



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY  
GOVERNOR

ANTHONY J. TATA  
SECRETARY

May 19, 2015

MEMO TO: Jonathan Bivens, Stuart Bourne, Larry Brickey, John Bridge, Chris Byers, Joe Coleman, Judith Corley-Lay, Shannon Douglas, Danny Eudy, Ron Hancock, Bruce Hazle, Brandon Hill, Berry Jenkins, Ben Lanier, Don Lee, Glenn Mumford, Mark Perkins, Ian Scott, Lamar Sylvester, Michael Taylor, Kevin Thomas, Brian Webb, Roger Worthington

FROM: R. A. Garriss, PE  
Contract Officer

SUBJECT: DOT-AGC Roadway Subcommittee Meeting Minutes

The subject committee met on April 23, 2015 at 9:30 a.m. in the Riverwood Conference Room at the Century Center with the following in attendance:

Jonathan Bivens	Kevin Bowen	Chris Byers	Terry Canales
Chris Fresa	Randy Garriss	Bruce Hazle	Scott Hidden
Berry Jenkins	Phillip Johnson	Steve Kite	BJ Lanier
Judith Corley-Lay	Mark Perkins	Benny Sloan	Lamar Sylvester
Kevin Thomas	Michael Taylor		

*Agenda and Discussion Items:*

**Update on the Northern Long-Eared Bat**

**Kevin Bowen**

On April 2<sup>nd</sup>, USFW listed the Northern Long-Eared Bat as "Threatened", effective May 4, 2015. The NLEB clearing moratorium is from April 15<sup>th</sup> through October 15<sup>th</sup>. However, the USFWS has developed interim 4(d) rules for the NLEB. There is a 90 day comment period on the interim rules which ends on July 1, 2015. After reviewing the comments, the USFWS anticipates issuing final 4(d) rules later in the year. 4(d) refers to the section of the Endangered Species Act that directs the USFWS to issue rules to clarify and simplify what forms of "take" of a threatened species are and are not prohibited. For NCDOT these rules apply to all projects that involve federal funding, federal permit or approval (such as a 404), use of federal lands or federal program.

Divisions 1-8 already have a programmatic agreement between the two USFW offices in Asheville and Raleigh. The agreement is set on a negotiated estimated quantity of acres of clearing. With this agreement, the moratorium dates will not apply. Project staff will be

required to do the following for all projects with federal funds, etc after May 4, 2015 and for a period of five years after that date:

- Upon completion of clearing activities, the estimated acres of clearing that occurred on the project must be reported.
- NCDOT has developed a Biological Surveys project site in Sharepoint on the Construction Projects team site to provide for quicker and more efficient collaboration between the Division and Central offices. A standard form will be used to record the basic information needed for this reporting requirement.

In Divisions 9-14 they are actively negotiating on a programmatic agreement on how things will work, especially with the no clearing moratorium from April 15<sup>th</sup> through October 15<sup>th</sup>. It is unsure if and when the agreement will be finalized; therefore, these divisions must operate under the 4(d) rules for all active and future projects with federal influence. The 4(d) rules allow certain activities to continue without a tree clearing moratorium as long as established conservation measures are adhered to as follows:

- No clearing within 0.25 miles of a known, occupied hibernacula (winter hibernation site).
- No cutting of known, occupied roost trees during pup season (June 1 – July 31).
- No clear cutting within 0.25 miles of known, occupied roost trees during pup season (June 1 – July 31). Clear cutting is defined as cutting of most or essentially all trees from an area.

Allowed Activities that apply to NCDOT are as follows. This is for routine maintenance and limited expansion of existing rights of way and transmission corridors:

- Allows clearing within 100 feet of a cleared right of way as long as the conservation measures are followed. (USFWS Asheville Field Office is interpreting this to mean within 100 feet of the cleared area/tree line)
- USFWS Asheville Field Office has also required that all bridges, culverts (5' x 5' or larger and 200' or longer), or other structures (such as tobacco barns, storage sheds, abandoned or occupied houses) be inspected by a qualified individual to determine that no NLEB are present prior to removal of the structures.

NCDOT is working on putting bat caves on a map, as well as maternity sites (i.e. bridges, trees).

New location projects must go through a consultation process with USFW before clearing or bridge removal activities can start. The bat survey window is June 1 through August 15<sup>th</sup>. If the site is cleared of any bat presence, project clearing may commence any time after.

A question was raised if the number of acres include borrow pits. Kevin will check on this and report back. Note: Prior to the minutes being published, Kevin responded back that borrow pits were added into the acres for the programmatic agreement in Divisions 1-8. The estimated quantities of clearing for projects were increased by some percentage to account for potential borrow and waste sites.

#### **Introduction of New State Contractor Utilization Engineer**

**Terry Canales**

Terry introduced Mr. Benny F. Sloan as the new State Contractor Utilization Engineer. Mr. Sloan will be over the Utilization and Certification Section of Equal Opportunity and Workforce Services. His responsibilities will include DBE and small business certification, good faith and goal setting.

**Bill in General Assembly****Berry Jenkins**

Berry mentioned that there is a proposed bill in the General Assembly. If a driver does not observe the workers in a work zone posted with speeds and a fine, you cannot get a ticket. The bill is currently going to the house. Bill may encourage covering signs in periods of inactivity on the project.

**Work Zone Performance Pavement Marking Spec****Steve Kite**

The proposed draft special provision relating to Work Zone "Performance" Pavement Markings was passed out. Steve mentioned how they are looking at more durable markings in work zones, especially on interstates. The hope is to be able to put a line down that will last the entire traffic pattern and in return control the cost and marking performance. Steve stated that NCDOT can scan work zones for retro-reflectivity via a statewide contract.

Concern from contractors was the ability to maintain retro-reflectivity after snowplowing and replacing any poor markings for no charge. Concerns were also stated for the use of the material on temporary shifts where the conditions do not meet the manufacturer's criteria for placement. Steve said that he would work with the contractors on a case by case basis and also get in touch with the manufacturers. If there are any other concerns, get in touch with Steve Kite.

**Trenchless Installation of Drainage Pipe****Chris Byers**

It eventually comes down to one question, it is rock or not rock. The specifications say to notify the engineer if non-soil is encountered and a determination will be made. The problem is not in drilled shafts, but in horizontal drilling. There have been issues where a rock head is needed or hand mining because there was something other than soil present (i.e. buried concrete). The geotech investigation cannot determine what is there all through the bore. Lamar Sylvester will pull together a small group to work through this issue.

**Using Trench Borrow for Backfilling Pipes on Smaller Projects****Michael Taylor**

The biggest challenge is from the pipe up. Need to find a way on lump sum grading projects to have an item for trench borrow. Nothing is in the contract to capture a cost for backfilling. In Division 2, the proposal's earth work summary broke out the amount of borrow that would be used for trench borrow. This put all the contractors bidding on the same page. Backfilling is a more expensive operation and many times there is an unknown of how much will be done on the job. Lamar said he will look into it.

**Other Topics of Discussion****Berry Jenkins**

Jonathan Bivens brought up an old issue on projects with lump sum grading with undercut. These jobs typically have borrow and the contract requires select, and there is an uncertainty on how the prime will get paid. Every bridge seems to have 1000 cy of undercut. Lamar said that he will look into it.

Steve Kite mentioned that he knows a firm that has a product for dust control and if the prime contractors do not feel that they will use it that the firm will stop production. The concern from the contractors on such products is that the trucks run over the film and eventually it becomes hard to maintain.

Mark Perkins asked if anyone else has experienced delays in projects by others due to utilities. There are typically no plans or utility schedules to work with. It would be beneficial to have the plans be a part of the bid submittal for contractors to see the impact on the project. It was mentioned that this would be a good topic for the Division Project Manager meeting that is coming up.

Berry Jenkins mentioned delays with getting utilities located since the law went into effect. The biggest impact is to the sign installers that are not doing the signs until the utilities are marked and then the sign locations are marked. Spot locations for signs is an issue, especially on resurfacing projects. Also the ITS/fiber optics is not on the locate list.

Berry Jenkins asked if the committee has heard any complaints that CEI firms are trying to approach contractor employees. No one has heard anything.

Lamar Sylvester mentioned some changes in the specifications. SP10-R001 changed Tables 1018-1 and 1018-2 on page 10-40 to reflect 3' of embankment or backfill instead of 2'. SP03 R001 is proposing to clarify the use of geotextile to be used. SP10 R020 clarified the type of grout to be used.

**Next Meeting**

The next meeting is scheduled for June 18, 2015 in the Riverwood Conference Room at Century Center B.



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April 22, 2015

MEMO TO: Jonathan Bivens, Stuart Bourne, Larry Brickey, John Bridge, Chris Byers, Judith Corley-Lay, Danny Eudy, Ron Hancock, Bruce Hazle, Brandon Hill, Berry Jenkins, Ben Lanier, Don Lee, Glenn Mumford, Ian Scott, Lamar Sylvester, Michael Taylor, Kevin Thomas, Brian Webb, Steve Kite

FROM: R. A. Garriss, PE  
Contract Officer

SUBJECT: DOT-AGC Roadway Subcommittee Meeting 4/23 Agenda

The following is a list of items scheduled for discussion:

1. Introduction of new State Contractor Utilization Engineer (Terry Canales/ Benny Sloan)
2. Work Zone Performance Pavement Marking spec (Steve Kite)
3. Trenchless Installation of Drainage Pipe (Chris Byers)
4. Using Trench Borrow for Backfilling Pipes on Smaller Projects (Michael Taylor)
5. Update on the Northern Long-Eared Bat (Kevin Bowen)



# AGC/DOT Roadway Subcommittee Sign In

April 23, 2015, Riverwood Conference Room, Century Center B

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**AGC/DOT Roadway Subcommittee Sign In**  
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