TEXAS DEPARTMENT OF TRANSPORTATION COMMISSION
WORKSHOP MEETING

Ric Williamson Hearing Room
Dewitt Greer Building
125 East 11th Street
Austin, Texas

Wednesday, October 27, 2010

COMMISSION MEMBERS:

Deirdre Delisi, Chair (Joined the dais at 2:15)
Ted Houghton
Ned S. Holmes
Fred Underwood

STAFF:

Amadeo Saenz, Executive Director
Bob Jackson, General Counsel
Roger Polson, Executive Assistant to the
Deputy Executive Director

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P R O C E E D I N G S

MR. HOUGHTON: We'll call the October 27, 2010, workshop meeting of the Texas Transportation Commission to order. It is 1:34 p.m., and I call this meeting of the commission to order. Note for the public record that notice of this meeting, containing all items on the agenda, was filed with the Office of Secretary of State at 4:09 p.m. on October 19, 2010.

Before we begin, take a moment to place your cell phones and other communication devices in the silent or off mode.

During today's meeting we will accept public comment that is relevant to the posted agenda items, but we will not have an open comment period. To comment on an agenda item, please fill out a yellow speaker card. You can find these cards in the back. We will limit each speaker to three minutes.

Before we begin today, commissioners, do you have any comments or questions? None.

I am asked to give a paid political announcement for the Texas Transportation Forum which is January 3 through 5. You can register online. It's www.texastransportationforum.com. So those who have not, please do, and we look forward to having you and seeing you at that forum.

Okay, Amadeo, it's all yours.

MR. SAENZ: Thank you, Commissioner Houghton. Good afternoon everyone.

Our first agenda item this afternoon is a report and a discussion that is led by Jim Randall, our director our Transportation Planning and Programming Division, concerning the Gulf Coast Intracoastal Waterway and the Texas Water Ports. So Jim, I'll turn it over to you.

MR. RANDALL: Thank you, sir.

Again, my name is Jim Randall, director of the Planning and Programming Division. Today I'd like to discuss the Texas Gulf Intracoastal Waterway, followed by a report on our state water ports. With us today is also John LaRue, who is the director of the Port of Corpus Christi, and after I'm through, he'll make some comments to the commission.

This first slide shows the U.S. inland waterway system. It consists of 25,000 miles of navigable rivers and canals, of which 12,000 are commercial waterways, and this is very similar to our 47,000-mile interstate system. The U.S. Inland Waterway Trust Fund has been created to address the major improvements such as dams, locks, et cetera, along these routes. Barge operators contribute to the trust fund through a 20-cent per gallon fee.

In FY 2009 the barge and towing industry contributed $76 million to the fund and disbursed approximately $149 million on projects. And one of the examples that was funded here in Texas was down here below Port O'Connor in the Sergeant Beach area. We had an eight-mile seawall constructed back in the late '90s, it was eight miles long, it cost $62 million, and it was funded completely out of the Inland Waterway Trust Fund.

Part of the inland waterways, you see the Gulf Intracoastal Waterway here, you see the Atlantic Intracoastal Waterway there. What you need to remember is a lot of times we'll have steel coils come across the border there at Port Brownsville loaded on barges going up the waterway to where it intersects with the Mississippi River and goes up into the Ohio River System to factories up in the northeast.

Here, of course, is the Gulf Intracoastal Waterway. It's a 1,300-mile long, shallow water draft, manmade protected waterway that connects the ports from Brownsville all the way to St. Marks, Florida. The U.S. Army Corps of Engineers is the federal sponsor of the waterway and the channel is only authorized to a 12-foot depth and a 125-foot bottom width.

Construction began on the Texas portion in 1925 and it was completed in 1949. Its initial function was to

provide a protected inland transportation waterway for goods and also for troops during World War II. It's now, of course, a multipurpose waterway used by not only the commercial folks but recreational people also.

In 1975 the legislature passed the Texas Coastal Waterway Act, and it's now codified as Chapter 51 in the Transportation Code. In this act, the legislature designated the commission to act as the state's agent in fulfilling the non-federal sponsorship for the GIWW in Texas. Our primary duty is to furnish, without cost to the United States, all lands, easements, rights of way and suitable dredged material placement areas for the construction and maintenance of the GIWW.

Section 51.007 of the code requires the commission to continually evaluate the impact of the waterway on the state and to publish a report of its evaluation for each session of the legislature. This evaluation includes an assessment of the importance of the waterway to the state, identification of principal problems and solutions to those problems, and evaluation of the need for significant modification to the waterway and specific recommendations for legislative action. This report will be presented at tomorrow's commission meeting for your consideration and approval.

In Texas the GIWW is 423 miles long and links

over 21 major shallow and draft ports. This slide shows the total tonnage moved within and through each segment of the GIWW, and it's basically broken into three segments: from Louisiana down to Galveston, Galveston to Corpus, and of course, Corpus down to Brownsville.

Overall, 69 million tons was transported through the waterway in 2008. It was estimated that it took 116,000 barge trips to move this tonnage. If moved by truck, it would take about 2.76 million trucks or 7,500 trucks per day to move this same amount of cargo. If it was moved by a train, it would take about 6,270 trains, each train one-mile long, this would be about 17 trains a day. And the estimated commercial value of this cargo was over $25 billion. Eighty-seven percent of this tonnage was petrochemical products.

And one thing you need to remember, there's over 40,000 recreational boats registered along the counties on the coast and they also have access to the waterway, as well as commercial interests.

This slide illustrates that one barge can transport the same amount of goods as 70 trucks or 16 railcars. It is also one of the most fuel efficient modes of transportation. One gallon of few moves one ton of cargo 576 miles on the inland waterways as opposed to 413 miles on rail and 155 miles on truck. Barge

transportation produces less air pollution and is a safer mode of transportation.

The next two pictures I show you are just typical barge traffic along the waterway to give you a feel of what we're talking about.

As indicated earlier, TxDOT's primary duty is to furnish suitable dredged material placement areas for construction and maintenance of the GIWW. There are over 247 dredged material placement areas established along the 423-mile long waterway. Since 1975, TxDOT has acquired 15 upland placement areas totaling over 2,200 acres, as shown in this slide. There are also 123 open water placement areas and 109 placement areas with easements between the U.S. and private landowners with no state or TxDOT interest in that property.

MR. HOLMES: Jim, before you move off this slide.

MR. RANDALL: Yes, sir.

MR. HOLMES: I don't see any sites south of Corpus.

MR. RANDALL: Yes, sir. That's along the Laguna Madre which is a very sensitive area. We haven't acquired any sites in that area. There's a dredged material management plan that's been approved by the Corps for using the existing sites rather than acquiring any new

sites. If we do try to acquire a site in that area, our legislation requires us to get permission from the legislature before we move forward with acquiring a site.

MR. HOLMES: And do you have sites now?

MR. RANDALL: Yes, sir.

MR. HOLMES: I mean, you must have them because you're dredging it.

MR. RANDALL: Right. We've got 247 from Louisiana all the way down to Brownsville, and number 247 is right there at the top. So basically there's open water disposal use along the Laguna Madre which is from Corpus Christi south.

MR. HOLMES: Disposal in the Laguna.

MR. RANDALL: Yes, sir, and that was one of the issues.

MR. HOLMES: But that's where you're disposing of it now.

MR. RANDALL: Yes, sir. The Corps, like I said, did a dredged material management plan several years ago in which they brought all the resources agencies together and went ahead and developed the disposal plan and got re-approval of using open water sites in that area. And of course, the issue is that the Lower Laguna Madre is a very popular fishing site and there was concern about the dredged material would actually impact the sea

grasses which is an area for most of the fin fish down there. So through this dredged material management plan, they have continued to be able to use the existing sites.

MR. HOLMES: Can you put it on the actual Padre Island South that has no habitation? It would be above the developed portion.

MR. RANDALL: No, sir. If we're talking about the wildlife management area or the U.S. national site, they would not let us consider that as a potential disposal site.

MR. HOLMES: So it just goes open water in the Laguna.

MR. RANDALL: Yes, sir, at this time. And like I say, the sites that are there were, I think, cleared in 1975 through an environmental impact statement. It wasn't until the last, I guess, it was in the late '80s to early '90s that folks were objecting to using the open water site and now through this DMMP, we're able to use the existing sites.

MR. HOLMES: You'd typically have to have a certain number of years of available storage site. What do we have down in that lower section from Corpus down to Brownsville?

MR. RANDALL: Right now we should have -- well, let me back up. When we acquire an upland disposal site,

we're looking for at least a 30-year capacity for that site. Obviously, the existing sites of that reach have at least that amount of capacity. Open water, what's a little bit different from upland confined is that you will place in the water, it finally disperses over the bay bottom, and so you can come back and really continue using it through the frequency of your dredging cycle, and that could range from every 12 months to every 60 months. So the frequency of dredging in that reach of the waterway varies based on your shoaling rate.

MR. HOLMES: But you're not putting a hard edge around it.

MR. RANDALL: No, sir, not at this time. That was one of the considerations of maybe converting some of the open water sites to an emergent site by using geo-textile tubes to surround the existing site and then place material in there to confine it, but we're not doing that at this time.

MR. HOUGHTON: How far off the shoreline are you disposing in that area in the Laguna.

MR. RANDALL: In that area? We're disposing, between South Padre Island and the mainland.

MR. HOUGHTON: Oh, it's within.

MR. RANDALL: Yes, sir.

MR. HOUGHTON: In the Laguna.

MR. RANDALL: Yes, sir. We're not doing any offshore disposal at this time. The only time we've done that is several years ago we hit a pocket of contaminated material and so they had to take the material offshore to an EPA-designated site where they disposed of it and then capped it.

MR. HOUGHTON: In the open water?

MR. RANDALL: In the Gulf.

MR. HOUGHTON: In the Gulf.

MR. RANDALL: Yes, sir.

MR. HOLMES: One of the things that the Port of Houston did a number of years ago was to build a series of islands out in Galveston Bay that ultimately proved to be beneficial from an environmental standpoint for bird habitat, fin fish, et cetera, and that worked well. There's not room in the Laguna to do that?

MR. RANDALL: It's an interesting situation in the Laguna because it's such an environmentally sensitive area. There is a discussion always going on between, I'll say, the U.S. Fish and Wildlife and National Marine Service of the impact to the bay bottom versus, I guess, the benefit of creating these islands which usually become bird rookeries. So far in the Laguna Madre, they have not gone that direction in using dredged material disposal sites to create bird rookeries.

Part of the problem down there, to be honest with you, is coyotes. Once they create those bird islands, I'll call them, the coyotes will get out there and get after the endangered birds and stuff like that.

MR. HOLMES: They swim out.

MR. RANDALL: Yes, sir. It's that shallow in places.

MR. SAENZ: Now, Jim, you said in that southern part we cannot use even some of the existing upland disposal sites, or we can still use some of those existing sites?

MR. RANDALL: We don't really have any. The only one that comes close is, I believe, down near Brownsville.

MR. SAENZ: Something around Port Mansfield.

MR. RANDALL: Most of them are open water sites that, like I say, were cleared in '75 for environmental.

MR. HOUGHTON: Have you seen an increase in the tonnage over time, or is it flat?

MR. RANDALL: It stays relatively flat. There hasn't been big spikes or anything like that. It's been ranging between 69 million tons and maybe 75- over the years.

MR. HOLMES: You're talking about in what stretch, all of it?

MR. RANDALL: Yes, sir. When I'm talking about the 69 million tons, I'm talking about movement from Brownsville all the way up into Louisiana. That previous table I showed you, if you summed up the tonnage, it was about 80 million tons. Well, that accounts for movements not only through that reach but also within the reach. In other words, for example, the 69 million is going from Brownsville all the way up to Sabine River. There could be some movements between Corpus Christi and Galveston that aren't really a through movement, they're within that segment, so that's where you get a larger number.

MR. HOLMES: And that number has been flat for how long?

MR. RANDALL: Over, I'd say, the last ten years. Right in here, if you look on the slide, if you'll add up the 54- plus the 24- plus the 2-, you'll get about 80 million tons, but for statistics for the Corps, it's really 69- that travels all the way up through this way. This 24- is accounting for not only the through traffic but traffic going between Corpus and Galveston, so that's why you get a little bit larger number.

MR. HOLMES: I'm surprised it's been flat because the tonnage in the Port of Houston has been increasing pretty steadily, and most of that is some hydrocarbon type component.

MR. RANDALL: Well, like I say, I've been doing this for about 21 years, and it's been bouncing between the 65- to maybe 75- range over the years.

MR. HOUGHTON: Now, do you have the numbers from Galveston then northeast?

MR. RANDALL: From Galveston northeast? I don't have them with me, but this let's you know that about 54 million tons is moving in that direction.

MR. HOUGHTON: Is that flat too, or is that increasing?

MR. RANDALL: Well, historically, and this shows you, most of the activity is really between Galveston and Louisiana, and then as you come down the coast, it gets less and less. In fact, that 2 million right there between Corpus and Brownsville, that's been pretty steady for a long time. A lot of that travel there is jet fuel being carried to the airports down there in the Lower Rio Grande Valley, products such as fertilizer and stuff like that, and also those steel coils coming out of Mexico heading to the northeast.

MR. HOUGHTON: What happens, if anything, Jim, with the Panama Canal being expanded? Does it affect this?

MR. RANDALL: I will address that in a little bit, but it's really going to be impacting our ports.

MR. HOUGHTON: Directly.

MR. RANDALL: Yes, sir. We're looking at larger container ships that are carrying up to 12,000-13,000 containers. Those larger ships will be needing like a 55-foot draft or depth.

MR. HOUGHTON: How many ports do we have that are 55 feet?

MR. RANDALL: We don't at this time. Houston, I believe, is 45, Corpus is 45, and I think maybe Brownsville is something like 42.

MR. HOUGHTON: So obviously, Commissioner Holmes, there's an initiative underway, or is soon to be, to go deeper?

MR. HOLMES: It's going to be pretty hard in Houston because of the pipelines and the sharing ratio between local and federal. It changes below 45 feet and it makes it extremely expensive. Corpus may have a chance. Freeport has got a good shot at it. Galveston would be a possibility just because they're closer, they don't have to dig through Galveston Bay and move all those pipelines.

MR. HOUGHTON: At some time, Amadeo, for us high desert rats out in far West Texas, I think that people in this room and within the sound of our broadcast and video, I think it would be interesting to know when

the canal comes online, what the potential of that canal is coming on line to the Texas ports and trade in Texas.

MR. SAENZ: And we have an ongoing study, I think, that is being managed by Jim's section that is looking at the impact of the Panama Canal with respect to that. So can you give us a timeline of where you're at on that?

MR. RANDALL: Yes, sir. First off, let me back up. In 2006 GPA sponsored a study looking at the impact of the Panama Canal on our ports. We've got a Texas waterborne corridor study going on in which we are looking at updating that 2006 study.

MR. HOUGHTON: With all due respect to studies, I would imagine the people that are most greatly impacted, like Houston, Galveston, Freeport, and others, are mounting initiatives or planning for. Can we hear from them too on what they're doing?

MR. SAENZ: Yes, sir. We'll set up a panel.

MR. HOUGHTON: In addition to our work.

MR. SAENZ: One of the things is I visited the Port of Freeport and they were going to do a study, so we started talking to all of them about doing one general study. But what we'll do is when we bring the study, we'll bring all of the different owners of the ports and managers of the ports so that we can get the full picture

from all of them. We'll set it up as a discussion item.

MR. RANDALL: And part of this study is visiting with those stakeholders too to get their input.

MR. HOUGHTON: I would imagine they're going to have transportation needs. Ground transportation needs, as well, are going to be greatly impacted or potentially impacted.

MR. RANDALL: Yes, sir, highway, rail, trucking, everything.

MR. HOLMES: You know, there's been a great deal made of this dramatic increase in trade that will result from Panama Canal expansion, but we have to have ports that can accommodate the vessels that require that expanded width and depth, and we don't have that. I mean, we have the width, we don't have the depth.

MR. RANDALL: Yes, sir.

MR. HOLMES: And so my belief is that the real benefits of that increased trade will more likely be delayed until we have the depth, at least in Texas.

MR. RANDALL: It's my understanding the canal won't be completed until 2014, I believe, and hopefully our study will be finished in 2011.

MR. HOLMES: Yes, but actually deepening one of those channels. Just as a point of reference, the Port of Houston, when it wanted to go from 40 to 45 feet, started

in 1967 and the bill approving it was signed by President Clinton at the end of his first term. So these are very long term projects, they don't happen overnight.

MR. RANDALL: And expensive.

Moving on, just some statistics. During FY 2010 the Corps of Engineers spent over $36 million to operate and maintain the waterway, and they dredged over 5 million cubic yards that year. During 2009 the Corps spent over $57 million to operate and maintain the channel which included dredging about 9-1/2 million cubic yards of material.

And just to give you a feel, I guess in FY 2010 we finished the acquisition of a dredged material disposal site on Bolivar Peninsula. It was 242 acres, it cost us $1.8 million which was about $7,500 an acre. So what you're seeing -- and I'll get into this later on -- is that it's getting more and more expensive to acquire upland sites along the waterway.

Dredging. What you see here is a typical diesel-powered hydraulic cutterhead dredge used along the waterway. The ports also conduct dredging projects very similar to the GIWW in order to maintain their channels to their authorized depth. Something I just found out recently, there are also electric-powered dredges now. They run on 220 volts through a 7,000-foot power cable,

and my understanding is that one of them is currently working in Galveston Harbor, and they're used primarily in non-attainment areas and where you're worried about air pollution, and of course, noise pollution. And I think they used one there at Bayport, if I 'm not mistaken, Mr. Holmes.

In the front is your cutterhead, in the back is your discharge pipe, this here is a spud, that's how it rotates down the cutterheads here -- it's like a big vacuum cleaner, sucks up the material, pumps it out the back through the discharge pipe -- and then it kind of crawfishes down the waterway using these spuds that go down into the mud that lets them crawfish down the waterway.

Depending on the past history of the segment, before the dredging begins the Corps may sample the material to be dredged and the water column for contaminants. This testing prevents heavy metals and other contaminants being placed in disposal sites. And that's one thing that we try to avoid in any of our 15 upland sites.

Like I said earlier, the frequency of dredging runs from every 12 to 60 months, depending on the segment and also the weather. For example, a tropical storm or a hurricane may require immediately dredging of the

waterway.

This material goes into a dredged material disposal site, as shown here. When it goes into the site it's a slurry, it's about 80 percent water, 20 percent solids. Over time the solids will settle out and when the liquid reaches a certain water quality threshold, it is drained off and goes back into the waterway. Typical sites range from 90 acres to 200 acres in size, and you see on this levee they're about 30 feet high.

This gives you an idea of a discharge pipe section. In Texas on the waterway they range in size from 20 to 24 inches in diameter. The dredge can pump the material up to two miles with an added costs of a booster pump. You may recall there's 247 dredged material placement areas established along the 423-mile waterway, so you're looking at one about every two miles which is within that two-mile pumping distance.

This gives you an idea of what the slurry looks like coming out of the end of the dredge pipe. There are various dredge placement techniques: open water is shown here, there's upland confined, and beneficial use.

This shows you several projects, beneficial use projects, where TxDOT and the Corps have worked together on beneficial use, and a lot of it is either shoreline protection, sea grass planting or marsh creation.

And I'll show you here a before and after shot of one of the sites we worked on. It's really interesting, the boundary of this marsh was established by using very large 12-foot in diameter geo-textile tubes filled with dredged material, so you're looking at a tube that's twice my height filled with dredged material laid around the perimeter of the marsh. And then dredged material is placed within those tubes, and then after the dredged material has settled, it will be planted with marsh grass and it looks like this. That's April 2002, this is 18 months later, so this is very successful beneficial use site example.

Some of the issues along the waterway. Future property acquisition opportunity is very limited. The public and private sector desires to use the established GIWW sites for their use. TxDOT lacks the authority to maximize the life of the 109 placement areas that's under a U.S. real estate agreement. In other words, there's agreement between the U.S. and the private landowner, we don't have an interest. And of course, the other one is the shoreline development encroaching on navigational channels.

Just to give you an idea, this identifies the state and national parks and wildlife management areas along the coast. You can see the route of the waterway

leads through some of the most sensitive areas in Texas, and it kind of goes back to it was started in 1925 and was completed in 1949, way beyond the time of any environmental concern that we have today.

Land acquisition opportunities in the future are limited. This is one of the limitations. Again, the sites that we acquire must be environmentally sound and operationally suitable. In other words, it needs to be hopefully within that two-mile pumping distance that I talked about earlier. In addition, we are competing with private development interests for upland sites.

Here's an aerial view of a development. Right along here is a GIWW disposal site, and here's the next one going up here. As I said earlier, the public and private sector is also wanting to use our established GIWW disposal sites for dredged material placement rather than developing their own placement options, and of course, one of those options is beneficial use of the material.

Our statutory authority is limited, however, to the main channel. Assisting private development in the disposal of dredged material does not further TxDOT's responsibility as a non-federal sponsor for the main channel. To the contrary, if we let somebody use the site, it uses up the space in the disposal site for private purposes which we need for the continued

maintenance of the waterway.

Another issue, TxDOT lacks the authority to maximize the life of the 109 placement areas that are under an agreement between the United States and the private landowner. For our sites, the ones we own, we can recycle our sites by removing the material. In other words, once the material reaches a consistency which we can dig out, we can put it on a barge and take it someplace else and we'll have a perpetual placement area on those upland sites.

Due to these agreements, the Corps doesn't even own the material within the site. One thing we're thinking about is maybe there's an opportunity for TxDOT to go in and maybe purchase, acquire some of those existing sites in critical areas, and then if the site is acquired by us, we could go in and recycle it and then it would be a permanent site.

To give an example, up in the High Island area near State Highway Bridge 124, I believe, is one of those critical reaches where the existing sites, that usually the Corps has an easement on it, are reaching capacity, and because of the environmental concerns, there's not really an opportunity to go out and purchase another site, so we need to really direct on the sites that have been already impacted.

Finally, due to the popularity of the coast, shoreline development is encroaching on the GIWW as well as other navigational channels. This may create an unsafe environment for the development, recreational boaters, as well as tows operating on the waterway. One thing people forget is the operating speed for a tow is only three to five miles an hour, but they're just like a freight train, you can't stop them on a dime. This may result in collisions with boaters or structures along the waterway, as I'll show in the next slide.

In this particular development, what we like to see is that here's the waterway here, it's offset from the waterway. The only concern we have and where we have to be careful is a boater coming out of here and meets a barge going down the waterway, so there's concerns about that. But this is an example of where a barge plowed into an existing development.

Unless you have any more questions on the waterway, I'm ready to move on to our ports.

MR. HOUGHTON: Go back to that slide.

MR. RANDALL: Which one?

MR. HOUGHTON: That one. Where's the property line?

MR. RANDALL: That is one of the issues that is going on is that out here in the waterway we have 125-foot

bottom width, but there is a side slope that brings it up to, I guess, the property line. The problem is through erosion that will disappear, and so the folks will start building out from the existing mainline here out into what they like, you see things on piers here, balconies and stuff like that. And so we've got several places where we have S-curves and stuff like that in the waterway where it's very hard for, like I say, a barge to maneuver.

A classic place right now, but it's being addressed, is there at the causeway on I-45. We've gone ahead and rebuilt our structure and there's a 300-foot width for the barges to go through. The bottleneck is right next to it, I guess you'll recall, that railroad bridge, and just recently through the TIGER II process there's been funds to go ahead and widen that structure. It's something like going from 100-foot to 300-foot, so it needs to be really 300-foot the whole length between those two structures. And that is one of the major critical areas on the waterway, the whole 1,300-mile waterway, is that bottleneck.

MR. HOLMES: Well, we replace those bumpers every now and then, don't we, Jim?

MR. RANDALL: Yes, sir. Mr. Trietsch used to really get after them about his fender system.

MR. HOUGHTON: The shoreline on the

Intracoastal is not the same under statement as the shoreline on the Gulf as to ownership. Doesn't the shoreline belong to the State of Texas?

MR. RANDALL: Yes, sir. I guess we always get into a discussion with the GLO is exactly where does the state jurisdiction end or begin and where does the waterway start.

When the waterway was originally constructed, a lot of places, the State of Texas granted an easement to the Corps of Engineers and the United States Government to build the waterway, and that easement can be up to, down in the Lower Laguna Madre, up to 5,000 feet. So on one side you can have 5,000 feet, maybe on the other side you can have maybe a couple hundred feet. But within there, the main channel, you have the 125 bottom width, and then you have usually side slopes that might bring it up as wide as 300 feet.

MR. HOUGHTON: So the question is who owns the shoreline. Right?

MR. RANDALL: Yes, sir. It may be under water, right, originally?

MR. RANDALL: Right. And really, to be honest with you, when we buy an upland site, we buy the land all the way out to the centerline of the waterway, so there's no issue about us trying to bring a pipe across somebody

else's property to get to an upland disposal site.

Ready to move on?

MR. HOUGHTON: There's more?

MR. RANDALL: Now we're going to get to ports.

Of course, the Texas port system is a very important component of our state's transportation system. The state has 270 miles of deep draft channel serving eleven deep draft public ports, 750 miles of shallow draft channel serving over nine shallow draft public ports, employs over one million Texans, and they contribute over $135 billion annually to the economy, and $5 billion in local and state tax revenue.

I'm going to talk a little bit about the Port Capital Program. In 2001 the legislature passed a bill that created Chapter 55, Funding of Port Security Projects and Studies Within the Transportation Code. This chapter has three main subjects: the Port Authority Advisory Committee, the Port Access Fund, and the Capital Program.

In 2003 the legislature created the current Port Authority Advisory Committee. One of the duties of the seven-member committee is to advise our commission and the department on issues and matters relating to port authorities. Although the Port Access Account Fund was created in 2001, it has not been capitalized. When this account is funded, TxDOT will have the ability to fund

port security, transportation or facility projects and port studies.

The Port Authority Advisory Committee also prepares a two-year Port Capital Program which details the various port projects and funding needs submitted by the Texas public ports. The annual program is submitted no later than February of each year to the governor, lieutenant governor, speaker of the House and the commission.

In your briefing book there's a copy of the 2010-2011 Capital Program. The 2011-2012 Capital Program is scheduled to be presented to you at your December meeting.

Something few Texans realize is Texas is a major maritime state. According to the Corps of Engineers Navigation Data Center, the State of Texas ranks second between Louisiana and California in terms of total domestic and foreign tonnage -- much better than our football team, but anyway.

There were also ten Texas ports ranked in the top 100 U.S. ports in terms of tonnage shipped in 2008. Three Texas ports, Houston, Corpus and Beaumont, ranked within the top ten. The ten Texas ports ranked were: Houston #2, Corpus #5, Beaumont #7, Texas City #13, Port Arthur #25, Freeport #26, Matagorda-Port Lavaca-Port

Comfort #52, Galveston #54, Brownsville #76, and Victoria #94. And to just give you an example, I think there's over 360 ports in the United States according to the AAPA.

Out of the top 20 U.S. container ports, the Port of Houston ranked seventh in the nation in 2009, and this is a slide of their Barbours Cut facility.

Texas ports also have become a critical component in sustaining military operations. In terms of tonnage shipped, the Port of Beaumont is the largest military port in the U.S. and second largest in the world.

And of course, we talked about this earlier, everybody is questioning what's going to happen with the widening of the Panama Canal. Of course, it will allow for larger, deeper draft vessels to access the Gulf of Mexico. The expansion will accommodate vessels carrying about 12,600 containers. The larger vessels will carry more than twice the number of containers than ships currently using the canal. Some analysts have predicted that about 20 percent of the cargo ships now serving the West Coast ports could be diverted to Houston once the Panama Canal is opened.

Of course, as we talked about earlier, the impacts of the canal expansion will not be limited to just containerized freight. The expansion may have impacts to many of our Texas ports, surrounding communities, highways

and rail that serve them. I talked about our Texas waterborne commerce study which is analyzing national and global trends driving freight demand on Texas ports and waterways, and identifying key choke points impacting the efficiency of the state's waterborne and surface freight system.

The study will identify infrastructure, operational and institutional recommendations to assist TxDOT and local partners to better address the issue, and as I told you earlier, they are updating the 2006 Panama Canal study that was done by GPA.

And so with that, I'm going to turn it over to Mr. LaRue, if you have no further questions. Mr. LaRue, as you know, is the chair of our Port Authority Advisory Committee and also director of the Port of Corpus Christi.

MR. LaRUE: Thanks, Jim. Good afternoon.

I'll just make a couple of comments and pick up on some of the questions and concerns you had on Panama Canal and where we're going. Commissioner Holmes is absolutely right, none of the Texas, and very few of the U.S. ports in the East Coast and the Gulf Coast, will be able to handle the larger 12,000 TEU ships in 2014 when the canal opens, and there are very few ports that have projects in the works that will allow them to pick that up, so it will take a while.

In Corpus we are authorized to 52 feet from 45, but as Commissioner Holmes noted, that took us from 1991 to 2007. The good news was we were authorized in 2007, the bad news is you have to get appropriated and you have to go through an appropriation cycle every year. And right now, our project to go seven feet is $400 million, and when you go below 45 feet, the federal government only pays you 50 percent. They kind of do it inversely. If you're at 40 feet, they pay 75 percent. So there's a disincentive, in effect, to go deeper.

So not only will it take us a while to come up with the match, roughly $180 million, we estimate it will take us between 10 and 15 years to get that project from the ship channel entrance to the end of our ship channel, that's how long it will take.

MR. HOLMES: How far do you have to go out in the Gulf to hit the 52 feet?

MR. LaRUE: We have the shortest distance at all, we only go about three (sic) feet out and we're down to 90 feet.

MR. HOLMES: How far out?

MR. LaRUE: About three miles.

MR. HOLMES: Three miles.

MR. LaRUE: Sorry. I might have said three feet. I wish it were.

MR. HOLMES: I was going to say that's really steep.

MR. LaRUE: That's a steep drop-off.

(General laughter.)

MR. LaRUE: No. It's about three miles. So it's not so much an issue for us in the Gulf.

But I think what will happen with the canal, there will be a change in the trade flows. Those large vessels, both the bulk and the container vessels that are trapped in the Pacific and have to go to the California or the Washington ports, are looking to get into the Gulf. The Gulf ports are more productive, their labor cost is less, the environmental restrictions that we have on are less. That doesn't mean that we aren't environmentally sensitive.

But in California right now they're requiring all the trucks that go into the Port of Los Angeles no longer can be an independently owned operator, they have to be owned by an employer, by a large company. In fact, they're going through a lawsuit on that right now.

So there's a lot of issues that are making the Asian carriers look to the Gulf, and I think what we'll have is we'll have those ships come in, they'll go to a trans-shipment point, somewhere either in Panama or the Caribbean, and distribute that product out from there.

But it will take a while till the Gulf and the East Coast -- I think the only East Coast port that could handle then right now is Norfolk, Virginia at 50-52 feet.

So it is a tremendous opportunity for us and for Texas. I think we'll see a lot of cargo come in and we'll be glad to participate with TxDOT in roundtable. To give you a further example of the types of changes it could mean for Texas, I know commissioner Underwood is aware of the impact of Texas is the largest grower of cotton in the United States. Most people don't realize that. In most years we grow 50-55 percent of the U.S. cotton but it's all going, not all, let's say 90 percent of it is going to L.A. and Long Beach to be exported to Asia. It's not coming to the Texas ports because those big ships are out there. So with the canal changing, we're already looking and working at trying to attract that cargo through Texas ports.

Same with grain. corpus, Beaumont, Houston have grain elevators. They're again restricted by the size of those ships. When the canal changes, those ships will be able to get in and we'll have more opportunity.

So there are significant opportunities. I think one of the things about where we talked about the Capital Program and that it hasn't been funded, and with what we know with what's going to happen in the next

legislature, we're not here asking you to fund that, but a multimodal office that could really start to piece together the port, the highway and the rail aspects of this. There are significant rail impacts for ports and they're growing, and we see that that's going to e a major factor for ports is the inland side, not just the water side of what we're going to have to do in the next ten years. So a multimodal office where all of that can be brought together would be very helpful.

And I'll be glad to answer any questions.

MR. SAENZ: Thank you, John. I do have one question, I guess. Is there any chance that now because of the opening of the Panama Canal and the need just to move commerce to deepen the ports that the Corps would change the ruling and increase their share of the fu ding?

MR. LaRUE: I doubt it. That's been pushed by AAPA for several years, but the problem now is the Corps just doesn't even have the money to do the projects that are already on the books, let alone the sort of new start projects. And we've talked about that. Commissioner Holmes mentioned the pipeline issue. That's a huge issue in Texas, it's not in most other states, maybe in Louisiana, but the rest of the ports may have one or two pipelines, it's usually a water pipeline. But we could have in the cost in our port from 45 to 52 is like $30

million to relocate. I know it was much more in Houston.

So no, I don't think that's going to happen, I think it's going to stay at 50 percent and we'll be fortunate. The problem also with the Corps is we all have to compete with inland projects because the Corps isn't just the ports, it's flood control, it's like the Trinity River project in Dallas, San Antonio River project in San Antonio are Corps projects. They'll be competing over the next 20 years for dollars for ports, and so it's not just going to be the rest of the United States, it's going to be in Texas where it's going to hit us.

MR. HOLMES: Just as a kind of follow-on, Amadeo, the Corps has a bit of the same problem that TxDOT has, funding is inadequate and they're struggling just for the maintenance money to keep the waterways open that are already there. So to expand it makes it even more difficult. It's the same issues that we face here.

MR. LaRUE: Exactly.

MR. HOLMES: And then just to add a little additional about the pipelines, when Houston deepened from 40 to 45 feet, there were 121 pipelines that needed to be lowered.

MR. LaRUE: How many

MR. HOLMES: One hundred and twenty-one, and they cost just a hair over a million dollars each, on

average, so $125 million that the private sector had to bear, and there was litigation about it and it went to the Fifth Circuit. The Corps maintained a doctrine called Navigational Servitude meaning if you are in the way of navigation, it is your responsibility to get out of the way, and ultimately the Fifth Circuit decided that it was, in fact, the private industries' obligation to move their pipelines out of the way of navigation, and they bore that cost. They weren't real happy about it but that's the way it happened.

MR. LaRUE: We have that same issue and we followed that model; hopefully, we have the same result.

MR. HOUGHTON: Well, over time, obviously -- I say obviously -- over time, maybe these waterways will be deepened, but in the interim if you open up the canal in 2014 and your point breaking down those big ships to smaller ships, you're going to see increased trade coming into Texas.

MR. LaRUE: Yes, the trade will increase.

MR. HOUGHTON: Because of geography, Texas right in the middle with how many ports, 13, 14 ports?

MR. LaRUE: Yes, there's really about 12 deepwater ports.

MR. HOUGHTON: So trade will increase.

MR. LaRUE: No question about it, in all areas,

whether it's, as I said, the bulk commodities, when you see what the Asians are buying in the bulk commodities, and those large ships are trapped and so are the agricultural ships as much as the container ships in the Pacific. So we will see an increase, we just won't see those 12,000 TEU container ships coming into our port. We may see 7,000 which we're not seeing now, we're seeing 4- or 5,000. So there will be an increase and there will be a lot more business coming through but it won't just be that one large mother ship coming in.

MR. HOUGHTON: And they open what, 2014, that's what they're projecting?

MR. LaRUE: Yes. That's the 100th anniversary and they're trying to have it open I think it's July of 2014.

MR. UNDERWOOD: Can you hear me now? Fantastic. It just has to sit a while and warm up; it's kind of like my car.

Aren't other states, though, getting ready to handle the bigger containers, like Mobile and places like that?

MR. LaRUE: Mobile is the one port that may be able to handle some of those ships, they have some deep water. On the East Coast, as I said, Charleston is looking to get more, Savannah is looking at it, Norfolk

already has it, New York is looking at it and is actually looking at the bridge from Bayonne over to Staten Island at replacing that bridge at a cost of a billion dollars because it restricts the size of those vessels.

MR. HOUGHTON: The Verrazano Narrows?

MR. LaRUE: No, it's not that one. It goes from New Jersey over to Staten Island.

MR. HOUGHTON: Oh, okay.

MR. UNDERWOOD: But you have the similar problem in Corpus.

MR. LaRUE: We have the bridge at 138 feet but we're looking at building a new container mixed-use terminal outside the bridge.

MR. UNDERWOOD: Yes, but that's just going to cost money, though -- that's the wrong adjective -- but that's going to cost more money because you're going to actually take that big container and break it down to be able to bring those loads in. Isn't that correct?

MR. LaRUE: Well, when we build the new terminal we'll be able to bring in the same size ships that are coming into Houston or any other ports. It will be able to take 7,000 TEU vessels. It's outside the bridge, it will have no height or width restriction.

MR. LaRUE: Right. But you're still going to have to break down that vehicle, whereas, my point is in

Mobile or whatnot, they'll be able to take the big boat all the way in and unload it at one time and not break it down.

MR. LaRUE: They may, but when you look at where the trade lanes are, they're not really a competitor for us, they're more of a competitor for Jacksonville, Savannah, Charleston on the East Coast, they really are tucked in there and more of an East Coast port. When you look at the trade lanes that the Texas ports serve, it kind of goes right up the middle and really goes all the way as far as Denver and Arizona. We can compete with the L.A. ports because of our improved productivity. But I don't see Mobile being a big competitor for us, but you're right, they will be able to handle the large ships.

MR. UNDERWOOD: To me, if I can unload my boat at one time and not have to sit there and unload this container on this side and this container on this side, that will mean a lot to them because that's the cost of how long does it take to keep that thing parked until you can put it back on the road again to bring more containers.

MR. HOLMES: The modern equipment, though, Commissioner, they can move those containers on and off very quickly. I mean, it's absolutely amazing how fast. They're up to what, 35?

MR. LaRUE: Thirty-five to forty per hour per container crane.

MR. HOLMES: Per crane.

MR. LaRUE: And you can put three or four cranes on a vessel.

MR. HOLMES: And the land conveyance is an incredibly important element of it. And I'm probably at risk of telling you more than you want to know, but there was a conflict between the Port of Houston and Texas City of where a new facility was going to go, and it was going to go to Houston because the difference in drayage costs to take that container from Texas City into Houston was $80 a box, and the Bayport terminal, which is what ultimately is being built, is a 2-1/2 million TEU facility, 2-1/2 million a year, and you multiply $80 times that, it's serious money and that's borne by that cargo owner.

And so the land drayage part really is very important, and so to go into Mobile and ship into the Texas market is just really costly, that's not going to happen.

MR. UNDERWOOD: A lot of the market that goes into Houston actually goes east and I see that being diverted.

MR. HOLMES: To some extent.

MR. UNDERWOOD: Because you only have to handle that container one time instead of handling it twice.

MR. HOLMES: The Port of Houston's market is not as much east of New Orleans as you might think, it's not really east of that. It's more from north to Chicago and then over Denver and then into touching Arizona, but it's really a Texas market. Fifty percent of the containers that go in and out of Houston are produced or consumed in the Houston market, 50 percent of them.

MR. UNDERWOOD: So are you saying there are going to be more and more containers of this traveling as they unload, as these bigger boats come in?

MR. HOLMES: Every year there are more.

MR. UNDERWOOD: And another need for the Ports to Plains Highway to be built. Okay. Thank you.

(General laughter.)

MR. HOLMES: The other great beneficiary that you touched on, Mr. LaRue, is the benefit that California is to Texas because their work rules, the fact that they shut their ports down through a labor strike sent WalMart to Texas and it continues to push business out of California to Texas. We've got a better labor force, better work rules, better governments.

MR. LaRUE: Just one final point on that. When that work stoppage occurred, Toyota had been moving 100

percent of their parts through the California ports and they were stuck, they had plants in the United States. This was before the San Antonio plant. They had to actually charter air cargo and fly parts -- you can imagine what that cost -- instead of containers, and fly them. So that's one of the reasons I think Toyota may be in Texas is looking at a market where they can find a home that's labor peace and they know they're going to get a productive workforce.

MR. SAENZ: Thank you, John.

MR. LaRUE: You're welcome.

MR. SAENZ: Thank you, Jim. Great report.

Commissioners, we will follow up right at the beginning of the year with our waterborne freight study. I think that's going to play a very important role as dynamics change and we get more cargo through the Panama Canal, we need to see how that freight movement then comes onto the land side and how we access that. So we're looking forward to that report, Jim. Thank you.

Next on the agenda we have Mary Meyland, who is going to lead us in a presentation and discussion concerning the development of the department's four-year work plan. We used the four-year work plan as part of the development of the LAR this year, and it's going to kind of lead us to kind of show what we will be developing and

what will be producing over the next four years. So Mary.

MS. MEYLAND: Great. Good afternoon, commissioners, Chair.

It is my great opportunity and privilege to have been shepherding this group for the last six or seven months in development of this four-year plan. And before I get started, Mike Lehman is going to hand out a more brief version of the power point presentation that we've prepared for you this afternoon than what you have in your book.

We're going to move through this fairly quickly. I do want to pause for an important moment here, and again, I didn't say my name, did I? Mary Meyland, and I'm the director of the Strategic Policy and Planning Office. This afternoon I want to focus your attention on the contributors. It's taken a One DOT effort to pull this together. We're actually developing opportunities within our information systems that we've never had before so that we can pull this information together for you and for our public.

The districts have basically been the ones that have been charged with doing the heavy lifting. They have developed their portfolios of plans and developed P-6 schedules and really provided all the necessary data that we needed to make these plans what they are today. The

regional support centers have all worked in support of the districts to get us where we needed to be on a very tight schedule. We have also used our letting management group and asking them to work with us for the first time in developing, basically cash loads to our plans so that it could all tie together.

And of course, our buddies at TSD, which we have two here, Brian and James, have been developing the front end so that we'll be able to take this to the web and make it basically customer-friendly. And not to say the last is our Project Management Office, newly formed, but they've been working for the past two years and trying too make sense of the business analytics that we're putting together to push this plan out.

The outline of our short presentation this afternoon, we're basically going to take you through a little evolution of what the plan is and where it came from and why are we doing it, and the significant accomplishments that we have completed to get it ready for production, there are a few unresolved issues that we're working on, an outline of the next steps to get us where we'd like to be for you, and a demonstration of our four-year plan which will be done with our TSD folks.

Plan evolution. The plan was envisioned first in the HB 300 bill that did not pass, and it was mentioned

also in the Sunset report as something that would be needed for the public to understand basically the cash issues and the cost issues surrounding our programs, our plan programs, more than what we're actually showing no Tracker.

Now, the plan has grown out of a list of projects that we have put together and the activities that are financially constrained by the UTP, so it's very important that the effort that you took earlier this year to approve our UTP and get it updated is tied directly to the relevance of this plan. And as Amadeo spoke to, the idea is to put this plan in place and get us so comfortable with it that we can relate our LAR request directly back to its plan as a four-year rolling plan.

What is it? Just a real short definition. The four-year plan is a statewide list of funded projects, and we're calling it a website because actually it will be an internal and an external view. The external view won't have all the what I'll call analytics on it. The internal view on Crossroads will be designed basically for Amadeo and his managers to see where we are in our cash flows in our different buckets of money.

The funded projects are pooled and planned to let in construction year around a four-year rolling period. We're going to update this every six months so

we'll actually have a little bit more than four years on this plan, and the four years are basically existing around the current year and the next three fiscal years.

The plan process. The plan will be updated on a six-month cycle, as I mentioned earlier, two months in advance of the certification of the 24-month letting schedule which you've seen and approved, it's something we recently got approved in July, and it's the basis of the annual project delivery to-do calendar which is something we're going to need in order to keep ourselves focused on the plan as it has been produced.

Basically it's a consolidation and a presentation by district, by funding source, and by year of letting. Those are the three columns of information that are most sustained. We can also provide you data assembled by district, county or at the project level. And most importantly, it is all linked back to Project Tracker, so if you need specific information other than just the cost of projects as they are stacked in programs and in different parts of the state, you go straight into Project Tracker as you've seen and as we're continuing to make better.

And I'm going to step down at this point and bring up Mike Lehman who has been working in our South Region, and he is really the mind behind all of the ups

and downs that have pulled this together for us. So Mike, if you'll please take the podium.

MR. LEHMAN: Thank you, Mary. And for the record, my name is Mike Lehman. I'm the assistant regional director for the South Region.

And as Mary mentioned, we're talking about the four-year work plan and it is an estimate of the total project cost for all projects going to letting and it is broken out by method of funding. And for this version of the four-year work plan, we're really focusing on construction projects only and those costs that are associated to those construction projects.

The construction costs that we're talking about include inflation at the rate of 4 percent per year which is consistent with the Highway Cost Index from December of 1998 to present. It also includes right of way and utility costs and consultant expenses, and the right of way and utility costs is a total project cost which includes the costs that we have spent to date plus the forecast for the costs needing to complete the project.

The four-year work plan at this point will include, as we mentioned, project-specific costs and not program costs. We're not going to be capturing construction engineering or preliminary engineering dollars at this point, nor will we be capturing costs

associated with backlog which are the projects that are ready in case of an additional funding call. They're not going to include costs of ongoing projects, those that are already let and under construction. It's not going to include the planned projects for way out in the future, the long range development plans, as we call them, and it's also not going to include non project-specific costs such as interagency contracts or on-demand contracts or consultant contracts that may be administered out of the Austin division.

As we've been working on this we have employed many, many, many different quality control checks. We've been checking data every which way we possibly can to make sure that we have the right portfolio of projects. As we've been doing this, we recognize we have some major issues, one of which was in DCIS itself we have some data integrity problems. And just kind of the scope of what we're talking about, in DCIS there are over 100,000 records of projects and so we had to go through and systematically clean up DCIS to make sure that it was reflective of where we currently are. That cleanup effort is in progress and it's almost done.

One of the biggest issues that we've had is that we've been dealing with a very dynamic portfolio. Every time we pull a project list and start analyzing

where we are, the number of projects is different. And I'll go into more detail here in just a minute as to why that is.

But just in general, we've had requests to accelerate projects, we've had a Category 8 program call, the districts have had their four-year preventative maintenance programs reviewed by peers and they've had to adjust their plans accordingly, we've had the UTP that was reviewed and approved by the commission, and then we have change orders that hit letting caps. So all these things make the portfolio a very dynamic thing.

As of right now, this entire QC process is done through just a monumental manual effort. We have to basically overcome it with brute force and human effort. We are hoping to eventually have management information systems in place to be able to make this a more automated and more consistent, repeatable, and must more efficient process.

We're going to have to adapt some of our management information systems to be able to do that, and as you know, beginning in September 2008 Project Tracker began displaying information available on DCIS and FIMS to the public. But in that we see that there are projects that are shown as either funded or unfunded without a full explanation for funding gaps. So we know that enhancing

the management information system is going to help us with this effort, as well as telling the entire story.

This chart is taking us through kind of the last month or so, month and a half or so of quality checks for the four-year plan, and he X-axis is the number of checks that we've done to date. The red line starting on the left at around 4,600, that is showing the number of projects in the portfolio, and you see that that number of projects has continued to grow. Each time we do a check the number of projects changes, and for the most part it's been a growth trend.

The pink line is reflecting the number of projects that have an incorrect letting date. For example, in DCIS it may have a letting date of 2011 but that does not correspond to where the project is in the actual four-year work plan. That line has gone down just through an effort of the regions working with the districts to identify and resolve those problems. We got to the point where it was fairly low down around September 9, but then it went back up again, we had a bunch of changes happening again, so then we got with the districts gain and we got that trend going back down.

The blue line down at the very bottom is showing invalid CSJs, and as we mentioned, this is a very dynamic portfolio, and what happens is a district will

create what we call a 900 CSJ or a planning CSJ kind of as a placeholder for the project and if they don't replace those with real CSJs during the process, that's what's causing this line on the bottom.

So it's been very intensive, we've gone through all this QC, we've got the portfolio where it's as close as it can be right now. And this next slide is showing you where we stand as of October 18.

For each district listed here, we have the four fiscal years and what we're showing is the difference between the letting cap and the district's portfolio totals. The green cells are differences that are less than 5 percent and the cells that are yellow are differences that are greater than 5 percent, and if you look up here you can see there's not as much green as I would like to see. It's at about 46 percent of the cells are green; the 54 percent that are yellow, the districts have provided justification for. We know why they're not within the caps, it's just working with them to get them within the caps is a great challenge.

Some of the major unresolved issues at this point, Mary has talked about a little bit already the updating cycle. We need to tie the updating cycle to the four-year work plan to key events such as the STIP update cycle or the CFO cash flow forecast. It makes no sense to

develop a four-year work plan that's not tied to these other things that are all providing input to it. We also know that we have to tie it to the monthly tracker updates, and I'll show you a screen here in just a minute and how we're envisioning that's going to work.

But really the big issue is that we really need to optimize the comparison of what the districts' portfolios are to the UTP caps. We have a couple of ideas in mind that we're working on to perfect that comparison.

This next slide is showing a shot of Project Tracker, and I'd like to just talk about how they're going to be interrelated. The section on the top is planned to be synchronized with the four-year work plan so that when we update the four-year work plan that the information on Project Tracker gets updated at the same time. The information on the bottom of this screen is to be updated whenever we update the project reporting and management information system, or PRIM. And then the section in the middle is to be updated monthly so that the public knows exactly where the projects are and the milestones at any given time.

Our next steps. We know that we have to develop a change of management approach, the whole thing being so dynamic we have to have a way of keeping up with the changes and managing those changes and making sure

that only appropriate changes are being made. We also know that we're going to enter what we're calling phase two which is we're going to capture some of the unfunded projects, we know we're going to develop some payout curves and cash flow forecasts so we can tie that to the LAR. But before we get there, we have to have an enterprise system for capturing the right of way and utility costs, we have to have an enterprise system for the consultant costs so we can do it without having to do it with just manual brute force.

So at this point, unless there are any questions, what I will do is I will turn it over to Brian Eargle for him to actually demonstrate the four-year work plan data.

MR. EARGLE: For the record, my name is Brian Eargle. I'm with the Technology Services Division.

What you're seeing on the screen now is what we've developed to roll out both internally and for external consumption as far as visualizing work plan data. This first page here just gives a brief background on the effort so why it's being done and what it is.

The meat of the work plan in these two links and the dashboard and project detail, the dashboard page is going to give you an overview of both the dollar amounts, accounts of the projects, and then the methods of

funding for each of these projects. Up at the top left we have a breakdown of the project funding by the category. Our categories that we're breaking out are construction, consultant and right of way, and then the dollar amounts shown here are in millions. So the majority is construction and then the red is right of way, and then we have the consultant dollars.

This next chart to the right is a breakdown of the number of projects by the category and also the percentage of a whole of those projects. As we scroll down, we have a line chart here that's showing the breakout of just the construction projects by the fiscal year of letting. And each of these points we can roll over and get a dollar amount for each of those fiscal years for each of the different methods of funding.

Down at the bottom we have some charts to break out the right of way and also the consultant, again by the method of funding and the dollar amount there. So that's the overview.

We also have a project detail page which is pretty much just a list of all the projects.

MR. HOLMES: May I interrupt just a moment?

MR. EARGLE: Sure.

MR. HOLMES: Are these numbers just for illustration or are these meant to be actual numbers for

some timeline?

MR. EARGLE: These, I believe, were checked and went through the QC and QA process.

MR. HOLMES: And was I reading that chart correctly that you had $14 billion worth of construction costs and $100 million worth of engineering costs?

MR. EARGLE: Yes, the $100 million here is the consultant engineering for the next four years, and I believe on the right of way and the consultant they include past expenditures as well so total project costs. But these are projects that are planned to be let within the next four years, within that '11 to '14.

MR. HOLMES: And does the $14 billion in construction costs, does that include some of the big Dallas projects? A nod by Mary.

MR. EARGLE: Yes.

MR. HOLMES: And they have engineering provided within that $14 billion. Right?

MR. HOUGHTON: So you're talking about everything ongoing.

MR. SAENZ: It's all the projects that are ongoing for the next four years. Some are under contract, some are going to be let to contract, and some we're still only doing planning for those.

MR. HOUGHTON: And the chart below the line

chart graph, in 2013 or '12 you have over $2 billion, and then it pops up over $3 billion.

MR. EARGLE: Right.

MR. HOUGHTON: That's letting.

MR. EARGLE: Right, total.

MR. HOLMES: I'm kind of hung up on this $100 million over four years, $25 million a year. We have been spending over $200 million a year, $250 million a year, so how do I reconcile those numbers?

MR. EARGLE: And these construction values for sure we have coming out of DCIS which is our system of record for construction projects, these right of way and the consultant areas, as Mike mentioned, we don't really have enterprise systems to capture that data so all that data was hand-entered.

MR. HOLMES: There's something wrong with the number. Right? It ought to be more like a billion rather than this $100 million. Well, there than that, we're going to hear from the CEC. Right?

(General talking and laughter.)

MR. EARGLE: So we still have some additional QC and QA that we can do.

Over to the project detail page, so this is just a list of projects you can filter by the different category, method of funding. If you roll over the method

of funding, it will give you a description there of what it is, and then we have the detail link into Project Tracker.

This is a quick list of the consultant projects here, so this list is filtered just on consultant, and there's about 17 pages worth of projects here.

MR. HOUGHTON: Consultant?

MR. EARGLE: Consultant engineering dollars.

MR. HOUGHTON: Does it show the total the amount at the bottom?

MR. EARGLE: Right now it's just detail, that's something we can add. And your users will also have the ability to export to these different formats, and maybe Excel would be a good place to do that.

MS. MEYLAND: We do want you to know that these are just CSJ-related costs that we have on books now for consultants. It does not include what we consider our ongoing lump sum. Like some of our consultants, we have a group or an umbrella of some services, they're not tracked here. This is specifically just projects that we know of that have consultant costs in the next four years. So those values are not in there, the things that we have, service contracts in environmental and service contracts, and bridge, and they're kind of lump-summed contracts; they're not included in here.

So the best we can tell you right now, this is all the consultant contract information we have for the projects that are in the current four-year plan.

MR. UNDERWOOD: And that wasn't [inaudible] compared to --

MS. MEYLAND: Correct, that are for special services and things of that sort.

MR. UNDERWOOD: [Inaudible].

MS. MEYLAND: Yes. There is an enterprise system being developed right now that is specifically for that purpose, and we're going to hopefully integrate that the that. That's one of the two milestones that still need to be addressed and that is the improvement of our MIS systems for consultant and right of way.

MR. HOLMES: But typically engineering costs for a project exceed seven-tenths of one percent of the value of the project. Right?

MS. MEYLAND: Yes, sir.

MR. HOLMES: Aren't they more like five or ten X of that?

MR. SAENZ: It would be between five and ten.

MS. MEYLAND: Five and ten.

MR. HOLMES: And so where's the rest of the engineering being provided in this $14 billion worth of projects?

MS. MEYLAND: This could be just our share of that consultant project.

MR. HOLMES: And so the rest of it is in-house?

MS. MEYLAND: Could be or others are bearing the cost of it. We'll have to look at that, and that's a good question. It's obviously not obvious and it should be here.

MR. HOUGHTON: Should that not be the total engineering costs?

MS. MEYLAND: Pardon?

MR. HOUGHTON: Can we not put total engineering costs?

MS. MEYLAND: Total consultant engineering costs?

MR. HOUGHTON: Not consulting, but total costs.

MR. SAENZ: We're going to have to have the total engineering costs, that's going to be part of what goes into the Legislative Appropriations Request and to our Strategy 101 for in-house engineering planning, and then a portion of that will be the consultant engineering planning. So we're going to have to trap the total engineering costs, whether we're doing it or the consultants are doing it, break it up both ways.

MS. MEYLAND: Good enhancement. We're not there yet.

With that being said, have you showed just about all of it?

MR. EARGLE: Yes, that's all I had.

MR. HOUGHTON: So what you're telling me today is we have $14 billion of projects in a four-year plan.

MS. MEYLAND: That will be updated every six months.

MR. HOUGHTON: Can you tell me today what we have in contractually obligated projects, today, right now if I got online?

MS. MEYLAND: In construction?

MR. HOUGHTON: Right.

MR. SAENZ: We have a report that will tell you how much we have under contract and what percent we're paid out.

MR. HOUGHTON: Yes. Do we have that?

MR. SAENZ: Yes, sir.

MR. HOUGHTON: Online?

MR. SAENZ: Well, I'll check with construction. I haven't seen it.

MS. MEYLAND: I haven't seen it lately, and we can't pull it out of project management.

MR. SAENZ: I don't think it's online.

MS. MEYLAND: Good question.

MR. HOLMES: Where's Bass? Bass ought to know

that.

MR. HOUGHTON: He's in New York.

(General laughter.)

MR. SAENZ: I don't think we have it in the work plan.

MR. LEHMAN: It's not. I know where it is, I can find it on the San Antonio District Construction Office website.

MR. HOUGHTON: On their website?

MR. LEHMAN: Well, it's a report that I created before I moved to the regional office and it just continued to stay on the San Antonio District site. This is the intranet only.

I'm just going to pick on San Antonio, for example. This pulls up the first page of this is showing the statewide total and let me zoom in for you, we have a total of $9 billion under contract right now, and $6.8 billion of that is paid out, 73 percent is paid out. And I update this report every month.

MR. HOUGHTON: So we're obligated to three more billion as to what's left in those projects, or roughly 20-plus percent, 25 percent, 27 percent.

MR. LEHMAN: Right, we have 27 percent remaining to pay on those contracts, yes, sir.

MR. HOUGHTON: Okay.

MR. LEHMAN: And this is for every district in the state. I pulled up the San Antonio report but all the reports start out with a statewide summary.

MR. HOLMES: Thanks for finding that.

MR. LEHMAN: I knew where it was, sir.

MR. HOUGHTON: You know where it is but no one else does.

MR. LEHMAN: This is a report that's shared with the district engineers on a monthly basis, so they all know where it is.

MS. DELISI: Why don't we just put it on our website so everyone can see it.

MR. LEHMAN: You can link to it.

MR. SAENZ: We're going to.

MS. MEYLAND: The only thing I'd like to say is obviously we're not quite ready for prime time but we're hoping to have this up, with your questions addressed on the total engineering costs, the middle of next month.

MR. SAENZ: Thank you, Mary. Good work so far; we still have a ways to go.

Next item, John, where are you? We knew we had to have John presenting today. John will lead us in a discussion item dealing with access management practices and right of way acquisition practices. So John, I'm going to turn this over to you.

MR. BARTON: Thank you, Director Saenz.

Good afternoon, Madame Chair, commissioners. For the record, my name is John Barton, and as always, I have the distinct privilege of serving you and the State of Texas as your assistant executive director for Engineering Operations.

What I would like to do today is share with you some information about a very important issue related to the department's management of our transportation system, that being the control of access onto the state highway system and the manner in which we go about doing that.

I've got a couple of slides that I would like to share with you, and the presentation is locked up right now. Hang on just a second and we'll get it started.

But I have a few gentlemen with me today. I've got John Zimmerman, who is one of our attorneys from the Right of Way Division. I have John Campbell, the director of our Right of Way Division, Mr. J.D. Ewald with the Office of General Counsel, and I believe that Suzanne Mann is here as well if we would need for her to engage in the conversation.

What we'd like to do is just share with you some information and then engage in an open dialogue about the particular matters in front of us today. Let me just give you a brief overview of the issues at hand and then

we'll open it up for discussion with the commission. Of course, feel free to interrupt me at any time.

Access to the state's highway system is certainly an important part of the development of our state's economy and the benefit that a transportation system provides to a society at large. We do have the regulatory authority here in the State of Texas to control the access to the state's highway system to facilitate the flow of traffic and to help promote the public safety and welfare, and we have an access management set of rules and policy that have been put in place through Administrative Code in Chapter 11, specifically Subchapter C.

The picture that's on the screen now is a picture of a growing community, and I don't have a pointer and it's a little difficult to see, but you can see towards the outside edges of that there is a circumferential loop that goes around this community, and you can see the roadways coming in kind of in a spike fashion into the downtown area of this community. And at one point in time, with the main highway going north and south through town and several of the spoke highways coming into town, it was important to create a loop system, if you will, to allow that flow of traffic to be handled better than through the downtown.

And using a pointer, this is obviously the

highway that came through downtown, the main street, and came out south of town. You had other highways that, as I said, were spokes feeding into downtown from different directions. And at one point in the history of the transportation system in developing it, the department and this community developed a loop around this community which I'm circling now with the pointer. It went all the way around the community from north to south, east to west.

Because we did not control the access to the facility at all, this is a picture of one portion of that loop now today. This is the loop around this community, you can see that there's a lot of development, numerous driveways, a traffic controlled intersection with a traffic signal, and actually this is one of the top 100 most congested roadway segments in the State of Texas. So it's clearly important that control of access to our system be done in a wise and effective manner.

In response to situations like this, the commission in 2001 issued Minute Order 108544 which established two primary principles: one, that as we develop new location relief routes that the department should exercise full control of access on those new location relief routes; and secondly, that we would minimize, to the extent possible, the construction of

frontage roads on any new location relief route as well.

And that's important again, because in the past when we failed to do that, this is a loop around a community in East Texas, the downtown area was congested, we built this loop, and now, as you can see, there are numerous driveways and development that has occurred around that facility, and so the purpose for which the loop was constructed which was to allow better mobility is now complicated because of that development.

However, hearing from the public, landowners and the legislature over the last several years, we've identified that perhaps as we, on behalf of the commission, have imposed this minute order and implemented those practices, there are circumstances where all the benefits from controlling access also, perhaps from a community's perspective, have some drawbacks, if you will.

This is a particular relief route that was constructed on a rural roadway, and as you can see in this area that's circled in green up here, the highway coming into town had some rural community development, farm homes and that sort of thing. Also as you got closer to this rural community there was some subdivision development and a little bit more access provided. And then, of course, the downtown area of this community of about 1,500 people was here.

But then when we constructed this relief route, the fully envisioned facility between those points shown there in that bracket, as you can tell, were going to include frontage roads which were built and are now operating as the mainlanes, and ultimately at some time mainlanes in the middle. And we have, by imposing the guidance of the commission through this previous minute order, we have denied access to this relief route in its entirety from this location to this location.

So there are no driveways to any properties in this area, and in some cases where properties were landlocked and had no other access to them when we severed them, we paid significant damages because of the landlocking of that property. Those are the types of situations that property owners and the public at large have come to us expressing concerns over.

Another outcome of the minute order that was put in place and the department's and our staff's implementation of practices related to it are similar situations where instead of building relief routes we are just acquiring a new location and realigning a roadway. This particular roadway, the existing roadway when we started followed this alignment. It's since been taken out. And it's shown there by that red arrow.

Under that existing alignment when it was in

place, all of the area shown in green were allowed driveways either on that alignment or adjacent to it. We decided that in order to take the sweeping curve out to make it a safer condition, we would extend this roadway straight into its intersecting roadway and create more of a T intersection. But again, implementing what we believed the minute order to require and the practices we had in place, we've denied access to that new alignment in those areas bracketed in those green locations.

And so as you can tell, we've allowed access to this facility here and across the roadway and points down beyond, but in this particular area, just because of this brief quarter-mile realignment, we've denied access in these locations. And again, that's in response to the minute order and the practices that staff had put in place.

This is another example of a realignment where we had a roadway with some residential and farm development on it, and in this particular case we built a new bridge crossing the river here, and rather than making a sharp turn off of it following the old alignment, we just swept out around this basically farm development, and in doing so have denied access to that realignment within the limits of its departure from the existing roadway from just off the screen here to just off the screen here,

again about a quarter of a mile.

So that's one of the issues before us that we would like to discuss with the commission and get your guidance on how we might be able to create better practices and methods for controlling access so that we can prevent development on loops such as Loop 323 in Tyler which is heavily congested now, the realignment of State Highway 71 in Bastrop, which obviously is now very heavily congested and has a lot of development along it, US 287 in Decatur, just to name a few.

The other issue has to do with the valuation of access and there are basically two tenets. When we deny access to our facility, the damages that are paid to the property owner are valued based on whether or not there is a substantial impairment of access. On the other hand, when we allow people to acquire access that we currently own through the property rights that we acquired at the time of purchasing right of way, we value the cost of them purchasing that access from us on a market value position. So one is a special case valuation, the other is a market value valuation.

And this photograph kind of illustrates what I'm talking about. This particular development is at the corner of two major roadways. It currently has five locations shown as access that are highlighted there with

the green stars, two along the existing frontage road, one on the cross street, and two on a parallel side street. If we were to come in and tell this property owner that we needed to close this particular driveway because of safety and mobility concerns, we have the right to do so and would need to value the damages to their property.

But under our current practices, because that access is not materially impaired, they still have access at the remaining four green arrows, then the value of that impact would be minimized because of their ability to continue to access their property. However, if that access that's shown here now at the red arrow was not a preexisting condition and they came to us and asked us to allow them to have a driveway there where we currently have the right to deny it, that access would be valued on the increase in market value of their property.

MR. HOUGHTON: Well, that was my question. If that was undeveloped land, the road exists, somebody buys that land or the current owner wants to develop that land and comes to us for access and we say no, you can't put it here, you can put it there, what are the rules, what are the issues that surround that type of access?

MR. BARTON: As long as we don't own the access rights, in other words, the property deeds that we have in place do not deny that access, then we can allow that

access according to our access management manuals. But if we own the property rights today and there's a denial of access recorded in the deed instruments and they want to purchase the right to break that denial of access, then it's valued based on the increase in the market value of the property.

MR. HOLMES: We have a really great formula for TxDOT, don't we, heads we win, tails you lose?

MR. BARTON: Some have characterized it that way, yes, sir.

MR. HOLMES: That's the way I'd characterize it.

MR. BARTON: Yes, sir.

MR. HOLMES: I don't think that's a fair way for a governmental entity to behave.

MR. BARTON: Yes, sir. And the staff was bringing this issue forward to have a discussion with the commission, and if you would like, come forward with subsequent action items for the commission to consider in this regard.

The material and substantial impairment of access is a matter of law, the market valuation is a matter of practice, I believe, and we have the experts here to answer our questions in that regard, but if it is the desire of the commission for us to use the same

process for valuing the impact of the denial of access and valuing the granting of access, then I believe we have the ability to move forward in that direction.

And I guess I would turn to either Mr. Campbell or Mr. Ewald to correct me if I'm wrong in that statement, but I believe that we have the ability to do that.

MR. EWALD: I think John has the correct statement of law. The issue that is before you is established by court doctrine and case law, and as he indicated, the issue of whether or not we have to pay for access when we regulate it boils down to whether or not there's been a material and substantial impairment of access.

Putting it in layman's terms, it means after we've imposed our regulation, in his example, the red star, does the property still have reasonable access for the purposes in which it's being used. Obviously if it's a residence or a farm, probably doesn't need six driveways for reasonable use; if it's a fuel tanker farm and 18-wheelers have to get in there, then there may be a need for greater access.

The way the courts have structured that concept is it's a threshold issue. If you impair access but it doesn't rise to the level of material and substantial, in other words, they still have reasonable access, then the

owner is not entitled to any compensation. It's not prorated. You have to meet that threshold of material and substantial before they're entitled to any compensation. And the courts historically have done that under the theory that if you had to pay for every diminishment of access, no matter how minor, it would be impossible to build roads because we could never afford it. So the courts adopted a public policy concept of it has to reach material and substantial impairment.

MR. HOUGHTON: Is that state court or federal?

MR. EWALD: It's state court.

And we did a research project around the United States in anticipation of the last couple of legislative sessions where this particular issue came up, and almost without exception the other states use material and substantial impairment or some variation of a reasonable access standard.

So that's what happens when we either buy regulation or acquisition are in the process of regulating or taking access. The flip side of when we sell is not regulated by law; as Mr. Barton indicated, it's a practice that TxDOT adopted. This particular issue was addressed in the last session and one of the proposed bills was to have the same standard apply to each.

The other issue that was in the last session is

an attempt to reduce that threshold for material and substantial impairment when we affect access to reduce that to a material impairment of direct access which is a lower standard. Nobody knows what that means because nobody else in the world uses it, but it clearly is a lower standard than material and substantial.

MR. HOUGHTON: John, what amount of the access issues are on new facilities versus old facilities, roads that the development is catching up to the road or coming to the road, or a new road has been built and then all of a sudden, like on State Highway 130, they start building up around the intersections? So when we look at access issues, is it mostly new or old or percentage-wise?

MR. BARTON: I would venture to guess that the vast majority, I would say in excess of 85 percent of our access issues and concerns by property owners and members of the legislature and community developers are on existing facilities.

MR. HOUGHTON: Existing facilities.

MR. BARTON: Yes, sir. The access management rules that were put in place and their amendments since then and this minute order that I discussed have helped us in the control of new locations, and there's some perhaps tweaking that we can do to this minute order to better define our practices and procedures. But again, and Mr.

Zimmerman and Mr. Campbell, if you disagree, chime in, but I think that 85, maybe even more than 85 percent of our access issues relate to situations where you have an existing facility and someone is wanting to add a driveway or move a driveway.

MR. CAMPBELL: And I would add just a point of clarification. That's probably a correct estimate that the majority of these we're going to see are going to be access transactions associated with an existing facility, most likely an existing facility that's being expanded because that's when the public sees the biggest diversity between our handling of the value of access when we purchase it as a need for an expanded highway and when we have surplus access that we can then sell.

The point on that is that we don't value the access differently if we're buying it or selling it, it's that threshold standard that says whether we have to pay that compensation. Professional appraisal practice is the same for valuing access whether we're selling it or whether we're purchasing it as a right of way need. The difference is that when we're purchasing, we're purchasing out of a market valuation because we don't have a willing seller of the access. We're the state, we have eminent domain authority, we're going to buy what we need to facilitate the highway. So in those cases we purchase it

at that value, we value it as we would if we were going to sell it, but then what we're compelled to pay is subject to that threshold standard of was your denial material and substantial.

But as far as appraisal practice goes, we would value access by looking at paired sales of the property with and without the access and the difference between those being the value of the access. So when we end up in a situation, and the Katy Freeway is a perfect example of this where we had some desires for some thick, thick density to purchase access from us and at the same time in contrast to what they knew we were purchasing denial of access for.

But the issue becomes in the sale it's a discretionary sale of the department. We're not subject to what we can or can't pay, and if we don't like what's being offered, the department can walk away and say no, the denial of access is more valuable to us than that, we elect to not sell it. So it's more a fair market transaction in the sale of access to a private owner, whereas, when we're purchasing it for required right of way, then whether or not we pay that identified damage to the property is a matter of did it reach that threshold of being substantial and material.

And that might be a little too much detail to

go into but I wanted to make sure that we weren't giving the impression that we value access differently in one scenario or the other. We value it the same way, what we're compelled to pay is different.

MR. HOUGHTON: Clear as mud.

MR. HOLMES: It's worth a lot but we don't have to pay?

MR. CAMPBELL: Correct, because it's a non-compensable damage. The appraiser would recognize that this is a damage to property, if you're the property owner, you have realized lessening of he value of your property, but we're not compelled to pay it as a non-compensable damage.

MR. ZIMMERMAN: This is by court.

MR. CAMPBELL: By court determinations.

MR. BARTON: And so to further the discussion, I think what my recommendation to the commission is that in terms of the value --

MR. HOUGHTON: Let me interrupt you again. What about a safety issue, do you deny access based on safety?

MR. BARTON: Yes, sir. We often take actions because of safety concerns, maybe a new ramp is taken off of a freeway, a driveway is too close to an intersection that's being requested, and we either deny or close, if

you will, the access because of those safety concerns.

MR. HOUGHTON: Do we pay for that if we close it?

MR. BARTON: Again, if it's an existing driveway that's open and in this case the red star needs to be closed because of safety concerns --

MR. HOUGHTON: Is that a safety concern?

MR. BARTON: Let's assume that it was, that we felt like it was too close to the intersection near that free right turn lane and we needed to close it, we would, again, as Mr. Campbell pointed out, we would determine the value from an appraisal process but we would only be compelled to pay if it was a material and substantial impairment of access. In this case it would not be.

And so my recommendation is that we take that same approach when we're selling access or the right to have access to our facility, and unless it materially and substantially improves their access to the facility, then it's considered under the same approach.

MR. HOUGHTON: And this may be getting too far in the weeds, but my issue is why did we grant that in the first place if that's a safety issue.

MR. BARTON: If that's a safety issue? It could have been granted when the roadways were narrower, perhaps there wasn't a free right turn lane at this

location, we could be moving a ramp closer to it. There could be all kinds of geometric changes that occur that cause us to come back and say we need to close an access point like this.

Commissioner Holmes.

MR. HOLMES: Well, it's an interesting tension, isn't it. It seems to me that we ought to be consistent in the way we value it and how we treat it. Having said that, it causes me some concern that we might be taking access from a property that absolutely devalues that property and we're not required to pay for it by court action, as I believe I heard you say, which means that the public at large benefits at the expense of an individual landowner.

And so while I believe we should be consistent, I think in a fairness test you ought to be consistent going the other way, but that's the tension of whether you have the funding to afford it, and we don't have the funding to afford what we're doing now, and so I'm not sure how we would by increasing the obligations.

MR. BARTON: Commissioner Holmes, a lot of people have made that same observation, and my recommendation to you, and I believe that in our discussions with your executive administration with Director Saenz and Deputy Director Simmons is that we need

to be consistent and we need to be fair, and we would propose that we come back to you, either next month or at a future date, with a formal recommendation for your consideration that would establish the practices that we would use.

This is a very important matter, it is one of great concern across the state to property owners and to the legislature, and certainly I believe that my recommendation to you is that we face it head on and consider it and try to address it in a way that we're consistently fair, using your terms, Commissioner Holmes, that it can't be a heads we win, tails you lose situation, it needs to be a fair and consistent situation.

And my recommendation is that we do have the flexibility, I believe, and the means by which to cause that fairness to be brought into practice, and if it's the commission's will, we can work on that, brief you on that, and then bring forward for your consideration actions that would bring that into play.

MR. HOUGHTON: Well, I'm not into this one-size-fits-all either. As the urban and metropolitan areas have grown and leap-frogged state highways, state highways are now becoming inadequate from the standpoint of handling large volumes of traffic, you're looking at expanding that state facility, then the developer says I

want to have my front doors open on the state facility. Most other states don't have access roads, they have the limited access facility, the doors open the other way. We call them what, backage roads?

MR. BARTON: Yes, sir.

MR. HOUGHTON: Okay, backage roads. When do we start playing that, because we're talking about access roads become expensive, we've got to maintain them, we've got to build them, plus the limited access facility, and start looking at how we construct roads in this state going forward when these developments catch up to our state highways, leap over them, or getting ready to leap, and we're saying okay, you've got to build an access road, limited access facility because in the State of Texas that's the way we've done it forever.

MR. BARTON: The issue that you raise is, I think, what the commission was trying to address in 2001 with that minute order. Director Saenz and I had that conversation yesterday that in areas like I depicted -- and I'll flip back to it if I can -- like this --

MR. HOUGHTON: Why did we build access roads.

MR. BARTON: That's the point that Director Saenz shared with me, and he said as the state's chief engineer, it was my responsibility to ensure that doesn't happen in the future, and I took that chastisement

seriously.

MR. HOUGHTON: I would imagine, based upon some limited knowledge in my region but others, that we're facing that more and more and more every day.

MR. BARTON: We are. And in this situation, if the reason that bypass was being constructed was to avoid a heavily congested area or a congested area, in this situation it would have been better, and I think what the commission's intent was with the passage of that minute order which did two things, full control of access on relief routes, no frontage roads except where absolutely necessary -- obviously we only did one of those two things in this case -- had we not built frontage roads, then there wouldn't have been an argument about having access.

The argument we have now with this community is those are frontage roads, when you build the mainlanes, why would you not allow us to have driveways on the frontage roads, and that's a very difficult argument to win. So we should, in a situation like this, say this is a mobility corridor, it's to get people from one side of your community to the other, it's not to build development access opportunities, and we're going to build a controlled facility like some of the other states that you mentioned and it won't have frontage roads.

I think that was the intent of the commission,

and I believe that by tweaking the minute order or perhaps not, we can effect those practices as we move forward. And as I said, Mr. Saenz told me it was my job to make sure that happens.

MR. HOUGHTON: I would think that we'd want to face this issue sooner than later with our friends on building access roads. When you have this encroachment moving out, and I'm not against any of that, but to say wait a minute, Michael Morris, if you want to build this road and you want us to build access roads with it and there's only a limited amount of dollars, from a development standpoint we may want to think of something different instead of the old way.

And we're facing it in El Paso. You know what I'm talking about.

MR. BARTON: I know exactly what you're talking about. And I think that that's the type of direction we would like to bring forward for the commission's consideration.

MR. HOLMES: Let me understand. Explain it to me again the direction you got from Amadeo about don't let this happen again. Does that mean you don't build access roads, you just build the mainlanes?

MR. BARTON: Yes, sir. In this particular case, by this minute order and our current policies, for a

district to be able to develop this facility and build the frontage roads, they would have to submit a traffic impact analysis to the Design Division and request that frontage roads be allowed to be constructed on this bypass. Then I would have to review and sign off on that, as well as Mr. Simmons.

Obviously some years ago when this practice was in place, someone made a decision to allow this frontage road to be built. What director Saenz was telling me is: John, you're the one that's supposed to be keeping the gate closed on this, only opening it when it's absolutely necessary, it's your job to make sure the gate is kept closed. And I took that charge seriously. He didn't say it with a smile on his face, by the way, just for the record.

(General laughter.)

MR. BARTON: But I think if the commission would desire, we can craft for your consideration some clarification of the existing minute order or perhaps a different action that would allow us to clearly communicate to the public and then to our employees through policy and practice how we are going to address the issues that Commissioner Houghton raise, present fairness in the way we value access control, and ensure that we are effectively managing the resources we have to

build new mobility corridors and keep them from deteriorating over time because of our, I guess, lack of foresight in controlling access.

MR. HOLMES: Does this address some of the issues that members of the legislature brought up?

MR. BARTON: Yes, sir. The last legislative session I had the honor of meeting with several members about eminent domain related issues, and these two issues were two of three specific issues they raised in relationship to eminent domain. The other was addressed through Senate Bill 1609 and that is a clearly defined process of how people submit a request for access and how we respond to that and document that response.

Senate Bill 1609 was written, the author was Senator Hegar, it passed and is now in law, and you recently in the past year revised our access management rules to accommodate the requirements of Senate Bill 1609. So one of the three main issues that they raised has been addressed through that.

This valuation issue was the second of the three and I believe that from the conversations we've had today, we are on the verge of hopefully bringing something forward for your consideration that would greatly address that concern.

And then the third was this access issue and

how we are effectively managing that, and again, we kind of had a one-size-fits-all approach which perhaps needs to be evaluated and modified slightly, keeping in mind, though, that we don't have the resources to build everything we need to build and building access roads on relief routes was the direction of the commission at that time not to do that.

I take that charge seriously and I just felt like I needed to bring this forward for your discussion so that as we move forward, the public and the legislature will know that we've understood their concerns and we're working to address them in a way that they can understand and appreciate and hopefully mutually accept.

Thank you for your time on this today, and if it's the pleasure of the commission I'll seek through Director Saenz, we'll move forward with other action items for you at a future date.

MS. DELISI: That concludes the posted items on today's agenda. Is there any other business to come before the commission?

(No response.)

MS. DELISI: There being none, I will entertain a motion to adjourn.

MR. HOUGHTON: So moved.

MR. HOLMES: Second.

MS. DELISI: All in favor?

(A chorus of ayes.)

MS. DELISI: The motion passes. Please note for the record that it is 3:34 p.m. and this meeting stands adjourned.

(Whereupon, at 3:34 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: Texas Transportation Commission Workshop

LOCATION: Austin, Texas

DATE: October 27, 2010

I do hereby certify that the foregoing pages, numbers 1 through 89, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Transportation.

10/30/2010

(Transcriber) (Date)

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