

**JOINT MCA-MDT MEETING – 2:00 PM**

Attendees

<b>MCA Members</b>	
Aaron Gray	Highway Specialties
Brad Meyer	Highmark Traffic
Brian Thompson	BKBH
Clinton Habel	Riverside Contracting
Colton Dean	Century Companies
Craig Alanen	McAsphalt
David Smith	MCA
Deb Poteet	Poteet Construction
Garret Brown	H2Precast
Isaac Marceau	Millerbernd
Jodie Tooley	Montana Lines
Karen Rehbein	Riverside Contracting
Keith Johnston	Mountain West Holdings
Kerry Gray	Highway Specialties
Kevin Helling	L & J
Matthew White	White Resources
Mike Newton	Fisher Sand & Gravel
Nicole Hanni	MCA
Pat Bomgardner	Montana Lines
Ryan Young	Poteet Construction
Solomon Redfern	Helena Sand & Gravel
Stacy Hill	Riverside Contracting
Tim Moseman	Millenium Electric

<b>MDT</b>	
Bridger Langel	MDT
Christopher Trautmann	MDT
Clarissa Martin	MDT
Dan Clary	MDT
Daniel Osendorf	MDT
Darin Reynolds	MDT
Darrell Wiliams	MDT
Dean Jones	MDT
Douglas McBroom	MDT
Dustin Rouse	MDT

Dwane Kailey	MDT
Fred Beal	MDT
Hohn McMillan	MDT
Jake Geottle	MDT
James Sullivan	MDT
Jeff Jackson	MDT
Jeffrey Harrison	MDT
Jeremy Wilde	MDT
Jim Davies	MDT
Joe Green	MDT
Joe Green	MDT
John Schmidt	MDT
Kathy Terrio	MDT
Ken Seccomb	MDT
Ki Stoddard	MDT
Mark Rapkoch	MDT
Matney Juntunen	MDT
Matt Needham	MDT
Meghan Strachan	MDT
Michael Jagoda	MDT
Mike Dodge	MDT
Oak Metcalfe	MDT
Pau Bushnell	MDT
Ricky Sandoval	MDT
Shane Pegram	MDT
Stephen McEvoy	MDT
T.J. Ramaeker	MDT
Ted Thronson	MDT
Tom Martin	MDT

### **SUMMARY OF ACTION ITEMS FROM HTC MEETING**

- Re: 108.01.3 Subcontractor Payments
  - MDT to clarify the final paragraph to ensure it is read and presented clearly.
  
- Re: 109.09.2 Mobilization Payment
  - MDT to alter the way this is worded. MDT stated intent is to keep payment timeframes identical to present; i.e., to allow payment before any amount of work is actually completed.
  
- Re: 618 Traffic Control Units – Measurement

- MDT committed to requiring written notice before possibility of penalty.
- MDT to consider MCA request of extending correction period from 24 to 48 hours.
  
- Re: 706.04 Treated Timber and Lumber
  - MDT to add additional accepted preservatives to spec 703.14.
  
- Re: Type 1L Cement (Air Entrainment)
  - MDT committed to reviewing data re: 1L Cement.
  
- Re: Wages and notification to general contractor
  - MDT to update payment system so that GC gets notice when certified payroll is rejected.
  
- Re: Millerbernd Pole Welding Issue
  - MDT has committed to communicating clearly with Millerbernd to state what the standards are for Millerbernd and why the Millerbernd pole welding fails that standard.
  
- Re: Wide Load Marshalling
  - MDT proposes that wide load marshalling only occur at night.
  - MDT has committed to a sit-down discussion with Keith Johnston to discuss the challenges this proposal creates.

### **SPECIFICATION CHANGES**

Link to list of all specification changes at this meeting is [HERE](#).

If spec is omitted from minutes, no substantive discussion or communication took place.

#### **105.03.3 Quality Incentive Allowance**

John MacMillan – we mistakenly took this out; adding it back in.

#### **108.01.3 Subcontractor Payments**

John MacMillan – we are looking to match up with MT Code.

Bomgardner – some of this language could be cleared up. I do not think the language in red is as clear as it could be.

MacMillan – we can clean that up so that it is clear.

### **109.09.2 Mobilization Payment**

MacMillan – This is clean up to the mobilization payments.

Bomgardner – We have comments on this. It looks like MDT is altering the pay timetable by removing the ability to get 1% of the pay before any amount of the job is complete. In many instances there is pay before any work is completed. Why is the possibility to be paid prior being removed?

MDT – maybe we can go back and pay on the first estimate.

MDT – the way it is currently written does not match our pay system. The table should not impact the way you are being paid. The intent is to pay the way it has been. We do not want to change the site manager program.

Jodie Tooley – this first estimate has been moved further and further back over the years. This change to the table appears to mean we must work at least 1% of the job before payment. However, contractors are required to get a bond first – the initial 1% was intended to help with bond payment right out of the gate. If the first payment is delayed, then we must cover the bond up front.

MDT – Everything should stay the way it is. We will take another run at this spec change.

### **554.02.1 Concrete**

Mike Newton – if we were to do a mix design, it costs about \$2000, and we don't know the design results for 7 days. Mandatory mix design will cause a lot of delays.

MDT – this is all precast. Only once per year.

### **618 Traffic Control Units - Measurement**

Bomgardner – If the penalties are going to go up, there needs to be written notice. It would be unfair to have a penalty available where there was only verbal notice. We also think 24 hours is too short. It should be 48 hours.

Jake Goettle – This is a public safety concern. The written notice requirement you expressed seems appropriate. MDT needs to consider and talk about the change from 24 to 48 hours.

Keith Johnston – we sometimes struggle to get the notice from the prime contractor. As drafted, the notice could have been given to the prime and the traffic controller might not even know about it before the 24 hours has expired.

MacMillan – requiring a written warning makes sense.

### **714.04 – Waterborne traffic paint**

MacMillan – the requirement will be water borne traffic paint. Delete reference to “high durability.”

## **706.04 Treated Timber and Lumber**

Bomgardner – the same spec is in 703.14 for service assembly poles. Please also add the same material to 703.14. Penta should be removed. I think it is illegal in US and Canada.

### **MCA NEW BUSINESS**

#### **1. Air Entrainment – Type 1L (Cement)**

Mike Newton – 1L, I haven't heard anything good about this stuff. It is water and air hungry. We have had to double air and add water. It loses air in slump very quickly. It is 800-1000 psi less strength. All our cylinders are failing. The only thing we have changed is the cement. This stuff is no good. Because of the challenges, can we change the amount of air required from 5% to 4.5%? -- it would make it more usable. This stuff is otherwise hard to work with.

Matt Needham – I am happy to look at data. I don't know if everyone is having the same problem. I am hearing that it might be manufacturer dependent. This cement is finer. I want to see more data before we change that.

Mike Newton – all the suppliers are having the same problem.

Needham – 1L is what we are going to be stuck with. I don't think we have seen a rise in failing cylinders. It does not seem unsurmountable. We actually want to see 5.5% and do not want to move down to 4.5%.

#### **2. Grizzly and Lynx (ESA)**

Tom Martin – Grizzlies are increasing in population and spreading. If we are doing a project in grizzly habitat, then we must do an EA explaining the effect the project may have on a bear. We work under the ESA and work with federal Fish and Wildlife. We go through informal consultation when we make our impact determination. If the impact is likely, we must do formal consultation. That can take between 3 months and a year. It is much more rigorous. It will usually have stipulations and recommendations and an incidental take statement. This is usually completed before a contract is let. The problem can really occur in design-build projects.

#### **3. Stormwater Permits/MS4 Permits – noncompliance issues**

Stacy Hill – There are projects where a SWPPP/MS4 is not required; then EPM is wanting some kind of control or allege violations. There cannot be a violation if there is no SWPPP.

There have also been disagreements where MDT field inspector said there was no discharge, but that MDT enviro say that self-reporting is done. We have also disagreed where there was or was not a violation. Permit requires self-reporting of significant violations. The permittee should be able to determine their compliance as provided in the permit.

Tom Martin – stormwater permitting is a sole permittee situation. MDT tries to stay out of that. We have a director's memo requiring reporting of potential violations. Where there is a permit, the contractor is the permittee and if there is no permit, then there is no possibility of non-compliance. There can be a violation instead of non-compliance. I would like to see MDT people discussing with EPM and contractor. I think we can work on MDT relationship with contractors in that situation.

Stacy Hill – there are times where we are told to report when there was no significant problem. It appears to spawn violations/dissatisfaction and not protecting the resource.

Jake Goettle – it should be a conversation and not a “gotcha.”

Tom Martin – we must be good partners with our state regulator partners. There will be disagreements, MDT is going to default to reporting.

Stacy Hill – MDT should identify the potential non-compliance to the contractor and give the contractor the opportunity to decide to report or not.

#### 4. Maintenance Contracts

Bomgardner – build contracts have both incentives and disincentives. However, there are disincentives but no incentives for maintenance contracts. There should be incentives in the process in these maintenance contracts.

Doug McBroom – this is the 3<sup>rd</sup> time this has come up; happy to have the discussion. Out of the 8 contracts that had deducts, it was \$61,000. Be careful what you are looking for – I am afraid that you would make less money on these. I can run the pilot again; I just suggest that we do not go to non-commercial so that we can see what the deducts are. We are willing to consider this.

### **MDT NEW BUSINESS**

#### 1. QPL

Paul Bushnell – QPL. We need to source materials domestically. There are updates that include treated wood, cork expansion, and other construction materials. There is a de minimis foreign allowed. 5% or \$1,000,000 of the material cost of a project. That is not going to be very user friendly.

Geotextiles will not require form 407; you just need to make sure it’s BABA compliant.

#### 2. Davis Bacon

Kathy Terrio – when we did our wage petition a few years ago was a 3% increase annually. Potentially we can get this implemented early 2024. Our last one took months and months to get approved. USDOL final rule is very large. Some things are made clearer, others are not. There seems to be some significant confusion on truck drivers. There is a de minimis rule, but no mention of what defines “de minimis.” We will stick with 20% in the absence of other guidance.

Salomon Redfern – when you have a subcontractor submit a payroll, and you reject, the general does not get notification of that.

Terrio – we are doing a system update; that notice should go to general contractor.

### **OLD BUSINESS**

#### 1. Bridge Deck Overlay

Goettle -- We should have some results this winter on our process moving forward. There will be a few skid resistant applications.

## 2. CPM Schedules

Matney Juntunen – meetings are forthcoming.

## 3. DBE Goal

Megan Handl - 6.3% is our DBE goal. We are also still race neutral for another year.

### AD-HOC

#### 1. Structural welding procedures/submittals

Isaac Marceau (Millerbernd) – we supply product to other 39 other states and suddenly Montana is not taking our materials.

Jake Goettle – We want Millerbernd to provide materials in the state. This is not a change in spec or code. This is a change in our expertise and understanding and reading the code. We are holding firm on a public safety issue; we have had some poles failing. Through 3<sup>rd</sup> party investigation, some welding on poles is not up to standard. We need to have the materials satisfy the code.

Bomgardner – we can all appreciate the need to meet spec; we are concerned that there is a gray area where interpretation has been made where no other state is taking that position.

Isaac Marceau (Millerbernd) – we want a good quality product. That is agreed. We want to be qualified to D11. Testing is important. We need to develop the output verification. We want to put the public safety concern to rest. We were qualified for more than 10 years in Montana; this is the first time we have had this interpretation of D11 for any of our products across the country.

Ki Stoddard (MDT) – in tubular in D11 – there is clear instruction. This is a tubular product all through ASHTO; FHWA recognizes it as tubular.

Isaac Marceau – We do not think this is tubular. We have done nothing wrong. This was changed without any communication to us that there was a new understanding of the code. We are happy to have a discussion for future contracts, but for the jobs we have already contracted and delivered, that is difficult.

Dustin Rouse (MDT) – we need to sit down with Millerbernd. We need to clearly communicate the issues we have identified and work with them.

Bomgardner – will you please put together a summary of what is wrong and clearly communicate that?

Ki Stoddard – we are happy to explain what the code reads and provide the reasoning.

Tim Moseman – I have been dealing with this for 10 months as the subcontractor. We were not involved in it. There needed to be communication with the GC and subcontractor. This has put a significant delay on our project with no communication. It's the GCs and subcontractors caught in the middle.

## 2. Wide Load Marshalling

Keith Johnston – we are not a fan of the proposed change. It's hard to find anyone who will do the marshalling. Marshalling in the middle of the night will be incredibly difficult. We will not be able to find anyone to do this work. It also makes it more difficult for the wide loads itself (lighting, etc.). I think it's more problem and money than it's worth.

Goettle – would it be best to sit down with a smaller group. We are hoping to make this easier for everyone. We are trying to get these guys through the state and gone.

MacMillan – these cause congestion during the day during peak traffic.

Johnston – A sit down would be helpful. We can plan for specific projects where it may be needed – but I do not think this is a good idea for blanket applicability.

Jeremey Wilde – we want to improve mobility for the entire traveling system.

MacMillan – we modified this special and put it in a couple jobs. Districts should be able to help with the timeframe. This will be a special provision. We want to know the cost.

Jeremey Wilde – I believe the special did not change. It should be the same pay because it's an hourly pay position.