineering.

Ivan Evilsizer said I don't believe there were any hearings. I'm aware of at least one or two open houses but people were not allowed to testify and those kind of things don't elicit a big turn-out. The one at Rossiter School was a long way from my neighborhood. People were presented with this as a done deal and here's all our pretty pictures. With all due respect, there wasn't a public hearing in the sense that you and I are familiar with.

Commissioner Skelton asked if they had done a speed study out there by Bob's Market. Duane Kailey said it's been in the last three-to-five years. To correct the record a little bit, it is 55 mph up to 1,000 feet before Jim Darcy, then its 45 mph from Jim Darcy all the way across the Interstate. It does transition down to 35 mph

while school is in session. We have school speed limit signs out there. Yes, it's been within the last five years that we adjusted that speed limit.

**Agenda Item 6: Speed Limit Recommendation  
US 93 Whitefish West**

Duane Kailey presented the Speed Limit Recommendation for US 93 Whitefish West to the Commission. We were requested by the Community of Whitefish to look at the speed limits out there, in particular it asked to extend the 35 mph zone beyond the Whitefish Lake Golf Course access and the Whitefish Lake Restaurant. We've done our investigation and looked at traveling speeds, ADT, crashes and speed limit violations and it is our recommendation to extend it to the intersection with Fairway Drive. Our recommendation is as follows:

A 35 mph speed limit is recommended to begin at straight-line station 28+00 (100' west of Fairway Rd or station 19+00m, project NH 5-3(103)) and continuing east to the Veterans Memorial Bridge next to the intersection with Miles Street, an approximate distance of 4,300 feet.

You have a letter from Whitefish with their concurrence of our recommendation.

Commissioner Fisher moved to approve the Speed Limit Recommendation for US 93 Whitefish West. Commissioner Hope seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 7: Certificates of Completion  
September & October 2019**

Duane Kailey presented the Certificates of Completion for September & October 2019 to the Commission. I need to amend this items. You also have a handout.

Recently we found that we missed a couple of projects in the past months, so to be in accordance with the rules and regulations, we ask that you approve these projects. You will find on the first page for the month of November, 2018, Hollow Contracting, Left-Turn Lane, Immigrant and Yankee Canyon North Highway projects. What we believe happened was when we pulled the report, the dates weren't exactly right therefore we missed this one and three others. So we're asking that you approve those in accordance with your authority. The next one is for the month of October – HL Construction Safety Improvement Bridger Canyon. The next one is on March of 2019 – Helena Sand and Gravel, Pipestone to Whitehall. The last one is Riverside Contracting, Superior West. For your information we believe we figured out what has caused this error and have corrected it, so it shouldn't happen again in the future.

With that, staff is recommending approval of the months of September & October, along with the four additional projects I brought to your attention.

Commissioner Jergeson said I'm trying to understand the omissions of dates of completion and acceptance by the Director on several of the lines of these projects. Look at September, 2019, am I missing something about the dates of completion or is the date on those things based on component parts of the project that was approved. I'm trying to read the tables. Duane Kailey said I'm looking at the first one which is High Tech Rock Falls and then under that United Materials of Great Falls. There is no date on those two lines, is that what you're concerned with? Commissioner Jergeson said yes. Duane said because those are two tied projects, if



you go to the next line which says total for tied projects, it shows the contract total. That date applies to those two lines as well.

Commissioner asked about the difference between the page in October and this other page with AWPR Certificates of Completion which has another project that is not included in the first page. Duane said what is happening right now is we are transitioning out of our old construction software program called Site Manager into our new software called AASHTO Ware Project. The two systems are operating autonomously and we can't take projects out of one and put them into another because it's too labor intensive. The initial reports you're getting right now are actually going to phase away as we move more to the last report you're looking at which is the AASHTO Ware Project Report. We kicked that off in January with new projects, so you're just now starting to see some of those projects in AASHTO Ware come to completion. Commissioner Jergeson asked how long this was – at our February meeting we are going to have project completions on one sheet with projects on it and another sheet? Why aren't all the projects completed and input into the second new format? Duane said we could do that but it's a manual process and it would take staff time to take the two reports and assemble it into one. If that is what the Commission wants, we can do that. It will be about two years before we get all of the projects in Site Manager completed and print the Certificates of Completion. We could have this dual reporting for as long as two years or more.

Commissioner Jergeson asked what is was about US 93 and Cartridge Road – was that hand-put into the new system or did it automatically fill from the data that's entered for the project. Why is that different from some other projects? Duane said when we let a job, we go out for bid and then we load it into the system we're using at that time. In the past that was Site Manager, now it is AASHTO Ware Project. These reports are generated automatically out of those two systems. Anything in the past is on the first two pages but the last page is out of AASHTO Ware Project. We can have staff manually assemble the two reports into one if that is what you would like. But for ease and resources, we just decided to go with the two reports. Commissioner Jergeson said I can accept the explanation of the two reports. My question is why it is going to take so long. Somebody needs to invent a computer program that will make those computer transitions much faster. Duane if somebody could figure that out they'd be a millionaire.

Duane said we have added a comment at the bottom where we are showing growth of the overall project cost from bid letting to finalization or the reduction. For example on the first page you see at the bottom for September, the total growth for all those projects was 9.17%.

Commissioner Fisher said the bid amount is, for LHC for instance in October, they were a million dollars off from their bid amount to the final amount. The same with Deetly, in March they were 1.5 off; Helena Sand and Gravel is 800; Poteet in April was off by one million. Is that change order driven? If it's a hard bid, what is causing the discrepancy? I would not be concerned if there was a discrepancy on the opposite side where the bid is a certain amount and it actually came in lower. I'm not upset about that, it's only when we go over. What is the deviation? Is it from things you see in the field? Duane said yes, no and maybe. Our specs are very clear on when we have to issue a change order. Yes, it could be from a change order. The biggest issue is when we do a bid all those quantities are estimated quantities. We don't know exactly how many tons of gravel it's going to take or how many tons of asphalt we need, so we do estimated quantities. Those quantities can go up or down to a certain level without requiring a change order. So it depends when a change order is needed. Commissioner Fisher said a change order of \$25,000 or \$50,000 because there is a quantity that demands that but when we get \$1 million dollar swings per project, I imagine that ultimately effects the bottom line of projects. Duane said a change of that increase would require a change order. Commissioner Fisher said I worry about the \$1 million swings because obviously the public is

expecting the bid to be bid and ultimately what the project costs and small deviations are easy to absorb and understand but those large swings are not. Did they “change order” their way into getting \$1 million more or what happened? There are some ways to manipulate that scenario. I want to know why we have the big swings.

Kevin Christensen said the big one here is the Arrow Creek Slide because during construction another slide occurred. I’m not sure if you’re familiar with that area but we really have no business putting a highway through there. That is what that big swing is. This project went an extra year just to try and mitigate everything. Those big swings are usually for unforeseen site conditions that we encounter during construction. The smaller swings are just quantity mitigation. Commissioner Fisher asked if those big swings come before the Commission or do you just decide on change orders. We see some things. Duane said we talked about bringing change orders before you but really to keep the contractor working it is not timely to do that. We do provide them to you for informational purposes so that you know what we’re doing but to keep the contractor working and keep their costs down, we’ve got to be very timely in making those decisions and getting them the approval to keep moving forward. Commissioner Skelton said we had a lengthy discussion on Arrow Creek Slide because that is a crazy piece of roadway.

Kevin Christensen said we use cost growth as an internal performance measure, so we’re very sensitive to this and it’s kind of a nation-wide thing as well. Commissioner Hope said to me it just compounds the problem from where the original estimate was to the final bid. It will be interesting to me to see the original bid, how much was it over the engineer’s estimate the department provided. So if you have a 9% growth here and we have a 15% growth from the original, from a budgetary standpoint you’re looking at 25% total. Correct? Kevin said correct. It could go the other way too. That kind of goes to the discussion we’re going to have later about tracking our federal funding. Commissioner Hope said when you look at this growth number to see if it was over the original estimate to know where we started.

Duane asked if they were asking for that to be added in. Commissioner Hope said it would be nice to know. Duane said when you say the original estimate, are you talking about the last TCP estimate that we approved or are you talking about the engineer’s estimate when we bid the job? Commissioner Hope said the engineer’s estimate.

Commissioner Hope moved to approve the Certificates of Completion for September & October 2019. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

## **Agenda Item 8: Discussion & Follow-up**

*Dustin Rouse – Presentation on MDT Engineer’s Estimate versus Bid Amounts*

Dustin Rouse gave a Power Point Presentation on the State Fund to the Commission. I’ve provided everyone with a handout so you can follow along. I’m going to dive deep in some engineering and get into the weeds a little bit and then we can have a discussion. At the last phone call, we had a discussion about how the TCP estimates compare to our engineer’s estimates then compare that to the bids and how we track the bid amounts. That will be the basis of my presentation this morning.

I’m going to talk about how we develop our TCP estimates and the development process. I’m going to talk about how we compare TCP estimates to our engineer’s estimates. Then I’ll talk about actual obligations, those are the bid awards you get and how they compare back to the TCP estimates. Then I’ll talk about projected

obligations versus projected obligation limitations. As we're moving through this process – how are we tracking, how do the actual obligations we're seeing and that we project through the rest of the year compare to what our actual obligation limitation is in our federal program.

Our software product is AASHTO Ware Product Estimation. This product is used to help us develop our estimates. It is used by our design staff, engineering contracting bureau (EECB). This is a screen shot inside AASHTO Ware Product. What this allows us to do is pull up bid history. All our bid history is in this system, so our staff can query any bid item. In this case you are looking at an unclassified excavation. Any time that bid item occurred on any project, they can do a query which they can make regional, district-wide, in one city, or statewide.

Commissioner Fisher asked if those were bid tabs. Dustin said yes. Commissioner Fisher said you're using an AASHTO product, but what are the private contractors using to bid. Have you looked at some of their software? Obviously you're coming up with an estimate and they are coming up with their bid. Do you use the same software? Dustin said we do not and one of the challenges we have is they have their own costs to do business, their own rates of production and information that we don't have about a contractor. There are methods we can look into but typically in most states, DOTs use a process like this. We look at history and they are looking at their costs. Commissioner Sansaver said they would be reluctant to share that with you anyway. Dustin said yes they would be, however, through this process we have a more open relationship as part of that as well. Commissioner Hope asked in your bids do you see certain things that are driving the overruns. I would imagine labor costs would be a big piece of that. Dustin said so far this year, we've seen it's anything to do with concrete. A lot of times it's labor intensive work and in the winter, the PCCP that we just dealt with, our concrete boxes and structures on deck rehabs, anything that is labor intensive and a lot of our items involve concrete, we've seen a significant escalation in costs. Commissioner Hope said realistically you could go in by district or region, could one region be more guilty than another region. Dustin said yes. That's why it's beneficial to look at a district specifically or even a region to see what we're seeing in those prices, especially that item.

Commissioner Sansaver said each area or region has their own soil conditions and they can be extremely different. In northeast Montana there is very silty clay and down here in the southwest it could be entirely different. So do your excavation costs reflect that from region-to-region in the State of Montana? You could use a lot more excavation in certain areas. Dustin said to an extent they will and typically the contractors who are bidding it are looking at that information as well. They look at our geo-tech logs and include that in the bids. Then when we go back and look at those items, theoretically those contractors are including that in their bid and we would see that reflected as we look at these. The one downside of all this is we're looking back; we're looking at bid history. So it is a challenge when things are escalating quickly which they seem to be currently, it can be difficult to try and catch up with that.

This is a price vs. quantity regression analysis. That means every point on this chart is comparing any bid item quantity and the cost we're seeing for that item. We can sort by region to highlight a certain region and that may bump that line up or down. The little blue X is actually the quantity of the bid item we're looking at. So it allows us to get an idea of where we would fall on that line for that specific item. That is one of the tools we use.

Commissioner Fisher said when you're getting project specific and you're looking at a sole source product, for instance, in a certain area of Montana there is one guy who does all the gravel sales in that area and he charges three times more – it would be cheaper to actually bring in the product from the next largest town. Do your engineer's estimates take into account the fact that the project may lie in a more

difficult area to get a product at the regional pricing because of where the project is located? Dustin said we're going to see those bid prices in that area reflect that because the contractors know they are going to have to bring in their own batch plant mix or pay whatever the prices are. We'll see that.

The other thing is we have a border review which includes Jake and the ECCB staff and the construction engineer from the districts, the project manager, design and construction, and a lot of folks who see all the bids across the state and they have some background knowledge of where things are. They know where the pits are and they know contractor workload. They have some background and will take the estimate the designers put together and help adjust for items exactly like that.

Dustin said our staff design staff or ECCB go through the analysis. Those calculations are done for each one of these line items in our estimates. In this case, this is the MT 200 to Fairview project, you'll notice the date is July 30, 2019. They put this estimate together right before we take the snapshot for the TCP that you guys see. This actually was the estimate they put together in developing their TCP estimate. To note the unit prices on here, they stay fairly consistent with what we end up seeing in the ultimate engineer's estimate but there were some items that increased significantly from when this estimate was put together.

Again this is item-by-item on that project. The commercial plant mix was 1/10<sup>th</sup> but it went up quite a bit by the time you saw the analysis and the bid comparison. The Portland Cement Concrete Paving, the unit price was at \$90 at the time and that one didn't change. One of the reasons and one of the challenges we have is it had been a long time since we had bid Portland Cement Concrete Pavement, so we didn't have a bid history and that can be a challenge. Commissioner Sansaver asked what the difference in that \$90 was to the actual bid. Dustin said the actual bid ended up being \$110 for that item. On that quantity it amounted to a \$900,000 difference.

This is the summary at the end. All of the items have been added up and then you can see the subtotal \$9.3 million. That's just for the items and does not include the items we'll talk about in the next rows, the contingency and then we add that contingency on and that gives us our construction total and then our construction engineering. When we refer to the term Construction, that is our contractor payments; that is everything that goes out paying for the work on the ground. That is what Construction is. When we talk about Construction Engineering, that is the amount we carry for what either our in-house staff are charging to that project as they are doing the inspection and work out in the field or if we hire a consultant for Engineering Inspection, we are paying them out of that Construction Engineering estimate as well. Just so you understand the difference between those two terms.

Commissioner Fisher asked if they ever hire an ICE man to go over your construction estimates ... that person is just a private estimator that can say construction companies right now are running at a 7% margin and that is what they are adding into their bids for profit. Just having somebody audit your work. If the contractors are using a totally different estimating product and they are never going to give us their costs, where they are putting their slush in or not or where they are cutting – they are not going to tell us how they make those decisions. You've got a product that is an AASHTO product which is the industry standard across the nation and those are apples and oranges. Have you ever thought about it or do you utilize an ICE man to overlook what you're doing because they know something about where private industry is going because they are helping bid that private work too. They could say AASHTO is way off on this item. Dustin said we don't utilize an ICE man but we are starting to use ICE for the CMGC process. Yes, that has been fairly new to us and I think it is an exciting tool in the tool box. Jake said we just received our first ICE bid this morning and I'll talk about that in a little bit and about our first CMGC project. Until this summer we've never utilized an ICE and now we have three ICE contractors that are pre-approved in our term contracting system and

we can use them. Currently we're just using them on CMGC projects but with the CMGC projects we're learning so much about contractors bid work, their means and methods and the labor they bring to the project changes and how they bid. We don't bid that way, as you're seeing, but the ICE does so we're learning a ton about how the contractors bid. Maybe down the road we can use the ICE on a standard project to just come in and help us with our bidding and see if we can do a better job in bidding. Dustin said I think, through the CMGC process, we're going to learn how to bid better and everybody in the department will.

Commissioner Sansaver asked what ICE was. Dustin said ICE stands for Independent Cost Estimator. They're not a contractor anymore, generally an X contractor that all they do is Independent Cost Estimating. They will take a project like our CMGC and bid it to give us certainty that the CMGC contractor we're using is bidding it correctly and that is our guidelines for award. Commissioner Fisher said usually the ICE is somebody who has been in private industry so that is a really good audit tool essentially for DOTs to use because they are giving you some insider knowledge because they aren't in the game anymore and their whole goal is to make sure that nobody is ripping you off. Kevin Christensen said it should be noted that on the CMGC process, the contractor's books are open to us and that's a really unique component of that contracting method that certainly doesn't exist with our design bid build. Then the other thing is every contractor bids completely different. They have different business models, different resource and different production rates so that can be difficult to capture in our traditional bid process. Dustin said again the benefit of having that open book through the CMGC is the ICE obviously takes advantage of that.

Commissioner Jergeson said these documents prepared on 7-30 are finalized then, are they used to populate the TCP that we concurred in at our October meeting or are they used to populate the Engineer's Estimate that is opened at the same time the bids are opened? Dustin said this estimate is used to populate the TCP and I'll take you right to that number in the TCP. Commissioner Jergeson said in looking at the Fairview project and what was in the TCP and calculating the state match, the engineer's estimate that is opened the same day as the bids are opened is significantly lower than what's in the TCP. Dustin said I'll go into exactly that.

Dustin said the other two I've circled in black are the construction total and the construction engineering totals. They are \$9,797,000 so about \$9.8 million for construction and \$980,000 for construction engineering. So our staff then takes that amount and they hand enter that into our Project and Program Management System (PPMS). As numbers are fed into this, you'll notice they select out of the NH funding, they are entering a line item for CN and a line item for the CE on both. The system then takes those values of the CN and CE and they add on inflation, which isn't much, and the ITC amount and that gives us a total cost of both those items. That's what we include in the TCP. If you add those two numbers together – the \$10,834,996 and the \$1.83 million, you get \$11,918,500. So that estimate is in the total column in the TCP, that estimate is the combination of CE and CN. When we break our estimates down, we actually use the engineer's estimate to compare our bids, we just want to look at CN.

So fast forward to our board review process – our board review gets together and they compare the design engineer's estimate and the ECCB engineer's estimate. The ECCB does an independent estimate using the same software so we have an internal comparison. Both estimates are brought into the board review. Again we have staff from a lot of different backgrounds take a look at it and we take the larger items and go item by item and come to consensus on what those bid item estimates should be as we move forward. That process happens behind the scenes.

They then take all those values and input it back into another AASHTO Ware software and we get a subtotal and the \$10,684,375 is the engineer's estimate you saw.

That estimate is just bid items – there's no contingency, there's no IBC, there's no inflation and there's no CE which is a couple of million dollar difference on top of that. That estimate of \$10,684,000 is actually an increase over what that previous estimate was by quite a bit. Dustin said going back to the estimate prepared in July, we're comparing that \$10.6 million to the \$9.3 million – that's the clean subtotal without the contingency and without the items. So the engineer's estimate actually increased about \$1.3 million between July 30<sup>th</sup> and October when the estimate was put together. What they were seeing was the escalation in the last bid. So we had August bids, September bids, and October bids by the time they were putting the final engineer's estimate together. They continued to adjust that engineer's estimate right up to opening the bids. So we're seeing that escalation and trying to catch up to it but obviously we didn't. So there was an increase of about \$1.3 million between the TCP and the actual engineer's estimate.

Commissioner Hope asked if there was one person running all the numbers; do you have a lead estimator on each project or is a collaborative effort. Dustin said during the design process, as we're going milestone-to-milestone early in the design, we typically have an area engineer in charge of the project and they usually have a staff of designers that are putting together preliminary estimates. They review them and that's typically the estimate we're tracking with as we move through the life of the project. Commissioner Hope asked if there was one lead person in charge of the process. Dustin said yes, Chad Richards, who keeps the software up to date and keeps us up with the latest trends and new information. So yes we have a lead estimator.

Dustin said that same engineer's estimate is what you see on that report; that's where that \$10.6 million came from and that's our engineer's estimate that we use. To compare that to the TCP, there's quite a bit that we take off the TCP value to make that an accurate comparison. This is our bid. Our low bid is \$4 million over our engineer's estimate. The other question that came up was how do we track that? How are we doing as we go through this fiscal year to fiscal year 2020. How are we tracking? Are we going to have make adjustments as we go through? We track that as well.

What I'm showing on this slide is our obligation limitation report that we internally put together. The first column called "TCP Estimated", if you go back to your TCP rollup sheet, those items are line-by-line exactly what we published in the TCP. We're comparing to the TCP all the time. We start the TCP at \$5 million over because we always have three options: we can over program a little, we can try to hit it dead on what we anticipate, or we can have enough projects to over obligate by some amount so we can have projects ready in case we receive some additional funding that wasn't expected, additional redistribution. That's typically the way we approach it.

The next column over is called "Actual Obligations to Date". I circled the \$109 million – that is our actual limitation we've received. That's what we can obligate and process to the feds to get reimbursement for. So far it's only \$109 million that we receive so we don't even have all of our limitation yet. So there are times when we have to AC projects, that's construction projects; there are times in order to award bids we have to use state funds to award it and then we swap those funds once we get the remaining limitation from FHWA. Commissioner Jergeson said then you put the money back into the state funds. Dustin said correct.

That second column showing the construction projects. There are \$63 million worth of construction projects that were converted to the federal funds so far this year. Those totals are the actuals we've had this year.

The next column is the projected 2020 obligations. That column, if you look at construction projects, you'll notice that the \$386 million is more than the \$348

million we had in the TCP. The reason you're seeing that increase is that number includes the latest estimate from all of our projects that are going on this year. So any time our staff goes through it, they update estimates for a milestone, they update estimates as they put that PS&E package together to submit it to EECB. Every one of those estimates are increasing and they're adjusting to what bids they are seeing as well. So you'll see that number climb and climb. That number also includes the change orders and other things occurring in construction as we go through the year as well. That really drives the bottom number of negative \$40million. Right now we're projecting the overall program to be at negative \$40 million. That's high this early in the fiscal year. Frequently you'll see negative \$27 million, negative \$3 million around March but negative \$40 million is a sign that bids are high; its unprecedented how high bids are coming in and how quickly it is moving.

So, we are tracking this very closely. If we see these trends continue in the bid letting today and the bid letting in January, if we see them continue we'll get the districts together and the different program managers together and put together a contingency plan on how to deal with that. That may include coming up with a list of projects from the districts that potentially we move to the fall and they move into the 2021 fiscal year. Even though they are scheduled for this year, we would potentially move them into the next fiscal year. Commissioner Hope said this is kind of new, and you could really move this five-year stuff big time. Dustin said potentially. Commissioner Sansaver said you'd have to if that number keeps increasing, then you have to pull something out of 2020 and move it back to 2021 or 2022 to accommodate the overage. Dustin said correct. Commissioner Fisher asked how many bids were let today. Duane said eight projects.

Dustin said he would end with some good news. That \$109 million you saw on the previous page, that's the actual limitation we received today. In the box I circled some infra funds. There are times when we receive funding outside of the norm. We are currently under FAST ACT and different Administrations have different programs that they sponsor and back a few years ago we had what was called ARC. That was a big influx of funding that we had to be ready for as well. Lately, in the last couple of years, we've been seeing infra funds. If you add up that entire box – all of that was additional funding we received on top of our normal funding. That's about \$55 million last year in additional funding. So we have to be able to adapt and those different funding categories and they all come with their own restrictions. So we have to have projects ready but we have to have the right projects ready that meet those criteria that we can utilize those funds for. It's a great benefit to have those funds available but we also have to keep the conveyor belt rolling so that those projects are ready and we can take advantage of receiving those additional funds. I did want to point out that is something we receive as well.

Commissioner Jergeson said he may have questions when I go home but quite frankly I'm still trying to see where you get from point A to point B. Dustin said I'm certainly available after the meeting to help answer those questions. Commissioner Jergeson said after the meeting I'll get with you and have you explain it to me. I'm trying to go through the TCP spreadsheet numbers. Dustin said he would be glad to walk through it.

Commissioner Hope asked about the evaluation process for employees, is there anything in that process that evaluates the bidding process? Dustin said yes there is. Commissioner Hope said is there a matrix you go through to measure performance? Dustin said most of the areas in engineering have a performance measure criteria that includes delivery and targeting and staying within our budgets. Commissioner Fisher said I shared this concern with the other members of the Commission, the tools you're using, are they effective? You can input the data and spend a ton of FTE time working the numbers but if the tool is ineffective to give the taxpayers and the public a fair comparison on your engineer's estimate being either woefully low or woefully high where you have those big swings then the value of your engineer's estimate

decreases right? Dustin said right. Commissioner Fisher said if it becomes incredible because it can't get the accuracy as far as being close to what the actual bid amount is, then we don't want you to waste time in an exercise that ultimately is futile because it's not helpful for projections down the road. Because if we're seeing these swings, and I think it is related to products and non-competition where your off \$40 million, then that also reflects on the value of the actual engineer's estimate and again decreases the value of that as being a predictive measure for budgeting going forward or allocating projects. We get people calling us all the time asking when a project is going to be done and we can say where it's at in the pipeline but those people don't quit calling. In fact the calls increase when you give them an idea of when it's going to be and then have to say there wasn't enough money to continue. Then they ask why there wasn't enough money? I'm sure you get tasked with answering that as do we. My concern in particular is the credibility of the engineer's estimate and you guys put a ton of time into those. You're using a standard program, I get that, but if the estimate isn't credible in comparison to the bid amount then we're undermined.

Commissioner Jergeson said nobody can really tell where the bid amounts are going to be; those are independent contractors and we're working off a base program that says this should be equal to what they are going to be bidding. As the independent contractor moves along, he might need a house on the lake. Commissioner Fisher said all of them need a house on the lake but their bid should be reflective of the competition associated with that. They are trying to get those jobs so they are trying to be low bidder. If the low bid is still 20% or 25% higher than the engineer's estimate, then that tells us there is a flaw somewhere. It doesn't mean the work put into getting the engineer's estimate was flawed or anything like that; it may be the program itself because it can't account for the specific conditions of the region or the specific area or whatever it is. I'm just worried about the credibility of that because those are questions that I get. It's important that state government have credible resources that you're utilizing because otherwise what's the point of the FTE time expended if the program isn't going to get you within 10% of the actual bid amount.

Kevin Christensen said Dustin noted that the weakness in this is you can't really predict spikes in the economy or spikes in the labor force. Over time with a steady economy, this process works very well but when we get spikes or dips in the markets, this process doesn't really react that. Dustin said when the market is volatile, this doesn't work that well. You look at the way we've run our program for the past five years or ten years, it works. Typically we'll catch up to it and our estimates will be right in line again. It's just that right now it's volatile. It will turn around and start dropping like crazy too, that's the nature of it and we've all seen it. When it's volatile it takes us awhile to catch up but typically those engineer's estimates will come right back in line. They are surprisingly accurate when things are normal. Commissioner Sansaver said there's some extreme situations too. It's a moving target. You guys are the basis of what the estimate should be, but we've seen it in bridge work when we don't get the contractors that we thought we were going to get to put the bids in. So what does that do? It shoots the bids up exponentially because this contractor may be working on two bridges over in North Dakota and throws in a bid over in Montana and think "well if we get it, we get it" and it's going to be \$2-3 million over. So the moving target can't change the base of how we do things here. It should be based off the direct numbers that you reflected here and how you put together your estimates. The volatility of it is incredible; you can't determine who's going to bid and how many are going to bid and what percentage cement is going to go up in the next year or anything in that bid, soils conditions. I see a very strong base here for how you put together the estimates and we just have to be subject to the people out there who are putting in their bids. Dustin said it is critical that we monitor it and adjust. That is the one thing we can control – we can track this, we can monitor it, we can make plans to have a contingency plan to address it.

Duane Kailey said I was the District Administrator in Missoula between 2004 and 2008 and in that timeframe we doubled the exact same thing. To your point



Commissioner Fisher, I was trying to deliver 93 South, and almost every year I lost out on promises I made and I had those very tough conversations. I can tell you the Commission at the time was asking the exact same questions of the department. We were asking the same exact questions internally – how can we predict this, how can we fix this. The one thing I haven't heard said that we did see back then and is going on now is when the economy is so strong, a lot of those contractors are bidding private work and we have no idea how much private work they've got. So we can look at and know how much they are doing for us and kind of anticipate that but we have no clue and no ability to predict or see what they are doing privately so we can't take that into consideration. Commissioner Fisher said their desire to do private work is high because the margin on private is much higher. That's where they are feasting on all the private commercial jobs versus the public jobs. I can also see where public takes a back seat, they'll bid it but they are going to bid it so they are making money on it because they might be forsaking more commercial work or private work for the sake of doing an MDT project. Duane Kailey said that is exactly what we heard; you're right on. Kevin Christian said in that same time period when the bottom dropped out, the private work went away and we were seeing lots and lots of bidders on every project and the bids were incredibly low.

Commissioner Hope asked how they evaluated the design side. When we build buildings, you get the architect in there and they design the building and then you get the budget and go back and say it doesn't meet the budget and the contractor says we can build the building for this, you have to think differently from a design standpoint. Do those conversations go on with the design team? Dustin said yes. Commissioner Hope asked if it was the fault of the design that the estimates are high. Dustin said it can be. We use a lot of different techniques. Internally we do a DA analysis. We'll have a design team progressing along in their design, and any of the projects over \$8 million automatically fall into a DA analysis. What happens during those is we have an independent Team, either consultants or internal staff that will spend a week diving into that project and look for every way to come up with cost savings, come up with better designs. Those are very valuable and we've been using it for so long that our design process actually includes a lot of the recommendations that have historically come out of those DA analysis. It's just the way we do business and our design staff has learned from that and they adjust their future designs and incorporate those things. We still have the DA's and we still find things and find better ways to see if there are cost savings that the design team is missing. The DA's include construction folks and a mix of all kinds of different staff that come at from different perspectives.

#### *State Fund, Larry Flynn*

Larry Flynn said I want to be sensitive to the Commission's time. The Director had asked me to give you an update or overview of how finances are managed in the department and I'd be happy to get into that or we can defer that discussion for another time. The Commission said they'd like to hear it.

I really appreciated the discussion you just had on estimations especially when the credibility of the department comes in. Obviously the finances of the department are incredibly complex and quite large. We obviously do a lot of expensive work in the department and the nature of our work, not just on the construction side with the changing environment and estimates, and estimates are just one aspect of it but the project and program delivery with right-of-way concerns and design issues and weather and everything else, can really skew the timing in which that program is delivered. From a financial standpoint, that is one of the major impacts that we have and we have the same dynamics on the maintenance side where obviously that's very much at the mercy of weather and other considerations. So I appreciate the understanding of the turbulent nature of the work that we do.

When we talk about department finances, we think more of a strategic approach more than a tactical approach. In other words, we play the long game. Adjusting for these types of dynamics is difficult for us to do on a daily basis but if we look over a multi-year period, the long term stability of the program is really what we're banking on.

When talking about finances, my division's concern mostly is money. We heard the question a lot a few years ago, I'm hearing the department is out of money. Well there's a lot of things that constitute money unfortunately for us. It's not just the dollar bill you're carrying in your pocket, there's a lot of things we consider as money. I apologize for some of the over-simplification in the presentation; the department finances are quite complex obviously but boiling it down to some basic understanding tends to help. When we talk about money we are talking about three distinct buckets – cash, which is self-explanatory, budget authority, and the federal authority which you are well versed about. These are the three over-arching buckets of money that the department tries to manage. They all have unique characteristics, they all have their unique timing, and they are all working on different timeframes and different levels of commitment.

Cash. When we're talking cash, it's a bank account similar to any checking or savings account that you all have personally. It is the same thing. The department has cash in the bank. We're talking about money, funds or account balances. That is one of the big differences. Most people would think of MDT as this big entity that has all this money that comes in – we're bringing money and sending money out. But really from a governmental standpoint, there are separate accounts within a department and each one of those accounts represents a business entity. When we're talking about the Highway State Special Review Account which is our primary state funding source, that's an account with MDT that has its own set of books, its own financial statements, and its defined in law. MDT has about 60 different accounts, so MDT is really not one entity, its 60 separate entities each with its own cash account. Our bank account is at the State Treasury. Just like any private checking account you might have, the management timeframe is daily. Your cash balance is going to shift daily and we have to understand what that means and react to it on a daily basis. Of course, that cash is committed at the time we make a payment. It seems obvious but there are some nuance that we'll get to. Again, when you swipe your debit card, that cash is committed. The same thing here, when we make a payment to someone, that cash for all intents and purposes is out the door.

Budget. Budget is what we refer to as our permission slip. It's not cash anymore that we're talking about. We have cash in the bank but what we need is the permission to spend that cash. Of course that is the Legislative roll in our business. They have to give us the budget authority, they have to give us the permission slip to not just spend the state dollars we're bringing in but also the federal dollars as well. We can't spend federal dollars that we bring in any more than we can state dollars without the state legislative authority to do so. Of course, the Legislature and the Governor's office play instrumental roles in how we get that budget authority. Typically we have either annual or bi-annual appropriations. Most state agencies get an annual appropriation. We have a bi-annual Legislature but they get a specific amount for each year of the biennium. We're pretty fortunate here that because of the nature of our business, we have biennial appropriations to address the fluctuations in our program. Managing each state fiscal year can be challenging. If you think about it, the state fiscal year ends in June, that's right at the height of construction season so trying to tie down appropriations that are going to end on June 30<sup>th</sup> when we've got construction projects going all over, is challenging. So we have bi-annual authority. Much like cash, when the expenditure is incurred, your budget authority is committed.

Federal Authority. The third bucket is our federal authority which we refer to as our IOU. We say that because we're a reimbursement state meaning that any of the federal funding we spend, initiates as the state cash payment. If we have a \$1,000

project to make the math easy with an 80-20 split, we don't get to spend \$80 of federal dollars and \$20 of state dollars when we make a payment. We spend \$1,000 and make the full payment up front with state funds and then get reimbursed from the federal government. What our federal authority really represents is a commitment from a federal agency to reimburse MDT for that portion of valid expenditures. So in other words, we don't get the big cardboard check for \$420 million from FHWA that says "here's your money, go do good things".

Commissioner Jergeson asked how long it takes to get that money reimbursed. Larry Flynn said it's not as dire as it may sound. We bill the federal government every week and we pay our contractors, which is our heaviest federal expenditure, once a month. It's not like we're waiting months and months and months. We bill them every week and it's about a 24-hour turn-around to get the money back. Commissioner Fisher said that's really quick. Larry Flynn said that is the lovely nature of technology, we send a bill electronically, they review it, they stamp it approved and we get it back pretty quickly. It is interesting when we do get into delays and when they can't make that quick turn-around when there's a federal shut-down and FHWA isn't working to pay us back, then it gets a little dicey. A couple of years ago they were in the process of replacing their system and they were going to be down for about six weeks, that was an interesting call to the Budget Director at the time to say we were going to borrow \$60 million to get through until FHWA gets back up and running because we're going to have to float all this program on the back of the state dollars. He said really \$60 million? I said well it might not be \$60, it might be \$100, we're not sure yet. He stopped taking my calls after that. We get our money from the appropriate federal agency whether it's FHWA and of course that is your role in this. Obviously that is a huge component of your authority.

Our federal authority works differently in terms of the management timeframe in that when we obligate funds we do so by a project or a phase of a project or maybe a program. We're obligating those dollars up front. We commit those dollars, not when we make the payment but when we commit to the project. That brings about part of that challenge where we're obligating federal dollars for multi-year projects and the cash and budget authority and all those things have to come down the pike, but we're committing those dollars now. In some ways we're committing the state resources to do that work today when really the work is going to be done down the road.

That's our three buckets. Probably the more important work is how these three buckets interact with each other. As I mentioned, they all have a different time frame and different rules associated with them. When we look at the relationship between cash and budget, we need to have both in order to make payment. It's not enough to just have cash in the bank, we also have to have the permission to spend. Typically we've been fortunate to have historically a little more cash in the bank than we have budget authority so we tend to do okay. It does happen occasionally that we have more budget authority than we have cash and that can also present some problems that we're over-appropriated; appropriated beyond our means. We typically do pretty well there because gas is fairly stable but unfortunately it's stable at a downward trend in a lot of ways.

The relationship between budget and federal authority. I mentioned earlier that we have to have the state budget authority to spend those federal dollars and it's a little bit different because we have to have the federal budget authority in the year that we're going to make the payment not in the year we're going to obligate the funds. So all the work that you're doing today in committing the projects, the budget authority and the cash for those projects is actually going to be probably in the next biennium and in a lot of cases the biennium after that is when we need the budget authority for that.

The relationship between cash and federal authority. It is two-fold: (1) we need to have the cash flow to upfront the federal expenditure, and yes it's a quick turn-around but we need account for that. But at some point in time, we're going to spend state dollars that really represent federal dollars and we're going to have to get those reimbursed to us. (2) Obviously the other component is we need adequate matching sources. So if we're going to spend \$100 of state dollars, we've got to cash-flow that whole \$100. We're going to get \$87 back but we still need to have the cash resources for the \$13 of state match.

Obviously this will be really challenging if we were trying to do this on a project-by-project basis. We talked about all the dynamics, the changing conditions and trying to manage cash and budget authority and a long list of federal authority, so on a project-by-project basis, my hair would be a lot greyer than it is now. We tend not to think of these things in those terms, that we're going to have a budget authority associated with a project or cash associated with a project. We want to play the long game. We're going to look at this from a program perspective more so than a project perspective. So as long as there's the long-term stability in a program, if we can guess that we're going to have a \$420 million federal program, we know that although it's going to be up and down from year-to-year, over the long haul we know what resources we have to have available. Our cash balance is going to change, our budget authority is going to change, we're going to have to mirror that up but, again, we're not interested necessarily in what's going on project-by-project. If one project over runs, we know that is going to be made up for in the program. We're looking at it from that perspective.

Commissioner Hope said if you look at the environment we're in now, we're past project-to-project, we're only half way through the year and we know the estimates are coming in, when does your department come to these guys if we have a problem? When do we start thinking of managing this? That's a bigger picture than just one project. Larry Flynn said again it is going to impact the cash flow, so the timing of the case and the timing of the budget more than it is the longer program perspective. If you've got estimates that are over-running by 10% or whatever, we know we're going to have to adjust the program somewhere else. That's where we get into Duane's example where he's making commitments on projects and then all of sudden bids are coming in high and we're having to scale back the program and some projects are going to have be pushed out or dropped out of the program immediately.

Commissioner Hope said is there a check and balance from you guys to hold these guys accountable. Larry Flynn said my team sits in on the fund obligation meetings monthly. So engineering, planning, my staff and the administration division all get together and go through and adjust the plan accordingly. Commissioner Hope said if the department doesn't want to admit they've got a problem, is there a point where you would say you've got a problem and you have to fix it? Larry Flynn said there are several of those points. Commissioner Hope said internally my own operations follow budgets but my managers sometimes don't like the budgets and we have a process set up for that. Larry Flynn said, again, getting into that kind of short-game long-game thinking, in the immediate biennium let's say that all of a sudden all of our estimates just blow up on us and we've got projects that are going out. It's easy to say we're going to have some things that drop off the end of the program, but you've got a lot of financial strain right now that's going to hit you immediately. Forget about the long-game, you're going to have this massive financial hit. One thing we try to do on the budget side, we are going to adjust the federal program and slide stuff out. On the budgetary side when we go into the Legislature, we develop a budget that assumes we're going to deliver the whole program. We're very aggressive with our budget; we're assuming that everything is going to come in and there's not going to be any weather events, we're not going to have any right-of-way issues or design concerns and every project is going to be delivered as is. We know that is not necessarily the case and hasn't ever been the case. We tend to budget very heavily so that, when those events happen, and maybe we have that perfect year where

contractors are working all the time and we're getting lots of work done but then estimates start to blow up, we feel like we've always budgeted pretty heavily. Historically, we end up reverting a lot of budget authority; we leave a lot of budget authority unspent because we don't have those issues but we feel we have enough cushion within our budget authority to do that. If something completely off the radar happened and we exceed that budget authority, there are mechanisms in the Legislature to go and get additional authority so we could go into a supplemental bill or something like that. There are mechanisms in place to address whatever overage would happen.

Commissioner Hope said it doesn't seem to me like there is a mechanism to put the brakes on before it gets to a crisis. Kevin Christensen said a lot of what is going on in the project side when the estimates are blowing up I defer to Dustin and his group to address what happens, but there are mechanisms in place on the engineering side or the contracting side to say okay we've exceeded some parameters, we're so far off our estimates that we're going to put the brakes on and recommend that we don't award this project and go back and sharpen our pencils and see what's going on. So there's thresholds. Commissioner Hope said through the process there's thresholds but we've blown by some of those thresholds and they said we just have to go and do it. So somebody has to be King up here and say you can't. Kevin Christensen said the King is sitting over in the corner and he's Director Tooley. Commissioner Hope said I get it but that's from a departmental level but there should be somebody above him from a budgetary standpoint. Maybe I'm completely off because I'm not just talking about the Department of Transportation, any department can go haywire within the government, right? Larry Flynn said I wouldn't say haywire, obviously there are budgetary constraints. We're pretty diligent – cash is King for us; we're unique in state agencies where we're managing that cash balance. We've developed a culture of prudence in the department. We try very, very hard to make sure that our costs come in. So it's not just on the contracting side, we're always looking for those efficiencies. We produce periodic reports for the programs to review. Commissioner Hope said it ultimately lies on the department heads. Larry Flynn said yes, we're going to hold ourselves accountable more than anything.

Director Tooley said I can't overspend our appropriation; the budget office won't allow that. Larry Flynn said that is a great point. When I say there are mechanisms in place to address the budget authority, we can't just go in and say we need budget authority, we are going to get the tough questions and scrutinized pretty heavily if we say we're butting up against our budget authority. We get appropriated separately for federal funds and state funds so they are going to watch that pretty carefully; they are going to watch where we're spending our money and we're watching where we're spending our money. We're doing those analysis from time-to-time to make sure we're staying in. Contractor payments are half the department's budget right there, so the projects you folks are approving on the construction side are half the department's budget. Yes, there's obviously a number of mechanisms in place where we're watching that.

Commissioner Hope said to a certain degree it's more controllable than your labor costs because if you've got to manage your labor costs, you can't just stop labor but you can say you're not doing any more projects. Larry Flynn said that is a great point – I know it's controversial but that's where we were at the end of 2016. Every year I've been involved going back to 1999, we've been sending a very strong message to our budgetary subcommittee saying the state gas tax fund is in trouble. We know the very nature of how that fund works, we're taxing a gallon of gas and we've got a lot of strings on that. The fuel economy of our autos has been a big challenge for us. We're matching a \$400 million federal program where back in '93 which was the last time the gas tax was increased, the program was \$100 million. We've got something like a 30% increase in the lane miles of roads that we're responsible for maintaining. There's all these things that over time we've managed cash balance, well at the end of 2016 we finally reached the end of it. We pulled the last rabbit out of our hat on how

we could manage that thing. We were pretty innovative for a number of years, not just here but the Legislature as well, and we squeezed every bit of juice we could out that gas tax fund. Well, there we were at the end of 2016 not knowing if we were going to get a fix for the fund in 2017. Here's where we were – our cash position is at a point now where we can no longer guarantee that we can deliver the federal aid program. So the engineering division and the Director put together a list of projects of the work we wouldn't be able to do because we're tapped out financially. Thankfully the Legislature responded to that and we got back on track. We're just not just going to go blindly out there and spend money, we're going to be very sensitive to when we have to put the brakes either on the project level or on the program level and say there's some things we're not going to be able to do.

Commissioner Hope said I want to go on record that I'm concerned, as a Commissioner, where the estimates are coming in because each time I come in it escalates. I'm not trying to raise a dooms-day scenario but it seems like some decisions are going to have to be made in the next few months. Larry Flynn said that's a great point. I think from my perspective there is a risk to our system but I'm not an engineer I'm a finance guy, but inflation is kicking us in the butt. The risk to me isn't necessarily financial in the short-term, because we'll get to where we're heading in the long-term, the risk is to the system. The program itself only has so many federal dollars. The over-runs don't create more federal dollars for us, so something else in the program has to give. So the safeguards on the financial side are there. If they keep escalating we could be spending those federal dollars quicker but there is a limit to the federal dollars and the state dollars and there's a limit to our budget authority. Those safeguards are in place; we can't overspend those limits. The risk is we're going to do far less work as estimates and bid prices keep going up which will create bigger problems in the infrastructure.

Duane Kailey said I appreciate where you're going, but one thing to keep in mind is that we design to a standard and if we modify those standards trying to save dollars, we're putting people's lives at risk. For example, we have our route segment plan which helps guide us as to what roadway widths should be out there. If we start narrowing those up, we know by study that we are going to increase crashes. We know that for a fact. So when we start making those decisions, it's lives that we're talking about and its liability. I appreciate where you're going and we've done that and we do that every day but it's not as easy as just saying we'll shave \$10 million off this or a million off this. Commissioner Hope said I don't think you'd shave it off the project costs, that's not what I'm saying, but I think there's some projects that are going to have to get shifted. That's my point. I'm not telling you to go back and figure out how to cut costs out of a project. I'm saying I think we're going to come into a problem at the end of this fiscal year that projects are going to have to get moved and that starts moving other things. I think the sooner you start accepting that you're going to have to move projects, the sooner we can plan for the future. Larry Flynn said and be honest with the public because we're going to get calls too. You hope on one hand and wish on the other and get the same result. We will continue with our contingency plan group and look at all of our project mix for the remaining fiscal year 2020 and then decide what the priority is for us. We want to make sure if there are safety projects that we really need to get out there because we need to preserve our system and take care of our structures. Maybe there are some we prioritize and others, like shoulder widening, that are high cost projects can wait. We're heading towards having to make some of those difficult decisions, sitting down and coming up with a plan. That is typically how we can approach it.

Kevin Christensen said there's a harsh reality that moving projects you're talking about, that's everyday business for the department. This dynamic isn't unique to this timeframe; this has happened through our history. We do the best job we can to plan projects and you do a great job with the TCP and as soon as you hit approved before the ink is even dry, something has changed. That is the nature of the work we do. I fully appreciate all of your comments about the credibility that brings to the

department, but there is a harsh reality that it is not as simple as planning a project and going out and doing it. Some of these things are years in development and as soon as you turn the first shovel of dirt, you find something you didn't know was out there and here we go; things are going to change all the time. Projects sliding out is fairly normal and projects sliding in is normal. That's a little harder dynamic. We try to keep the engine running and keep projects turning out from the design side so when you have that opposite dynamic, we're expending all this inflation and building a five-year plan or a 20-year plan based on that. Then all of a sudden everything shrinks up and now you have to pull projects into the program and you better have some ready to go or you're going to be leaving a lot of federal dollars on the table. Commissioner Skelton said you've always been so cognizant of having those shovel-ready projects.

### **Director's Discussion**

Director Tooley said you have several documents in front of you for your information. If you want to discuss any of them, particularly something about CMGC, TranPlanMT or the Public Involvement Survey, otherwise I'll turn it over to Jake Goettle and I'll follow-up with some brief announcements and information items.

*Jake Goettle, CMGC Project, Clark Fork Northwest at Trout Creek*

I'm excited I get to present Clark Fork Northwest at Trout Creek, our first CMGC project. If you remember awhile back, the 2017 Legislature gave us a pilot program to award four CMGC contracts by December 2024. So, we've been working through our program, our project delivery selection tool, and we've selected a few projects now and this was our first one we selected early this year in January 2019 and have been designing since then. CMGC is where we bring in the contractor early in the design phase and they help us collaborate in the design, they give us innovations as we design the project and they give us a clear cost and schedule as we develop the design. This project is Clark Fork at Trout Creek on Hwy 200 in the Missoula District. It is Trout Creek Reservoir and the Clark Fork River is the river and the reservoir is under the structure. This is a long narrow structure and it's deteriorating quickly, the bridge deck is in bad shape and has been for years. There's a number of aspects of this project that make it a really good CMGC candidate. There's a lot of challenges with maintaining traffic through construction because of the narrow width of this structure. It's nearly impossible to do this one half at a time because there just isn't room on this existing structure to do one lane of traffic while you construct the other half of the bridge. It's almost 1,000 feet long. This structure was built before the reservoir was in place and the reservoir is over 100 feet deep in this spot, the bridge is complex and putting in the detour here would be cost prohibitive with the depth of the water and the detour structure would be challenging to say the least.

Part of the other innovation is what the contractor brought for us. Because this bridge is narrow, as we developed through the design of this project we realized we couldn't maintain one lane of traffic and maintain safety because of the way this unique bridge is built so you can't safely keep one lane of traffic on it. So we knew we had to do accelerated bridge construction and that is where the contractor brought their expertise in. We can do what they call concrete deck panels – it is full width, they build them off site and as they tear out the existing deck, they replace it with these deck panels. They are pre-made, pre-manufactured and they just set them in place as they go. That's the innovation the contractor brought for us. That allows us to close this bridge for a certain amount of time but with that innovation, we can deliver this project very quickly and get the deck back on and get the bridge back open for the public. They've been working through this.

We hired HDR as the Design Engineer through our normal Consultant Design selection process back late last year. They started in on the design and then we hired Kiewit as the CMGC contractor through our competitive process and presented on our CMGC process which is real similar to our Design Build competitive section process. We also hired Stanton Constructability Services. They are the independent cost estimator we were talking about earlier. They are the third party blind estimate. As we develop the design with Kiewit as our CMGC, we see their bid as they go through the design. With the open book pricing, we see what goes into each of their bid items as far as labor and materials and means and methods, how they are going to build the project and what they need to do with equipment, etc. We got to see that in Kiewit's bid which is what we talked about earlier, teaching us to be better estimators by seeing how contractors bid projects. As we design, Kiewit is showing us how they bid it and the resources going into their bid items whereas ICE is bidding it blinded and so we don't see what's in there. They are check with Kiewit to make sure we're getting a good price with Kiewit's estimate. That's what I mean by the blind estimate.

So they've been working on the design and we started that about March of this year and just in November a few weeks ago, we delivered the final plans. Today they are bidding the project. So Kiewit and Stanton, the ICE, are actually bidding the project and HDR is doing our Engineer's Estimate like we do on a normal consultant design project. A little bit unique on this project is HDR bid a product-based estimate like they were a contractor. So they have the ability in their design house to do a production-based estimate. They have X contractors that work for them and they did that as well. So it gave us a double check on the ICE on Kiewit's bid. That was kind of unique; we're not going to get that every time because every consultant doesn't have the ability to do that. That was unique with this project.

We had a very robust public involvement program with this project and one of the keys with CMGC is the contractor was right there with us talking to the public. They can talk about very specific means and methods. They actually built a 3D model of the bridge and took that to the public meeting. It was kind of unique that he would have the ability to do that and actually build it to scale, so they could show their equipment on it. It was really neat. So they were part of the public involvement process and helped us present the project to the public and explain the complexities of the construction. Then HDR was our leader on the project and did the normal public involvement process.

One other key point, this project was in the 2015 TCP as delivering in 2019. When we started developing this design, we learned very quickly that with the complexities of this project, we weren't going to meet that design schedule or likely weren't going to meet that design schedule. It's a complex design. So CMGC really came in 2017 when we got the approval from the Legislature and we knew this was a really good project for CMGC and jumped on the process right away to be able to award this CMGC contract and meet this 2019 TCP schedule. So CMGC was a good tool for this project and allowed us to meet that schedule.

The reason we're presenting this to you today was to prepare you. Our plan is to bring this to the Commission Conference Call next week. We got bids today and we'll analyze those just like we do with a normal design bid build project. Internally the department will make recommendations to award or not. That is what we'll present to you next Friday on the December 20<sup>th</sup> conference call. I'd be happy to answer any questions.

Commissioner Fisher asked if there was anything that the ICE didn't validate on the pricing you were given? You said ICE was validating on a blind basis, but with Kiewit's pricing, was there anything they didn't validate where Kiewit was too high or did they say it looked good. Jake Goettle said as we were developing the design, they were analyzing how Kiewit was going to approach construction and they were giving other ideas, for example have you considered doing this instead, here's how we might



build this project, or here's the way we might put on this certain bid item, or the equipment they might use. So they had a collaborative conversation back and forth as to how they might staff it differently or bring different equipment in to build it. But when we got down to the bid, during the milestones as we were developing design, they did. We had a spreadsheet set up and we showed Kiewit bid the preliminary design and then HDR and we would show both of those numbers and then we held Stanton's blind bid so we didn't show the numbers but all we did was show the percentage difference. We'd say within 5% of Kiewit's or within 5% of HDR engineer's estimate. Then we'd go through and talk about each of those. What was most interesting to us was each of those bid items, which we usually just see the rollup, and this time Kiewit would break that down into concrete, labor, equipment, rebar and we'd see all the breakouts. Then Stanton would be able to say I didn't put my rebar in that item, I put my rebar somewhere else in a separate item. Then they'd collaborate and decide if it was appropriate to have it somewhere else. Then Kiewit would say they would break theirs out when they do the final bid. So the final bid that we get is the rollup that we normally see, so all the pieces that go into that single bid item are rolled up and that is what we see at the end. Although we've seen all the open book as we've gone through the project, we don't see that now. We just see their final bid at the end of the project and at that point it is validated by Stanton doing the same thing – they are separate, they don't get to see those, they are basically two contractors bidding an advertised set of plans at that point.

Commissioner Fisher asked if we were paying both Stanton and Kiewit to put the bids together. Jake said correct. Commissioner Fisher said then everything Kiewit is doing was on a paying basis, anything before they put the bid together is on T&M. So what are we expecting the bid amounts to be? What do we expect the costs of this project to be? Jake said it's not public information yet; we haven't posted them on our web page. Duane asked what the pre-bid value was. Jake said about \$10 million. Lynn pulled it up – the total cost is \$12.7 million and that would have CE in it. The engineer's estimate was \$10.7 rough numbers. ICE estimate was \$9.7 million. Kiewit was \$10.5 million. Commissioner Fisher asked if Kiewit was just accepted then. Jake said yes. Commissioner Fisher said they sole source bid this at \$10.5 and we just accept that – it doesn't go out for competitive bid? Jake said correct. We will analyze that bid which we haven't had a chance to look at yet, but we'll analyze the bid and make a recommendation to the Commission if we recommend award or something else. Commissioner Fisher asked how much we will have in cost for all the T&M. Jake said we had an estimate when we hired them as a CM, we worked through the meetings they would travel to and how often we'd meet, how often they would be reviewing the design, how often they would be bidding it in the milestones as they go. We developed an estimate on time and materials at that time and I believe it was around \$190,000 for their work in the CM process. I don't know what we've paid them to date, we can certainly get that number for you. We pay them monthly just like during construction. I know that it is much less.

One of the side benefits of CMGC is the design generally moves faster than you anticipate because the contractor can help you define the design and if we can make a decision to move forward with that design piece, it speeds up the design. I know that happened in this case, we designed it very quickly. We didn't plan to get it done that fast but luckily we did and it's moving along quickly so that cost is much less than we anticipated. Commissioner Fisher said the \$190,000 in addition to that we'll have for the ICE and HDR. Do you have an average or an idea of how much those are going to be? Duane Kailey asked if we could put that together for the Commission because we're pulling numbers off the cuff right now, so why don't we put that together for you and get you that number. Commissioner Fisher said in order to figure out if a CMGC actually provides the value we think it's going to, we have to look at the total cost of actually going into it and not just the bid build cost. The build cost is what it is. How much are we paying in T&M for all three of those entities to come to a conclusion of giving us a bid as well?

Commissioner Hope asked how they defined success on the process. Kevin Christensen said I think one of the benefits of this is an efficient design. I would define success of the project going the way we anticipate it to go to get done with cost assurance, which is a benefit of this. So if we award this project and go forward, success to me would be the project gets completed in the time they say they are going to complete it in and it gets completed on budget and there's no cost over-runs.

Commissioner Fisher said I wrote a long email on my concerns with CMGC and I've been a huge proponent of it for a long time. The overall credibility of the process is what I'm concerned about and are we getting a good value for our money. Obviously one of my main concerns is when billion dollar companies decide to come into Montana, there is a reason why they are coming here. When they come here to do low bid projects, they can't even compete with our local contractors; they are out of the water in comparison. So if you look at Kiewit, for whatever reason on the Toston job they were way out in left field. My guess is, and it's simply a guess based on knowing folks who have worked for billion dollar companies and million dollar companies, is the overhead for them is significantly higher than it is for in-state contractors because they are always on a shoestring. Otherwise they go bankrupt. That's kind of how we've seen the industry go locally. When they can't be competitively bidding on the low bid projects but are competitive on CMGC that instantly makes me a little anxious because what they are getting when they come here on CMGC, these billion dollar companies have teams of technical writers. That is what they do; they send out their technical writers ... that's what they do around the state. If we weigh technical writing greater than we do interview and process and that kind of stuff, then we're automatically going to get a skew against the in-state contractors. Now it's my understanding that after the Salmon Lake project was let, which Kiewit also obtained on a CMGC basis, that we changed the grading as far as technical is now weighted not more significantly than the others, like the interview and the other things. So that gives me some hope. I also know on the Johnson Lane project, which is also CMGC, that the local contractor that was able to obtain that bid was LHC out of Kalispell and they teamed up with Granite, another billion dollar out-of-state company, in order to get the technical right. That, again, gives me some concern. I think there's some huge benefit to that too because you're getting billion dollar innovation as well. They are bringing that to the state and that can't be a negative for the state. If it's cost effective and it's a good product, that can't be bad for us and has to be an increase in value for us. But we're also paying on the front end of this CMGC, time and material, all of the travel cost to bring in their entire executive team; there's an extraordinary expense that goes into that.

It's important to note that this Commission has no jurisdiction over the CMGC, we only validate the final bid for the project which is a sole-source bid. So we don't have any input or oversight on anything prior to the actual bid getting to us because it is a service contract. MDT enters into service contracts all the time. So there's no oversight of that component of it. I don't know that that really matters because MDT only has so many funds anyway, but for the public perception and for our Legislators perception, the controls are different on that process. Does that then maintain its credibility because with the CMGC stuff instead of going with the low bid process, which is an entirely public process, CMGC is not as public; it's just not. I think there's good reasons for that. I'm just saying that the proof is ultimately going to be in the pudding. I'm hopeful that I don't have to eat crow on this. These are the concerns that I have. If what we're paying for up front in CMGC is really valuable because we're getting good data, then it's probably worth the investments. I just have concerns when the only way that billion dollar companies can compete in Montana is through this alternative process versus the low bid because we know that our local contractors have a lower overhead.

Duane Kailey said interestingly and we've been nervous about how we've seen most of these bids go, Kevin and I this summer attended a Quad-State AGC meeting down in Utah. Four states get together, Utah, Idaho, Wyoming and Montana and it

was hosted by AGC, America General Contractors Association, and we participated. One of the contractors and UDOT got together and gave a presentation on CMGC and they said you will see the out-of-state contractors get the initial bids. It was a message to the contractors to settle down and live with it for a little bit because you will learn the process and you will then start getting those contracts. He had to live with that and the other Utah contractors had to live with that. It was a very clear message, not by us and not by a DOT, it was a Utah contractor who had to go through exactly what our contractors are going through right now. I appreciate what you're saying and we're very concerned because before 2024, we've got to go sell the benefits that we're seeing to the Legislature to keep this going. We think there's a huge benefit to this. Kevin mentioned a number of them but the one thing I see is most of our designers don't fill jobs anymore. We used to hire a lot of our engineering project managers into our design side so they knew how to build jobs but we don't do that anymore. Why, I don't know; they just don't migrate in. So most of our designers do not know how to build the job. Going through the CMGC, we're seeing not only how the job is built but we're seeing it from the mindset of the contractor. To me that is invaluable knowledge. We cannot get that any other way. So there's a whole lot of intangibles; I don't know if we're ever going to be able to measure them and show that to people but I'm so excited about this. To gain and learn from it, it's unreal. I appreciate your comments and we shared some of them but I just think we need to see how that goes.

Commissioner Hope said on a converse note could it actually make our in-state contractor long-term better at what they do? Commissioner Fisher said yes absolutely. They have to step up their game because on the technical side, they've got to build more technical writers, there's no question about it. When you see the comparison between those billion dollar companies versus the local stuff, the local guys are getting better, but it's extraordinary what we're getting as far as technical product.

Jake Goettle clarified a couple of items that were talked about. It was after Trout Creek that we changed our percentages so we weighted the technical side on Salmon Lake differently. Our in-state contractors can compete. On Trout Creek when the technical was really high, it was still extremely close and the second place was a Montana contractor. It was the same on Salmon Lake, it was extremely close. We can't manipulate the process; the process is well defined and we have to follow it to make it above board, but they can compete. They will get better and better and they did on Johnson Lane, we have a joint venture of a local firm and an out-of-state firm. I'm confident we'll get there. We're excited to have this tool and I pray that we can get it to pass through the Legislature.

Commissioner Jergeson said, as the resident sceptic, in a previous life I must have lived in Missouri because I'm willing to be shown if something is going to work. On this whole process are we capped until 2024 to four projects? Jake said yes. Commissioner Jergeson said are we doing them sequentially? Is this the second one? Jake said this is the first one. Commissioner Jergeson asked if we were going to have this completed so we learn any lessons we need to learn before we do the second one? Jake said not completely. Obviously we're near award now. We've awarded two other ones and we have a contractor on board with two of the other projects. One of them we're still negotiating the preconstruction contract and the other we've ventured into the preconstruction contract and we're going down the design road. We've taken the lessons we learned in the procurement in the first stages of design in this project and incorporated those into those two. As we work through Johnson Lane which is the third one bid, but it's turned into our second project we're developing the design on, we are taking lessons from this and incorporating that as we go through the design phase on that project. We'll be through construction of Clark Fork before we bid either of the other two. Clark Fork is going to go very quickly whereas the other two are going to be a little slower and we will work the rough design for a couple of years before we bid on it.

Commissioner Jergeson said, not anticipating the Commission on the 20<sup>th</sup> might say no, but is it within the power of the Commission to say this does not measure up and say no. What would be the consequences of that? I'm living through some nightmares about some preapproval stuff at Colestrip from my service on the Public Service Commission. There's almost a preapproval aspect to this methodology and I'm wanting to know if there is some point where we evaluate whether or not that preapproval was a wise thing to do. We don't want to proceed with it. How much money has been dumped into this – the design money that was in Grass Range that we ended up having to pay back? Kevin Christensen said we have a design. In my mind if the Commission rejected that price, we would put it out to bid. We have a design, then we would just let it. I don't know if that would get us into legal trouble. I'm looking at FHWA out there, if we follow our process and everything is within our process, and we reject that bid ... in our design bid build you guys have been pretty staunch – if we follow the process and it's within our process and we chose not to award, the stance from FHWA was it would not participate after that point in time. Brian Hasselbach said I think that's a fair comment to raise and obviously we would want to have a discussion about it, but I think if you follow your process and then take a left turn at the end, we would very likely consider not participating on that.

Commissioner Fisher asked if the left turn got back on track – if we take a left turn and the Commission rejects the bid and it goes off the low bid within a short period of time, and then you're back on track. Brian Hasselbach said that's why I prefaced my comments with we'd have to have more conversation about it. Certainly in any of these non-participating conversations, there is the opportunity for the department to provide justification for why we shouldn't contact. If that justification could be had, then we'd certainly entertain that. In reaction to that question and based on what we're talking about, we would need to see more than that.

Director Tooley said one other point on this particular project, Jake mentioned we had a very robust public involvement program. Like any public involvement program, you don't get to everybody in every community and it's become obvious to some in the community there's a very long detour that's going to be at play here, like 20 miles, and they are not happy about that. Because the bridge will be closed, there is simply no way around that. So we're starting to get some suggestions that have actually been previously evaluated through the CMGC process and eliminated as potentials such as a construction bridge. Can you imagine a 1,000 foot construction bridge over a 100 foot deep pool of water? It's probably not cost effective, so that was rejected early. So the alternative is complete closure of the bridge for 4-6 weeks, it could be less but you don't want to promise any less and then have more because then they are calling Commissioner Fisher. You will be having pilot cars taking people through Blue Slide Road for that amount of time. It's a 20-mile detour and it will be impactful to the community but you have to back up and realize the loss the bridge ultimately is a bigger impact. That bridge is to the point of being critical. So stand by, you will hear about it. Commissioner Skelton asked how many vehicles per day use that route. Director Tooley said it is substantial during the summer; tourists use that route, commerce uses that route. Commerce will probably figure it out and use the Interstate and take those changes into account. Kevin Christensen said we should add that the full closure for the duration of the deck replacement wasn't the only option that we presented to the community and the stakeholders; there were several where we could do two-hour closures, do a panel at a time and open it for a little while, but that only lengthens the actual inconvenience. So the public did chose to close it and get it done. Commissioner Fisher asked can you close it earlier versus mid tourist season or does the timeframe for the constructability force it right in the middle of the summer. Jake said we talked about that with the community and that would have an impact on the school and that was a big concern that the school bus could get through. They didn't want to use Blue Slide Road for the school bus; so that was a non-starter. There's commerce in that area, logging is a huge factor up there so we've worked with them. We're setting signs in other states to warn the

trucking industry that that route is closed for a short time, Emergency Services, the mail, everything. We worked with them and we have contingency plans, mitigation of their impacts and the school was one of the biggest things. We need to set this closure at the right time so we're not impacting the school so these are the dates we chose for the closure and the contract is under a very tight timeframe, it's in the contract, and they are going to have a huge penalty if they don't meet that contract time. Commissioner Skelton said it appears you're doing the best you can for the situation we're in. We toured that a long time ago and it was bad then. Director Tooley said it didn't get better. Commissioner Jergeson asked if they every tell anybody to quit complaining because the circumstance could be worse. I could imagine the detour around the canyon would be hundreds of miles. Director Tooley said at some point we might have that discussion, but right now we still consider it public input. Thanks for your input but here's the 87 reasons we're not doing that and why we're doing this. We basically do that but in a very polite fashion.

#### *Roundabout at Applegate and Lincoln Road.*

You heard about the roundabout at Applegate and Lincoln Road, if you would like to hear how those projects are ultimately selected, we can also set that up. We can have safety come down and explain that. Just so you know the roundabout is not the first option, it's the last option and it's based on a cost-benefit analysis. Mr. Evilsizer has gone through there for 14 years without an incident, that's great and that's what we want. Unfortunately Maria Swingley, who was 17 years old, was killed at that intersection and that bumps the cost side of the cost benefit analysis part and makes it a lot more attractive in that system. We pay attention to all those things. In a minute we're going to take a tour of the sign shop and they do good work but people ignore signs and we know that. So those aren't the most effective way of dealing with a safety issue. You often hear that after somebody has gone by 10 signs, and didn't see the sign and drove right to the point of impact. Take that into consideration. Again, very valuable public input but there's not that broad understanding of what we have to analyze and are responsible for. So, obviously we could have more if you would be interested in learning how the safety program determines those things, we could bring folks in and give you a more in depth understanding.

Commissioner Jergeson asked if the traffic at that intersection is more dense or intense than the traffic at the intersection of Montana. Director Tooley said it's not even close. Commissioner Jergeson asked if there was consideration of a roundabout at that intersection. Director Tooley said yes, that one is going to have one and it is in the works. The thing about the north valley is it's developing rapidly and you may not see a lot of traffic at Applegate and Lincoln now, but you better anticipate there will be. Commissioner Hope said it seems to me that the public is still not sold on roundabouts. It's a matter of education and getting used to it. Myself personally I hated them but I've grown to like them because we've got them all over. Duane said to be fully clear, we're doing four roundabouts between the Interstate and Green Meadow. We're going to build one at the northbound off ramp of the Interstate on Lincoln Road. We're having a huge congestion issue right now and some challenges there. Then one at north Montana and one at Applegate and we have the one at Green Meadow already. One of the things we're seeing right now is with the congestion at North Montana and Lincoln Road, a fair number of people from that north hill are actually cutting and coming down Applegate and coming into the intersection from the west. It is actually increasing the traffic at Applegate and exacerbating the problem we're dealing with.

#### *Rescission is Gone*

Director Tooley said the good news is the rescission has been repealed in the latest budget bill. So the rescission is gone and so we have access to that additional authority ultimately and that is good news. Commissioner Jergeson said the TCP was done with the rescission not repealed, does that make a difference on the timing of

the projects that were moved back a year? For example, Harlem West was moved from 2023 into 2024. I understood that was because of the rescission being in play. Director Tooley said we don't think so. Lynn said that was only part of the reason. We plan the TCP and what the rescission would have impacted was the obligated balances we have that gives us flexibility to deliver a bigger NH project in a year than what we were anticipating. So our concern with the rescission was our flexibility – if they implemented it, in the next TCP we might have seen all kinds of juggling to align projects with how the federal funds actually come to us. We can transfer between categories to a point to help meet our asset-management based approach. Commissioner Jergeson said I understand that some of the projects will come in more expensive than anticipated, then you have to balance things forward. I just wanted to know if there was an impact.

Lynn Zanto said most of movement is due to project delivery schedules or issues or bumps in the road. What we're happy about is the next TCP won't be as bad as we expected it to be but with the amount of aid with redistribution we're getting, those balances are still getting an obligated balance for themselves so they will be condensed down. Larry Flynn said the repeal of the rescission is good, it will give us some additional flexibility and districts will be able to have that ability to transfer a little more as we move forward but it will take time to build those balances back up again. As Lynn alluded to, the redistribution amounts that we've been getting, \$57 million one year and \$31 million this last year, those are huge influxes into our funding but, when we accepted that and when we award those project, we are working those balances down. In doing that, we reduced the amount that they could have rescinded from us. The flip side of that is just because they repealed it that benefits the states that didn't take any action to try work those balances down. We took action and tried to be in a good position even if the rescission occurred so that we could handle it and it was our preference to get projects out on the road and build rather than have the federal government come in and take our balances away. With all that said, it will take us time to rebuild those balances back up again and provide more flexibility back to the districts to do those transfers.

#### *MDT Retirements*

Director Tooley said it's that time of year where it's not only Christmas but December is when some long-term employees start leaving us and decide to retire. There are two notable ones, Commissioner Jergeson already knows he is going to get a new District Administrator because Doug Lamont is leaving us at the end of the year and we're going to miss him; he's been great and a huge resource to me and the department for years. At the same time we're going to lose Ed Beaudette who is in the legal bureau. If you want to know the impact that somebody like Ed has, you just need to think of Rockvale to Laurel how he got through the whole rock farm issue and got that lined out and the North end of the Kalispell Bypass with those final big chunks of right-of-way. He's pretty good at negotiating with people on both sides including me who is a cheapskate and don't want to settle for as much, but he's very good at explaining the benefits so we're going to miss him. His impact was incredible and both of them were and we'll miss them. Commissioner Skelton said I want to echo about Ed, he was such an asset and so easy to work with and easy to talk to. He was just fabulous and we will miss him. Lori said there is a book downstairs you can sign so please send you're regards to Ed. We will give it to him at his party.

#### **Agenda Item 9: Change Orders September & October 2019**

Duane Kailey presented the Change Orders for September & October 2019 to the Commission. They are presented for your information. If you have any questions or comments, please feel free to ask. Again, there are two different forms here and that's being generated by the two different software as well. Commissioner Jergeson

said, as we go forward, the white pages are going to get shorter and the blue pages will be gone. Duane said correct. Duane said if you get home and see something, feel free to send me an email. Commissioner Fisher asked if Golden Eagle had added contract time. Duane said yes. We're not allowed to work in certain proximities of eagles nesting with young.

Stand

### **Agenda Item 10: Letting Lists October through April**

Duane Kailey presented the Letting Lists for October through April to the Commission. They are presented for your information only. If you have any questions or comments, please feel free to ask.

Stand

#### *Basin Slide Road Project*

Dustin Rouse said I wanted to update you on East River Road Slide, Secondary 540. We are requesting a January 9 special letting to award the contract. Our design staff scrambled and got plans together – they are planning to dig up two locations. There's continuous settlement and there continues to be debris flow in this area, it's an active slide with a lot of moisture. The in-slope on the river side has caved away so there's berm drop-off right off the highway. This is also in the same area where there has been settlement over the years, maintenance has continued to patch, patch, and patch this and that weight of the asphalt appears to be six-to-eight feet of asphalt in some locations. The weight of the asphalt, our geotechs are concerned that is actually loading the slide as well. The proposed fix is to dig all that out, put gravel in and fix it so it can take that groundwater flowing through it, add some edge drains and a new culvert, and finish it up to a gravel surface because we're in the middle of winter. Then come back in the spring and pave it and finish it. That's the scope. We have the plans put together. We can do it within our existing right-of-way. Utilities are clear. We are working with the Corp of Engineers, they have the plans and are reviewing them. They have 45 days to review that. They did say they'd try and turn that as quickly as possible. That is the one outstanding issue and I can't control that. That would push us through the January 9<sup>th</sup> date, but based on everything we're seeing right now, we'd like to shoot for that January 9<sup>th</sup> letting.

Our request is for you to approve the special January 9<sup>th</sup> letting and then we want to discuss what your preference would be for the award; if you wanted to delegate authority or if you would want a special call in to take action. Duane Kailey said you have two options: one to do an expedited award, so you can either delegate to either myself, Kevin, Mike Tooley, Pat Wise to award on your behalf or approve an award date of Tuesday December 14, 2019. Commissioner Jergeson asked if it was delegated to somebody then it could be awarded the day after the bids are let or do they have to be analyzed in either case for a period of days. Why couldn't the Commission on a conference call make that same decision one or two days later, as long as it's noticed. Duane Kailey said, if you delegate to somebody on this side of the table, we could award it as soon as we have all the issues resolved which could be in five minutes or five hours. With the Commission typically we don't have a lot of issues, they can do their analysis the next day, so theoretically we could do the 10<sup>th</sup>. Jake said the public notice for the award would be the only issue and I don't know the requirements for how long it has to be posted on the Agenda. Duane said we're under exigency and that wipes that out. Jake said then we could do it the 10<sup>th</sup>. Commissioner Jergeson said if it's three days to notice to the public that the award amount is \$5 million, the notice has to be made whether the award is granted either way. If that's what has to be noticed. If it's simply noticed that the Commission

meeting is a conference call, then it's on the 10<sup>th</sup>. We don't know the award amount until the 9<sup>th</sup> but the public's notified that there is going to be this action being taken on the 10<sup>th</sup>. Dyane said we can do the 10<sup>th</sup> or the 14<sup>th</sup> or delegate. Commissioner Hope recommended we delegate.

Commissioner Sansaver moved to approve the Special Bid Letting of January 9, 2020. Commissioner Jergeson seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Commissioner Jergeson moved that a conference call meeting of the Commission be scheduled for January 10, 2020 to award the East River Road Slide project. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

### **Agenda Item 11: Bozeman Rest Area**

Director Tooley said it's been about two years since I was approached by the City of Bozeman and a group at that location regarding the property that our Bozeman Rest Area currently occupies. When that facility was built, North 19<sup>th</sup> was not nearly as developed and it was a great place for a rest area. Since that time the development has exploded and it's not a good place for a rest area and it's really causing some issues and it prevents further development on that sliver of land. We've had a lot of discussions with the City of Bozeman and others regarding their desire to have access either through our rest area which is not acceptable or find some way to develop that. So the group from Bozeman brought a proposal that was very unique and interesting in that the proposal would allow us to take that property and work to develop it.

So we entered into discussions with Craig Rickert on that and the direction was the state needs a rest area and you want some properties, so how can we figure this out. My desire for the department is to still have a facility that we can use if not there then somewhere else and we don't want to invest any money in it because we have one that has still got at least 10 years of useful life in it. So other than the fact that it's in a difficult spot, there is really no advantage to the state to pull out and spend \$5 million somewhere else. Craig is a private developer and he has been doing some work on this to see if that is a feasible approach that the state could realize a turn-key operation somewhere other than North 19<sup>th</sup> and in turn that property could be released for private development. That sounds simple but it's a lot more complicated than that. So that is why we're bringing you up to speed today. When you have a public entity working with a private entity, things get a little interesting. I'll turn it over to Lynn for a little bit and then our Chief Legal may have some comments. Lynn has a pretty good grasp on the timeline on this issue.

Lynn Zanto said a couple of years ago the City of Bozeman approached us and were interested even prior to talking about the rest area, there was conversation about access to the property south of it. They wanted an approach through our rest area and that's not allowable under law. Then we received a request from the City of Bozeman concerned with Emergency Service access. We still, because of safety and operations on North 19<sup>th</sup> and the traffic, couldn't allow a full access approach there but we did respond that we could give emergency access via a locked gate. That was in 2017 and then early 2018 at a meeting that FHWA hosted with all of us and the City of Bozeman including Craig Rickert, we started talking about the rest area – is there a way to get the rest area out of there if we had an equal replacement at the same level-of-service somewhere else.

When there are private development requests or even local government requests that are going to impact our system, my division manages what we call a System's Impact



Action Process. We serve as the main coordinator so we aren't sending someone like Mr. Rickert all around the department trying to figure out who they ought to talk to because this is really unique. There's a lot that goes into these considerations. We were provided Craig's point of contact and started to provide him information on what would the process look like. Our staff starts coordinating internally with our entire division, so we have legal because there are a lot of legal questions, the Director's office, Maintenance, Engineering, FHWA because rest areas are built with federal money and the Interstate is a federal system and North 19<sup>th</sup> is a National Highway System. We started to gather all the information on whether it was even doable. That was the first thing we were trying to figure out. We got an answer from legal that yes it does fall under state law that could lead us into an exchange. So we started responding to requests for getting Mr. Rickert information as he was researching and considering whether this was something he would pursue. That was 2017 and since then we've coordinated on all the requests.

The other interest was a Bozeman's Roles and Responsibility document which we typically do through an MOU agreement. We worked together with the Director's office and FHWA to figure out all the details and nuances and what would have to be done and then started to work on an MOU. As we did the internal review of the MOU, our Chief Legal officer retired and a new attorney came into play and they were a little uncomfortable with the part of the statute we were working under. There were a couple of things that were of concern – have we had any conversation with the Commission? They were concerned with the part of the statute we were following with the prior Chief Legal Counsel. We shared with Mr. Rickert early on that there would be a point in time where we would bring this to the Commission like we do with any developer. Since this is pretty unique, legal thought it was better to have the discussion with the Commission sooner rather than later.

Val Wilson, Legal Division, said when we started taking a look at the discussions on this proposed exchange of property, there were two ways the department can divest itself of interest to a private developer. Either through an exchange of interest or through a sale that would just be a general auction up to anyone who would come and bid on the parcel. So how the department was proceeding under previous direction, when we took a fresh look at the memo on the exchange of access property we had some concerns because what we were actually doing was creating the access property. So it wasn't property that we determined we no longer needed. So legal looked at that and said it really doesn't fit the criteria and we did have concern about it not being vetted with the Commission or the public and then having discussions with one developer instead of giving notice to developers or contractors that may be interested in bidding on this project. So during one of our meetings, our Chief Engineer said this might be something that would work with our Design Build Process. So that's where we are today. One of my senior staff attorneys, Carol Grell-Morris, has taken a look at the statutes on the exchange of interest in real property and sales, and is convinced that this Design Build Process meets all those requirements. It provides public notice and gives other developers or contractors that would have an interest in bidding on this process the notice they needed. Jake has worked really hard on putting information together to determine that this fits within that definition of our process and procedure for Design Build Program.

How this is generally used is if we have some right-of-way and have a total acquisition, say we'll only use a portion of that for our right-of-way and our roadway and there will be some excess land we can sell, but it's nothing that we created, it's always something that is determined to be no longer needed because of the design of the project. So that's typically is how that section is used. Duane Kailey said an example of that is a lot of times when we rebuild a roadway we need to maintain the road for traffic, so a lot of times we will slide the new roadway over to the side. Especially in eastern Montana, there are landowners own both sides of the roadway, so we might be taking 20 feet to the north of the roadway but, oh by the way when we're done, we will have 20 feet to the south in excess. So what we'll do, rather than

go through this long negotiation, we'll just exchange like-for-like and exchange the land. No harm to the landowner and no harm to the department for the most part. That is where the statute came from. Val Wilson said in our history we've never done anything like exchange a rest area.

*Craig Rickert, 34 Outlier Way, Bozeman, MT.*

Craig Rickert said I just wanted to introduce myself and answer any questions you would have. I live in Bozeman with my three grandsons, my son and my daughter-in-law. I've been developing for 30 years. I actually did a fair amount of Montana entitlement work years ago. I did a lot of work for Wal-Mart, 45 sites for them. I did Helena, the Wal-Mart and Sam's in Great Falls, Kalispell, Bozeman and others. I've been working on this project over two years. If you think about 10<sup>th</sup> Avenue and I-90 and the amount of traffic that's in that area, the way Bozeman is going it's not going to get any less. To me, and these are my words, part of the situation there is you've got 60 to 80-foot semis that are attracted to the rest area and in fact some are mandated to go into the rest area. This is right at the front door of Bozeman. I'm working with the American Semital Cattleman's Association property right next door and I was looking for access into their property and that's how this all started with Director Tooley and Assistant Director Pat Wise. Pat was the first one I met with. I have letters from the Police Chief of Bozeman and also the Planning Director and the Director of Public Works in support of this proposal. If you think about the Police Chief or Sheriff and they are trying to respond through that intersection, they would like to see the traffic flow increased.

This is my 19<sup>th</sup> meeting with MDT in Helena, what I'm proposing is to look at moving the rest area out of town. I told Director Tooley that the people I'm working with, Lynn and Jim Skinner, have been super people. I've proposed 10 different sites along the Interstate where this could potentially be moved to. We've eliminated some of them for various reasons – it floods, too tight of a curve, etc. We potentially ended up with is the second Three Forks exist right by Wheat Montana which is 287 coming up to the capital city. What we're proposing is a rest area there. I have 12 acres under contract to potentially replace that rest area in Bozeman. As I went through this process and knew the amount of acreage of the rest area in Bozeman, what came out of all this is that MDT asked for an additional 25 feet inside the fence so that changed the acreage quite a bit. So it would be approximately 5.2 acres there and 12 acres here (referring to map).

That rest area in Bozeman, you walk in the front door and you have two hallways – one for the men and one for the women. The new ones you like is when you walk in the front door and you can see every door. So it would be built to your new design standards. I have a contractor from Helena, Dean Bjerke, who has built rest areas before, he has bid on them also and is very knowledgeable about what's happening. I have an engineering group that is ready to do the soil testing and the ground water flow and depth location and the engineering that would be needed for this.

In July of 2018, I got a list of what would be required for me to do this. I'm trying to gage if it makes sense. From that list I have continued to operate based on that list with the land I'm developing next door, the Semital Property. What came out was the adjacent landowner, to me that means contiguous, and they took another week and researched that and said it's the contiguous landowner. Here's the rest area and here's the American Semital Cattleman's Assoc., here's the Ford Dealership (referring to map). I'm dealing with three different governments – the city, the state, and the feds. Part of what I said to the city is that this street behind the Ford Dealership which is called Semital Way will be required to hook into this intersection so it will help give a relief valve for some of the traffic there also. I've paid for a traffic impact study in Bozeman and at this area. The one in Bozeman is very involved and the department is going through it right now with Morrison-Maierle. It didn't show that what I'm doing isn't necessarily going to hugely impact the traffic but it did come up

with a couple aside of potentially five different items on how that traffic on 19<sup>th</sup> could potentially be increased. Some of those items were – if you think about the bridge going over the Interstate, there's a concrete island there. So number one would be potentially taking that out. Number two would be restriping the deck so you'd end up with another lane. Number three would be the access onto I-90 going west to maybe give more capacity there and also onto the Interstate going east and then with the Billings Clinic building their new hospital down the road and will create a lot of traffic, there's a grass island right there as Valley Center hooks onto 19<sup>th</sup> and probably make another lane there. Those are five items that came out of it and all part of the huge process we're working on.

This is where we're at right now. I'm going over to meet with Mr. Bjerke to find out about costs. The whole thing is we're not going to be impacting your budget at all. Hopefully we can do that and give you a brand new improved facility, extra acres in trade for 5.22 acres. I'm still moving forward and this is part of the process.

Commissioner Fisher asked how many rest areas Montana has in urban-type locations. Aren't most of them off the highway in the middle of nowhere? Lynn Zanto said this used to be off on its own when it was built. That was about the time the interchange was put in. We worked with the City of Bozeman and the development along there on a development plan. Bozeman was great in helping figure out how to pay for costs to the roadway. In terms of other locations for rest areas like this, we have some here and there but there was a program back in the mid-90's called City Park Rest Areas and the agency at that time was interested in locating rest areas by communities because the utilities were cheaper. It was state funds and the department talked to communities, Twin Bridge, Havre, that if we would give them \$100,000 to improve a facility they already had and as long as they would agree to maintain it, then it remained theirs. So we still have a little bit of state funding support for those original City Park Rest Areas to help them with their utility bills, or a mower, or some supplies. But this one was federally funded.

Commissioner Fisher asked if there was any property taxes paid. Lynn said there are no property taxes. It's owned by the state and it's a federal facility. Craig Rickert said I think the community of Bozeman would be very happy to see the rest area moved. It was more controversial than you might think when they put it in there quite honestly. I think there's a better place for a rest area than there. The process you have to go through is the process. I just think we have to be aware of that and do it the right way. Commissioner Skelton said the truck traffic is significant especially with the new laws where they have to get off the road more often, that's a significant place to stop in that area. Thank you for your information.

Commissioner Jergeson asked under the rules how many hours a truck driver can drive before they have to take a rest. Can they take their rest at a private sector stop? There is quite a facility that Town Pump has at that intersection just across the Interstate from Wheat Montana. Can truckers stop there and get their rest. If I stop at some private business for whatever reason to use their restroom, I figure I'd better spend some money there too. So they might have an interest in that. Is there any concern we have to deal with potential objections from somebody thinking that this would take their business away from them and is that a factor in any rest stop? Lynn said if we decide to move with this and follow the process, there would be public processes. If we start down the path of interest to develop the site at Three Forks, there's public processes any time we're taking a state action. Part of the Design Build process structure was in the interest of starting some of the public process and asking if anybody else is interested in helping the city and MDT find a different place for this rest area.

## **Agenda Item 12: Planning Biennial Survey**

Commissioner Skelton asked if they wanted to talk about the survey or just review it and if there's a question contact Lynn. Lynn said the only thing that I will say is that this is part of our on-going communication so every other year we hire someone to do a statistically valid survey across the state and by district. So take a look at it; we can always present it at another meeting if you have questions. The actual reports are at the state and I can give you copies. Commissioner Hope asked if there was anything that came out of it. Lynn said when we asked about what our focus should be, preservation has been pretty consistent, the public wants us to focus on road pavement. The one interesting thing to me was when we got into district-by-district and asked about the top perceived problems, congestion has never been in the top two. Pavement was the top concern for all five districts. In three of our districts, congestion was second. Keep in the mind that is the Montana standard of congestion, it was Missoula, Butte, and Billings. Our Montana public isn't tolerant of the level of traffic. If you look at it and if you have any other questions, call me. I'll send you the actual survey links.

## **Agenda Item 14: MDT Shop Tour**

Director Tooley said he would walk down to the shop at 2:00 and if anybody wants to come down and tour I'll be there. I'll give you some time to eat before the tour. Commissioner Jergeson said he wanted to take the tour. Commissioner Skelton said she had toured the shop previously. Commissioner Hope said he would also like to take the shop tour.

## **Next Commission Meeting**

The next Commission Conference Calls were scheduled for December 20, 2019, January 10, 2020, and February 5, 2020. The next Commission Meeting was scheduled for February 20, 2020.

## **Adjourned**

Meeting Adjourned

Commissioner Skelton, Chairman  
Montana Transportation Commission

Mike Tooley, Director  
Montana Department of Transportation

Lori K. Ryan, Secretary  
Montana Transportation Commission