

**EXECUTIVE TRANSPORTATION AND ENVIRONMENT COUNCIL
MEETING SUMMARY**

Monday, January 9, 2006; 11:00 a.m.

Federal Highway Administration – Utah Division Offices
2520 West 4700 South, Suite 9A
Salt Lake City, Utah

PRESENT: John Njord, Utah Department of Transportation
Butch Waidelich, Federal Highway Administration
Joe Thomas, Department of Environmental Quality (representing Dianne Nielson)
Wilson Martin, Division of State History
Jim McMinimee, Utah Department of Transportation
Wes Bolinger, Federal Highway Administration
Carlos Braceras, Utah Department of Transportation
Brooks Carter, U.S. Army Corps of Engineers
Henry Maddux, U.S. Fish and Wildlife Services
Brent Jensen, Utah Department of Transportation
Shawn Zinzer, U.S. Army Corps of Engineers
Diane Josie, Utah Department of Transportation

I. CHAIR AND HOST WELCOME

John Njord began the meeting by welcoming everyone and thanking them for their attendance. He introduced Butch Waidelich, the Administrator for the Utah Division of the Federal Highway Association (FHWA).

Butch Waidelich welcomed everyone to the meeting and said he was pleased that this Council is holding these meetings to discuss environmental issues. Butch briefly spoke about his past professional experience.

II. SIGNED CHARTER DISTRIBUTION

Brent Jensen prepared copies of the signed ETEC Charter in individual binders for each member. John distributed the Charter to those members in attendance at the meeting. He mentioned the Charter illustrates the purpose of the Council.

III. HOST PRESENTATION: FHWA UTAH DIVISION

Wes Bolinger distributed handouts of his presentation highlighting the activities and responsibilities of the Utah Division of the FHWA. He discussed the responsibilities of the FHWA including stewardship and oversight at both the project and program levels. Wes outlined the responsibilities and tasks of the various units within the Utah Division of the FHWA and mentioned there are currently 17 full-time employees and one contract employee working at the Utah Division.

During the presentation, a discussion regarding the distribution of funding took place. Butch mentioned that on projects using federal money, usually state or local governments have to match the funds.

Wilson Martin asked if revenue is affected by the price of gasoline or fuel-efficient vehicles. Butch said that Congress is looking into levying taxes differently in the future to address the revenue issue. Carlos Braceras mentioned that SAFETEA set up two committees to review the per gallon tax.

Wes mentioned that fatalities in Utah are going down, while the number of drivers is going up. Butch said Utah has the highest drop in fatalities among the western states and seat belt use has increased. Carlos mentioned that UDOT's safety dollars are being programmed where they have data that shows it's effective.

IV. SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU)

Butch conducted a presentation and provided handouts on SAFETEA-LU. He mentioned that it's five-year legislation that is in effect until 2009. He said that the Utah average annual apportionment under SAFETEA-LU is \$282 million, which is an increase of 31% over TEA-21 funding.

Butch outlined the environmental provisions of SAFETEA-LU. He mentioned he thinks this Council is the appropriate place where issues pertaining to the environmental provisions should be addressed. The four provisions Butch believes are most important are 6001, transportation planning; 6002, efficient environmental reviews; 6004, state assumption of responsibilities; and 6009, 4(f) "de minimus impacts." He discussed the requirements and provisions and potential issues of each area.

Butch discussed provision 6002, efficient environmental reviews. He mentioned this provision provides for more efficient environmental reviews by providing streamlined procedures to modify the NEPA process.

During the presentation of this provision, there was a discussion regarding the 180-day statute of limitations for litigation pertaining to permits, licenses or approvals issued by federal agencies.

It was noted that many federal agencies delegate decisions to state agencies. Butch mentioned that once a decision is made by a state agency the agency needs to notify FHWA within 180 days if a claim will be submitted. The purpose is to bring the conflict now and resolve the issue up front.

John asked if UDOT received a Record of Decision (ROD) on a project two years ago could UDOT still invoke the 180-day statute of limitations now if we're still in the project phase? Butch said that the Department would need to do a Notice of Intent (NOI) to make the notification that the 180 days in invoked. He said he is currently being advised to put the NOI in the EIS.

Butch discussed provision 6004, state assumption of responsibility. He stated this involves the delegation of other environmental reviews and requires a memorandum of understanding. He said FHWA would be working with UDOT to further address this item.

Brooks asked if the Army Corps' exclusion for nationwide projects would be passed onto the state. Brent said the state is already doing that on 80-90% of projects, but UDOT would still get a permit from the Army Corps. Brooks said he will verify how coordination will be done and make sure the procedure is being done correctly.

Butch discussed Provision 6009, 4(f) "De Minimus Impacts". He stated it's a rigorous test that can determine if there will be impacts that can be minimized by mitigation. If there is a conflict between an owner and the public, FHWA will make the decision on the "de minimus" impact. Wilson mentioned that he knew of 11 states that wanted to eliminate this provision.

Butch mentioned the less significant provisions in SAFETEA-LU including 6003, 6010, 6006 and 6007.

Butch said that some of the issues he touched on today would probably be discussed in more detail in future ETEC meetings.

V. LEGACY PARKWAY AGREEMENT

Carlos distributed copies of the Legacy Parkway Settlement Agreement, a map illustrating the additional mitigated properties and a Summary of the Agreement. He stated that over 200 designers are currently working on the project and UDOT is waiting to receive the ROD and 4(f) permit. He said that UDOT is hoping to advertise and award the first phase of the project in early March. There will be a groundbreaking when the work begins. This will be followed by three different phases of work on the project during the summer months.

Carlos said UDOT has conducted several tours of the Legacy Parkway for legislators and expects to have design hearings with the cities affected by the project during the first week of February. UDOT expects to open the Legacy Parkway to traffic by October 2008.

VI. PROJECT STATUS REPORT

Jim McMinimee distributed a list of the NEPA documents that are in progress. The list includes the status of the Environmental Impact Statements and Environmental Assessments that UDOT is currently working on.

ACTION ITEM: John asked Jim to discuss the list in detail in a subsequent meeting.

Butch mentioned that with new projects, we will need to go through purpose and need process.

ACTION ITEM: Butch said the purpose and need process will need to be discussed in a future meeting.

VII. PROGRAMMATIC AGREEMENTS; ETEC WEBSITE AND TRANSPORTATION AND ENVIRONMENT WEB LINKS

Due to time constraints, John asked Brent to defer his presentation until the next meeting.

ACTION ITEM: Brent's presentation was deferred to the next meeting.

ACTION ITEM: Brent was asked to send out a link to the ETEC website to the spread word among staff.

Brent mentioned that his group is refining the environmental management system to insure commitments are completed.

ACTION ITEM: Brent to discuss the work his group has done at a future meeting.

VIII. SCHEDULE NEXT MEETING

The next meeting is scheduled for Monday, April 17, 2006 from 11:00 a.m. to 1:00 p.m. The meeting will be hosted by Wilson Martin, Director of the Division of State History at the Denver Rio Grande Depot, 300 South 400 West in Salt Lake City.