NEW MEXICO STATE TRANSPORTATION COMMISSION
MEETING

New Mexico Department of Transportation
District Four Patrol Yard
161 Hereford Avenue
Raton, New Mexico 87740
July 19, 2018

The New Mexico State Transportation Commission (STC or Commission) held a regular meeting on July 19, 2018, at the New Mexico Department of Transportation, District Four Patrol Yard, Raton, New Mexico. Chairman Schmeits called the meeting to order at 8:35 a.m. Commissioner Moore led meeting attendees in the Pledge of Allegiance.

Approval of the STC Meeting Agenda

Chairman Schmeits asked to add a new business item to the end of the STC meeting agenda. It is a discussion item regarding changing the date and location of the November STC meeting.

Chairman Schmeits asked for a motion to approve the STC meeting agenda, as amended with the addition of the new business item; Commissioner Mathews made a motion to so approve; Commissioner White seconded; motion carried unanimously.

Approval of the STC Minutes

Chairman Schmeits asked for a motion to approve the minutes of the STC regular meeting of May 17, 2018; Commissioner Moore made a motion to so approve; Commissioner White seconded; motion carried unanimously.
**Elected Officials and Delegations:**

The Honorable Richard Cordova, Mayor, Village of Eagle Nest  
Bill Sauble, Chairman, Colfax County Commission  
Lander Newton, Vice-Chairman, Colfax County Commission  
Mary Lou Kern, County Manager, Colfax County  
Linda Schuster, Mayor Pro Tem, City of Raton

**State Transportation Commissioners Present:**

Kenneth White, Secretary, District One  
David Sepich, Commissioner, District Two (Absent with Notice)  
Keith Mortensen, Commissioner, District Three (Absent with Notice)  
Ron Schmeits, Chairman, District Four  
Butch Mathews, Vice-Chairman, District Five  
Billy Moore, Commissioner, District Six

**NMDOT Staff Present:**

Tom Church, Cabinet Secretary  
Anthony Lujan, Deputy Secretary  
Kenneth B. Baca, Chief Deputy General Counsel  
NMDOT Staff

**Welcoming Remarks**

Commissioner Schmeits introduced himself and welcomed meeting attendees. He then invited the elected officials present to make brief presentations.

Richard Cordova, Mayor, Village of Eagle Nest, thanked NMDOT for the help it provides to communities in the northeast region and throughout New Mexico. He also expressed his sincere gratitude to District Four staff for their assistance during the recent Ute Park fire. Mayor Cordova mentioned that he is the Chairman of the Northeastern Regional Planning Organization and the President of the New Mexico Municipal League. He, along with most of
the municipalities throughout the State, would like to offer assistance in getting NMDOT the funding it needs.

Bill Sauble, Chairman, Colfax County Commission, welcomed meeting attendees to Colfax County and expressed his appreciation to the STC and NMDOT for their support and effort to keep the Southwest Chief operating. Mr. Sauble stated there will be a meeting in Ratcn on August 21, 2018, regarding the Southwest Chief.

**District Four Presentation and Employee Recognition**

David Trujillo, P.E., District Four Engineer, NMDOT, gave a presentation regarding District Four activities, during which he discussed the District’s various projects and maintenance accomplishments. He also reported on the District’s Employee Recognition Program, acknowledged the recent award winners and introduced other District staff members in attendance at the meeting.

**Employee Excellence Training Award Winner**

Anthony Lujan, Deputy Secretary, NMDOT, presented the 2017 employee excellence training award. For the third year in a row, the award was presented to District Four.

**District Five Best Practice Presentation**

Anthony Lujan, Deputy Secretary, NMDOT, presented the District Five Best Practice Awards. The best practice program was established to showcase innovative and creative ideas developed by NMDCT staff to make their jobs easier and safer. Not only do employees make their jobs safer with their ideas and creative suggestions, but they also become more productive because of them.
Public Comment

Eric Martinez, engineer, Los Alamos County, in follow-up to Los Alamos County Public Works Director, Philc Shelton’s comments at the May 17, 2018 STC meeting, reported regarding the County’s continued efforts on the NM 502 construction project. Funds for utility work and landscaping have been deposited with NMDOT, and the project goes out for bid next week. He thanked Armando Amendariz, Design and Construction Division Director, NMDOT, and his staff, as well as Paul Brasher, P.E., District Five Engineer, NMDOT, and his staff for the assistance they have provided to Los Alamos County.

Morris Madrić, Public Works Director, San Miguel County, commented on behalf of the San Miguel County Commission and the citizens of San Miguel County. He stated that the County shares similar issues to NMDOT with respect to maintaining roads with the funds provided. He thanked the District Four Office for the resources it has provided.

Rick Tafoya, Manager, Village of Angel Fire, thanked District Four for its support on the Village’s local projects.

Bill Donati, KRTN, Raton, welcomed the STC to Raton and thanked NMDOT for its work in northern New Mexico. He stated that the community needs NMDOT’s help with the Amtrak Southwest Chief, and that he was present at the STC meeting to lend his support. He added that not only will the continued operation of the Southwest Chief affect the people in Raton, but also thousands of people in future generations.

Shelley O’Neill, Philmont Scout Ranch, Village of Cimarron, pledged Philmont Ranch’s support toward keeping the Southwest Chief operational. She stated the Ranch has about 22,000
scout participants per year, and approximately 9,000 riders in and out of Raton. She also thanked District Four for its assistance during the Ute Park Fire.

Brian Jones, Executive Director, Asphalt Paving Association of New Mexico, commented that his organization has been conducting five trainings a year in two different locations, Albuquerque and Las Cruces. He reported that numerous NMDOT employees have attended the trainings, and that another training will be held in Las Cruces next week. He extended an invitation to all interested staff to attend.

Linda Schuster, Mayor Pro Tem, City of Raton, expressed her appreciation to the STC and NMDOT for holding the STC meeting in Raton. She also thanked NMDOT for its work in the area, including the reports it provides regarding road conditions, which are passed on to travelers by the Raton Visitor’s Center.

Mary Lou Kern, County Manager, Colfax County, thanked the STC and NMDOT for coming to Raton. She, too, thanked District Four for its help with the Ute Park Fire. She also spoke briefly about the importance of keeping the Southwest Chief running through New Mexico, and thanked the STC for its continued recognition of the importance of the Angel Fire airport, which is owned by Colfax County.

Connie Martinez, resident of the City of Raton, spoke on behalf of her mother, Virginia Martinez Boman, a lifelong property/homeowner in Raton. She discussed an issue concerning a New Mexico Department of Game and Fish / NMDOT project. She explained that a four mile fence was built to prevent animal strikes on the highway. In the 1960’s her parents owned a substantial amount of property, part of which was taken by eminent domain, and is now part of I-25. An eight-foot fence was built as part of the project, and there is a stretch of land between her
family's property fence and the new fence. Her understanding is that no provisions were made to clean and maintain that stretch of land between the two fences. Weeds are growing, trash is accumulating and no one seems to be able to confirm who is responsible for maintaining that land.

David Trujillo, P.E., District Four Engineer, NMDOT, informed Ms. Martinez that NMDOT has ordered a special mower; he will make certain the requested maintenance is performed as soon as possible.

Request for Approval Proposed Dedication of a 2.5 Mile Portion of NM 50 as the "Representative Luciano "Lucky" Varela Memorial Highway" and Adoption of Related STC Resolution No. 2018-09 (JUL)

Tom Church, Cabinet Secretary, NMDOT, discussed and requested approval of the proposed dedication of a 2.5 mile portion of NM 50 from the Santa Fe / San Miguel County Line east to its intersection with NM 63 in the Village of Pecos, as the "Representative Luciano "Lucky" Varela Memorial Highway". Secretary Church read proposed STC Resolution No. 2018-09 (JUL) aloud to the STC, and thereafter introduced Representative Varela's son, Jeff Varela, and nephew, Pat Varela, and invited them to comment regarding the proposed dedication.

Chairman Schmeits asked for a motion to approve the proposed dedication of the subject 2.5 mile portion of NM 50 in the Village of Pecos, as the "Representative Luciano "Lucky" Varela Memorial Highway"; Commissioner Mathews made a motion to so approve the proposed dedication and adopt related STC Resolution No. 2018-09 (JUL); Commissioner White seconded; motion carried unanimously.

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Staff Briefings

Secretary Report

Tom Church, Cabinet Secretary, NMDOT, thanked all staff present for their remarkable work. He reported that this fall NMDOT will have the largest program in the history of New Mexico. This was accomplished by managing funds, completing work and maximizing all of NMDOT’s federal funding. He also reported that NMDOT’s bond sale was completed, the fiscal year end audit is in currently underway and NMDOT’s major construction program is progressing. Fiscal year 2018 was closed out on June 30, 2018, and fiscal year 2019 has been opened. NMDOT staff are currently working on the rollover. Secretary Church also discussed the status of the Amtrak Southwest Chief.

Bill Craven, Rail Bureau Manager, NMDOT, also provided a brief update regarding the Southwest Chief. He reported that Amtrak initially threatened to withdraw its $3 million funding contribution to the $25 million project that will largely be funded by TIGER grant funds. Amtrak notified Colfax County about this approximately two months ago. Senators and Representatives from New Mexico, Colorado and Kansas met with the CEO of Amtrak to determine what Amtrak’s intentions are, because the company receives a great deal of funding from Congress annually for support of its national network. In FY18 alone, $1.3 billion was appropriated to Amtrak for support of its national network, which is separate from an additional $600 million that was appropriated specifically for the northeast region. Congress is taking the lead on working directly with Amtrak on national issues.
Finance Reports

Monthly Financial Report

Mallery Manzanares, Budget Director, NMDOT, presented the NMDOT operating budget and financial report as of June 30, 2018. Current program vacancy rates are as follows: District One, 12.29%; District Two, 17.77%; District Three, 20.39%; District Four, 23.3%; District Five, 13.4%; District Six, 13.7%; General Office, 19.8%; and the total for the entire agency is 18.4%. The current adjusted budget for Project Design and Construction (P562) is $835.7 million; Highway Operations (P563), $246.7 million; Business Operations (P564), $42.2 million; and Modal (P565), $65.8 million. The rollover for Project Design and Construction (P562) is $367.5 million; Highway Operation (P563), $25.5 million; and Modal (P565), $28 million. NMDOT is in good financial standing; revenue is strong and a little higher than expected.

New Mexico Finance Authority (NMFA) Monthly Report

Mark Lovato, Investment Manager, NMFA, provided an update regarding NMDOT's investment portfolio funds under NMFA management. As of June 30, 2018, the market value of the portfolio was $28.5 million, a net decrease of $103.2 million from the previous month. The change is attributed to bond debt service payments of $102.6 million and $2.1 million in draws, plus interest earnings of $170,815. NMFA also paid out $487.7 million from the 2018A bond issue to refund the 2008A, B, and 2011 A-1 to 2011A-3 bond series. There is 52% in the project account, all of which is in the 2014A Highway Infrastructure Fund (HIF) account, 47% in the debt service accounts, and less than 1% in the arbitrage rebate account. Mr. Lovato also discussed NMDOT/NMFA's outstanding bond debt service and reported that NMDOT is now
out of the SWAPs, no longer faces the cliff issue, and the collateral line of credit with RBC in
the amount of $50 million has been terminated.

Michael Zavelle, Chief Financial Strategist, NMFA, reported on the recent bond sale. He
thanked Chairman Schmeits and Secretary Church for working with NMFA on the transaction,
and indicated that all of the objectives for the transaction were achieved. He thereafter outlined
certain details regarding basis points, interest rates and bidding.

Request for Approval of FY18 Budget Adjustment Request (BAR) No. 16

Mallery Manzanares, Budget Director, NMDOT, presented and requested approval of
FY18 BAR No. 16 - P562 - Project Design and Construction. The BAR is required to increase
budget authority in the amount of $489,325,050 in other categories and for other financing uses.
The funds are for the 2018A Series Refunding Revenue Bonds sold on June 27, 2018. Budget
authority is needed to properly record the transfers between funds and account for the costs of
issuance related to the bond sale.

Chairman Schmeits asked for a motion to approve FY18 BAR No. 16 - P562 -
Project Design and Construction; Commissioner Mathews made a motion to so approve;
Commissioner White seconded; motion carried unanimously.

Request for Approval of FY19 BAR Nos. 5, 6, and 7

Anthony Lujan, Deputy Secretary, NMDOT, Kevin Olinger, Transit and Rail Division,
NMDOT, and Mallery Manzanares, Budget Director, NMDOT, presented and requested
approval for FY19 BAR Nos. 5, 6 and 7.
FY19 BAR No. 5 - P563 - Highway Operations, is needed to establish budget authority for Districts One through Six. The BAR will increase Category 400 by $12 million for maintenance and repairs to district facilities, purchase of equipment and patrol infrastructure. Funds for equipment infrastructure are long overdue. Some patrols and construction employees work in patrol yards with old windows that leak and poor heating and cooling. The funds will also help with other infrastructure in the districts.

Chairman Schmeits asked for a motion to approve FY19 BAR No. 5 - P563 - Highway Operations; Commissioner White made a motion to so approve; Commissioner Mathews seconded; motion carried unanimously.

FY19 BAR No. 6 - P565 - Modal, is required to increase budget authority in the amount of $3,789,000 in federal grants and services (Category 400) for the Transit Bureau. These funds will be used by the North Central Regional Transit District (NCRTD) for (1) $3,600,000 of discretionary Federal Transit Administration (FTA) Section 5339(b) funds for the construction of a new maintenance facility in Espanola; and (2) $189,000 of FTA Section 5307 funds for the continued operation and administration of NCRTD transit routes serving La Cienega and the Santa Fe National Forest, including Ski Santa Fe. The funds are 100% federally reimbursable.

Chairman Schmeits asked for a motion to approve FY19 BAR No. 6 - P565 - Modal; Commissioner White made a motion to so approve; Commissioner Moore seconded; motion carried unanimously.

FY19 BAR No. 7 - P565- Modal, is required to increase budget authority in the Ignition Interlock Fund (Category 500) for a transfer to the Second Judicial District Attorney (DA) in the amount of $500,000. The funds were appropriated to the DA’s office by the 2018 New Mexico Legislature in House Bill 2 (Laws 2018, Chapter 73) for a data-driven prosecution pilot program.
The funds derive from Ignition Interlock Fund balance. $2.3 million is presently available in the Fund.

Chairman Schmeits asked if this transfer is for driver prosecution and to purchase bracelets. Secretary Church explained that NMDOT is one of the recipients of the money in the Ignition Interlock Fund, which is collected from certain DWI fees. Last year, the DA requested the Legislature for an increase of $500,000 to fund additional DWI prevention initiatives in Albuquerque. He stated that instead of transferring the subject funds by BAR, the appropriate process to do so would entail submitting a capital budget adjustment to the Department of Finance and Administration.

Chairman Schmeits asked for a motion to approve FY19 BAR No. 7 - P565 - Modal; Commissioner Moore made a motion to so approve; there was no second; the motion was denied.

Infrastructure Reports

Request for Approval to Initiate Rulemaking Action to Amend 17.4.2 NMAC, Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities

Dean Serna, Utility Manager, NMDOT, requested approval to initiate rulemaking action to amend NMDOT rule, 17.4.2 NMAC, Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities (filed as 17 NMAC 4.2). 17.4.2 NMAC has not been updated since approximately 1996. It is critical to amend the rule at this time given the number of requests NMDOT is receiving from utility companies to install facilities in NMDOT rights of way in order to accommodate new technologies, such as wireless broadband for 5G,
infrastructure and fiber optic lines. It is in NMDOT’s best interest to update the subject rule and related occupancy agreements for unregulated private, for-profit stakeholders.

Chairman Schmeits asked for a motion to approve the initiation of rulemaking action to amend 17.4.2 NMAC, Requirements for Occupancy of State Highway System Right-of-Way by Utility Facilities; Commissioner White made a motion to so approve; Commissioner Moore seconded; motion carried unanimously.

Request Approval of Final Rulemaking Action Adopting Amendments to 18.27.5 NMAC, Contractor Prequalification Rule

Armando Armendariz, Design and Construction Division Director, NMDOT, requested approval of final rulemaking action adopting amendments to 18.27.5 NMAC, Contractor Prequalification Rule. The purpose of the amendments is to clarify certain provisions in the rule that are necessary to effectively manage the Contractor Prequalification Program. The amended rule will become effective on January 1, 2019.

Vice Chairman Mathews asked for a motion to approve final rulemaking action adopting amendments to 18.27.5 NMAC, Contractor Prequalification Rule; Commissioner Schmeits made a motion to so approve; Commissioner White seconded; motion carried unanimously.

Request for Approval to Initiate Rulemaking Action to Establish New NMDOT Rule, 18.14.5 NMAC, Railroad Cost and Maintenance Responsibility on Highway/Railway Projects

Bill Craven, Rail Bureau Manager, NMDOT, presented and requested approval to initiate rulemaking action to establish new NMDOT rule, 18.14.5 NMAC, Railroad Cost and
Maintenance Responsibility on Highway/Railway Projects. He explained that the existing rules pertaining to highway/railway projects are contained in Title 17 of the New Mexico Administrative Code, *Public Utilities and Utility Services*. NMDOT rule, 17.4.2 NMAC, has not been updated since the 1990s. In the intervening years, responsibility for highway/railway project coordination was transferred from the NMDOT Utilities Section within the Right of Way Bureau to the NMDOT Rail Facilities and Permitting Section within the Rail Bureau. A request to initiate rulemaking action to repeal and replace 17.4.2 NMAC was introduced and approved by the STC earlier in the STC meeting today (*see above*). Repeal and replacement of 17.4.2 NMAC will remove the provisions relating to the Utilities Section's responsibilities for coordination of highway/railway projects, and will necessitate creation of a new rule outlining the responsibilities of the Rail Facilities and Permitting Section.

Chairman Schmeits asked for a motion to approve the initiation of rulemaking action to establish new NMDOT rule, 18.14.5 NMAC, *Railroad Cost and Maintenance Responsibility on Highway/Railway Projects*; Commissioner White made a motion to so approve; Commissioner Moore seconded; motion carried unanimously.

**Policy Reports**

**Rio Metro Regional Transit District (RMRTD) Annual Report Regarding New Mexico Rail Runner Express (NMRX)**

Dewey Cave, Executive Director, RMRTD, and Tony Sylvester, Special Projects Manager, RMRTD, presented the NMRX Annual Report. They explained that the Memorandum of Agreement between NMDOT and RMRTD regarding NMRX management, funding and
operation, requires RMRTD to provide a report to the STC every year at the STC’s July meeting. The report includes information on the NMRX annual operating and capital budgets, annual service plan, the five year capital maintenance plan/capital improvement plan, NMRX ridership, and performance targets.

Request for Approval of Proposed Amendments to Commission Policy No. 32, Mineral and Water Rights (CP 32) and Commission Policy No. 65, Interstate Access (CP 65)

Stephen Thies, Assistant General Counsel, NMDOT, presented and requested approval of proposed amendments to CP 32. CP 32 provides that prior STC review and approval is required to dispose of mineral and water rights. Reissuance of CP 32 is required at this time in accordance with the provisions of Commission Policy 4, New Mexico State Transportation Commission Rules and Policies. The first paragraph of CP 32, entitled “Reference”, has been amended to include two additional statutory citations. No other changes have been made to CP 32.

Mr. Thies also presented and requested approval of proposed amendments to CP 65. He explained that in its existing form, CP 65 directs that new or modified interstate accesses shall be approved by the STC, provided that no impact or minimal impact on public safety can be assured. CP 65 also describes the specific procedure that must be followed when new or modified interstate access is requested by local government agencies, Indian Nations, Tribes, and Pueblos, or their representatives. Based on input from a team of NMDOT subject matter experts, CP 65 has been amended to refine the language of the policy to be consistent with NMDOT’s current practice. Mr. Thies also stated that the last citation, 48 C.F.R. 1.48(b)(1), in the first paragraph of CP 32, entitled “Reference”, should be corrected to read 49 CFR 1.85

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Chairman Schmeits asked for a motion to approve the proposed amendments to CP 32; Commissioner Mathews made a motion to so approve; Commissioner Moore seconded; motion carried unanimously.

Chairman Schmeits asked for a motion to approve the proposed amendments to CP 65; Commissioner Moore made a motion to so approve; Commissioner Mathews seconded; motion carried unanimously.

November 15, 2018 STC Meeting

Chairman Schmeits suggested that the November 15, 2018 STC meeting scheduled to be held in Roswell be changed to December 13, 2018, and instead held in Albuquerque. The STC briefly discussed the matter. It was decided that an approval item would be placed on the September 20, 2018 STC meeting agenda.

The Commissioners thanked the District Four Raton Patrol employees for the use of their building for the STC meeting. They also thanked NMDOT staff for all the work they do.

Adjournment

Chairman Schmeits asked for a motion to adjourn the regular meeting at 11:55 a.m.; Commissioner White made a motion to so adjourn; Commissioner Moore seconded; motion carried unanimously.

Chairman

Kenneth R. White

Ronald Schmeits

Secretary

July 19, 2018