

**NEW MEXICO STATE TRANSPORTATION COMMISSION**

**MEETING**

**Video Conference Meeting**

**November 19, 2020**

The New Mexico State Transportation Commission (STC or Commission) held a regular meeting via video conference on November 19, 2020. Chairman Adams called the meeting to order at 9:01 a.m. He asked for a roll call to establish a quorum. Mershawn Griego, Office of the Secretary, New Mexico Department of Transportation (NMDOT), proceeded to call the roll. Commissioners Jennifer Sandoval, Bruce Ellis, Hilma E. Chynoweth, Walter G. Adams, and Thomas C. Taylor were present.

**Approval of the STC Meeting Agenda**

**Chairman Adams asked for a motion to approve the STC meeting agenda; Commissioner Ellis made a motion to so approve; Commissioner Chynoweth seconded; motion carried unanimously.**

**Approval of the STC Minutes**

**Chairman Adams asked for a motion to approve the September 17, 2020 STC regular teleconference meeting minutes; Commissioner Sandoval made a motion to so approve; Commissioner Ellis seconded; motion carried unanimously.**

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**State Transportation Commissioners Present:**

Jennifer Sandoval, Vice-Chair, District One  
Bruce Ellis, Commissioner, District Two  
Hilma E. Chynoweth District Three  
Walter G. Adams, Chairman, District Four  
Thomas C. Taylor, District Five  
Charles Lundstrom, Secretary, District Six (Absent with Notice)

**NMDOT Staff Present:**

Michael Sandoval, Cabinet Secretary  
Justin Reese, Deputy Secretary  
Rick Padilla, Executive Director of Highway Operations  
Jerry Valdez, Executive Projects Director  
Kenneth B. Baca, General Counsel  
NMDOT Staff

**Elected Officials and Delegations Present:**

The Honorable Joy Garratt, New Mexico State Representative, District 29  
The Honorable Harry Garcia, New Mexico State Representative, District 69

**Introduction**

Chairman Adams welcomed attendees to the STC meeting and asked if anyone in attendance would like to speak.

**District Three Update**

Justin Gibson, P.E., District Three Engineer, NMDOT, provided an update regarding District Three, during which he discussed the District's various projects, pavement preservation, maintenance and other activities. He also thanked District Three staff for helping with COVID-19 activities, and the courtesy patrol for the services they provide to motorists on a daily basis.

## **Finance Reports**

### **New Mexico Finance Authority (NMFA) Report**

Mark Lovato, Investment Manager, NMFA, provided an update regarding NMDOT's investment portfolio funds under NMFA management and NMDOT/NMFA's outstanding bond debt service as of October 31, 2020. As of that date, NMFA was holding approximately \$45.2 million for debt service. NMFA received \$48.5 million for debt service set asides for the closing of the 2020 A Series Bonds, from which \$33.8 million was placed in escrow to pay off the 2010 A1 and A2 Series Bonds on December 15, 2020. Currently, there is approximately \$6.7 million in the project account and approximately \$230,000 in the arbitrage rebate account. The balance in NMDOT's taxable line of credit at Wells Fargo for the BNSF requirement is \$50 million. To date, NMDOT has paid a commitment fee of \$687,791 for the line of credit. NMDOT's current outstanding debt is \$907.2 million. A debt service payment of approximately \$31 million is due on December 15, 2020, which includes \$9.470 million in principal and \$21.5 million in interest.

### **Approval of FY21 Budget Adjustment Request (BAR) No. 13 - P565 - Helping Obtain**

#### **Prosperity for Everyone (HOPE) Grant**

David Harris, Transit and Rail Division Director, NMDOT, presented and requested approval of FY21 BAR No. 13 - P565 - HOPE Grant. The BAR is required to increase budget authority in Contractual Services (Category 300) for the Federal Transit Bureau by \$210,000. The funds will be used for a planning study to coordinate transit service and improve mobility from rural areas and tribal reservations in the northwestern part of the state to jobs and healthcare facilities in Albuquerque. The funds are 100% Federal reimbursable by the Federal Transit Administration through the HOPE Program.

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**Chairman Adams asked for a motion to approve FY21 BAR No. 13 - P565 - HOPE Grant; Commissioner Ellis made a motion to so approve; Commissioner Chynoweth seconded; motion carried unanimously.**

**Approval of FY21 BAR No. 14 - P565 - Coronavirus Aid Relief and Economic Security (CARES) Act**

David Harris, Transit and Rail Division Director, NMDOT, presented and requested approval of FY21 BAR No. 14 - P565 - CARES Act. The BAR is required to increase budget authority in Grants (Category 400) for the Federal Transit Bureau by \$325,812. NMDOT is administering these funds on behalf of the North Central Regional Transit District (NCRTD). The funding will be used to pay for eligible local small urban public transportation administrative and operating expenses. The funds are 100% Federal reimbursable by the Federal Transit Administration through the CARES Act.

**Chairman Adams asked for a motion to approve FY21 BAR No. 14 - P565 - CARES Act; Commissioner Chynoweth made a motion to so approve; Commissioner Ellis seconded; motion carried unanimously.**

**Approval of FY21 BAR No. 15 - P565 - Hybrid Vehicles**

David Harris, Transit and Rail Division Director, NMDOT, presented and requested approval of FY21 BAR No. 15 - P565 - Hybrid Vehicles. He specifically noted the \$1,370,000 amount referenced in the Commission Brief for the BAR needs to be modified to \$1,170,528. He explained the difference between the two amounts is the match amount that will be provided by local entities. The BAR is required to increase budget authority in Grants (Category 400) for the Federal Transit Bureau. NMDOT is administering the funds on behalf of the South Central

Regional Transit District (SCRTD). The funding will be used to purchase two hybrid transit buses to provide service between Sunland Park and downtown El Paso. The funds are 100% Federal reimbursable by the Federal Transit Administration (Section 5307 Program).

**Chairman Adams asked for a motion to approve FY21 BAR No. 15 - P565 - Hybrid Vehicles in the amount of \$1,170,528; Commissioner Sandoval made a motion to so approve; Commissioners Chynoweth and Ellis seconded; motion carried unanimously.**

**Approval of FY21 BAR No. 16 - P565 - Low or No Emission Vehicle Program**

David Harris, Transit and Rail Division Director, NMDOT, presented and requested approval of FY21 BAR No. 16 - P565 - Low or No Emission Vehicle Program. The BAR is required to increase the budget authority in Federal Grants (Category 400) for the Federal Transit Bureau by \$2,920,000. NMDOT is administering the funds on behalf of the North Central Regional Transit District (NCRTD). The funding will be used to install charging stations and purchase electric buses. The funds are 100% Federal reimbursable by Federal Transit Administration through the Low or No Emission Vehicle Program.

**Chairman Adams asked for a motion to approve FY21 BAR No. 16 - P565 - Low or No Emission Vehicle Program; Commissioner Ellis made a motion to so approve; Commissioner Sandoval seconded; motion carried unanimously.**

**Approval of FY21 BAR No. 17 - P565 - Bus Facilities Program**

David Harris, Transit and Rail Division Director, NMDOT, presented and requested approval of FY21 BAR No. 17 - P565 - Bus Facilities Program. The BAR is required to increase the budget authority in Grants (Category 400) for the Federal Transit Bureau by \$5,251,090.

NMDOT is administering the funds on behalf of the North Central Regional Transit District (NCRTD). The funding will be used to design and construct a new operations and maintenance facility in Taos. The funds are 100% Federal reimbursable by the Federal Transit Administration through the Bus Facilities Program.

**Chairman Adams asked for a motion to approve FY21 BAR No. 17 - P565 - Bus Facilities Program; Commissioner Sandoval made a motion to so approve; Commissioner Chynoweth seconded; motion carried unanimously.**

**Approval of FY21 Local Governments Road Fund (LGRF) Match Waiver Program Request**

Clarissa Martinez, Statewide LGRF Manager, NMDOT, presented and requested approval of the FY21 LGRF Match Waiver Program request. The LGRF Match Waiver Program authorizes NMDOT to distribute up to \$1 million of LGRF money to local entities that can demonstrate financial hardship, for use as all or a portion of their 25% match requirement. The projects identified on the “FY21 LGRF Match Waiver Applicants Selected” list (page 45 in the STC meeting book) were analyzed by the New Mexico Department of Finance and Administration (DFA) and deemed eligible for the Match Waiver Program. NMDOT is therefore requesting the STC’s approval to distribute Match Waiver Program funding in the amount of \$938,980 to the identified local entities. Ms. Martinez commented that due to the COVID-19 crisis, NMDOT is recommending approval for all of the local entities that applied for FY21 LGRF Match Waiver Program funding.

**Chairman Adams asked for a motion to approve the FY21 LGRF Match Waiver Program request; Commissioner Chynoweth made a motion to so approve, as recommended; Commissioner Ellis seconded; motion carried unanimously.**

## **Policy Reports**

### **Approval of STC Resolution No. 2020-04 (NOV) Ratifying Emergency Use and Re-establishing the “Jal Route” as a Temporary, Negotiated, Alternate, Southern Waste Isolation Pilot Plant (WIPP) Route**

Rick Padilla, P.E., Executive Director of Highway Operations, NMDOT, asked the STC’s permission to provide an update on winter maintenance to date since he will be unable to report on the topic again until January 2021. On behalf of the STC, Chairman Adams consented.

Mr. Padilla reported that as a result of the storm in northern New Mexico (Chama to Raton) in early October, NMDOT incurred approximately \$500,000 in labor costs, \$1.7 million in equipment costs, approximately \$3.4 million in commodity costs (salt, cinders, all other hard materials put on the ground), and completed 213,000 pass miles. In addition, as a result of the big storm in late October that affected all six districts, NMDOT incurred \$454,000 in labor costs, \$1.4 million in equipment costs, approximately \$1 million in commodity costs, and completed a total of 183,000 pass miles.

Mr. Padilla introduced and requested the STC’s approval and adoption of STC Resolution No. 2020-04 (NOV) Ratifying Emergency Use and Re-establishing the “Jal Route” as a Temporary, Negotiated, Alternate Southern WIPP Route. He explained that on September 24, 2020, the Department of Energy - Carlsbad Field Office (DOE-CBFO) requested emergency use of the temporary, negotiated, alternate Southern WIPP route (the “Jal Route”) for WIPP shipments during the month of October 2020. The DOE-CBFO also requested continued use of the Jal Route for WIPP shipments beginning November 19, 2020, and extending to December 31, 2021.

On October 8, 2020, based on the emergency presented and the STC's prior authorization for use of the route by STC Resolution No. 2019-06 (NOV), NMDOT approved DOE-CBFO's urgent use of the route for the month of October 2020.

As justification for continued use of the Jal Route for WIPP shipments, instead of the existing, designated Southern WIPP route (US 285 to US 62/180), DOE-CBFO identified ongoing safety concerns related to portions of US 285, as well as anticipated impacts, including lane shifts and detours, from a planned, multi-year sink hole remediation project south of Carlsbad, adjacent to the Southern Route.

The STC was requested to (1) ratify NMDOT's decision to allow DOE-CBFO to use the route for the month of October 2020, (2) to re-establish the Jal Route for use as a temporary, negotiated alternate to the designated Southern WIPP Route until December 31, 2021, unless terminated earlier by notice; and (3) adopt STC Resolution No. 2020-04 (NOV).

**Chairman Adams asked for a motion to approve STC Resolution No. 2020-04 (NOV) Ratifying Emergency Use and Re-establishing the "Jal Route" as a Temporary, Negotiated, Alternate Southern WIPP Route; Commissioner Ellis made a motion to approve the Resolution, as presented; Commissioner Taylor seconded; motion carried unanimously.**

#### **NMDOT Contractor Prequalification Rule, 18.27.5 NMAC - Rulemaking Update**

Rick Padilla, P.E., Executive Director of Highway Operations, NMDOT, gave an update on the status of NMDOT's rulemaking action on 18.27.5 NMAC, Contractor Prequalification Rule, which the STC authorized NMDOT to initiate in January 2020. He reported that NMDOT held a public hearing on October 15, 2020, during which one written comment and two oral comments were received. As a result of certain concerns raised in the comments, NMDOT is now



reconsidering some of the provisions in the rule. One of the issues raised involved disincentive and unfair advantages. NMDOT needs to consider this issue and develop a solution to create a level playing field. Another issue related to timing. Specifically, first year calculation, and how and when that will happen. NMDOT will work with the Associated Contractors of New Mexico (ACNM) and Asphalt Pavement Association of New Mexico (APANM) on adding provisions to address this issue. NMDOT hopes to come back to the STC in March to request approval of the rule.

### **Approval of Proposed 2021 STC Meeting Schedule**

Michael Sandoval, Cabinet Secretary, NMDOT, presented and requested approval of the proposed 2021 STC meeting schedule. Dates and tentative locations are as follows: January 22, Santa Fe; March 25, Las Vegas; May 20, Albuquerque; July 15, Las Cruces; September 16, Milan; and November 18, Hobbs. When allowable, the STC will hold in-person meetings at the designated locations, starting at 8:30 a.m. Commissioners may change the meeting location within their respective Districts with Commission approval. Until it becomes possible to resume in-person gatherings, STC meetings will be held via Zoom, starting at 9:00 A.M.

**Chairman Adams asked for a motion to approve the proposed 2021 STC meeting schedule with the flexibility to make changes by Commission approval, and if meeting in-person, starting at 8:30 a.m., and when meeting via Zoom, starting at 9:00 a.m.; Commissioner Chynoweth made a motion to so approve; Commissioner Taylor seconded; motion carried unanimously.**

## **Secretary's Report**

Secretary Sandoval reported that NMDOT's recent external state fiscal year audit had zero findings. He thanked and congratulated Mallery Manzanares, Administrative Services Director (ASD) and Budget Director, her team and NMDOT's financial consultants. Chairman Adams and the Commissioners also congratulated Mrs. Manzanares and her team for their achievement.

Secretary Sandoval discussed how COVID-19 has recently affected NMDOT projects. The Las Cruces I-25/University project and other smaller projects in the Las Cruces, District One area were suspended for a couple of weeks due to possible positive COVID-19 tests. The situation is becoming more common across the state and is impacting NMDOT front line staff and private contractors. It is expected that more projects will be put on hold.

Secretary Sandoval informed the STC that Timothy L. Parker, P.E., District Two Engineer, NMDOT, has taken a new job in San Antonio, Texas. The Secretary expressed his appreciation for all the work Mr. Parker did during his time with NMDOT, both in District 3 and District 2. Rick Padilla, Executive Director of Highway Operations, is currently the acting District Two Engineer. Alan Briley, P.E., Assistant District Two Engineer, Construction, and Francisco Sanchez, Assistant District 2 Engineer, Engineering Support, are also assisting.

Secretary Sandoval recognized Thomas Kratochvil, P.E., Assistant District Three Engineer, Maintenance, NMDOT. He expressed his appreciation to Mr. Kratochvil for his long-term service with NMDOT, his good work in the Albuquerque area, and congratulated him on his retirement.

The Secretary also recognized the Honorable Harry Garcia, New Mexico State Representative, District 69. Representative Garcia thanked NMDOT and the STC for inviting him

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to attend the meeting. He is looking forward to working with NMDOT as much as he possibly can to make sure NMDOT's funding is in place, and that no funding is taken away. Representative Garcia also commented on an ongoing issue concerning trash, including human waste and syringes, dumped by truckers on I-40 on-ramps and off-ramps. He is concerned because it is hazardous for maintainers that have to pick up the waste. If possible, he would like to see barriers or gravel piles installed so truckers cannot stop on the ramps.

Secretary Sandoval informed the STC that NMDOT is scheduled to present its budget to the Legislative Finance Committee (LFC) on December 8, 2020 at 3:00 P.M. He invited all Commissioners to attend the meeting virtually to listen to NMDOT's presentation, and a report regarding NMDOT's 2021 legislative agenda.

The Secretary outlined NMDOT's 2021 legislative package, which includes:

A bill to allow NMDOT to bond sooner than it was given authority to during the First Special Legislative Session of 2020. Presently, NMDOT can bond \$75 million, starting July 1, 2022. NMDOT would like to make that date as soon as possible, or upon signing of legislation. In addition to the \$75 million, NMDOT will be asking for its full bonding capacity in the amount of \$234 million, already approved through GRIP. With interest rates being so low, NMDOT would be able to get \$300 million worth of money for bonding \$234 million worth of projects because of how its program is structured. This is a good opportunity to take advantage of the record low interest rates for bonds. NMDOT recently refunded some bonds, closed the transaction a couple of weeks ago, and saved about \$7.7 million. Now is the time for NMDOT to bond because it has the capacity to do so. NMDOT does not want to put the State in any more debt as far as the length of the debt. NMDOT will be debt free as of 2032.

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NMDOT will also be requesting authorization to use the Design and Build Project Delivery method for the NM 31 and NM 128 project, an eight mile segment of highway south of Carlsbad that NMDOT will be widening to four lanes. The estimated cost of the project is \$100 million. Presently, NMDOT can use design build for any project above \$50 million built with federal-aid highway funds but as of now, this project is intended to be built with state funds only. NMDOT needs special permission from the Legislature to utilize state funds for design build projects, so will be asking to be able to use design build for the NM 31/NM 128 project.

A Construction Manager General Contractor (CMGC) bill, which is another alternative delivery method bill, similar to the design build bill. During the legislative session last year, the previous version of NMDOT's CMGC bill passed the House as well as the Senate Corporations & Transportation Committee, but was halted in the Senate Judiciary Committee. NMDOT is hopeful the bill will pass this year with assistance from the American Council of Engineering Companies (ACEC) and Associated Contractors of New Mexico (ACNM).

A Driver Education School Surety Bonds bill that will increase the required amount of the surety bond that each Driver Education school is required to post. By statute, Driver Education schools are currently required to post a \$5,000 bond. That amount was established over 20 years ago and is now insufficient to cover NMDOT's costs of reimbursement to students in the event a school goes out of business. Accordingly, NMDOT will be asking to increase the surety bond amount from \$5,000 to \$15,000.

A Collection for Damages to Highways bill that will to allow NMDOT to negotiate and settle with insurance companies for damages caused by vehicle crashes.

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A bill to change a distribution of the revenue from the Motor Vehicle Excise Tax (MVET) from the Local Governments Road Fund (LGRF) to the Transportation Project Fund (TPF). The LGRF requires a 25% local match, and is rather restrictive in how funds can be used. The LGRF currently has a funding source of approximately \$20 to \$25 million and, through existing legislation, is scheduled to receive an additional distribution of approximately \$40 million from the MVET. NMDOT will be asking to have the \$40 million distribution instead go to the TPF, which only requires a 5% match, and local governments can use the funds on anything related to construction, including design and studies. As such, TPF funding is much more flexible for use.

A bill to transfer Ports of Entry buildings, many of which are now owned by the Department of Public Safety (DPS), even though NMDOT currently pays for all maintenance and upgrade costs. The bill will request the transfer of ownership of those properties from DPS to NMDOT, so NMDOT will officially own and operate them, and thereby become 100% responsible for the Ports of Entry program. Commercial Weight-Distance permits make up about \$100 million, or about 25% of NMDOT's budget so it is important for NMDOT to own the properties.

Chairman Adams asked if two Districts, instead of one, could be invited to give updates at the STC's bi-monthly meetings. He proposed that Districts Two and Three be invited to present at the next meeting.

Chairman Adams and the Commissioners thanked the Secretary and NMDOT staff for all their work. Commissioner Ellis specifically thanked former District 2 Engineer Tim Parker for his excellent work during his time with NMDOT. Chairman Adams closed by acknowledging Representative Garratt and expressing his appreciation to her for attending the STC meeting.

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Secretary Sandoval announced J. Don Martinez, FHWA, will be retiring from FHWA at the end of this year.

**Adjournment**

**Chairman Adams asked for a motion to adjourn the regular meeting at 11:21 a.m.; Commissioner Taylor made a motion to adjourn the regular meeting; Commissioner Ellis seconded. Motion carried unanimously.**



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**Chairman**

**Walter G. Adams**

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**Secretary**

**Charles Lundstrom**

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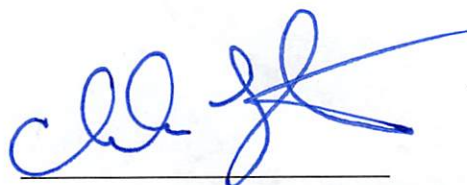
### Adjournment

Chairman Adams asked for a motion to adjourn the regular meeting at 11:21 a.m.; Commissioner Taylor made a motion to adjourn the regular meeting; Commissioner Ellis seconded. Motion carried unanimously.

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Chairman

Walter G. Adams



Secretary

Charles Lundstrom