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-OREGON TRANSPORTATION COMMISSION

Minutes of the Regular Monthly Meeting October 20-21, 2009 Gleneden Beach, Oregon

On Tuesday, October 20, 2009, at 12:30 p.m., the Oregon Transportation Commission (OTC) and Oregon Department of Transportation staff began the Annual OTC Workshop in the Council House Room at Salishan Lodge, Gleneden Beach, Oregon. That evening, the OTC and ODOT staff had dinner in the Lincoln Room.

On Wednesday, October 21, 2009, the OTC and ODOT staff continued the Annual Workshop beginning at 8:30 a.m. in the Council House Room. At 2:00 p.m. a briefing session and agenda review was held in the Lincoln Room, and the regular monthly meeting began at 2:30 p.m. in the Council House Room.

Notice of this meeting was made by press release of local and statewide media circulation throughout the state. Those attending part or all of the meeting included:

Chair Gail Achterman
Vice-Chair Michael Nelson
Commissioner David Lohman
Commissioner Alan Brown
Director Matt Garrett
Deputy Director for Highway Doug Tindall
Chief of Staff Joan Plank
Communications Div. Admin. Patrick Cooney
Trans. Development Administrator Jerri Bohard
Motor Carrier Div. Administrator Gregg Dal Ponte
Government Relations Manager Robin Freeman
Deputy Director for Central Services Lorna Youngs
Public Transit Div. Administrator Michael Ward

Rail Division Administrator Kelly Taylor
DMV Administrator Tom McClellan
Chief Financial Officer Les Brodie
Senior Federal Affairs Advisor Travis Brouwer
Region 1 Manager Jason Tell
Region 2 Manager Jane Lee
Region 4 Manager Bob Bryant
Region 5 Manager Monte Grove
Governor's Transportation Advisor Chris Warner
Department of Justice, Dale Hormann
Geo-Environmental Section Manager Hal Gard
Commission Assistant Amy Merckling

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October 20, 2009

Chair Achterman called the meeting to order at 12:30 p.m.

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In follow-up to the September meeting, discussion continued on tolling white papers. (*Background materials and PowerPoint presentations in General Files, Salem*)

Region 1 Consultant Dave Williams gave a progress report on three work items approved in September.

- 1) *Explore national and worldwide experience in developing, implementing, and evaluating congestion pricing. Dave gave a presentation on CURACAO, a European research effort detailing all the experience to date on urban road user*

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charging in Europe. Some realities of the American system are not touched in the European report, so Jeff Buxbaum of Cambridge Systematics will look to apply these to the findings.

- 2) *Development of a benefit/cost methodology for single project comparisons.* This is being worked.
- 3) *Social/economic assessment of more comprehensive congestion pricing applications.* Phase 1 consists of pre-project screening. Phase 2 is a more detailed project evaluation for larger systematic pricing proposals.

Region 1 Manager Jason Tell said the first meeting has been held with local officials identified in Section 3 of HB 2001 (City of Portland, Metro, and Multnomah, Clackamas, and Washington Counties.) Agenda items included a review of Section 3 mandates and directives, federal requirements, and concerns raised in a letter from Congressman DeFazio. A second meeting is being scheduled.



The Commission participated in a discussion on the challenges of integrating the agendas of transportation, land use, and economic development. The desired outcomes are to have agencies working together with a common set of definitions, enhanced communications, defined expectations, and continued agency engagement of local officials. (*Background materials in General Files*)

Participating in the discussion:

- o Director Tim McCabe, Oregon Business Development Department
- o Director Richard Whitman, Department of Land Conservation and Development
- o Scott West, Travel Oregon (Todd Davidson was not present)
- o Director Ray Naff, Intergovernmental Relations and Economic Revitalization Team, Governor's Office
- o Chair E. Walter Van Valkenburg, Oregon Business Development Commission
- o Chair John VanLandingham, Land Conservation and Development Commission
- o Christine Valentine, Governor's Office
- o Marilyn Worrix, Vice-Chair Dept. Land Conservation and Development Commission
- o Bob Cortright, Department of Land Conservation and Development
- o Karen Goddin, Oregon Business Development Department
- o Sarah Miller, Oregon Business Development Department
- o ODOT staff

The Mission Statement and goals of each agency/commission were reviewed. The review showed the inter-dependency of the agencies and commissions, and the need for continued strong partnership relationships.

The group worked three case studies, and the following comments were offered in summation:

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--Chair Achterman said technical assistant grants offer the ability to get interagency teams funded in a way that can help communities early, particularly small-sized and medium-sized communities. We should explore development of tools like trip cap, that can provide more certainty and help communities have realistic expectations to pursue opportunities in their economic sector. More sophistication is needed about industrial land preservation and employment land preservation as opposed to commercial and residential lands in terms of communicating economic development opportunities to localities. It is critical to identify employment/industrial lands so ODOT and DLCD know where the highest priorities and best opportunities are. Thought needs to be given to cost benefit on infrastructure investment for the development lands. Serious consideration should be given to placing an Oregon Transportation Commission member on the Land Conservation and Development Committee working on transportation.

Walter Van Valkenburg (OBDD) said communication is critical between agencies with different focuses.

John VanLandingham (DLCD) said HB 2186, Greenhouse Gas Emissions Reduction Task Force, is tasked with finding ways to combine land use planning, transportation planning, and reduction of greenhouse gasses.

Richard Whitman (DLCD) said opportunities for discussion about how this fits into the TPR should be built into the OTC/LCDC planned discussions on alternate mobility standards.

Ray Naff (Governor's Office) said this is the beginning of a conversation that needs to continue.

OTC members agreed that communication among agencies, local governments, and citizens is critical.



The OTC discussed the roles and responsibilities of the Commission, and the roles and responsibilities of ODOT senior management so there is a common understanding of what the commission should be engaged in, and what the agency should be engaged in.
(Background materials and PowerPoint presentation in General Files, Salem)

Department of Justice (DOJ), General Counsel Division, Senior Assistant Attorney General Dale Hormann gave a PowerPoint presentation on the history of the OTC and the responsibilities of the Commission. He discussed statutory duties, delegation of authority, and oversight of checks and balances. He said his role is to advise the Commission and agency on legal matters. It is not to make policy, advise on policy, or comment on policy.

After discussion on delegation of authority and the oversight of checks and balances, Chair Achterman asked ODOT staff where they thought the Commission added value, and where its presence is not needed, recognizing its oversight responsibilities.

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Transportation Development Administrator Jerri Bohard said TDD's interaction with the commission is fairly clear because approval of policy formation is a Commission responsibility clearly set forth in the Oregon Transportation Plan.

Central Services Administrator Lorna Youngs said past practice is the usual deciding factor of when permission/approval must go to the Commission on Central Services issues. To that extent, Central Services might need clarification on the formality of delegation because it's clear that statute is not being violated, and authority exists to do the activity, but at times it is unclear whether the person doing the activity has a clear delegated authority to do so. Between the director and the Commission, it's interchangeable. It's when the director delegates to division administrators and below, that cleaner delegation orders are needed.

Communications Division Administrator Patrick Cooney said the Ask ODOT program tries to funnel the thousands of questions it receives back to the regions or programs that might be able to work the problem to get a solution, and to shield commission members from people who aren't getting the answer they want. To this end, he would like to see a clear distinction between policy and operations.

Government Relations Manager Robin Freeman said HB 2001 changes past practices standards by calling for the Commission to be actively involved in several areas.

Chief of Staff Joan Plank said the Commission's involvement in policy development is invaluable in providing direction in strategic planning for multi-modal charge as required by statute.

Rail Division Administrator Kelly Taylor agreed that delegation authority should be clarified so small amounts of left-over funds, which are not controversial and match adopted rules, don't have to be brought before the Commission for reimbursement.

DMV Administrator Tom McClellan said statutory changes, administrative rules, budget requests, and requests to the E-Board are significant financial and legal changes that have to come before the Commission. The OTC is one of the few public forums to discuss issues that affect Oregonians in the program area.

Troy Costales said the governor-appointed Safety Committee has specific programmatic responsibility and authority by statute that does not mention the director or OTC. This occasionally causes confusion. The Annual Business Plan outlines topical areas, performance measures and financing for the Safety Committee, and in turn, to the Commission. Transportation Safety also faces challenges associated with two governor-appointed committees, by executive order, the DUI Committee, and the Motorcycle Safety Committee. Both groups are set up without staff, and without budget, outside of the department. Yet, programmatically, many of their items touch the department or come to the Commission via the Safety Committee.

Doug Tindall said understanding authority issues, and where delegations come from as ODOT decentralizes, is the compelling issue because there seems to be more demand for

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explanation about things being done. This understanding can only come by taking policy discussions to the Commission. The Commission's perspective is also needed to bring a value from outside the agency when addressing questions inside the business.



Susan Zielinski, Managing Director of SMART (Sustainable Mobility and Accessibility Research and Transformation), a project of CARSS (Center for Advancing Research and Solutions for Society), gave a presentation on a new approach to creating seamless urban and regional transportation systems. (*Background materials and PowerPoint presentation in General Files, Salem*)



Chair Achterman adjourned the meeting at 6:30 P.M.

October 21, 2009 Annual Workshop continued and Formal Commission Meeting

Chair Achterman called the meeting to order at 8:32 A.M.



The Oregon Transportation Commission and ODOT staff participated in a discussion on implementation of the Oregon Jobs and Transportation Act – House Bill 2001. Director Matthew Garrett led the discussion. ODOT executive staff participating in the discussion included Michael Ward, Kelly Taylor, Tom McClellan, Joan Plank, Jerri Bohard, Doug Tindall, Robin Freeman, Chris Warner, Lorna Youngs, and Patrick Cooney. (*Background materials and PowerPoint presentations in General Files, Salem*)

Deputy Director for Highways Doug Tindall gave an overview of House Bill 2001, the Oregon Jobs & Transportation Act, the largest transportation package ever passed in Oregon. The legislation affects several elements and provisions of Oregon's transportation system and economy, including accountability, innovation and environmental standards, highway, road, street, and multi-modal funding. An extensive Implementation Plan Report has been created to track the department's action plans to implement HB 2001, and executive sponsors have been assigned sections of the bill, will lead and coordinate all efforts of the implementation, and provide periodic status reports.

Funding will come from various vehicle, truck, fuel tax, and fees; primarily registration and title fees. Chair Achterman noted that the \$70 million (51.25%) per year allotted to earmark projects are all modernization projects, but the statute requires that additional funds of \$21.5 million (15.75%) go to modernization. However, the earmarked projects can't be counted toward the statutory minimum modernization requirements.

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HB 2001 projects include *ConnectOregon* III, highway projects, a project information web site, an urban trail fund, and rest area management. A pilot program will study the effect that congestion pricing may have on traffic congestion in the Portland Metro area.

Driver and Motor Vehicle Division Administrator Tom McClellan is the executive sponsor for DMV's role in implementing HB 2001. The primary responsibilities will be to collect fees to fund the bill and to establish registration and safety standards for medium-speed electronic vehicles.

Motor Carrier Transportation Division Administrator Gregg Dal Ponte is executive sponsor for HB 2001 sections on heavy vehicle registration fees, vehicle trip permits, and truck taxes and fees.

Transportation Development Administrator Jerri Bohard is executive sponsor for task force studies, least cost planning, *ConnectOregon* III, STIP selection criteria, and planning to reduce vehicle miles traveled and greenhouse gas emissions. Vice-Chair Nelson noted the increased responsibilities this will place on Transportation Development, and asked if additional staff has been assigned to Jerri Bohard. Director Garrett responded that some current duties will be taken off the table, and some of the new work will be taken on by outside consultants. Meeting the charges given by the governor will demand discipline. ODOT is assessing the need, and making business decisions based on what will be necessary to meet the charge given.

Chair Achterman noted that small Metropolitan Planning Organizations don't have the modeling staff to do what they are being asked to do on multiple levels by HB 2001. ODOT has a very good modeling staff, but has not received authorization to add additional transportation modelers.

Governor's Transportation Advisor Chris Warner is the executive sponsor for electronic vehicle recharging stations at rest areas, and the MPO greenhouse gas emissions reduction task force.

Deputy Director for Highways Doug Tindall is the executive sponsor for the portion of the bill related to highway projects. These include congestion pricing, transparency, environmental stewardship/green standards, practical design, design alternatives to improve safety for hazardous materials routing, asset management for the pilot program, management of roadside rest areas, the Road User Fee Task Force, and the Urban Trail Fund.

Deputy Director Tindall noted that there have been some questions about how Urban Trail Funds are going to be allocated. He said that as the agency looked at the various allocation processes, it noticed that this aligned very well with the Transportation Enhancement (TE) Committee, so this will go through the TE Program to develop criteria specific to the Urban Trail Fund, and applications will run through the same process as Transportation Enhancement applications. Chair Achterman said that in terms of the Urban Trail Fund, we need to address what will be done with the \$24 million, and how the TE Program would align with the Bike/Pedestrian Program.

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Deputy Director for Central Services Lorna Youngs is executive sponsor for co-location of state and local facilities, local option fuel taxes adopted with voter approval, an “efficient fee” highway cost allocation study, gasoline and diesel tax, revenue distribution, bond authorization, the transportation project account, protection for holders of highway user tax bonds, and the state biennial bond limit.

Chair Achterman expressed concern, in terms of legislative relations on earmarked projects, about where funding would come from for projects on the list. We need to be clear so there are not unrealistic expectations. Because of the earmarks in the bill, there are not adequate funds to deliver the solutions. We must be careful about how we communicate about projects for which the environmental work has not been completed, and we don't know where the money will come from to deliver the project.



The Commission participated in a discussion with ODOT staff on legislative strategy for 2010 and 2011. (*Background materials in General Files, Salem*)

Director Garrett said that as we move to 2010, the agency will impose a self discipline in terms of new policy options and new initiatives. The charge presented by HB 2001 is formidable, and that is where the focus will be placed. Columbia River Crossing (CRC) implementation will cross over 2010 and 2011, in terms of legislation, as we start to prepare for funding discussions for CRC in 2011. Bringing the ODOT building up to standards is an opportunity that is green, will bring jobs to Oregon, and will bring efficiencies.

Chris Warner said his focus will be to back away from the ODOT budget and look at the overall state budget in general. There will be significant holes that will need to be filled.

Government Relations Manager Robin Freeman discussed the administrative and legislative processes that have been put in place to prepare for the 2010 and 2011 legislative sessions. ODOT's legislative concept process has begun, and a timeline has been completed. The legislature has adopted a new structure for the interim work leading up to session. Every committee and legislative member, including caucuses, will meet on the same three days. The first of these meetings was held in September.

Robin discussed rules of engagement adopted by the legislature, changes in membership and member assignments, and the House Transportation Work Plan, which includes ten items that are directly linked to HB 2001. There is also the issue of preparing for a new governor and administration. Chris Warner said ODOT's goal will be delivery of HB 2001 and preparation of reporting for the new governor.

Chair Achterman said that, given the burden on the agency, legislative concepts should be held to a minimum and will be closely scrutinized.



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The Commission received a status update on the 2008 Oregon Transportation Commission Work Plan and reviewed a draft of the 2010 OTC Work Plan. (*Background materials in General Files, Salem*)

Chief of Staff Joan Plank gave an overview of the status of work items from the 2008 Work Plan. Five of the eight items have been completed, and two are partially complete. These two will be carried over to the 2010 Work Plan.

Joan Plank reviewed the recommended draft 2010 OTC Work Plan, which is driven by the implementation requirements from HB 2001, the Oregon Jobs and Transportation Act, and other legislation passed during the 2009 session of the Oregon Legislature, as well as the items carried over from the 2008 Work Plan.

Commissioner Lohman said it appeared that many items on the list appeared to be day-to-day items that would be brought to the Commission for approval. He is looking for a more strategic list that is more like the 2008 plan, aligned to the roles and responsibility document. Joan Plank said the list could be applied against the roles and responsibility list to see where they fit, but there needs to be discussion on what types of things need to be brought to the Commission.

Chair Achterman mirrored Commissioner Lohman's comment, saying she would like to see five or six big picture items that the Commission will work on over the year, and to build the OTC agendas around those items. The Commission needs to keep its eye on policy development and strategic planning priorities as members look at strategic issues to raise transportation revenue, like tolling, congestion pricing pilots, and the Road User Fee Task Force. There are other issues around greenhouse gas emissions and land use.

Commissioner Lohman said roles and responsibilities should focus on policy development, strategic planning, strategic projects, and external relationships. Within each of those, the Commission needs to decide what initiatives to undertake in order to fulfill that role in the coming year.

Director Garrett will bring a couple of different work plan options back to the Commission for review.

Chair Achterman said a master calendar over the 18-month period might be useful in scheduling meeting agendas and themes.



Formal Monthly Meeting

Director's report highlights:

--FHWA Division Administrator Phillip Ditzler recognized ODOT with two awards from the Federal Highway Administration. ODOT received an Environmental Excellence Award for the

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“Vernal Pool Mitigation and Conservation Bank” in the Rogue Valley. Vernal pools are unique environments that fill with water during rainy seasons of the year and dry out during others. ODOT enlisted USFWS and state and local resource agencies to find a vernal pool preservation site that would contribute to the conservation of rare species and habitats. The agencies unanimously chose an 80.23-acre site located directly adjacent to The Nature Conservancy’s Whetstone Savanna Preserve. Together, the mitigation bank and the preserve will provide 160 acres of contiguous high-functioning vernal pool habitat. The complex will be protected by The Nature Conservancy to sustain wetland functions and values. ODOT also received an Environmental Excellence Award for its Solar Highway project.

--The 2010 Oregon Traffic Safety Performance Plan, approved by the OTC in August, was received and approved by the USDOT in September. In the approval letter to the governor, NHTSA says "We commend the Oregon Transportation Safety Division on their continued efforts to enhance highway safety in the state of Oregon, as evidenced by the continuing decline in motor vehicle related fatalities, and the continued increase in an already outstanding seat belt use rate (96.6% in the latest survey). . . . we are again looking forward to working closely with your exceptional highway safety office staff." The Transportation Safety Division has approved an overwhelming majority of the projects listed in the 2010 Plan, and work is underway.

--A quarter billion dollars in payments to contractors has been made in the last three months. The decisions of the Commission for the summer construction season jolted the state’s economy, retained and saved jobs, and made for a better and healthier transportation system. This was validated in a press conference for Governor Kulongoski and Chairman DeFazio, where they spoke on the importance of putting Oregonians back to work. Three contractors were invited, and all three thanked the OTC for saving their industry.

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Public comments: None

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The Commission received an update on the Federal Surface Transportation Authorization legislation. ODOT Federal Affairs Advisor Travis Brouwer gave a PowerPoint presentation on policy and funding issues of the reauthorization. (*Background material and PowerPoint presentation in General Files, Salem.*)

The House is moving forward on trying to write a Surface Transportation Authorization Act (STAA.) Major themes of STAA:

- Sustainability and livability
- Multi-modalism
- Urban areas
- National purposes/strategy
- Performance-based program

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- Freight

Core highway programs of STAA include:

- Critical asset investment
- Freight improvement
- Surface transportation program
- Highway safety improvement
- Congestion mitigation and air quality improvement

Discretionary and additional programs include:

- Projects of national significance
- Metropolitan mobility and access
- Federal and tribal lands
- High priority projects

Major policy initiatives:

- Office/Undersecretary of Intermodalism
- Office of Livability
- Greenhouse gas emissions reduction planning
- Freight planning
- Performance-based program

Greenhouse gas reduction planning is one area in which Oregon is so far ahead of most of the nation, that we might be slowed down and held to a lower standard than might otherwise have been put in place.

The performance based provisions of the act might adversely affect Oregon by specifying continuous improvement targets for bridges and other programs, regardless of the state's current level of effort, or the condition of its infrastructure. This could have the unintended consequence of penalizing states that have already invested in the infrastructure, but would be required to continue improvement. This action may have the effect of locking in, rather than reducing, inequality between the states by not taking into account the current conditions or level of effort.

Funding and finance will be the biggest challenge for Congress. Highway Trust Fund programs are currently about \$40 billion short annually of the program's aspirations.

Chair Achterman noted the need for conversation with legislators, MPOs, and local government about the implications of investing resources for such things as jurisdictional transfer and federal/state revenue flow.



ODOT Transportation Enhancement Manager Pat Fisher requested approval of a list of Transportation Enhancement (TE) projects to be funded by the American Recovery and Reinvestment Act, and authorization for the Deputy Director for Highways to advance this list of projects to the 2008-2011 Statewide Transportation Improvement Program. (*Background material in General Files, Salem*)

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Low bids on two projects on the list of ten projects and one alternate the OTC approved in February, has left approximately \$1.4 million in ARRA funds to be reassigned. Potential low bids on the remaining projects could raise the uncommitted balance to about \$2.3 million. The Transportation Enhancement Advisory Committee met in September and adopted a priority list of projects and requests Commission approval of the list.

Commissioner Lohman moved to approve the list of projects, with the amendment that the Banks-Vernonia Trail Extension in Washington County be increased to \$411,000, and the Leo Alder Memorial Parkway in Baker City be reduced to \$50,000. The Commission unanimously approved the motion.



Deputy Director for Highways Doug Tindall and Region 5 Manager Monte Grove requested approval of the allocation of funds outlined in House Bill 2001 to local governments for 14 highway projects in Region 5. Total estimated project costs are \$45,857,350. (*Background material in General Files, Salem*)

Vice Chair Nelson moved to approve the allocation of funds. The motion was unanimously approved.



Doug Tindall and Region 1 Manager Jason Tell requested approval of an amendment to the 2008-2011 Statewide Transportation Improvement Program (STIP) to change the scope of the Interstate 5 at N. Macadam project by splitting \$5,389,000 to the SW Harbor Drive/SW River Parkway Improvements project and \$24,000,000 to SW Moody Avenue: SW River Parkway – SW Gibbs Street in Region 1. (*Background material in General Files, Salem*)

Commissioner Brown moved to approve the amendment to the STIP. The motion was unanimously approved.



The Commission considered approval of the Consent Calendar. (*Background materials in General Files, Salem*)

1. Approve the minutes of the September 15-16, 2009 Commission meeting in Eugene.
2. Confirm the next two Commission meeting dates
 - Tuesday, November 10, 2009, in Salem
 - Wednesday, December 16, 2009, in Portland.
3. Adopt a resolution for authority to acquire real property by purchase, condemnation, agreement or donation.
4. Approve the following Oregon Administrative Rule (OAR) actions:
 - a. Amendment of 735-062-0310 and 0385 relating to driving privileges for persons with limited vision condition.

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5. Approve a summary of financial charges incurred by the department's director for the fiscal year that ended June 30, 2009.
6. Approve a request to appear before the January 2010 Legislative Ways and Means committee to seek retroactive permission to apply for \$546,400 in Federal Motor Carrier Safety Administration Commercial Driver Licensing Program Improvement grant funds, and \$356,100 in Commercial Driver License Information System Modernization grant funds.
7. Approve an increase in project authorization in the amount of \$537,886 on the Interstate 5: Creek and County in Central Point. This will change the project authorization from \$14,135,888 to \$14,673,773.
8. Approve a request to amend the 2008-2011 Statewide Transportation Improvement Program to cancel the Oregon 180: Stoney Creek Bridge project in Region 2. Total estimated project savings is \$1,804,068.
9. Approve a request to amend the 2008-2011 Statewide Transportation Improvement Program to add a construction phase to the Oregon 138E: Williams Creek Fish Passage project in Region 3. Total estimated project cost is \$2,365,000.
10. Approve a request to amend the Statewide Transportation Improvement Program to change the scope of the U.S. 30: Burnt River and Union Pacific Railroad bridge project from bridge repair to replacement and to cancel the U.S. 30: Burnt River (Lime) bridge projects in Region 5. Total estimated cost for these two projects is \$4,493,000.
11. Approve a request to deny the Petition for New Rule and Repeal of Oregon Administrative Rule 735-022-0120 submitted to the Oregon Department of Transportation pursuant to Oregon Revised Statute 183.390.

Vice Chair Nelson moved to approve the Consent Calendar. The Commission unanimously approved the motion.

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Public comments continued. None.

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Chair Achterman adjourned the meeting at 3:05 P.M.

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Gail Achterman, Chair

Michael Nelson, Vice Chair

Not Present

Janice Wilson, Member

Alan Brown, Member

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David Lohman, Member

Roxanne Van Hess, Commission Support