Kurt D. Holzer; ISB #4557
HEPWORTH HOLZER, LLP
537 West Bannock Street, Suite 200
Boise, Idaho 83702
Telephone: (208) 314-9115
Facsimile: (208) 342-2927
Email: kholzer@hepwortholzer.com

Ronald L.M. Goldman; CA SBN 3422
Clay Robbins III; CA SBN 101275
BAUM, HEDLUND, ARISTEI, GOLDMAN, PC
10940 Wilshire Boulevard, Suite 1600
Los Angeles, California 90024
Telephone: (310) 207-3233
Facsimile: (310) 820-7444
Email: crobbins@baumhedlundlaw.com

Attorneys for Plaintiff Lawrence P. Manlapit, Jr., Individually and as Co-Administrator of the Estate of Lawrence P. Manlapit, III

Raymond D. Powers; ISB #2737
Mark J. Orler; ISB #7476
Cody J. Witko; ISB #10427
POWERS FARLEY, P.C.
702 West Idaho Street, Suite 700
Boise, Idaho 83702
Telephone: (208) 577-5100
Email: contact@powersfarley.com
rdp@powersfarley.com
mjo@powersfarley.com
cjw@powersfarley.com

Attorneys for Plaintiff Dorine E. Norko, Individually and as Co-Administrator of the Estate of Lawrence P. Manlapit, III

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAWRENCE P. MANLAPIT, JR., individually as father of LAWRENCE P. MANLAPIT, III, DECEASED, Plaintiff, vs. KRUJEX FREIGHT TRANSPORT CORP.; KRUJEX TRANSPORTATION CORP.;	Lead Case No. CV01-19-06625 (Consolidated with Case Nos. CV01-19-23246, CV01-20-00653, CV01-20-02624, CV01-20-07803 and CV01-20-08172) **DECLARATION OF CLAY ROBBINS, III, IN SUPPORT OF MANLAPIT/**

KRUJEX TRANSPORTATION SYSTEMS, LLC; KRUJEX LOGISTICS, INC.; ALBERTSON'S COMPANIES; CORNELIEU VISAN; DANIEL VISAN; LIGRA VISAN; STATE OF IDAHO; STATE OF IDAHO DEPARTMENT OF TRANSPORTATION; IDAHO STATE POLICE; PENHALL COMPANY; PARAMETRIX, INC.; SPECIALTY CONSTRUCTION SUPPLY LLC; and DOES 1 through 150, inclusive, Defendants.	**JOHNSON PLAINTIFFS' JOINT MOTION FOR LEAVE TO AMEND COMPLAINTS TO ADD A CLAIM FOR PUNITIVE DAMAGES AGAINST DEFENDANTS PENHALL COMPANY AND SPECIALTY CONSTRUCTION SUPPLY LLC**
AND ALL CONSOLIDATED ACTIONS.	

I, Clay Robbins, III, declare and affirm as follows:

1. That I am an attorney at law duly licensed to practice before all the courts of the State of California and have been admitted, pro hac vice, to appear before this Court in the matter entitled "*Manlapit v. Krujex Freight Transport Corp., et al.*, Lead Case No. CV01-19-06625, consolidated with Case Nos. CV01-2019-23246, CV01-2020-00653, CV01-2020-02624, CV01-2020-07803 and CV01-2020-08172 in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada." This office and the undersigned represent the interests of Plaintiff Lawrence P. Manlapit, Jr., individually as father of Lawrence P. Manlapit, III, deceased (Case No. CV01-2019-06625), and as Co-Administrator of the Estate of Lawrence P. Manlapit, III (Case No. CV01-20-02624). I am the attorney in this office principally responsible for handling these matters, and by reason thereof I have personal knowledge of the facts set forth herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the National Transportation Safety Board's Highway Factors Group Chairman's Factual Report # HWY18FH015, dated June 16, 2018. This was obtained by your declarant from the official NTSB

website and was produced by the Manlapit Plaintiffs in this case as Bates Nos. MANLAPIT 000736-000759.

3. Attached hereto as **Exhibit 2** is a true and correct copy of NTSB # HWY18FH015 Highway Attachment, "Idaho Transportation Department Work Zone Safety and Mobility Program January 2012." This was obtained by your declarant from the official NTSB website and was produced in this case by the Manlapit Plaintiffs as Bates Nos. MANLAPIT 001051-MANLAPIT 001082.

4. Attached hereto as **Exhibit 3** is a true and correct copy of pages from the contract between the State of Idaho and Penhall Company for the project entitled "I-84, Five Mile Road to Orchard Road and Ramps, Boise Federal Aid Project No. a1019(289)," produced in this case by the State of Idaho as Bates Nos. ITD000035-000037, ITD000056, ITD000060-000062, ITD000067.

5. Attached hereto as **Exhibit 4** is a true and correct copy of Highway Attachment, "Traffic Control Design e-mail from March 7, 2017, detailing rational for estimating lane capacity and requirement for two lanes to be open in 4-lane sections of I-84." This was obtained by your declarant from the official NTSB website and was produced by the Manlapit Plaintiffs in this case as Bates Nos. MANLAPIT 001083-MANLAPIT 001087.

6. Attached hereto as **Exhibit 5** are true and correct copies of Sheets 12-14 of 47 and 26-30 of 47 from the Traffic Control Plan for I-84, Five Mile Road to Orchard Road and Ramps, Boise Federal Aid Project No. a1019(289), produced in this case by the State of Idaho as Bates Nos. ITD000240-ITD000242 and ITD000254-ITD000258.

7. Attached hereto as **Exhibit 6** are true and correct copies of Traffic Control Maintenance Diaries produced by Specialty Construction Supply LLC in this case as Bates Nos.

Specialty00318-00320, Specialty00332, Specialty00334, Specialty00347-00349 and Specialty00351.

8. Attached hereto as **Exhibit 7** are true and correct copies of email correspondence between Dave Statkus and Daniel Kircher, et al., regarding traffic control on the subject project and, specifically, maintaining the spacing for the tubular markers, produced in this case by Penhall Company as Bates Nos. PENHALL001181-1182.

9. Attached hereto as **Exhibit 8** is a true and correct copy of Section S626-30A, TRAFFIC CONTROL MANAGER, of Penhall Company's contract with Idaho Department of Transportation, produced in this case by Penhall Company as Bates No. PENHALL000041.

10. Attached hereto as **Exhibit 9** is a true and correct copy of Sheet 25 of 184, D. MAINTENANCE OF TRAFFIC, produced in this case by Parametrix as Bates No. Parametrix-00000127.

11. Attached hereto as **Exhibit 10** are true and correct copies of dispatch transcripts produced in this case by the State of Idaho as Bates Nos. ISP000032, ISP000033, ISP000035, ISP000036, ISP000038 and ISP000039.

12. Attached hereto as **Exhibit 11** are true and correct copies of audio files produced by in this case by the State of Idaho as Bates Nos. ISP000100, ISP000105, ISP000110 and ISP000111.

13. Attached hereto as **Exhibit 12** are true and correct copies of Idaho State Communications Center reports produced in this case by the State of Idaho as Bates Nos. STATE_COMM000005 and STATE_COMM000010.

14. Attached hereto as **Exhibit 13** are true and correct copies of excerpts from the transcript of the deposition of Dave Statkus, taken by your declarant on or about February 1-2, 2021.

15. Attached hereto as **Exhibit 14** are true and correct copies of excerpts from the transcript of the deposition of Daniel Kircher, taken by your declarant on or about April 19, 2021.

16. Attached hereto as **Exhibit 15** are true and correct copies of excerpts from the transcript of the deposition of Bryon Breen, taken by your declarant on or about February 2, 2021.

17. Attached hereto as **Exhibit 16** are true and correct copies of excerpts from the transcript of the deposition of Bruce Kidd, taken by your declarant on or about March 19, 2021.

18. Attached hereto as **Exhibit 17** are true and correct copies of excerpts from the transcript of the deposition of Scott Reed, taken by your declarant on or about March 19, 2021.

19. Attached hereto as **Exhibit 18** are true and correct copies of excerpts from the transcript of the deposition of Jeromy Magill, taken by your declarant on or about May 24, 2021.

20. Attached hereto as **Exhibit 19** are true and correct copies of excerpts from the transcript of the deposition of Vincent Coletta, taken by your declarant on or about February 19, 2021.

21. Attached hereto as **Exhibit 20** are true and correct copies of excerpts from the transcript of the deposition of Eric Blackburn, taken by your declarant on or about April 27, 2021.

22. Attached hereto as **Exhibit 21** are true and correct copies of excerpts from the transcript of the deposition of Josh Roper, taken by your declarant on or about May 26, 2021.

23. Attached hereto as **Exhibit 22** are true and correct copies of excerpts from the transcript of the deposition of Mason Garling, taken by your declarant on or about April 21, 2021.

24. Attached hereto as **Exhibit 23** are true and correct copies of excerpts from the transcript of the deposition of Jake Loux, taken by your declarant on or about April 20, 2021.

25. Attached hereto as **Exhibit 24** is a true and correct copy of the Declaration of Ken Colson and Exhibits attached thereto, filed on December 8, 2020, by Parametrix, Inc., in Support of Defendant Parametrix, Inc.'s Motion for Summary Judgment.

26. Attached hereto as **Exhibit 25** is email correspondence from Ken Colson to Jason Brinkman dated 09/05/18 containing "additional information regarding lane capacity," produced in this case by Parametrix as Bates Nos. Parametrix-0001959.

27. Attached hereto as **Exhibit 26** is email correspondence from Scott Reed to Jeromy Magill dated 06/19/18 stating, "We have an issue regarding the wording of the contract as to what we can close and what we can't. This is now an issue considering the wreck and the media it is getting," produced in this case by Penhall after the deposition of Scott Reed as Bates No. PENHALL007519.

28. Attached hereto as **Exhibit 27** are true and correct copies of excerpts from the transcript of the deposition of Jason Brinkman, taken by your declarant on or about January 29, 2021 and February 1, 2021.

29. Attached hereto as **Exhibit 28** are true and correct copies of excerpts from the transcript of the deposition of David Van Lydegraf, taken by your declarant on or about March 12, 2021.

30. Attached hereto as **Exhibit 29** are true and correct copies of excerpts from the transcript of the deposition of Jon Mensinger, taken by your declarant on or about March 11, 2021, and March 12, 2021.

31. Attached hereto as **Exhibit 30** are true and correct copies of excerpts from the transcript of the deposition of Blaine Schwendiman, taken by your declarant on or about February 1, 2021.

32. Attached hereto as **Exhibit 31** are true and correct copies of excerpts from the transcript of the deposition of Chad Laughlin, taken by your declarant on or about April 20, 2021.

33. Attached hereto as **Exhibit 32** is a true and correct copy of email correspondence from Daniel Kircher to Forrest Moranda dated May 23, 2017, discussing traffic control plans and the need to retain engineer services if the prime contractor would like to revise the plans (Tab 30, page 958, to the depositions of Penhall deponents), produced in this case by Penhall as Bates No. PENHALL001342.

34. Attached hereto as **Exhibit 33** is a true and correct copy of email correspondence from Eric Blackburn to Vincent Coletta dated July 13, 2017, suggesting inviting Specialty to the preconstruction meeting (Tab 108 to the depositions of Penhall deponents), produced in this case by Penhall Company as Bates No. PENHALL004385.

35. Attached hereto as **Exhibit 34** is a true and correct copy of excerpts from the NTSB Highway Factors Group Chairman's Factual Report Highway Attachment 6 – ITD Preconstruction Conference Agenda and Sign-In Sheet (Tab 18, pages 640-641 and 684-685, to the depositions of State of Idaho deponents), obtained by your declarant from the official NTSB website and produced by the Manlapit Plaintiffs in this case as Bates No. MANLAPIT 001089-MANLAPIT 1090.

36. Attached hereto as **Exhibit 35** is a true and correct copy of email correspondence from Daniel Kircher to Vincent Coletta dated August 11, 2017, with traffic control submittals and listing Specialty contacts for the Project (Tab 88 to the depositions of Specialty deponents),

produced in this case by Specialty Construction Supply as Bates No. Specialty00001-Specialty00002.

37. Attached hereto as **Exhibit 36** is a true and correct copy of email correspondence from Daniel Kircher to Steve Erichson dated August 17, 2017, formally requesting an adjustment to the traffic control plan (Tab 89 to the depositions of Specialty deponents), produced in this case by Specialty Construction Supply as Bates No. Specialty00016).

38. Attached hereto as **Exhibit 37** is a true and correct copy of Standard Construction diaries dated from May 31, 2018, through June 17, 2018 (Tab 13 to the depositions of ITD deponents, pages 370-393), produced in this matter by the State of Idaho as Bates No. ITD001041 – ITD001755.

39. Attached hereto as **Exhibit 38** are true and correct copies of excerpts from the transcript of the deposition of Sergeant Kenneth Beckner, taken by your declarant on or about May, 25, 2021.

I declare under the penalty of perjury pursuant to the laws of the State of Idaho that the foregoing is true and correct.

Executed this 6th day of July, 2021, at Los Angeles, California.

/s/ Clay Robbins, III
Clay Robbins, III

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of July, 2021, I caused to be served a true copy of the foregoing **DECLARATION OF CLAY ROBBINS, III IN SUPPORT OF MANLAPIT/JOHNSON PLAINTIFFS' JOINT MOTION FOR LEAVE TO AMEND COMPLAINTS TO ADD A CLAIM FOR PUNITIVE DAMAGES AGAINST DEFENDANTS PENHALL COMPANY AND SPECIALTY CONSTRUCTION SUPPLY, LLC** by the method indicated below, and addressed to each of the following:

Kurt Holzer	___	U.S. Mail, Postage Prepaid
Hepworth Holzer LLP	___	Hand Delivered
537 W. Bannock St., Suite 200	x	i-Court
Boise, ID 83702	___	Telecopy: (208) 342-2927
Attorneys for Lawrence Manlapit, Jr.	___	E-Mail: kholzer@hepwortholzer.com
Clay Robbins, III	___	U.S. Mail, Postage Prepaid
Baum, Hedlund, Aristei, Goldman, PC	___	Hand Delivered
10940 Wilshire Blvd., 17th Floor	x	i-Court
Los Angeles, CA 90024	___	Telecopy: (310) 820-7444
Attorneys for Lawrence Manlapit, Jr.	___	E-Mail: CRobbins@baumhedlundlaw.com
Gary L. Montgomery	___	U.S. Mail, Postage Prepaid
Montgomery Dowdle	___	Hand Delivered
13965 W. Chinden Blvd., Suite 115	x	i-Court
Boise, ID 83713	___	Telecopy: 866-991-4344
Attorneys for Krujex and Visan	___	E-Mail: gary@montgomerydowdle.com
Michael W. Moore	___	U.S. Mail, Postage Prepaid
Moore Elia Kraft & Hall, LLP	___	Hand Delivered
702 W. Idaho St., Suite 800	x	i-Court
Boise, ID 83702	___	Telecopy: (208) 336-7031
Attorneys for State of Idaho, Idaho Department of Transportation, and Idaho State Police	___	E-Mail: mike@melawfirm.net
David S. Perkins	___	U.S. Mail, Postage Prepaid
Jordan E. Reid	___	Hand Delivered
Perkins, Mitchell, Pope & McAllister LLP	x	i-Court
P.O. Box 519	___	Telecopy: (208) 345-8660
Boise, ID 83701	___	E-Mail: service@perkinsmitchell.com
Attorneys for Specialty Construction Supply, LLC		
J. Nick Crawford	___	U.S. Mail, Postage Prepaid
Jacob D. Bottari	___	Hand Delivered
Brassey Crawford, PLLC	x	i-Court
P.O. Box 1009	___	Telecopy: (208) 344-7077
Boise, ID 83701-1009	___	E-Mail: jnc@brassey.net
Attorneys for Penhall Company		icourt@brassey.net

Michael G. Brady Eric A. Gale Eberle, Berlin, Kading, Turnbow & McKlveen, Chtd. P.O. Box 1368 Boise, ID 83701 *Attorneys for Albertson's Companies, Inc.*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (208) 344-8542 E-Mail: mbrady@eberle.com egale@eberle.com
Daniel E. Jenkins Evan S. Mortimer Paul C. Swainston Litster Frost Injury Lawyers 3501 W. Elder St., Suite 208 Boise, ID 83705 *Attorneys for Daisy Johnson*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (208) 489-6404 E-Mail: dan.jenkins@litsterfrost.com evan.mortimer@litsterfrost.com paul.swainston@litsterfrost.com
Steven Fisher Craig Swapp & Associates 3071 E. Franklin Rd., Suite 302 Meridian, ID 83642 *Attorneys for Toina Jorgensen*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (208) 375-2005 E-Mail: steven.fisher@craigswapp.com
Jason R.N. Monteleone Johnson & Monteleone, LLP 350 N. Ninth St., Suite 500 Boise, ID 83702 *Attorneys for Michael Westall, Kimberly Westall, and Estate of Karlie Ann Westall*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (208) 947-2424 E-Mail: jason@treasurevalleylawyers.com
Lindsey K. Janklow Jami J. Bishop Johnson, Janklow, Abdallah & Reiter, LLP 101 S. Main Ave., Suite 100 Sioux Falls, SD 57104 *Attorneys for Michael Westall, Kimberly Westall, and Estate of Karlie Ann Westall*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (605) 338-4162 E-Mail: lindsey@jankowabdallah.com jami@janklowabdallah.com
Robert T. Wetherell Capitol Law Group, PLLC 205 N. 10th St., 4th Floor P.O. Box 2598 Boise, ID 83701-2598 *Attorneys for Estate of Illya D. Tsar*	___ ___ x ___ ___	U.S. Mail, Postage Prepaid Hand Delivered i-Court Telecopy: (208) 424-8874 E-Mail: rwetherell@capitollawgroup.com

/s/ Mark J. Orler
Raymond D. Powers
Mark J. Orler
Cody J. Witko

EXHIBIT 1

NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF HIGHWAY SAFETY
WASHINGTON, D.C.

HIGHWAY FACTORS GROUP CHAIRMAN'S FACTUAL REPORT

A. CRASH INFORMATION

Location:	Eastbound Interstate 84 (I-84) near mile post 47, in Boise, Ada County, Idaho
Vehicle #1:	2019 Volvo truck in combination with a 2015 Great Dane semi-trailer
Operator #1:	Krujex Freight Transport Corporation
Vehicle #2:	2008 Jeep Wrangler, private operator
Vehicle #3:	2003 Volvo truck in combination with a 2008 Great Dane semi-trailer
Operator #3:	Zhuk Expres LLC
Vehicle #4:	2010 Ford Focus, private operator
Vehicle #5:	2014 Ford F-150, private operator
Vehicle #6:	2006 Ford Fusion, private operator
Vehicle #7:	2015 Ford Escape, private operator
Date:	June 16, 2018
Time:	Approximately 11:32 p.m. Mountain Standard Time (MST)
Fatalities:	2 Jeep Passengers, 1 Jeep Driver and 1 2019 Volvo Driver
NTSB #:	**HWY18FH015**

B. HIGHWAY FACTORS GROUP

David S. Rayburn Highway Factors Investigator, Group Chairman
NTSB Office of Highway Safety
490 L'Enfant Plaza East, S.W., Washington, DC 20594

Jason D. Brinkman, P.E. Engineering Manager, Group Member
District 3 Idaho Department of Transportation
P.O. Box 8028
Boise, Idaho

Tracy Hopkins
Managing Member Specialty Construction Supply, Group Member
348 NW 13th Pl
Meridian, Idaho 83642

Daniel Kircher, Traffic Control Administrator, Group Member
Specialty Construction Supply
348 NM 13th PL
Meridian, Idaho

Tom Duncan, Risk Manager, Penhall Company, Group Member
7501 Esters Blvd, Suite 150
Irving, Texas 76053

George Soriano, Director of Contracts, Group Member
Penhall Company
7501 Esters Blvd, Suite 150
Irving, Texas 75063

Specialist Oliver Chase, Accident Reconstruction Specialist Idaho State Police, Group Member
Idaho State Police, District 3
Boise Idaho

C. CRASH SUMMARY

For a summary of the crash, refer to the *Crash Summary Report* (or *Factual Report of the Investigation*, depending on investigation type) in the docket for this investigation.

D. DETAILS OF THE HIGHWAY FACTORS INVESTIGATION

The highway group obtained information related to the design, operation, and maintenance of the highway environment to establish a foundation for evaluating whether the condition, design, or operation of the traffic facility contributed to or caused this crash. Prefatory data was obtained giving a general description of the highway location. Highway information including traffic counts and accident history were obtained from the Idaho Transportation Department (ITD) and particular focus was placed on reviewing the information ITD uses to make policy decisions regarding Traffic Management Plans (TMP's), temporary traffic control plans for the Temporary Traffic Control Zone (TTC) that existed at the time of the crash, and other special provisions of the construction contracts used to prevent end of queue crashes involving heavy trucks. Also, guidance from the Federal Highway Administration's Manual on Uniform Traffic Control Devices (FHWA) (MUTCD) was documented. Finally, information on nationwide statistics involving work zones and heavy trucks was obtained.

1. Prefatory Data

The crash occurred in Boise, Idaho on the eastbound side of I-84 near milepost 47.007 and Station No. 2475+26.[1] The crash occurred in the advance-warning area of an active work zone. The project resulting in the work zone included diamond grinding of concrete pavement, resealing concrete pavement joints, repairing concrete pavement cracks, and repairing pavement spalls.[2] The project limits were at Milepost (MP) 48.320 and Station No. 2549+00.00 to MP 51.30 and Station No. 2710+00.00. The general highway configuration is a controlled access highway with four east and four westbound lanes divided by a 32-inch tall concrete median barrier.[3] Additional there were two interchanges in the project area with entrance and exit ramps bringing the total to as 7 lanes in each direction near the interchanges. Both the east and westbound segments are comprised of four 12-foot-wide lanes delineated by 12-foot-long solid white pavement stripes at 38-foot intervals. The 12-foot-wide median shoulder is delineated from the #1 lane by a solid yellow pavement stripe. The right-hand or #4 lane is delineated from the 12-foot-wide right-hand shoulder by a solid white pavement stripe.[4] See Figures 1 and 2 for detail on the accident area.

[1] Station number describe official dimensional locations of features within a project.
[2] See Federal Aid Project No. A019(289), I-84 Five-Mile Road to Orchard Road & Ramps. Approximate beginning Milepost (MP) 48.320 and highway Station No. 2549+00.00 to approximate ending point at MP 51.3 and Station No. 2710+00.00
[3] 32-inch high, New Jersey style concrete median barriers are cast in place and meet Test level-four of NCHRP 350.
[4] The lane numbering convention follows the same practice used by the Idaho State Police, however, the numbering convention is the opposite on Idaho Transportation Department (ITD) and its contractors documents on this project with the right-hand lane numbered as number 1 and increasing to 4 for the left-hand lane.

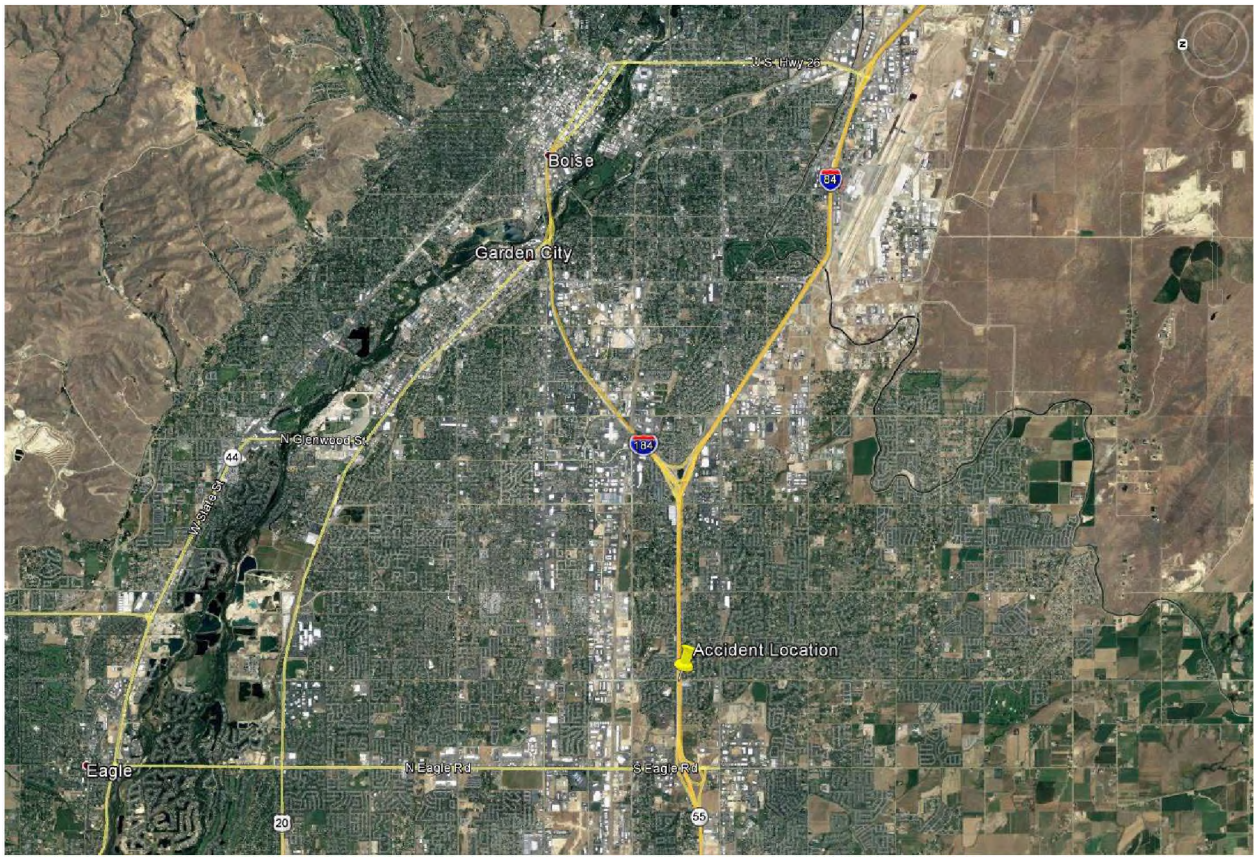


Figure1, Accident location Boise, Idaho

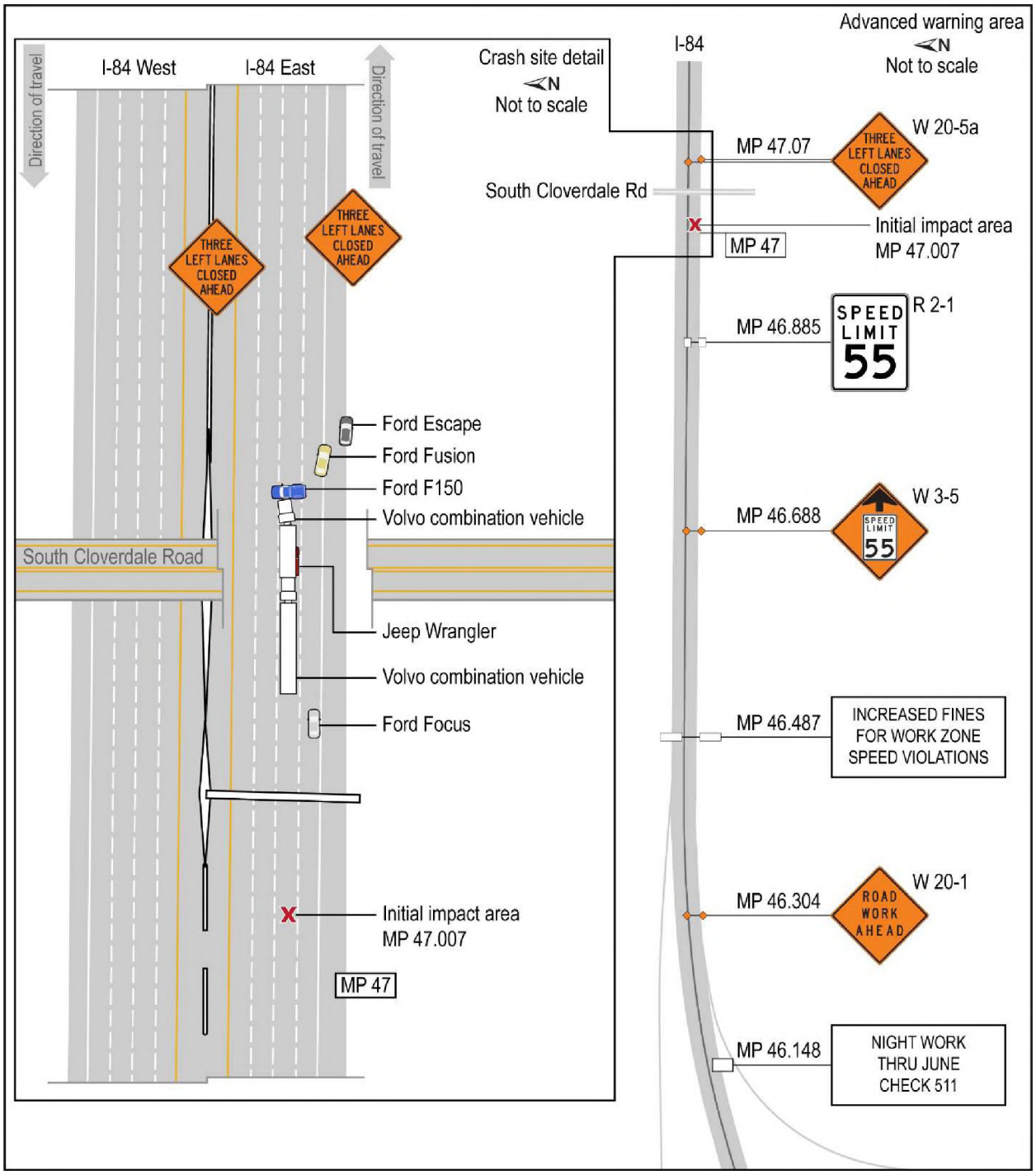


Figure 2 – Advance Warning Area of Work Zone with Crash Site Detail

2. Traffic Metrics

The average Daily Traffic (ADT) for I-84 in 2017 was 85, 270 vehicles per day. Heavy truck traffic was 7,280 trucks per day or 8.5% of the total ADT. The 20-year design ADT was for 136,170 vehicles a day with 15,280 truck per day or approximately 11%. The general posted speed limit for I-84 was 65 mph and that was reduced to 55 mph for the work zone. The 85th speed percentile was 73 mph. [5] Also, Automatic Traffic Recorders (ATR's) positioned in the transition area of this work zone indicated the speed of traffic had slowed to approximately 18 mph near the time of the collision and resulted in a stop and go queue situation.

3. Accident History

There were Seven fatal work zone crashes statewide in Idaho in the preceding five-year-period 2012-2016. See Table 1 below for details. The most common harmful event for work zone crashes was a rear-end collision involving multiple vehicles.[6] Work zone inspector diaries from ITD indicated that one other accident occurred on 6/21/2018 in this work zone when a truck tractor semitrailer and a Toyota passenger car collided.[7] See Table 1 for Idaho statewide work zone crash statistics. Additionally. The accident history for a six-mile-long segment of I-84 that encompassed 3 miles on each side of this crash showed that between July 2015-July 2018 two other fatal crashes occurred that were not related to work zones.

Table 1 Crashes in Idaho Work Zones 2012-2016

Crashes in Work Zones: 2012-2016

	2012	2013	2014	2015	2016	Change 2015-2016	Avg. Change 2012-2015
Work Zone Crashes	342	332	407	444	324	-27.0%	9.6%
Fatalities	1	3	1	2	0	-100.0%	77.8%
Serious Injuries	23	12	34	27	19	-29.6%	38.3%
Visible Injuries	34	50	108	95	59	-37.9%	50.3%
Possible Injuries	104	109	204	222	96	-56.8%	33.6%
% All Crashes	1.5%	1.5%	1.8%	1.8%	1.3%	-30.8%	7.1%
Workers Injured	1	1	0	1	0	-100.0%	0.0%

[5] See Highway Attachment, " Engineering and Traffic Investigation study for I-84 from MP 24.24-MP 59.0, February 1, 2018."
[6] See Idaho Traffic Crashes 2017 by Idaho Transportation Department Office of Highway Safety, Table 46 and comments on page 67.
[7] See Highway Attachment, "ITD Work Zone Inspector Diaries"

4. Work Zone Oversight

The Federal Highway Administration (FHWA) exercises oversight of Federal-aid project work zones through guidance found in 23 CFR Part 630 Subpart J., "Traffic Safety in Highway and Street Work Zones." Subpart J was re-titled "Work Zone Safety and Mobility in October 2007 in response to federal rulemaking in 2004. (See 69 FR54562 , Published September 9, 2004, for more information.)

The key components of the update rule included the following:

1. Development and implementation of an overall, agency-level work zone safety and mobility policy to institutionalize work zone processes and procedures.
2. Development of agency-level processes and procedures to support policy implementation, including procedures for work zone impact assessments, analyzing work zone data, training, and process reviews.
3. Development of procedures to assess and manage work zone impacts of individual Projects.

The Idaho Transportation Department (ITD) published a Work Zone Safety and Mobility Manual Which indicated that ITD policies, processes, and procedures were following the FHWA requirements.

5. Idaho Transportation Department Work Zone Oversight

The Idaho Department of Transportation (ITD) classified this work zone project as a significant project requiring the development of a Transportation Management Plan (TMP). The TMP included a traffic control plan and an impact analysis along with a Public Information component where information about the work zone was updated on ITD's 511 call system.[8] ITD contracted with Parametrix, a traffic engineering firm, to develop a construction staging and traffic control plan along with special provisions requiring nighttime work and limiting lane closures.[9] The construction work times were limited to 10 pm until 5 am on weekday nights, 10 pm until 7am on Friday nights, and 10 pm until 9am on Saturday nights through Sunday mornings. Parametrix used the Highway Capacity Manual 2010 for capacity evaluations and determined that the capacity of I-84 in this area was 1,450 vehicles per lane per hour and, required that two lanes be maintained open in the eastbound and westbound directions on sections that had four existing through lanes, such as, the accident location.[10] These special provisions and traffic control plan were provided to the contractor in the contract documents.

The special provisions also provided for the contractor to change the staging plans and traffic control plan if the existing plans did not follow the contractors intended operational plan. However, any proposed changes in the traffic control plans and special provisions required written plans by a licensed engineer in Idaho be submitted to ITD 14 days in advance of any intended

[8] See Highway Attachment , " Idaho Transportation Department Work Zone Safety and Mobility Program January 2012."
[9] See Highway Attachment , "Traffic Control Plan and Special Contract Provisions"
[10] See Highway Attachment, "Traffic Control Design e-mail from March 7, 2017 detailing rational for estimating lane capacity and requirement for two lanes to be open in 4-lane sections of I-84."

changes and the existing plans would remain in placed unless ITD approved any submitted changes. No changes were submitted by the contractor.

6. Pre-Construction Conference Meeting

A pre-construction conference meeting was held on July 26, 2017. ITD personnel, the contractor Penhall company and the traffic control subcontractor Specialty Construction Supply Company attended the meeting.[11] No Law Enforcement personnel were invited. The meeting lasted 1 hour and 54 minutes. Agenda discussions included the following items:

1. Contractor Award date of June 20th, 2017
2. Expected work days (75)
3. Expected contract completion date November 19th
4. Protocol for extending work days due to winter-weather
5. Construction sequencing decisions (grinding fast lanes in each direction simultaneously followed by grinding slow lanes and ramps
6. Special provision limiting lane closures to two lanes in 4-lanes sections (42-minute mark in recording)
7. Any requirements to terminate lane closures if traffic gets backed up - none
8. Any law enforcement component provided for – none
9. Use of black paint as well as white for temporary lane line markings Create greater visibility)
10. Noise, environmental protection, safety and lighting.

Specific information about the traffic control plan and special provisions requiring nighttime work was discussed. Penhall had a question regarding what to do if traffic was backed up. They asked about any special provisions similar to the East coast where contractors would be required to terminate a lane closure if the traffic backed up. ITD indicated that they had accounted for the traffic and did not expect anything like that to occur. ITD indicated that if severe congestion did occur, they would probably be notified by the State Highway Patrol.

In fact, on Thursday night June 15, 2017, the Idaho State police were notified of traffic congestion and signage problems in the work zone. ISP Sergeant Beckner who was in the area

[11] See Highway Attachment, " Pre-Construction Conference Agenda with Sign-in Sheet and Audio Recorded Minutes."

attending to a disabled vehicle answered the Dispatch interrogative with the statement that the zone was signed.

7. ITD Work Zone Inspector and Sub-contractor Traffic Control Manager Diaries

The work was expected to take 75 days and be completed early in the Fall. However, poor weather set in and the project had to be terminated and begin again in the Summer of 2018. ITD provided Construction Diary sheets dated from 9/7/2017 through 10/28/2017 that were completed by ITD work zone inspector David Van Lydegraph, indicating that most of the grinding had been completed in the westbound and eastbound lanes of I-84. ITD also provided diaries prepared by work zone inspectors Blaine Schwendiman and J. Mensinger. The Traffic Control Maintenance Diary prepared for ITD by the Traffic Control Manager was also provided to the NTSB

On May 31,2018, ITD and Penhall company had another pre-construction conference meeting before re-starting the project. No minutes were kept at this meeting. Bruce Kidd from Penhall attended the meeting and Bryon Breen the Resident Engineer for ITD were present. No personnel from the traffic control sub-contractor were at the second meeting. Penhall indicated that at this meeting they had requested to be allowed to close a third lane during joint sealing operations. The resident engineer told the NTSB that he recalled that item coming up in the meeting but was not sure how it was resolved other than no written requests were submitted as required by the special provisions to the contract. His clarified comment was that he had specifically told the contractor that a written request was required to change the traffic control plan.

8. Special Provisions for a Traffic Control Manager

Section 105.04 of the ITD Standard Specifications for Construction 2012 provides for the coordination of contract documents and specifies that contract Special Provisions govern over all of specifications, supplemental specifications and project plans. Special Provision S626-30A details the required performance of a Traffic Control Manage. Special provision S626-30A was required in this contract and provides the following:

Description: This work shall be performed in accordance with 105.14-D. Maintenance of Traffic and shall consist of furnishing an experienced Traffic Control Manager (TCM) for resolution of traffic control conflicts, continuous monitoring of the traffic flow through a work zone setup and determine any potential improvements to the traffic control operations and phasing in accordance with the approved traffic control plans.

Construction Requirements: The TCM will be ATSSA certified with a minimum of 5 years of work zone traffic control experience to maintain, monitor, and manage traffic control. Evidence of the required certification, qualifications, and experience shall be submitted for approval to the engineer.

The TCM shall have access to direct all equipment, materials, and manpower needed to install and maintain traffic control and handle traffic related situations and coordinate for the completion of the items in this contract.

The TCM shall be available within 30 minutes after notification of an emergency, prepared to positively respond to repair the work zone traffic control or to provide alternate traffic arrangement. Where reasonable to expect potential problems, emergency plans shall be prepared in advance.

The TCM shall maintain a daily diary and document the design and approval of all work zones and any changes in configuration to an established work zone, and direction from coordinating with the Prime Contractor. The TCM shall make daily entries in the diary of all traffic control pay items, personnel used in traffic control operations and unusual occurrences involving the traveling public. A copy of the day's diary entries shall be submitted to the Engineer by 10:00 am the following workday.

Each daily record provided by the TCM will count as a single day of TCM to be measured for payment. Daily records shall be prepared and certified by the TCM and approved.

9. Work Zone Operation with Multiple Lane Closures at The Time of the Crash

On August 17, 2018, NTSB staff met with ITD, Penhall, and Specialty Construction Supply to try and determine why the special provisions of the contract requiring two of the four eastbound I-84 lanes to remain open was not followed. Mason Garling, the traffic control supervisor for Specialty Construction Supply, stated that when they began the final stage of the construction to replace the pavement seals in the I-84 eastbound lanes on Thursday June 14, 2018, that he was told by Penhall to use the same three-lane closure that he had previously used in the westbound lanes in September and October of 2017. Bruce Kidd, the superintendent for Penhall indicated that in the second pre-construction conference on May 31, 2018, he had brought this matter up to Byron Breen, the ITD Resident Engineer. Byron Breen indicated the conversation did occur but that no minutes were recorded of the meeting and he could not remember the exact details of the conversation. He later related that he had specifically told Penhall that a written request to change the plan had to be submitted. He added that no written request to change the traffic control plan was ever submitted as required.

The work zone construction diaries by ITD provided the following information:

1. Blaine Schwendiman, the ITD work zone inspector noted that he drove through the TTC and verified that it appeared to be in place correctly. (Thursday June 14, 2018)

2. Schwendiman noted that traffic appeared to have merge hesitations and had issues the first few hours, but after 12:00 am traffic volumes reduced and flowed without interruption.

3. On Friday June 15, only two lanes were closed, and no traffic problems were noted.

4. On Saturday night June 16, the night of the accident, Schwendiman noted that TTC set-up began about 9:30 pm and three lanes were again closed to remove/replace seals in the pavement. He indicated he drove through the Temporary Traffic Control (TTC) and it appeared to be set up correctly with three arrow boards. He indicated that traffic

had issues with the lane closure merges and there was a lot of stop and go traffic happening. About 11:30 pm the accident occurred.

5. Traffic Control Maintenance Diaries by the Traffic Control Manager and his staff showed that a change to close three lanes was made by Penhall. The daily record was never questioned to determine if ITD had approved the change. The diaries show that three lanes were closed on the following dates:

   June10-12

   June 15-16

At the time of the accident Diamond Drilling and Sawing, a sub-contractor to Penhall company was working in the eastbound lanes and Penhall company was working in the westbound lanes. Temporary Traffic Control was provided by Specialty construction Supply Company. The impact occurred in lane number 3 with lane 4 as the right-hand lane. Lanes 1-3 were closed ahead, and only lane 4 was open after the merges were complete.

At the request of the NTSB ITD obtained information about the traffic demand on I-84 in the one-hour period before the accident from 10:30 pm until 11:30 pm. ITD indicated that traffic was comprised of 1,277 vehicles in all lanes in the hour before the crash. Using the Highway Capacity Manual (HCM-2010) approach, the total was multiplied by a factor of 1.048 to convert the estimated truck traffic into passenger vehicle equivalents. This yielded a traffic demand of 1,338 passenger vehicle equivalents per lane per hour (PVE/PL/PH). These numbers indicate that theoretically with only one lane open the roadway was at 92 percent capacity based on the estimated capacity of 1,450 PVE/Pl/PH determined by Parametrix, using procedures found in HCM 2010.[12] Figures 3 and 4 below show excerpts from the Automatic Traffic Recorder that detail the volumes and speeds in the time preceding the crash.

[12] See Highway Attachment, ITD June 2018 email detailing roadway demand capacity ratios and Automatic Traffic Recorder (ATR) Counts

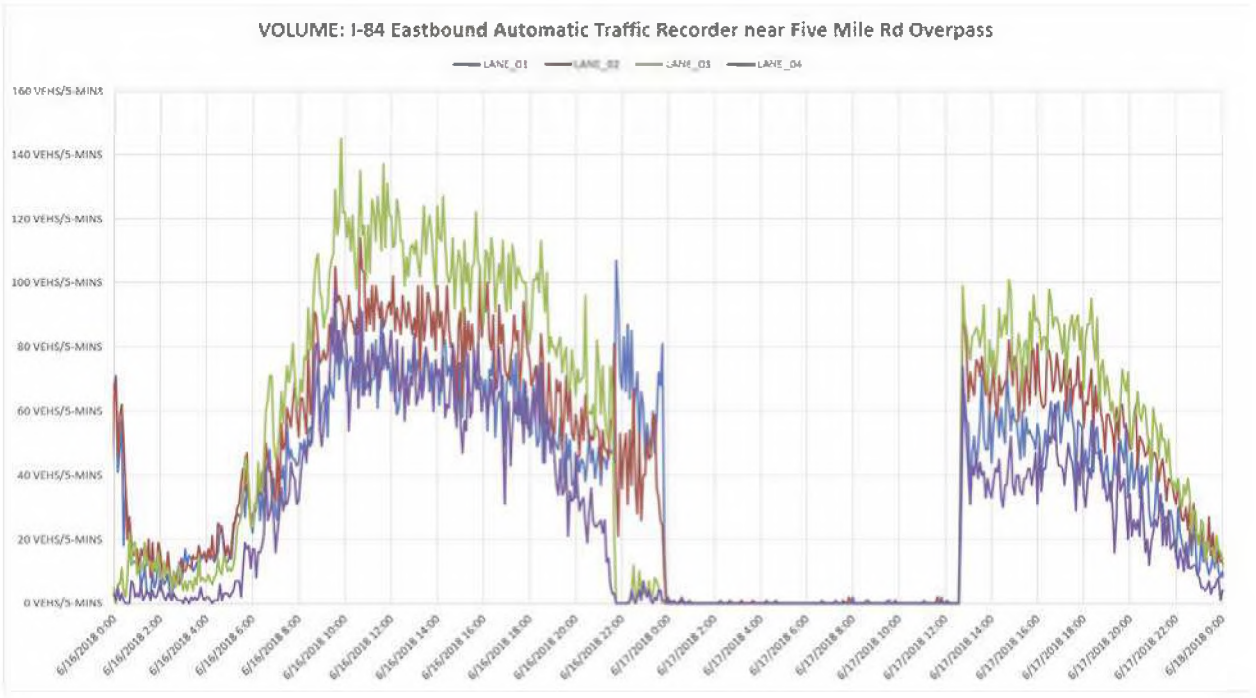


Figure 3 Showing details from the ATR on the traffic volumes

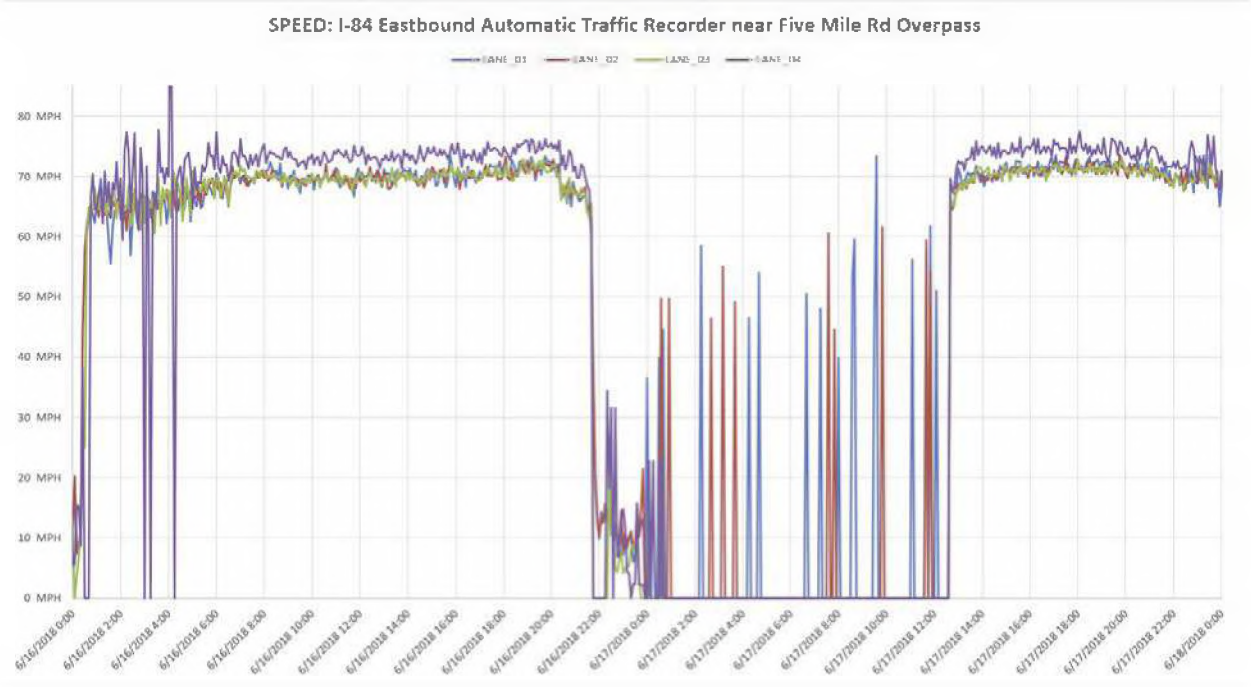


Figure 4 Showing traffic speeds before the crash

10. Work Zone Traffic Control Devices

Six work zone and accident site detail sheets were prepared by ITD from measurements supplied by the Idaho State Police, Specialty Construction Supply Company, and ITD measurements.[13] See figures 5 and 6 for graphics or the work zone traffic control. The figures indicate the following dimensional information:

1.The distance from the Portable changeable Message Sign (PCMS), which was the first traffic control device in the work zone, to the impact area was approximately .859 miles or 4,535 feet.

2. The distance from the Road Work Ahead Sign (MUTCD designation 20-1 at MP 46.304 to the impact area at MP 47.007 was ,703 miles or 3,711 feet.

3. Next there were warning signs to let motorist know the speed limit changed to 55 mph ahead.

[13] See Highway Attachment, ITD Detail Drawings of Work Zone Advance Warning Area, Transition Area with Work Area and Accident Site

4. The regulatory speed reduction to 55 mph was at MP 46.885, .122 miles or 644 feet from the impact area where the traffic was stopped.

5. The first signs warning that the "Three left Lanes Closed Ahead", were at MP 47.073 or 349 feet past where the impact occurred.

6. The next warning signs were located 980 feet past the "Three Left Lanes closed Ahead". They were 48-inch square W4-2 signs warning that the lane was closing.

7. 1,000 feet after that the first arrow board and taper began. The first taper closing the left-hand or number 1 lanes was 900 feet long. (minimum distance required is 660 feet or 12 feet wide lane by 55 mph speed zone = 660 feet.

8. At the end of the taper was another 1000-foot-long break with lane reduction warnings signs (W4-2) followed by another arrow board and 650-foot-long taper.

9. After the number 2 lane was closed there was another 1000-foot-long break with W4-2 signs warning of another lane reduction that was followed by another arrow board and 650-foot-long taper.

10. After the number two lanes was closed there were orange drums at 55-foot intervals keeping traffic in the right-hand lane.

11. The one-mile long work area began 800 feet after the three left hand lanes were closed.

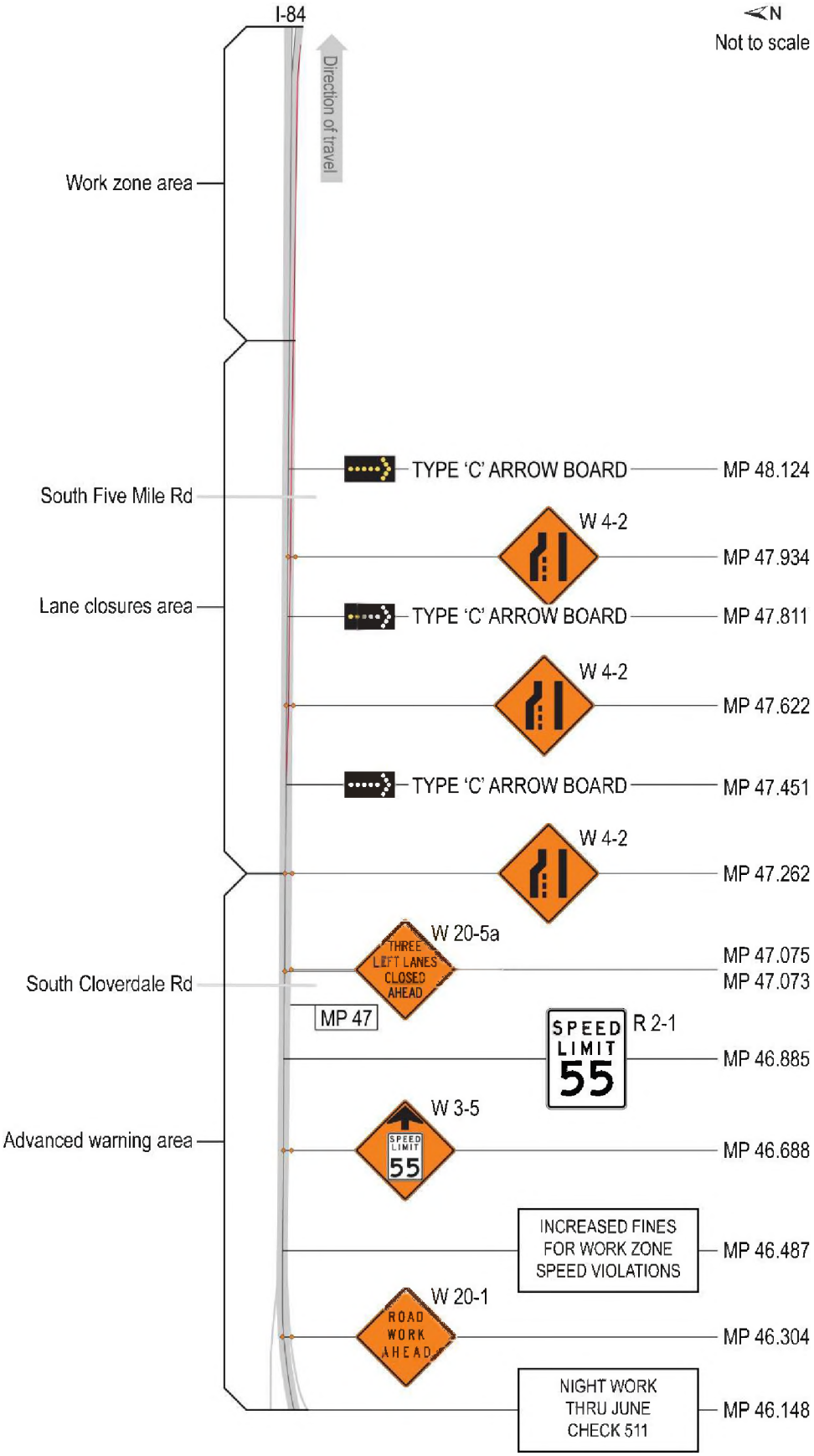

I-84
N
Not to scale
Direction of travel
Work zone area
South Five Mile Rd
Lane closures area
South Cloverdale Rd
Advanced warning area
TYPE 'C' ARROW BOARD
MP 48.124
W 4-2
MP 47.934
TYPE 'C' ARROW BOARD
MP 47.811
W 4-2
MP 47.622
TYPE 'C' ARROW BOARD
MP 47.451
W 4-2
MP 47.262
W 20-5a
THREE LEFT LANES CLOSED AHEAD
MP 47.075
MP 47.073
MP 47
SPEED LIMIT 55
R 2-1
MP 46.885
W 3-5
SPEED LIMIT 55
MP 46.688
INCREASED FINES FOR WORK ZONE SPEED VIOLATIONS
MP 46.487
W 20-1
ROAD WORK AHEAD
MP 46.304
NIGHT WORK THRU JUNE CHECK 511
MP 46.148

Figure 5 Work Zone Warning Signs Before the Crash location at Cloverdale Road Overpass at Milepost 47.007

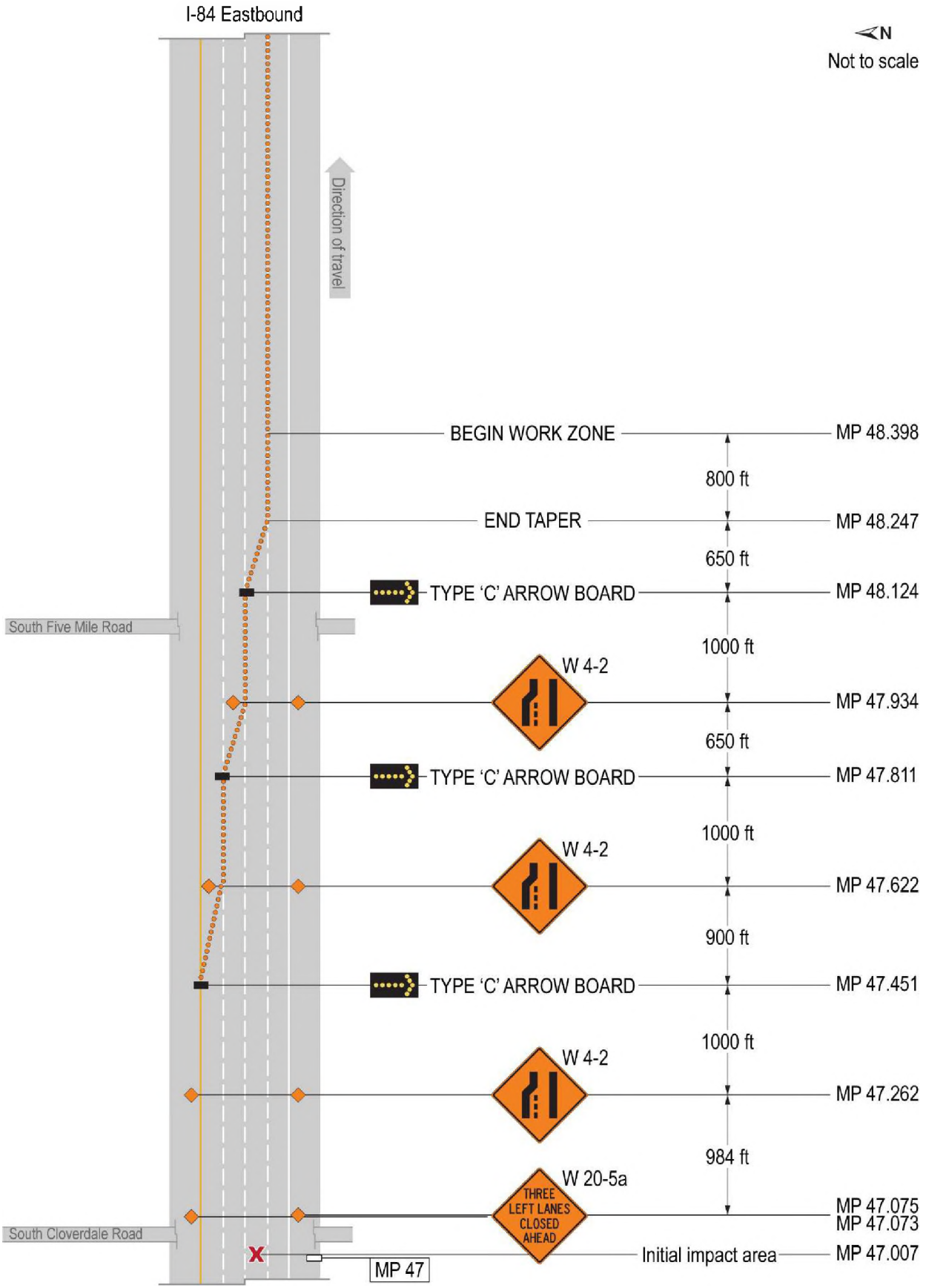

I-84 Eastbound
N
Not to scale
Direction of travel
BEGIN WORK ZONE
MP 48.398
800 ft
END TAPER
MP 48.247
650 ft
TYPE 'C' ARROW BOARD
MP 48.124
South Five Mile Road
1000 ft
W 4-2
MP 47.934
650 ft
TYPE 'C' ARROW BOARD
MP 47.811
1000 ft
W 4-2
MP 47.622
900 ft
TYPE 'C' ARROW BOARD
MP 47.451
1000 ft
W 4-2
MP 47.262
984 ft
W 20-5a
THREE LEFT LANES CLOSED AHEAD
MP 47.075
MP 47.073
South Cloverdale Road
Initial impact area
MP 47.007
MP 47

Figure 6- Transition area after the Impact Area

11. MUTCD Work Zone Traffic Control Device Guidance

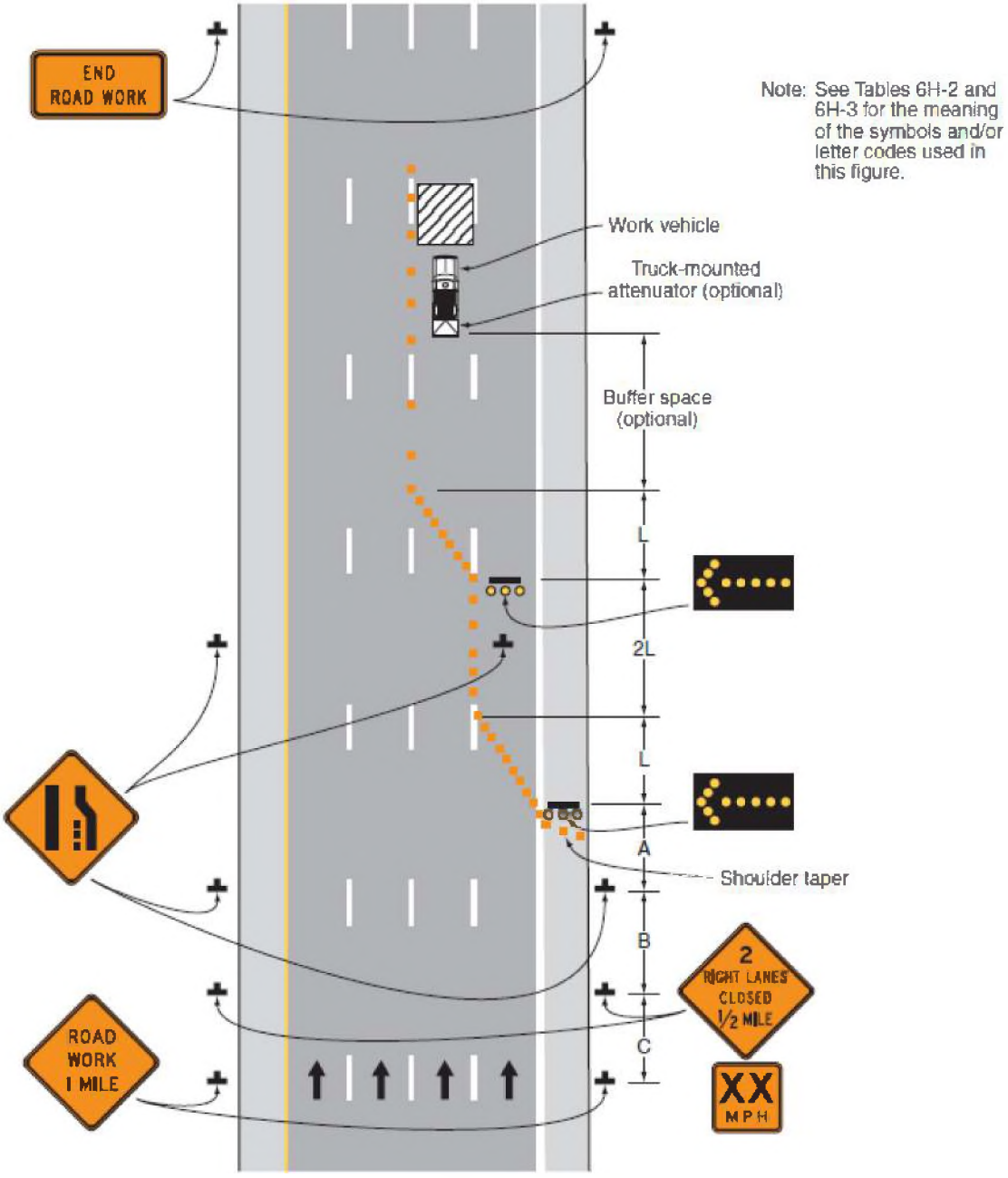
Section 6C.04, Advance Warning Area in the FHWA Manual Uniform Traffic Control Devices (MUTCD), provides guidance on sign placement for advance warning before a Temporary Traffic Control Zone. The guidance indicates that typical distances for placement of advance warning signs on freeways and expressways should be longer because drivers are conditioned to uninterrupted flow. "Therefore, the advance warning sign placement should extend on these facilities as far as ½ mile or more." In this work zone accident, the ITD warning signs from the initial PCMS sign to the end of the third taper were 2.1 miles. The distance from the beginning of the first taper back to the PCMS was 1.3 miles.

The transition area of a temporary traffic control zone is that section of highway where road users are redirected out of their normal path. Transition areas normally involve the use of tapers. Tapers are created by using a series of channelization devices or pavement markings to move traffic out of the normal path. The appropriate taper length is should be determined using the criteria shown in MUTCD table 6C-3 and 6C-4. Table 6C-4 provides formulas for determining taper length. In a speed zone of 45 mph or greater the length of the taper is expressed by L=WS where L is the taper length and W is the width of the offset and S is the posted speed limit or the anticipated operation speed. This expression indicates that the minimum taper length should have been 660 feet for channeling traffic out of a 12-foot-wide lane in the 55-mph work zone. However, in this accident the initial 900-foot taper length exceeded this minimum requirement. The second and third tapers met the minimum required taper length.

The Federal Highway Administration (FHWA) and the American Traffic Safety Services Association, (ATSSA) recommend using longer tapers to help smooth traffic flow at merge locations.[14]

Section 6G.14 of the 2009 MUTCD, "Work Within the Traveled Way of a Freeway or Expressway", addresses lane closures and multiple lane closures on high-speed freeways and expressways. The standard requires that an arrow board shall be used when a freeway lane is closed. Also, when more than one lane is closed, a separate arrow board shall be used for each closed lane. Examples of proper placement of traffic control devices are given in Typical Application (TA 37). Comparison of TA 37 in the MUTCD and the Standard Drawing for a multiple right lane closure for the NJTA (Traffic Protection (TP3) showed that the NJTA complied with and exceeded the MUTCD standards and guidance for color, sign wording, retro- reflectivity, dimensions, advance warning and placement. See figure 7 for MUTCD TA-37.

[14] Treating Potential Back-of-Queue Safety Hazards, American Traffic Safety Services Association, FHWA Grant No.DTFH61-06-G00004



Typical Application 37

Figure 7 MUTCD Typical Application 37 for Freeway Multiple Lane Closures

Section 6G.19 of the MUTCD provides for special consideration of temporary traffic control during nighttime hours. The following guidance is provided:

"Considering the safety issues inherent to night work, consideration should be given to enhancing traffic controls (see Section 6G.04) to provide added visibility and driver guidance, and increased protection for workers."

Section 6G04, Modifications to Fulfill Special Needs, provides guidance on devices that may be added to supplement the devices provided in typical applications. "When conditions are more complex, typical applications should be modified by giving particular attention to the provisions set forth in Chapter 6B[15] and by incorporating appropriate devices and practices from the following list:"

Additional Devices

1. Signs

2. Arrow Boards

3. More channelizing devices at closer spacing

4. Temporary raised pavement markers

5. High-level warning devices

6. Portable changeable message signs

7. Temporary traffic control signals

8. Temporary traffic barriers

9. Crash cushions

10. Screens

11. Rumble strips

12. More delineation

B. Upgrading of devices:

1. A full complement of standard pavement markings

[15] Section 6B.01provides detailed information about the seven fundamental principles of temporary traffic control pages 549-550, 2009 edition Manual on Uniform Traffic Control Devices for Streets and Highways

2. Brighter and/or wider pavement markings

3. Larger and/or brighter signs

4. Channelizing devices with greater conspicuity

5. Temporary traffic control barriers instead of channelizing devices

C. Improved geometrics at detours or crossovers

D. Increased distances

In this accident, a stop and go queue developed and extended from the end of the third taper back to MP 47.007, a distance of 1.24 miles or approximately 6547 feet.

12. Research Related to the Scope of Work Zone Accidents

FHWA amended 23 CFR Part 630 subpart J in 2004 with a requirement for the states to institute the changes by 2007. Therefore, accident statistics for the six-year-period 2007-2012 were listed to look at the general scope of the problem, then the problem of truck accidents in work zones will be highlighted by showing a list of fatal truck crashes in work zones, and then a listing of fatal accidents in work zones for the 50 states will be provided. First, a list of work zone fatalities that occurred in the previous six-year-period will be shown listing the numbers for the years 2001-2006.[16]

2001- 1,026 work zone fatalities

2002 – 1,186 work zone fatalities

2003 – 1,095 work zone fatalities

2004 – 1,063 work zone fatalities

2005 – 1,058 work zone fatalities

2006 – 1,004 work zone fatalities

The following list provides the number of fatalities from motor vehicle crashes in work zones for each of the years 2007-2012, which includes all types of vehicles.

2007 – 831

[16] All data was sourced from www.workzonesafety.org/crash_data/workzone-fatalities accessed on December 16, 2014

2008 – 716

2009 – 680

2010 – 586

2011 – 590

2012 – 609

The next list shows the number of large trucks involved in fatal and injury work zone crashes for the period 2003-2007.[17]

2003 – 196 fatal work zone crashes, 2003 – 3,000 injury work zone crashes

2004 – 225 fatal work zone crashes, 2004 – 4,000 injury work zone crashes

2005 – 235 fatal work zone crashes, 2005 – 4,000 injury work zone crashes

2006 – 216 fatal work zone crashes, 2006 – 2,000 injury work zone crashes

2007 – 174 fatal work zone crashes, 2007 – 2,000 injury work zone crashes

Additional research showed that on average there were 213 fatalities per year for the period 1996-2000 that involved heavy trucks in work zones. Twenty-four percent of work zone fatalities that occurred in 2000 involved large trucks in the crash (264 out of 1,093). In 1999, 868 fatalities resulted from motor vehicle crashes in work zones. Twenty six percent of these fatalities resulted from crashes involving large trucks. In November 2014, the Federal Motor Carrier Safety Administration (FMCSA) published more recent data regarding heavy trucks in fatal work zone crashes.[18] The analysis of FARS Data indicated that 23.6 percent of fatal work zone crashes for the five-year-period 2008-2012 involved at least one heavy truck. Other highlights of the study showed that large truck fatal crashes in work zones are more like to involve three or more vehicles. In 2012, 32.6 percent of large truck fatal crashes in work zones involved three or more vehicles, while 16.0 percent of fatal large truck crashes in general involved three or more vehicles. Another highlighted fact in the report showed that the majority of large truck fatal crashes in work zones involved large trucks in transport, and most are rear-ended. In 2012, 56.2 percent of large trucks in work zone fatal crashes were rear-ended.

Statistics on fatal work zone crashes between 2013 and 2017 showed that heavy trucks were involved in 29 percent of fatal work zone crashes.[19]

[17] Large Truck and Bus Crash Facts 2007, Federal Motor Carrier Safety Administration
[18] Analysis Brief, "Work Zone Fatal Crashes Involving Large Trucks, 2012", Federal Motor Carrier Safety Administration, Washington, D.C. November 2014
[19] NHTSA and FMCSA Trucks and Bus Fact Books 2013-2017

13. Scene Information

There were tire friction marks and scrapes on the pavement leading from the initial impact between the 2019 Volvo truck tractor semi-trailer combination unit and the 2009 Jeep Wrangler and 2003 Volvo Truck tractor semi-trailer combination unit. Both combination unit were fully loaded with produce. The Jeep was pushed from a stopped position in the number 2 lane approximately 184.8 feet from impact to final rest position.

E. DOCKET MATERIAL

The following attachments and photographs are included in the docket for this investigation:

LIST OF ATTACHMENTS

Highway Attachment – Engineering and Traffic Study for I-84 from MP 24.24 to MP 59.0, February 1, 2018

Highway Attachment – ITD Work Zone Construction Diaries and TCM Diaries

Highway Attachment – ITD Work Zone Safety and Mobility Guidebook

Highway Attachment – Temporary Traffic Control Plan, Standard Specifications for Maintenance of Traffic, and Special Contract Provisions

Highway Attachment – Traffic Control Design e-mail from March 7, 2017 Detailing Rationale for Estimating Lane Capacity and the Requirement to Maintain Two Lanes Open in 4-lane Sections of I-84

Highway Attachment – Pre-Construction Conference Agenda with Sign-in Sheets and Minutes Recorded on MP-4 Audio

Highway Attachment – ITD June 2018 e-mail Detailing Roadway Demand-Capacity Ratios and Automatic Traffic Recorder Volumes

Highway Attachment – ITD Detail Sheets of Work Zone Advance Warning, Transition Area with Work Area, and Crash Site Detail

LIST OF PHOTOGRAPHS

Highway Photo 1 - View of Eastbound I-84 with wreckage behind the tow truck in the number 2 lane where the impact occurred. **Highway photos 1-8 are provided courtesy of the Idaho State Police**

Highway Photo 2 - Eastbound view of produce from both semi-trailers spilled in the impact lane.

Highway Photo 3 – Additional view of cargo spilled in the impact lane with a view of the damage to the striking semi-trailer.

Highway Photo 4 – View of extensive crushing damage to the red Jeep Wrangler

Highway Photo 5 – Right side view showing the extensive rear and front crushing damage to the Jeep.

Highway Photo 6 – Closer view of the frontal damage to the Jeep

Highway Photo 7 – View of extensive frontal crush to the 2019 Volvo truck tractor

Highway Photo 8 – View of the truck tractor and Jeep after they were pulled apart by tow trucks.

Highway Photo 9 – View of tire friction marks and scrape marks in the number 2 lane. Also note the damage to the bottom of the overhead sign. Photos were taken from the Cloverdale Road overpass

Highway Photo 10 – Additional view of tire marks and scrapes in the impact lane.

Highway Photo 11 – View of tire marks and pavement scrapes leading to a burned area on the concrete impact lane.

Highway Photo 12 – Additional view looking west in the I-84 eastbound lanes from the Cloverdale overpass. Tire marks and scrapes begin west of the shadow on the pavement formed by the sunlight on the overhead highway sign.

Highway Photo 13 - Eastbound view of I-84 looking east from the Cloverdale overpass. The two, "Left Three Lanes Closed" signs are visible on the shoulders of the highway.

END OF REPORT

David S. Rayburn
Senior Highway Accident Investigator (Highway Factors)

EXHIBIT 2

HIGHWAY FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT

Highway Attachment – ITD Work Zone Safety and Mobility Program Guide

Boise, Idaho

HWY18FH015

(32 pages)

Idaho Transportation Department

Work Zone Safety and Mobility program

JANUARY 2012

PREFACE

In September 2004, the Federal Highway Administration (FHWA) published updates to the work zone regulations at 23 CFR 630 Subpart J. This updated Rule, referred to as the Work Zone Safety and Mobility Rule, applies to all State and local governments on projects that receive Federal-aid highway funding. Transportation agencies were required to comply with the provisions of the Rule by October 12, 2007. The changes made to the regulations broaden the former Rule to better address the work zone issues of today and the future. On December 5, 2007 the FHWA added a new Subpart K to 23 CFR 630 to supplement the other regulations that govern work zone safety and mobility. The effective date of this regulation was December 4, 2008.

Contents

WORK ZONE SAFETY AND MOBILITY PROGRAM

I. Policy Statement:

The Idaho Transportation Department's policy is to plan, design, construct, maintain, and operate safe and efficient Temporary Traffic Control (TTC) zones. The needs and the control of all road users (as defined by MUTCD Section 1A.13) through a TTC zone is an essential part of highway construction, utility work, maintenance operations, right-of-way use permits, and the management of traffic incidents.

Two principles guide the planning and implementation of the Work Zone Safety and Mobility (WZSM) program:

A. The safety of motorists, pedestrians, bicyclists, individuals with disabilities, and workers is the top priority and must be an integral part of every project.
B. Mobility of all forms of traffic shall be considered on every project. The movement of all forms of traffic through a TTC zones should be inhibited as little as possible. Traffic is inhibited by reduced speeds. Speed reduction zones should be limited to TTC zones and time periods that specifically justify their use.

II. Goals And Objectives:

A. Provide a safer environment for highway workers and the traveling public
B. Work "Toward Zero Deaths" in work zones.
C. Maintain a crash rate that is equal to or less than the crash rate that existed prior to implementation of the work zone.
D. Maintain or reduce project maximum travel delays stated in the construction contract.
E. Utilize appropriate Intelligent Transportation Systems (ITS) technologies that reduce delays and improve safety.
F. Implement training programs for those involved in planning, designing, constructing, maintaining, and providing Law Enforcement in work zones and managing incidents.
G. Maintain a Work Zone Safety and Mobility Review Team.

III. Definitions:

Federal-aid Highway Project:

A Federal-aid Highway Project means highway construction, maintenance, and utility projects funded in whole or in part with Federal-aid funds.

Highway:

According to Idaho State Code 40-109 (5), Definition "H", "Highways" mean roads, streets, alleys and bridges laid out or established for the public or dedicated or abandoned to the public. Highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of the highways. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as such for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways.

Highway Worker:
A highway worker includes, but is not limited to, personnel of the contractor, subcontractor, Idaho Transportation Department, utility, and law enforcement, performing work within the right-of-way of a transportation facility.

Positive Protection Device:
Positive Protection Device means devices that contain and/or redirect vehicles and meet the crashworthiness evaluation criteria contained in the AASHTO Manual for Assessing Safety Hardware (MASH), and/or the National Cooperative Highway Research Program (NCHRP) Report 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features, 1993, Transportation Research Board, National Research Council.

Professional Engineer:
A Professional Engineer is an engineer licensed in the State of Idaho as a Professional Engineer.

Public Information:
The Public Information (PI) component shall include communications strategies that seek to inform affected road users, the general public, area residence and businesses, and appropriate public entities about the project, the expected work zone impacts, and the changing conditions on the project. Public information may include information on the project characteristics, expected impacts, closure details, and commuter alternatives.

State Highway System
The State Highway System includes all Interstate Highways, US Highways, and State Highways. According to Idaho State Code 40-120 (5) Definitions "S", the State highway system means the principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state.

Significant Project:
A Significant Project is one that, alone or in combination with other concurrent projects nearby is anticipated to cause sustained work zone impacts that are greater than what is considered tolerable based on ITD policy and/or engineering judgment.

All Interstate system projects within the boundaries of a designated Transportation Management Area (TMA) that occupy a location for more than three days with either intermittent or continuous lane closures shall be considered as Significant Projects.

A project that is expected to be a Significant Project shall be identified by ITD in the State Transportation Improvement Program (STIP). Significant Projects should be indentified at the time the project is initially included in the STIP.

ITD may request an exception from FHWA for the Transportation Operations (TO) component and the Public Information (PI) component for Significant Projects when, based on the judgment of the State, projects do not cause sustained work zone impacts. FHWA may grant the exception based on the ITD's ability to show that the specific Interstate system project or categories of Interstate projects do not have sustained work zone impacts.

Temporary Traffic Control Plan:
A Temporary Traffic Control (TTC) plan describes measures used for facilitating road users through a work zone or incident area. A TTC plan shall be consistent with the provisions under Part 6 of the MUTCD as adopted by the State, and work zone hardware recommendations in Chapter 9 of the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide. The TTC plan shall either be a reference to specific TTC elements in the MUTCD, approved standard TTC plans, or be designed specifically for the project.

Transportation Management Plan:
A Transportation Management Plan (TMP) consists of strategies to manage work zone impacts. A TMP includes a Temporary Traffic Control (TTC) plan and addresses both Transportation Operations (TO) and Public Information (PI) components. The TO and PI component requirements are removed for Non-Significant Projects and Significant Projects that have been granted an exception by the FHWA.

Transportation Operations:
The Transportation Operations (TO) component shall include the identification of strategies that will be used to mitigate the impacts of the work zone on the operation and management of the transportation system within the work zone impact area.

Work Zone:
The Work Zone is an area of a highway with construction, maintenance or utility work activities. A work zone is typically marked by signs, channelizing devices, barriers, pavement markings, and/or work vehicles. It extends from the first warning sign or high-intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the "END ROAD WORK" sign or the last temporary traffic control device.

Work Zone Crash:
The Work Zone Crash means a traffic crash in which the first harmful event occurs within the boundaries of a work zone or on an approach to or exit from a work zone, resulting from an activity, behavior, or control related to the movement of the traffic units through the work zone. This includes crashes occurring on approach to, exiting from or adjacent to work zones that are related to the work zone.

Work Zone Impacts:
Work Zone Impacts refer to work zone-induced deviations from the normal range of transportation system safety and mobility. The extent of the work zone impacts may vary based on factors such as, road classification, area type (urban, suburban, and rural), traffic and travel characteristics, type of work being performed, time of day/night, and complexity of the project. These impacts may extend beyond the physical location of the work zone itself, and may occur on the roadway on which the work is being performed, as well as other highway corridors, other modes of transportation, and/or the regional transportation network.

IV. Work Zone Safety And Mobility (WZSM) program:

ITD will systematically consider and manage work zone impacts, and will develop, implement, and maintain work zone assessment and management procedures. Consideration and management of work zone impacts begins at project inception, continues through all phases of design, includes construction activities, and concludes with a Work Zone Safety and Mobility Process Review (see Chapter 4) to enhance efforts to address

safety and mobility on current and future projects. Each phase of work zone assessment and management should include implementation of improvements in work zone processes and procedures, data and information resources, and training programs.

This WZSM program shall be implemented on all Federal-aid funded, and State funded projects listed in the Idaho Transportation Department's Capital Investment Program (CIP). All State/Local Agreements for projects in the CIP shall include a requirement that the WZSM policy be followed. Utilities shall be required to follow the WZSM policy for all utility work done as a part of a federal aid project, regardless of whether the work is at project expense or solely at the utility company's expense.

A. Maintenance of Traffic Control Devices

To increase motorist conformance and confidence in the Department's TTC zone traffic control, all traffic control devices should be installed, maintained and removed to reflect the actual field conditions. Temporary traffic control is required only while highway users need guidance to make the desired response. When devices are not required to make a desired response, the devices should be removed. Removal should begin as quickly as practical.

Removal of work zone traffic control signing not required for the current operations should consist of device removal from the clear zone or laid completely flat no less than 10 feet from the nearest edge of the traveled way. Signs mounted on posts and traffic control devices that are difficult or time consuming to remove, should be promptly, consistently, and completely covered when not required. Turning sign faces away from traffic or laying signs down while still attached to a portable support that has not been collapsed are not approved methods for removal or covering. All temporary traffic control devices shall be maintained in no less than marginal condition based on the American Traffic Safety Services Association's (ATSSA) Quality Guidelines for Work Zone Traffic Control Development.

B. Speed Zone Design

In all situations, maintaining the highest speeds possible, up to the existing speed limit, is the Department's standard. Speed limit reduction zones shall be kept as short as possible in length and in duration. Each work zone traffic control plan should indicate the maximum lengths, locations, and circumstances where speed limit reductions may be allowed. To be considered for approval, any Contractor proposed changes to the TTC plans, such as to accommodate construction operations, must comply with the specified lengths, locations, and circumstances where speed limit reductions may be allowed and shall not be implemented before it is approved by the State.

C. Law Enforcement

In situations where uniformed law enforcement assistance may be useful to enforce traffic laws, affect driver behavior, help maintain appropriate speeds, improve driver alertness and help address other safety and mobility issues, funding and plans to support their participation should be identified and developed early in the planning process. Costs associated with non-routine work of uniformed law enforcement personnel to help protect workers and road users, and to maintain safe and efficient travel through highway work zones are eligible for Federal-aid participation. Payment for law enforcement services may be included in a construction contract or by direct interagency payment.

An interagency agreement between ITD and the law enforcement agency (ies) must be approved in advance of the start of law enforcement involvement for reimbursable work zone activities. The District will prepare an agreement with the respective law enforcement agency. Agreements should:

1. Address work zone enforcement needs,
2. Address interaction between ITD and law enforcement during project planning and development,
3. Address conditions where law enforcement involvement in work zone traffic control may be needed or beneficial, and criteria to determine the project specific need,
4. Describe the general nature of services to be provided and procedures to determine the project specific services,
5. Require and define appropriate work zone safety and mobility training for officers,
6. Describe procedures for communications between ITD and law enforcement, and
7. Include agreements on how reimbursement will be accomplished.

IDAHO TRANSPORTATION DEPARTMENT

GUIDANCE ON WORKZONE SAFETY AND MOBILITY

CHAPTER 1

WORK ZONE ASSESSMENT AND IMPACT MANAGEMENT

I. Requirements of the Work Zone Safety and Mobility program

A. All operations (highway construction projects, utility work, maintenance operations, right-of-way use permits, management of traffic incidents) that impact travelers should include a Temporary Traffic Control (TTC) plan.

B. The District shall identify upcoming projects that are expected to be Significant Projects in accordance with Section III. DEFINITIONS.

C. For a Significant Project, ITD shall develop a Transportation Management Plan (TMP) that includes a TTC plan and addresses both Transportation Operations (TO) and Public Information (PI) components, according to Section III. DEFINITIONS.

D. The TTC plan shall:
   1. Be consistent with the provisions under Part 6 of the MUTCD as adopted by the State
   2. Be consistent with the work zone hardware recommendations in Chapter 9 of the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide
   3. Be a reference to either specific TTC elements in the MUTCD, to approved standard TTC plans, to ITD Department Manuals, or be designed specifically for the project.
   4. Consider longitudinal traffic barriers or other Positive Protection Devices in work zone situations that place workers at increased risk from motorized traffic, and where positive protection devices offer the highest potential for increased safety for workers and road users, such as:
      a) Work zones that provide workers no escape from motorized traffic (tunnels, bridges, etc),
      b) Work zones with durations of 2 weeks or longer,
      c) Operating speeds of 45 mph or greater,
      d) Work operations that place workers close to travel lanes open to traffic,
      e) Work zones with roadside hazards, such as drop-offs or unfinished bridge decks, that will remain in place overnight or longer.

      The need for longitudinal traffic barriers or other Positive Protection Devices shall be based on an engineering study.

   In developing and implementing the TTC plan, pre-existing roadside safety hardware shall be maintained at an equivalent or better level than existed prior to project implementation.

   Approved traffic control devices should all be in place in accordance with the approved traffic control plan before other work activities within the work zone commence.

E. When the TO component is required, it shall include the identification of strategies that will be used to mitigate impacts of the work zone on the operation and management of the transportation system within the work zone impact area.

F. When the PI component is required, it shall include communication strategies that seek to inform affected road users, the general public, area residences and businesses, and appropriate public entities about the project, the expected work zone impacts, and the changing conditions on the project.

G. The Plans, Specifications, and Estimates (PS&E) package shall include either a TMP or provisions for contractors to develop a TMP at the most appropriate project phase. A contractor developed TMP shall be subject to the approval of ITD and shall not be implemented before it is approved by ITD.

H. The PS&E package shall include appropriate pay item provisions for implementing the TMP, which may only include the TTC plan, either through method or performance based specifications.
   1. For method-based specifications individual pay items, lump sum payment, or a combination thereof may be used.
   2. For performance based specifications, applicable performance criteria and standards may be used (e.g., safety performance criteria such as number of crashes within the work zone; mobility performance criteria such as travel time through the work zone, delay, queue length, traffic volume; incident response and clearance criteria; work duration criteria).
   3. Major categories of traffic control devices, safety features, and work zone safety activities funded through the project, including but not limited to Positive Protection Devices, and uniformed law enforcement activities shall each have separate pay items.

I. The Contractor and ITD shall each designate a trained person at the project level who has primary responsibility and sufficient authority for implementing the TMP and other safety and mobility aspects of the project.
   1. An inspector trained in traffic control should be assigned to monitor the approved traffic control plan and recommend changes.
   2. Traffic control setups and the maintenance of the traffic control devices should be reviewed regularly. Assistance in reviews should be requested from the District Traffic Engineer's office as appropriate.

J. Personnel involved in the development, design, implementation, operation, inspection, and enforcement of work zone related transportation management and traffic control shall be trained, appropriate to the job decisions each individual is required to make.
   1. Training shall be updated periodically. Updates shall reflect changing industry practices and ITD processes and procedures. When new training or training updates are identified in accordance with ***TRAINING, III. ITD Implementation***, the Office of Highways Operations shall incorporate this information into the Work Zone Safety and Mobility program.

K. ITD shall work in partnership with the FHWA in the implementation of ITD's policies and procedures to improve work zone safety and mobility. At a minimum, this shall involve an FHWA review of conformance of ITD's policies and procedures with 23 CFR 630 Subpart J-Work Zone Safety and Mobility, Subpart K-Temporary Traffic Control Devices, and reassessment of the implementation of ITD's procedures at appropriate intervals. Implementation of this regulation may be addressed in the Stewardship and Oversight Agreement with the FHWA.

II. Guidance for Implementation

A. Work Zone Assessment and Impact Management: Work Zone Assessment and Impact Management procedures can provide a framework within existing project development and construction processes to help the Idaho Transportation Department:

1. Identify and understand the work zone safety and mobility implications of alternative project options and design strategies.
2. Identify significant projects and better allocate work zone management resources to those projects likely to have greater work zone impacts.
3. Identify transportation management strategies to manage the expected work zone impacts of a project.
4. Estimate costs and allocate appropriate resources for the implementation of the work zone management strategies.
5. Implement the strategies, and monitor and manage work zone impacts during construction, maintenance, or utility work, and adjust the Transportation Management Plan (TMP) if needed.
6. Conduct post-construction work zone performance assessment for assessing the performance of work zones and to improve work zone policies, practices, and procedures.

B. Work Zone Crash and Delay Data: Work Zone Crash and Delay Data are useful to make an informed assessment of the success of efforts to manage work zones and their impacts. Work zone field data also enables ITD to assess how well planning and design estimates of anticipated impacts match what actually happens in the field. Work zone data supports performance assessments at the project level, district level, and statewide level. Available data and information can provide the basis for assessing performance and taking appropriate actions to improve performance on individual projects as well as district wide and statewide processes and procedures.

1. Crash data: A crash analysis can be done to determine the pre-work zone crash rate within the project limits. Districts shall monitor work zone crashes and should perform a work zone crash assessment during construction. If the crash rate during construction exceeds the pre-existing rate, consideration should be given to making modifications to the TMP and adding the use of law enforcement.

   Documentation associated with the pre-work zone crash assessment should be maintained and presented in the concept report.

2. Delay Data: An analysis can be done to compare the existing Level of Service (LOS) and existing traffic delays with the expected LOS and expected traffic delays for the proposed TTC plan. If the project meets the project goals for LOS and expected traffic delays, the initial TMP is acceptable. If not, changes to the design, construction staging, or allowable work hours need to be considered.

   A work zone mobility assessment should be conducted during construction. The assessment can consist of a drive through of the work zone and/or detour routes to measure what the TTC delays are. If the delay is longer than intended, consideration should be given to making modifications to the TMP, and may include the addition of law enforcement.

   Documentation associated with the work zone assessment should be maintained and become part of the construction project records.

III. Significant Projects.

Identify upcoming projects that are expected to be Significant in the Capital Investment Program as early as possible in the project development process. A TMP for a Significant Project should lay out a set of coordinated transportation management strategies and describe how they will be used to manage the work zone impacts of a road project.

A Significant Project TMP shall include a Temporary Traffic Control (TTC) plan, as well as a Transportation Operation (TO) component and Public Information (PI) component. The TMP should be an ongoing process from the scoping process through project development, and continue through the design and construction phase of a project. The TMP scope, content, and level of detail may vary based on the anticipated work zone impacts of the project.

Only TMPs that best serve the safety and mobility needs of the traveling public, highway workers, businesses, and community should be implemented.

Significant Project TMP strategies may consist of strategies shown in Table 1.1 for Temporary Traffic Control, Table 1.2 for Transportation Operations, and Table 2 for ITD Public Information Strategies.

IV. Non – Significant Projects

Non-Significant Project TMPs may consist of a TTC plan only, but consideration should be given to including a TO component and a PI component.

TABLE 1.1: Work Zone Assessment and Impact Management Strategies

Temporary Traffic Control (TTC)		
Control Strategies	Traffic Control Devices *	Project Coordination, Contracting and Innovative Construction Strategies
• Construction phasing/ • Full roadway closures • Lane shifts or closures – Lane width reductions (constriction) – Lane closure – Reduced shoulder width – Shoulder closure – Lane shift to shoulder/median • One-lane, two-way operation • Two-way traffic on one side divided facility (crossover) • Reversible lanes • Ramp closures/relocation • Freeway-to-freeway interchange closures • Night work • Weekend work • Work hour restrictions for peak travel • Pedestrian/bicycle access improvements • Business access improvements • Off-site detours	• Temporary signs – Warning – Regulatory – Guide/ information • Channelizing devices • longitudinal traffic barriers • Positive Protection Devices – attenuators • Temporary pavement markings • Arrow panels • Changeable Message Signs (CMS) • Flaggers and uniformed traffic control officers • Temporary traffic signals • Lighting devices • Other safety devices	• Project coordination – Coordination with other projects – Utilities coordination – Right-of-way coordination – Coordination with other transportation infrastructure • Contracting strategies – Design build – A+B bidding – Incentive/ disincentive clauses – Lane rental • Innovative construction techniques (precast members, rapid cure materials)

* This is intended to be a partial list. A wide range of safety devices are described in part 6 of the Manual on Uniform Traffic Control Devices (MUTCD) and are widely used to enhance safety and mobility in highway work zones.

TABLE 1.2: Work Zone Assessment and Impact Management Strategies

Transportation Operations (TO)			
Demand Management Strategies	Corridor/Network Management Strategies	Work Zone Safety Management Strategies	Incident Management and Enforcement Strategies
• Transit service improvements • Transit incentives • Park-and-ride promotion • Shuttle services • Parking supply management • Variable work hours • Telecommuting	• Signal timing/ coordination improvements • Temporary signals • Street/intersection improvements • Turn restrictions • Parking restrictions • Separate truck lanes • Truck/heavy vehicle restrictions • Ramp closures • Bus turnouts • Reversible lanes • Dynamic lane closure system • Railroad crossings controls • Speed limit reduction/ variable speed limits • Coordination with adjacent projects	• Changeable Message Signs (CMS) • Temporary traffic signals • Temporary traffic barrier • Crash-cushions • Temporary rumble strips • Intrusion alarms • Warning lights • Construction safety supervisor/inspectors • Project task force/ committee • Team meetings • TMP monitor/ inspection team • Windshield surveys • Project on-site safety training • Safety awards/incentives • Speed Radar Trailers • Traffic Control Review Team as Established by the Districts	• ITS for traffic monitoring/management • Surveillance (Closed-Circuit Television (CCTV), loop detectors, lasers, probe vehicles) • Traffic Screens • Total station units • Photogrammetry • Changeable Message Signs (CMS) • Highway Advisory Radio (HAR) • Media briefings • CARS 511 information dissemination • Local detour routes • Transportation Management Center (TMC) • Contract support • Incident/emergency management coordinator • Incident/emergency response plan • Dedicated (paid) police enforcement • Cooperative police enforcement • Increased penalties for work zone violations

IDAHO TRANSPORTATION DEPARTMENT

GUIDANCE ON WORKZONE SAFETY AND MOBILITY PROGRAM

CHAPTER 2

PUBLIC INFORMATION

I. Requirements of the Work Zone Safety and Mobility program.

The WZSM program requires that the Public Information (PI) component of the TMP shall include communications strategies that seek to inform affected road users, the general public, area residences and businesses, and appropriate public entities about the project, the expected work zone impacts, and the changing conditions on the project. The scope of the PI component should be determined by the project characteristics and the public information and outreach strategies identified by the Idaho Transportation Department, local agencies, and/or utilities. Public information should be provided through methods best suited for the project, and may include, but not be limited to, information on the project characteristics, expected impacts, closure details, and commuter alternatives.

All Significant Projects are required to include Public Information components. These components may be added to Non-Significant Projects.

II. Guidance for Implementation

A work zone PI campaign involves communicating with road users, the general public, area residences and businesses, and appropriate public entities about a road construction project and its implications for safety and mobility. Developing and implementing this PI campaign should begin in the planning phase of project development, continue through design, construction, and may include post-construction activities. Ongoing monitoring throughout the life of the project will be needed. Planning and implementing a campaign involves a set of key steps that ideally will be coordinated and outlined in a PI plan. Strategies for Public Information are shown in Table 2.

III. Significant Projects

The project development team and the construction/maintenance/utility forces, using input from project stake holders and the affected traveling public, should determine which PI strategies are to be implemented on the project. Typically, the following strategies may be implemented on Significant Projects:

A. Brochures, flyers, fact sheets, and newsletters,
B. Public meetings, task forces, workshops, and project related events,
C. Paid newspaper advertising,
D. Paid TV advertising,
E. Radio traffic news,
F. Emergency and information booklet,
G. Continuously updated information on Idaho's 511 system.

IV. Non – Significant Projects

It may be determined that a public information component is warranted for a Non-Significant project. This determination may be made during project development or later during construction. In such cases, the types of strategies to be implemented may be determined by the project development team, construction, maintenance, utilities, and by using input from project stakeholders.

Table 2: ITD Public Information Strategies

Strategy	Who	Primary Target Audience	Benefit	Issues	Implementation Phase	Relative Cost to Project
Website	- Public Affairs/ Hired Public Information Coordinator	- Pre-trip travelers - Most other audiences	- Access to real-time information. - Ability to access all project related materials in one place. - May be easy to update	- Target audience must be aware of the web site. - May not reach all of the target audience (excludes people without an Internet connection. - Information must be current and active. - Cost will vary dependent on complexity of web site. - Site should be updated daily.	- Pre-construction - Construction - Post-Construction	Low/ Medium
Web-connected traffic cameras	- Public Affairs/ Hired Public Information Coordinator	- Pre-trip travelers - Most other audiences	- Allows users to view real-time traffic conditions. - Users find information credible because they can actually see the traffic conditions on the road	- May exclude users with a dial-up connection. - Cameras can be costly.	- Construction	Medium
Brochures / flyers Fact sheets / newsletters	- Public Affairs/ Hired Public Information Coordinator - Designers/District	- Local travelers - Commuters - Commercial drivers - Residents	- Low cost - Easy to distribute	- Information can become stale quickly. - Often targets local motorists only. - Must be designed in a manner that makes drivers want to read the information.	- Construction - Post-Construction	Low/ Medium
Public meetings/ task forces / workshops / events	- Designer (preconstruction) - District (during construction)	- Local travelers - Major trip generators - Residents - Businesses - Public officials - Major employers - Local agencies	- Good exposure to the public. - Give agency a chance to raise credibility with the public. - Gives public a chance to voice their concerns.	- Need to make sure the right audience is at the events. - Need to be wary of making "empty" promises.	- Pre-construction -Construction	Low

Table 2: ITD Public Information Strategies

Strategy	Who	Primary Target Audience	Benefit	Issues	Implementation Phase	Relative Cost to Project
Paid newspaper advertising	- Public Affairs/ Hired Public Information Coordinator	- Local travelers (pre-trip) - Commercial drivers (pre-trip) - Major trip generators - Residents and small businesses	- Can reach many people at one time. - The same ad can be used in many different newspapers. - Agency controls the content and timing of the message.	- May not target local motorists. - Newspaper readers may skip over ads. - Requires targeted audience to receive the paper.	- Pre-construction - Construction - Post-Construction	Medium/ High
Paid TV advertising	- Public Affairs / Hired Public Information Coordinator	- Pre-trip travelers - Local travelers	- Can reach many people at one time. - Agency controls the content and timing of the message.	- May not target local motorists. - Time of broadcast	- Pre-construction - Construction - Post-Construction	High
Radio traffic news	- Public Affairs / Hired Public Information Coordinator/ District	- Pre-trip travelers - Local travelers	- Can reach many people at one time. - Little or no cost. - Target people who are likely to use the information.	- May only target local motorists. - Coverage more likely for major projects. - Don't have as much control of the message	- Construction	Low
Project hotline / 511 System	- District Maintenance and Engineering	- Pre-trip travelers - Drivers en route	- Information can be accessed whenever it is needed. - Can allow motorists to provide feedback via recorded message. - May be easy to update.	-Information must be current. - Audience needs to be aware of the hotline number.	- Construction	Low/ Medium
Dynamic message signs (DMS)	- Districts/ Contractor	- Drivers en route	- Provides information directly to motorists affected by the project. - Can provide detour information.	- Message must be easy to read. - Signs must be placed appropriately. - Information should be useful and accurate.	- Construction	Low/ Medium/ High
Emergency and Information Booklet	- Districts	- Construction Staff - Contractors - Emergency Services	- Make information easily available. - Possible faster response time	- Requires contacts to be made by district personnel. - Information needs to accurate	- Construction	Low

Table 2: ITD Public Information Strategies

Strategy	Who	Primary Target Audience	Benefit	Issues	Implementation Phase	Relative Cost to Project
Web Base Construction Map	- District	- All travelers	- Low cost - Timely Information - Can provide detour information	- Target audience must be aware of the web site. - May not reach all of the target audience (excludes people without any Internet connection. - Information must be current and active. - Cost will vary dependent on complexity of web site. - Site should be updated daily.	- Construction	Low

IDAHO TRANSPORTATION DEPARTMENT

GUIDANCE ON WORKZONE SAFETY AND MOBILITY PROGRAM

CHAPTER 3

TRAINING

I. Requirements of the Work Zone Safety and Mobility program.

The WZSM program requires personnel involved in the development, design, implementation, operation, inspection, and enforcement of work zone related transportation management and traffic control be trained appropriate to the job decisions each individual is required to make. Periodic training updates that reflect changing industry practices and ITD processes and procedures are also required for these personnel.

II. Guidance for Implementation

Personnel that must be trained include transportation planners, designers, traffic and safety engineers, safety coordinators, temporary traffic control designers, program managers, construction managers, construction project staff, maintenance staff, law enforcement, contractors, and utility staff. This may also include executive-level decision-makers, policy makers, senior managers, information officers, and other incident responders.

The level of training shall be appropriate to an individual's job responsibilities and to the job decisions that each individual needs to make.

External training needs must be addressed. External personnel that need to be trained include those doing project development (design or engineering service consultants) and those doing construction activities (engineering service consultants), and utility work. The Idaho Transportation Department shall require that external partners are trained appropriate to each individual's job responsibilities and to the job decisions that each individual needs to make. These requirements shall be included in all Consultant Agreements (limited to projects on the STIP) and utility's Notice to Proceed.

III. ITD Implementation

The ITD should identify work zone related transportation management and traffic control training. When the training is identified, consideration should be given to include our partners (cities, counties, consultants and construction industry) in the training.

The Design/Maintenance/Construction Section and the Traffic Services Section, in cooperation with the Division of Human Resources Training Section and the Districts should identify training that addresses the training needs of designers, traffic engineers and technicians, and others that are involved in the design of work zone related transportation management and traffic control.

The Design/Maintenance/Construction Section and the Traffic Services Section, in cooperation with the Division of Human Resources Training Section and the Districts should identify training that addresses the training needs of construction project personnel involved in the implementation, operation, maintenance, inspection, and/or enforcement of work zone related transportation management and traffic control.

The Office of Highway Operations, in cooperation with the Division of Human Resources Training Section and the Districts, should identify training that addresses the training needs of maintenance personnel involved in the implementation, operation, maintenance, inspection, and/or enforcement of work zone related transportation management and traffic control.

The Emergency Programs Section and the Traffic Services Section, in cooperation with the Division of Human Resources Training Section and the Districts, should identify training that

addresses the training needs of maintenance personnel and Law Enforcement personnel involved in incident related transportation management and traffic control.

Training of contractors and utility workers for such activities as designing, implementing, setting up or maintaining work zone traffic control is required. The Idaho Transportation Department's Standard Specifications for Highway Construction requires training for Traffic Control Supervisors and Flaggers. Contractors, incident responders, and utility workers are responsible to acquire the required training and certifications.

The following is a list of Training courses for Planners and Designers, Construction and Maintenance, and Incident Management areas:

A. Planners and Designers

Suggested training courses for individuals responsible for developing project concepts, designing, or reviewing Traffic Control Plans (TCP) are listed below. Completion of two of the following courses and any associated valid certifications, or holding a valid license as a Professional Engineer shall satisfy this training requirement:

1. Introduction to ITD's Work Zone Safety & Mobility program and Overview of the Rule on Work Zone Safety and Mobility

   This training is an introduction provided by the Office of Highway Operations on ITD's Work Zone Safety & Mobility program requirements and standards. Title 23 CFR 630 Subpart J - The Work Zone Safety and Mobility is the rule that has changed and clarified work zone procedures. The rule is the basis that ITD's Work Zone Safety and Mobility program is built on. The rule introduction is provided by the Office of Highway Operations as a companion with ITD's Work Zone Safety & Mobility program introduction.

   Certification is not required for this course.

2. Traffic Control Technician (ATSSA and ITD)

   All Department employees associated with traffic control in work zones involving construction, maintenance, or other operations requiring temporary traffic control, should have a basic knowledge of temporary traffic control that allows them to assist in monitoring and recognition of deficiencies of traffic control and shall be trained as a Traffic Control Technician (TCT).

   Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

3. Flagging (ITD, ATSSA and Evergreen)

   This course provides instruction and training to individuals interested in flagging so they may perform their duties effectively and safely. Flaggers should possess and maintain intelligence and common sense, good physical condition (sight and hearing), mental alertness, a courteous but firm manner, a pleasing personality, neat appearance, sense of responsibility for the safety of the public and fellow workers and patience.

   Only certified flaggers shall be allowed to work on Federally funded projects or on the state highway system. Certifications are effective for a three year period

from completion of a course and recertification is required every three years. Recertification may consist of a shorter refresher course.

4. Traffic Control Supervisor (ATSSA and Evergreen)
   All projects from the simplest maintenance job to a multi-million dollar reconstruction project require traffic control expertise to make the project as safe as possible for the motorist and workers. The Project Manager or Project Engineer on the project needs to be trained in the latest standards, practices and procedures to accomplish this goal.

   Only certified Traffic Control Supervisor shall be allowed to work on Federally funded projects or on the state highway system. Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

5. QuickZone (FHWA- provides training, McTrans-vendor of software)
   This training describes the use and application of QuickZone. This software compares the traffic impacts for work zone mitigation strategies and estimates the costs, traffic delays, and potential backups associated with these impacts.

   Certification is not required for this course.

6. Traffic Control Design Specialist (ATSSA)
   This training course addresses the entire process for designing, installing, maintaining, and the evaluation of temporary traffic control in work zones. This training is recommended for traffic engineers, engineering technicians, consultants and other individuals responsible for temporary traffic control design and for individuals that are responsible for designing traffic control plans for approval.

   Certification is not required for this course.

7. Advanced Work Zone Management and Design (NHI)
   This training course should provide planners, designers, construction managers, and other transportation professionals with additional skill and knowledge of both technical and non-technical aspects of work zone design and traffic management practices.

   Certification is not required for this course.

Approval of alternate courses and materials is the responsibility of ITD's Traffic Control Oversight Committee (TCOC). The TCOC will also annually review the course materials of the courses listed above that do not have certification requirements. If, in the opinion of the TCOC, course updates are required to reflect changing industry practice and/or State processes and procedures, the TCOC will schedule refresher training for each of the appropriate courses within the next year and require that anyone who is depending on that course to meet these training requirements attend the refresher training.

B. Construction and Maintenance

Suggested training courses for individuals responsible for designing, inspecting, installing, or maintaining work zone traffic control, construction workers, project managers, project engineers, maintenance managers and workers, and non-routine Law Enforcement work are listed below. Completion of two of the following courses and any associated valid certifications, or holding a valid license as a Professional Engineer, or completion of the Police Officer Standards and Training (POST) Academy shall satisfy this training requirement:

1. Introduction to ITD's Work Zone Safety & Mobility program and Overview of the Rule on Work Zone Safety and Mobility

   This training is an introduction provided by the Office of Highway Operations on ITD's Work Zone Safety & Mobility program requirements and standards. Title 23 CFR 630 Subpart J - The Work Zone Safety and Mobility is the rule that has changed and clarified work zone procedures. The rule is the basis that ITD's Work Zone Safety and Mobility program is built on. The rule introduction is provided by the Office of Highway Operations as a companion with ITD's Work Zone Safety & Mobility program introduction.

   Certification is not required for this course.

2. Traffic Control Technician (ATSSA and ITD)

   All Department employees associated with traffic control in work zones involving construction, maintenance, or other operations requiring temporary traffic control, should have a basic knowledge of temporary traffic control that allows them to assist in monitoring and recognition of deficiencies of traffic control and shall be trained as a Traffic Control Technician (TCT).

   Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

3. Flagging (ITD, ATSSA and Evergreen)

   This course will provide instruction and training to individuals interested in flagging so they may perform their duties effectively and safely. Flaggers should possess and maintain intelligence and common sense, good physical condition (sight and hearing), mental alertness, a courteous but firm manner, a pleasing personality, neat appearance, sense of responsibility for the safety of the public and fellow workers and patience.

   Only certified flaggers shall be allowed to work on Federally funded projects. Certifications are effective for a three year period from completion of a course and recertification is required every three years. Recertification may consist of a shorter refresher course.

4. Traffic Control Supervisor (ATSSA and Evergreen)

   All projects from the simplest maintenance job to a multi-million dollar reconstruction project require traffic control expertise to make the project as safe as possible for the traveling public and for workers. Construction inspectors, project managers, project engineers, and maintenance workers on the project

need to be trained in the latest standards, practices and procedures to accomplish this goal.

Only certified Traffic Control Supervisor shall be allowed to work on Federally funded projects or on the state highway system. Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

5. QuickZone (FHWA- provides training, McTrans-vendor of software)
   This training describes the use and application of QuickZone. This software compares the traffic impacts for work zone mitigation strategies and estimates the costs, traffic delays, and potential backups associated with these impacts

   Certification is not required for this course.

6. Advanced Work Zone Management and Design (NHI)
   This training course should provide planners, designers, construction managers, and other transportation professionals with additional skill and knowledge of both technical and non-technical aspects of work zone design and traffic management practices.

   Certification is not required for this course.

7. Comprehensive Inspection Training Course (ATSSA – Training CD)
   The training consist of 14 modules geared towards specific topics; Inspection basics, nighttime traffic control, flagging operations, signs and supports, portable changeable message boards, arrow panels, channelizing devices, pavement markings, raised pavement markers and delineators, warning lights and floodlights, crash cushions, portable concrete barriers, truck mounted attenuators, and guardrail installation and inspection.

   Certification is not required for this course.

Approval of alternate courses and materials is the responsibility of ITD's Traffic Control Oversight Committee (TCOC). The TCOC will also annually review the course materials of the courses listed above that do not have certification requirements. If, in the opinion of the TCOC, course updates are required to reflect changing industry practice and/or State processes and procedures, the TCOC will schedule refresher training for each of the appropriate courses within the next year and require that anyone who is depending on that course to meet these training requirements attend the refresher training.

C. Incident Management

Suggested training courses for those who may find themselves managing incidents on the roadway are listed below. Completion of two of the following courses and any associated valid certifications, or holding a valid license as a Professional Engineer, or completion of the Police Officer Standards and Training (POST) Academy shall satisfy this training requirement:

1. Introduction to ITD's Work Zone Safety & Mobility program and Overview of the Rule on Work Zone Safety and Mobility

   This training is an introduction provided by the Office of Highway Operations on ITD's Work Zone Safety & Mobility program requirements and standards. Title 23 CFR 630 Subpart J - The Work Zone Safety and Mobility is the rule that has changed and clarified work zone procedures. The rule is the basis that ITD's Work Zone Safety and Mobility program is built on. The rule introduction is provided by the Office of Highway Operations as a companion with ITD's Work Zone Safety & Mobility program introduction.

   Certification is not required for this course.

2. Traffic Control Technician (ATSSA and ITD)

   All Department employees associated with traffic control in work zones involving construction, maintenance, or other operations requiring temporary traffic control, should have a basic knowledge of temporary traffic control that allows them to assist in monitoring and recognition of deficiencies of traffic control and shall be trained as a Traffic Control Technician (TCT).
   Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

3. Flagging (ITD, ATSSA and Evergreen)

   This course will provide instruction and training to individuals interested in flagging so they may perform their duties effectively and safely. Flaggers should possess and maintain intelligence and common sense, good physical condition (sight and hearing), mental alertness, a courteous but firm manner, a pleasing personality, neat appearance, sense of responsibility for the safety of the public and fellow workers and patience.

   Only certified flaggers shall be allowed to work on Federally funded projects. Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

4. Traffic Control Supervisor (ATSSA and Evergreen)

   All projects from the simplest maintenance job to a multi-million dollar reconstruction project require traffic control expertise to make the project as safe as possible for the traveling public and for workers. Construction inspectors, project managers, project engineers, and maintenance workers on the project need to be trained in the latest standards, practices and procedures to accomplish this goal.

   Only certified Traffic Control Supervisor shall be allowed to work on Federally funded projects or on the state highway system. Certifications are effective for a four year period from completion of a course and recertification is required every four years. Recertification may consist of a shorter refresher course.

5. Emergency Management (BDS)

   This course will introduce participants to fundamental principles of emergency management in an integrated system. This course will help participants to

experience the perspective of the local community, officials and citizens within the context of multiple hazards and potential resources from various sources. All District and Headquarters emergency management coordinators and alternates should attend.

Certification is not required for this course.

6. Incident Traffic Control For Responders (ATSSA)

   ATSSA's newest course Emergency Traffic Control for Emergency Responders is aimed at police and fire rescue personnel who get involved with traffic control, either responding to an incident or enforcing traffic control in work zones. It discusses major, intermediate and minor principles of incident management and considerations for traffic control enforcement in work zones. The 4-hour course covers principles and concepts of temporary traffic control presented in the Manual on Uniform Traffic Control Devices (MUTCD) Section 6 I, a Federal standard. Also discussed are principles of temporary traffic control and the requirements of the component parts of typical work zones, such as: taper lengths, flagging operations, typical applications, device requirements and others.

   Certification is not required for this course.

Approval of alternate courses and materials is the responsibility of ITD's Traffic Control Oversight Committee (TCOC). The TCOC will also annually review the course materials of the courses listed above that do not have certification requirements. If, in the opinion of the TCOC, course updates are required to reflect changing industry practice and/or State processes and procedures, the TCOC will schedule refresher training for each of the appropriate courses within the next year and require that anyone who is depending on that course to meet these training requirements attend the refresher training.

IDAHO TRANSPORTATION DEPARTMENT

GUIDANCE ON WORKZONE SAFETY AND MOBILITY PROGRAM

CHAPTER 4

WORK ZONE SAFETY AND MOBILITY PROCESS REVIEW

I. Requirements of the Work Zone Safety and Mobility program.

The Department shall perform a process review at least every two years to assess the effectiveness of work zone safety and mobility procedures.

II. Guidance for Implementation

The ultimate objective of the process reviews is to enhance efforts to address safety and mobility on current and future projects. It does not require that the results of the review be forwarded to the FHWA for approval.

The work zone performance assessment addressed by the process review may involve a review of randomly selected projects and/or the evaluation of statewide work zone data. A post-project review that includes objective outcome reviews of what went right/wrong on projects may be performed to provide further feedback to continually improve work zone practices, policies, processes, and procedures.

A Work Zone Safety and Mobility Review Team should perform the process review, covering one-half of the state every year, and should be led by the Office of Highway Operations Section with a representative from Design/Materials/Construction, Employee Safety and Risk Management, the District Traffic Engineer, District Safety, District Construction, and the Federal Highway Administration. The Review may include interviews with Project Development, Planning, the District, and Local Government (if applicable).

The following are examples of questions that may be used when performing the process review:

A. Are good decisions in planning, designing, and implementing our work zones being made?
B. How are work zones performing with respect to safety and mobility?
C. How do work zone performance, the effectiveness of strategies, or areas of improvement vary between day work and night work?
D. Can areas for improvement be identified?
E. What has both worked and not worked – which strategies have proven to be either more or less effective in improving the safety and mobility of work zones?
F. Should policies or agency procedures be adjusted based on what has been observed or measured?
G. How have areas for improvement that were identified in the past been addressed?
H. Are customer expectations being met with respect to maintaining safety and mobility, and minimizing business and community impacts through, in, and around the work zone?
I. What other strategies can be considered for implementation?
J. Are there certain combinations of strategies that seem to work well?
K. Can any work zone safety and mobility trends be identified, at the national level or local level? What can be done to advocate characteristics associated with good trends? What can be done to remedy the problems associated with bad trends?
L. Can consistency be brought about in the identification of such trends, issues, and problems, and in the standardization of tools and guidelines for application at the agency, State, and/or national level?

Conducting process reviews should include the following action items:

A. Develop review objectives.
B. Determine review methods.
C. Conduct review.

D. Analyze and interpret results.
E. Develop inferences, recommendations, and lessons learned.
F. Prioritize recommendations and lessons learned.
G. Identify performance objectives for next review.
H. Report recommendations and lessons learned.

EXHIBIT 3

NOTICE OF LETTING

Sealed proposals will be received by the IDAHO TRANSPORTATION BOARD only at the office of the IDAHO TRANSPORTATION DEPARTMENT, 3311 WEST STATE STREET, BOISE, IDAHO 83703, ATTN: CONTRACTING SERVICES until two o'clock p.m., on May 23, 2017, for the work of pavement rehabilitation on I-84 between Five Mile Overpass and Orchard Rd Overpass including WYE I.C. Ramps. This project includes grinding concrete pavement, resealing joints, rapairing pavement cracks and repairing spalls from MP 48.32 to MP 53.31; I-84, Five Mile to Orchard Rd & Ramps, Boise, known as Idaho Federal Aid Project No. A019(289), in Ada County, Key No. 19289.

[ADDITIONAL INFORMATION CONTACT: RESIDENT ENGINEER ***BRYON BREEN*** AT (208) 334-8937]

Plans, specifications, form of contract, proposal forms, and other information may be obtained from the Idaho Transportation Department website at http://www.itd.idaho.gov/design/contractors/contrinfo.htm.

In an effort to achieve ITD's DBE Annual Participation Goal (APG) of 7.6% utilization, ITD respectfully requests and encourages responder to consider utilizing subcontractors listed on our DBE Directory located at: https://itd.dbesystem.com/. For this project, it has been determined that there is a DBE availability of 10.45% or more. For more information regarding ITD's DBE Program please contact Elizabeth "Liz" Healas at Elizabeth.Healas@itd.idaho.gov or 334-8567.

This contract requires full compliance with Title VI of the Civil Rights Act of 1964, which protects persons from being denied the benefits of or excluded from participation in programs or activities; or subjected to discrimination based on race, color, national origin, sex, age, disability, Limited English Proficiency or economic status. The Contractor is encouraged to utilize the goods and services of disadvantaged firms in accomplishing the tasks or providing the services of this agreement, and to provide equal opportunity to all sub-bidders and suppliers.

Dated April 28, 2017

BLAKE RINDLISBACHER, P.E.
Transportation Engineering Division Administrator

CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into, in triplicate, this 20th day of June, 2017, by and between the State of Idaho, hereinafter called the State, by the Idaho Transportation Board of said State, party of the first part, and PLUM ALL COMPANY, A CORPORATION, hereinafter called the Contractor, party of the second part.

WITNESSETH: That the contractor, in consideration of the sum to be paid to him by said State, in the matter and at the time hereinafter provided, and of other covenants and agreements herein contained, hereby agrees for himself, his heirs, administrators, successors and assigns to construct a portion of the I-84 Highway, in Ada County, designated as Idaho Federal Aid Project No. A019(289) to furnish all necessary machinery, tools, apparatus, materials and labor to complete the work in the most substantial and workmanlike manner according to the plans and specifications therefore on file in the office of the Idaho Transportation Department of said State, and such modifications of the same and other directions that may be made by the State Highway Administrator as provided herein: Provided, however, that the proposed work covered by this contract does not include that portion or portions of the work to be done in right of way to which title is being contested in any court having jurisdiction, until a specific award has been made by the court in each instance and in good and sufficient title to such portion of right of way in dispute has been assured.

CONTRACT DOCUMENTS:

It is further agreed that the said plans and specifications and the schedule of rates and prices set forth in the proposal and the general and special provisions appended to this contract agreement are hereby specifically referred to and made a part of this contract, and shall have the same force and effect as though all of same were fully inserted herein.

PAYMENTS:

For the faithful performance of the work herein embraced, as set forth in the contract agreement, general and special provisions, notice to contractors, instructions to bidders, proposals, general and detailed specifications and plans, which are a part hereof, in accordance with the directions of the State Highway Administrator and to his satisfaction, the State agrees to pay said Contractor the amount earned, computed from the actual quantities of the work performed as shown by the estimates of the Administrator and unit prices named in such proposal, and to make such payments in the manner and at the time provided in such proposal, and to make such payments in the manner and at the time provided in the general provisions thereto appended. Payments shall be made by the State Treasurer of said State, upon warrants of the State Auditor of said State, issued upon vouchers of said State Highway Administrator, which have been approved by the Idaho Transportation Board out of monies legally available for that purpose.

IN WITNESS WHEREOF, The said State of Idaho, by the Idaho Transportation Board, executes this contract and the said PENHALL COMPANY, A CORPORATION, does sign and seal the same, the day and year in this contract first above written.

STATE OF IDAHO
Idaho Transportation Board

ATTEST:

BY: _____
Engineering Services Division Administrator
Party of the First Part

_____
Contracts Officer

(Seal)

CONTRACTOR

_____
(Signature)

Lynn Schrer- Behler
(Print Name)

Vice President / CFO
(Title)

Party of the Second Part
(If a corporation, President, Vice President, etc.)

CERTIFICATE OF VERIFICATION

STATE OF CA)
)SS
County of Orange)

On this 12 day of June, in the year of 2017, before me, C. Medina, a Notary Public, personally appeared Lynn Schrer Behler, known or identified to me to be the person whose name and title is subscribed to the foregoing instrument, acknowledged to me that he signed the foregoing document, and that the statements therein contained are true.

_____
Notary Public

(Seal)

Residing At OC CA

Commissi n Expires 9/20/18

405
rnia

Orange C

SPECIAL PROVISIONS

IDAHO FEDERAL AID PROJECT NO. A019(289)

I-84, FIVE MILE RD TO ORCHARD RD & RAMPS Ada County

The following Special Provisions and all addenda issued supplement or modify the 2012 Idaho Transportation Department Standard Specifications for Highway Construction; January 2016 Supplemental Specifications, Quality Assurance Manual and QA Special Provisions; December 2016 Standard Drawings; SSP-420 Concrete Pavement Rehabilitation; SSP-422 Grinding Concrete Pavement; SSP-423 Resealing Concrete Pavement Joints; SSP-425 Repairing Pavement Cracks; SSP-426 Repairing Pavement Spalls; Title VI Special Provisions; FHWA-1273 Federal Aid Contract Provisions with supplement; EEO Special Provisions; 2011; DBE RN 2011 Special Provisions; General Wage Decision ID170090

SOURCE IDENTIFICATION

Designated source(s): Designated source(s) are not identified for this project.

Contractor provided source(s): Provide approved source(s) for all materials. A list of Department owned or controlled sources is available at the District office.

Cost. The Contractor shall assume all costs incurred in obtaining approval for use of source(s). For Department controlled sources, the source recovery fee shall be the applicable rate as established in the Department's Materials Manual Section 270.02.05 Source Control at the time of bidding.

COMPLETION TIME AND LIQUIDATED DAMAGES

Complete work within 75 Calendar Days.

The amount of Liquidated Damages for failure to complete the work on time will be $1600 per day.

CONTRACTOR NOTES

ADJACENT CONTRACTS

The following adjacent projects are anticipated to have construction activities during this project:

SH-55, EAGLE RD; I-84 to SH-44
ITD Project No. A013(466); Key No. 13466

I-184, RAMP M-M BRIDGE DECK PRESERVATION
ITD Project No. A019(010); Key No. 19010

Plans and estimated schedules are available at the ITD District 3 office in Boise.

It is anticipated that these projects will be under construction concurrently. On a regular basis throughout the project duration, the Contractor and Traffic Control Manager (TCM) shall coordinate his/her construction activities and schedule with the adjacent projects. The Contractor's work shall be coordinated with the adjacent projects and performed in a manner and sequence that does not create delays and will provide for a consistent traffic control message to the traveling public. The Contractor are responsible for ensuring their operations retain and protect items constructed as a part of the adjacent contracts.

virtually adjacent by the Department and subject to Davis-Bacon wage rate requirements, unless it can be shown otherwise by the Contractor.

STAGING AND TEMPORARY TRAFFIC CONTROL PLANS

Construction staging shall be as identified in the temporary traffic control construction staging general notes of the construction plans.

Alternate Staging and Temporary Traffic Control Plan:

The Contractor, at no additional cost to the Department, may submit alternate staging and temporary traffic control plans if his method of operation differs from the ones shown in the Contract. Alternate plans may replace or supplement the Contract plans and shall illustrate the proposed traffic routing, including, but not limited to lane restrictions, lane shifts, and placement of temporary traffic control devices.

The alternate staging and temporary traffic control plans must be submitted using the Contractor's drawing title block and be signed and sealed by an Engineer licensed in Idaho. Temporary traffic control plans shall be in conformance with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, as adopted by the Department. Allow 14 calendar days for the Engineer to review alternate staging and temporary traffic control plans that replace or supplement the Contract construction staging and temporary traffic control plans. Allow seven (7) calendar days for each resubmittal. There is no guarantee, real or implied, that an alternate plan will be approved. Changes in traffic will not be allowed until alternate plans are approved in writing. Once alternate plans are approved, the approved plans must be followed unless new plans are submitted and approved.

The Department considers costs to develop alternate staging or temporary traffic control plans as incidental to Item Z629-05A Mobilization and no additional payment will be made.

SURVEY MARKER AND MONUMENTS

No survey markers or monuments are expected to be encountered on the is project. If any are found and are disturbed or damaged, the contractor shall notify the Engineer. The disturbed or damaged markers or monuments will be replaced by State forces.

TEMPORARY PAVEMENT MARKINGS

The Contractor shall maintain temporary pavement lane markings for public safety within the project limits and prior to opening to daytime traffic for the duration of the project. In the event of inclement weather during the temporary pavement marking operation the contractor will be responsible to mark lane separations with Temporary Flexible Raised Pavement Markers and will be paid under item 626-100A Miscellaneous Temporary Traffic Control Item.

TEMPORARY TRAFFIC CONTROL DEVICES

Signs and channelizing devices shall be new or in like new condition and meet the reflectivity requirements of 712.02.

All Portable Tubular Markers shall have double weighted bases with a combined weight of 30 lbs. or as approved and the cost shall be included in Item 626-115A Portable Tubular Markers. The hours for night work and the time restrictions for construction activities are as defined in the Contractors Notes under Working Hours of these Special Provisions.

USE TAX 1/16

The exercise of control over State-owned material by a Contractor who is improving real property (roadways, etc.) will incur the imposition of a use tax by the State.

Contact the Idaho State Tax Commission (Telephone No. (208) 334-7618) concerning Section 63-3609, Idaho Code, and IDAPA 35, Title 01, Chapter 02, Sales Tax Administrative Rule 012, "Contractors Improving Real Property", and Rule 013, "Road and Paving Contractors".

In the case of aggregates the amount of this tax will differ depending on whether the material is obtained from a State-owned material source or whether it is obtained from a State-owned stockpile. Use tax is due on the fair market value of the material, and the crushed value is higher than for unprocessed material.

The tax will also differ depending on whether a Contractor both crushed the material and placed it on the roadway or the Contractor performs only one of these operations and hires a subcontractor to perform the other. If the contractor hires a subcontractor to crush the material, he must pay a sales tax to the crusher for this fabrication labor. If the Contractor crushes and applies the material, or gives material he crushes to a subcontractor for application, the Contractor owes use tax on the royalty value.

WORKING HOURS

Nighttime work is required for this project. This contract specifies nighttime work as a requirement for all construction activities. The hours for night work and the restrictions for construction activities involving lane closures on I-84 and I-184 are defined as follows:

TIME	RESTRICTION
Weekday Nights Sunday Night Through Friday Morning 10:00 p.m. to 5:00 a.m.	For existing 3-lane sections, a minimum of 1-lane shall be maintained in each the Eastbound and Westbound direction. For existing 4-lane sections and greater, a minimum of 2-lanes shall be maintained in each the Eastbound and Westbound direction or as shown in the temporary traffic control plans. For existing 1-lane sections at on-ramps and off-ramps, temporary closures are allowed as shown in the temporary traffic control plans and detour plans or as directed.
Weekend Nights Friday Night Through Saturday Morning 10:00 p.m. to 7:00 a.m.	Same restrictions as listed above for Weekday Nights.
Weekend Nights Saturday Night Through Sunday Morning 10:00 p.m. to 9:00 a.m.	Same restrictions as listed above for Weekday Nights.
All remaining times not listed.	No lane restrictions or construction activities allowed.

Failure to have the stated number of traffic lanes open will result in a charge of $3,500 per substandard lane per fifteen (15) minute increment of time or any portion thereof until the required number of lanes are opened. The first incremental charge per lane is applied immediately when the required number of lanes are not open at the times.

Work areas in the Eastbound and Westbound direction of I-84 subject to construction staging as identified in the temporary traffic control construction staging general notes of the construction plans.

No lane closures are allowed for the entire night of home Boise State University (BSU) football games. It is the Contractor's responsibility to verify the BSU football home game schedule. The BSU football schedule can be found at http://www.broncosports.com/.

The Contractor shall minimize impact to the traveling public by coordinating his/her work to minimize the duration of any proposed lane restrictions. The contractor shall schedule and obtain Engineer approval of the lane restrictions or road closures seven (7) days in advance of the lane restriction or closure. Special consideration shall be given to any special event (concert, sporting event, fair, parade etc.) in and around the area that has the potential to generate larger than normal traffic volumes. All reasonable efforts shall be made to coordinate the work with these special events. No lane restrictions or road closures will be allowed during the times of increased traffic volumes generated from these events.

Lighting for night work will be paid for under S626-35A – Night Work Lighting. The Contractor will be required to comply with applicable noise and lighting ordinances.

ON PAGE 17, SUBSECTION 103.02 - AWARD OF CONTRACT 1/16

Add the following after the second paragraph.

The Department may delay the award to obtain approvals from the Local Sponsor, Board, and/or the Federal Highway Administration. The Department will not consider increases in costs because of this delay in award.

ON PAGE 86, SUBSECTION 107.17 - ENVIRONMENTAL PROTECTION 1/16

Delete 107.17.C Erosion and Sediment Control Plan

ON SHEET 7 OF 71 OF THE JANUARY 2016 SUPPLEMENTAL SPECIFICATIONS, IN REFERENCE TO, ON PAGE 62, SUBSECTION 106.01-SOURCE OF SUPPLY AND QUALITY REQUIREMENTS 1/16

Add the following:

Buy America requirements apply to any steel or iron components of a manufactured product regardless of the overall composition of the manufactured product and to miscellaneous steel or iron components and hardware which include, but are not limited to, cabinets, covers, shelves, clamps, fittings, sleeves, washers, bolts, nuts, screws, tie wire, spacers, chairs, lifting hooks, faucets, door hinges, etc. The FHWA *Clarification of Manufactured Products under Buy America* dated December 21, 2012 which established the 90% threshold and the miscellaneous products exception is no longer valid.

ON SHEET 1 OF 1, S.S.P. 420 – CONCRETE PAVEMENT REHABILITATION - SUBSECTION 420.01 - GENERAL

Delete the third item and substitute the following:

3. The sequence of work shall be completed in the following order unless otherwise directed:

   A. S.S.P. 426 – Repairing Pavement Spalls
   B. S.S.P. 422 – Grinding Concrete Pavement

Basis of Payment. The Department will pay for accepted quantities at the contract unit price as follows:

Pay Item	Pay Unit
PCM SIGN	Hr

S626-30A TRAFFIC CONTROL MANAGER

Description. This work shall be performed in accordance with 105.14 – D. Maintenance of Traffic and shall consist of furnishing an experienced Traffic Control Manager (TCM) for resolution of traffic control conflicts, continuous monitoring of the traffic flow through a work zone setup and determine any potential improvements to the traffic control operations and phasing in accordance with the approved traffic control plans.

Construction Requirements. The TCM will be ATSSA Certified with a minimum of 5 years of Work Zone Traffic Control experience to maintain, monitor, and manage traffic control. Evidence of the required certification, qualifications, and experience shall be submitted for approval to the Engineer.

The TCM shall have access to direct all equipment, materials, and manpower needed to install and maintain traffic control and handle traffic related situations and coordinate for the completion of the items in this contract.

The TCM shall be available within 30 minutes after notification of an emergency situation, prepared to positively respond to repair the work zone traffic control or to provide alternate traffic arrangement. Where reasonable to expect potential problems, emergency plans shall be prepared in advance.

The TCM shall maintain a daily diary and document the design and approval of all work zones and any changes in configuration to an established work zone, and direction from coordinating with the Prime Contractor. The TCM shall make daily entries in the diary of all traffic control pay items, personnel used in traffic control operations and unusual occurrences involving the traveling public. A copy of the day's diary entries shall be submitted to the Engineer by 10:00 AM the following work day.

Each daily record provided by the TCM will count as a single day of TCM to be measured for payment. Daily records shall be prepared and certified by the TCM, and approved.

Method of Measurement. The Engineer will measure acceptably completed work by the day.

Basis of Payment. The Department will pay for accepted quantities at the contract unit price as follows:

Pay Item	Pay Unit
Traf Cntl Manager	Day

S626-35A NIGHT WORK LIGHTING 11/15

Description. Provide temporary illumination for all work on this project between the hours of 7:00 PM and 6:00 AM or as directed.

Construction Requirements. Limit working hours to the hours of 7:00 PM to 6:00 AM. Provide Portable lighting during the hours of darkness at each operation. Maintain a minimum of 5 foot-candles of illumination for each flagging station and work area. Provide self-generating light towers (Gas or Diesel) with fixtures using metal halide or high pressure lamps capable of producing required illumination from a

EXHIBIT 4

HIGHWAY FACTORS GROUP CHAIRMAN'S
FACTUAL REPORT

Highway Attachment 5 – Traffic Control Design E-mail From March 2017, Detailing Rationale for Estimating Lane Capacity and Requirement to Maintain Two Lanes Open in 4-lanes Sections of I-84

Boise, Idaho

HWY18FH015

(5 pages)

I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE
PROJECT NO. A019(289)

We appreciate your invitation to the meeting last Wednesday Aug 29th and appreciate the information you provided.

As discussed, below is some additional information regarding lane capacity.

As you know, on March 7, 2017 Parametrix submitted an e-mail that recommended maintaining a minimum of two lanes open in the four lane sections. Maintaining two lanes open was partly based on past construction projects and consistency in the I-84 corridor. In addition several projects have used the 10:00 pm to 5:00 am weekday time limitation for construction. Parametrix also reviewed 2016 traffic information supplied by ITD. Two counter locations were reviewed and the location with the highest volumes was used for the highest month and the highest day of the week. This conservative approach was applied to the duration of the project even though some months and days of the week have less volumes. This information was all included in the e-mail on March 7, 2017.

For determining the capacity of a lane, 1500 pc/h/ln is a generally accepted value for short-term work zones. The 2010 Highway Capacity Manual suggests that "a capacity of 1600 pc/h/ln be used for short-term freeway work zones, regardless of the lane-closure configuration. However, for some types of closures, a higher value could be appropriate." The 2010 Highway Capacity Manual goes on to say the base value of 1600 pc/h/ln should be adjusted for other conditions like: intensity of work activity, effects of heavy vehicles, and presence of ramps.

The intensity of work activity is somewhat subjective, a value of 5% reduction seemed appropriate, assuming somewhere between no intensity and the most intense.

The effects of heavy vehicles are based on a simple formula listed in the attached section from the 2010 Highway Capacity Manual.
The following values in the formula were estimated:
P_T = proportion of trucks and buses = 8.5% (based on data from ITD)
P_R = proportion of RVs = there was no data on the amount of RVs but since the work was at night RV presence should be low and a conservative value of 3% was estimated.
E_T the passenger car equivalents for trucks and buses and E_R the passenger car equivalents for RVs are on page 14-15 of the 2010 Highway Capacity Manual for level terrain.
Based on the formula the heavy-vehicle adjustment factor is approximately = 0.954

Based on the criteria listed in the 2010 Highway Capacity Manual the presence of ramps was estimated to not be a factor.

Applying all the adjustment factors results in an estimated lane capacity of approximately 1450 pc/h/l.

Now it is just a matter of comparing this value for each lane needed to the traffic data provided by ITD in each direction.

Strictly speaking, since the traffic data provided by ITD includes all vehicle types the values should be converted to passenger car equivalents by multiplying them by the inverse of the heavy-vehicle adjustment factor above or approximately 1.048.

Thanks

Parametrix
ENGINEERING . PLANNING . ENVIRONMENTAL SCIENCES

Ken Colson, P.E.
[redacted]fax

Step 4: Adjust Segment Capacities

Segment capacities can be affected by a number of conditions not normally accounted for in the segment methodologies of Chapters 11, 12, and 13. These reductions include the effects of short-term and long-term lane closures for construction or major maintenance operations, the effects of adverse weather conditions, and the effects of other environmental factors.

At lane drops, permanent reductions in capacity occur. They are included in the base methodology, which automatically accounts for the capacity of segments on the basis of the number of lanes in the segment and other prevailing conditions.

Capacity Reductions due to Construction and Major Maintenance Operations

Capacity reductions due to construction activities can be divided into short-term work-zone lane closures, typically for maintenance, and long-term lane closures, typically for construction. A primary distinction between short-term work zones and long-term construction zones is the nature of the barriers used to demarcate the work area. Long-term construction zones generally use portable concrete barriers, while short-term work zones use standard channeling devices (e.g., traffic cones, drums) in accordance with the *Manual on Uniform Traffic Control Devices for Streets and Highways* (2). Capacity reductions due to long-term construction or major maintenance operations generally last several weeks, months, or even years, depending on the nature of the work. Short-term closures generally last a few hours.

Short-Term Work Zones

Research (3) suggests that a capacity of 1,600 pc/h/ln be used for short-term freeway work zones, regardless of the lane-closure configuration. However, for some types of closures, a higher value could be appropriate.

This base value should be adjusted for other conditions, as follows:

1. *Intensity of work activity:* The intensity of work activity refers to the number of workers on the site, the number and size of work vehicles in use, and the proximity of the work activity to the travel lanes. Unusual types of work also contribute to intensity in terms of rubbernecking by drivers passing through the site. Research (3) suggests that the base value of 1,600 pc/h/ln be adjusted by as much as ±10% for work activity that is more or less intensive than normal. It does not, however, define what constitutes "normal" intensity, so this factor should be applied on the basis of professional judgment and local experience.
6. *Effects of heavy vehicles:* Because the base value is given in terms of pc/h/ln, it is recommended that the heavy vehicle adjustment factor (f_{HV}) be applied. A complete discussion of the heavy vehicle adjustment factor and its determination are included in Chapter 11, Basic Freeway Segments. Equation 10-8 shows how the factor is determined.

$$f_{HV} = \frac{1}{1 + P_T(E_T - 1) + P_R(E_R - 1)}$$ **Equation 10-8**

where

f_{HV} = heavy-vehicle adjustment factor,

P_T = proportion of trucks and buses in the traffic stream,

P_R = proportion of RVs in the traffic stream,

E_T = passenger-car equivalent for trucks and buses, and

E_R = passenger-car equivalent for RVs.

Passenger-car equivalents for trucks and buses and for RVs may be found in Chapter 11, Basic Freeway Segments.

7. *Presence of ramps:* If there is an entrance ramp within the taper area approaching the lane closure or within 500 ft downstream of the beginning of the full lane closure, the ramp will have a noticeable effect on the capacity of the work zone for handling mainline traffic. This situation arises in two ways: (*a*) the ramp traffic generally forces its way in, so it directly reduces the amount of mainline traffic that can be handled, and (*b*) the added turbulence in the merge area may slightly reduce capacity (even though such turbulence does *not* reduce capacity on a normal freeway segment without lane closures). If at all possible, on-ramps should be located at least 1,500 ft upstream of the beginning of the full lane closure to maximize the total work zone throughput. If that cannot be done, then either the ramp volume should be added to the mainline volume to be served or the capacity of the work zone should be decreased by the ramp volume (up to a maximum of one-half of the capacity of one lane) on the assumption that, at very high volumes, mainline and ramp vehicles will alternate.

Equation 10-9 is used to estimate the resulting reduced capacity in vehicles per hour.

$$c_a = \{[(1{,}600 + I) \times f_{HV}] \times N\} - R$$ **Equation 10-9**

where

c_a = adjusted mainline capacity (veh/h);

I = adjustment factor for type, intensity, and proximity of work activity, pc/h/ln (ranges between ±160 pc/h/ln);

f_{HV} = heavy-vehicle adjustment factor;

N = number of lanes open through the work zone; and

R = manual adjustment for on-ramps (veh/h).

There are three categories of general terrain:

- *Level terrain*: Any combination of grades and horizontal or vertical alignment that permits heavy vehicles to maintain the same speed as passenger cars. This type of terrain typically contains short grades of no more than 2%.
- *Rolling terrain*: Any combination of grades and horizontal or vertical alignment that causes heavy vehicles to reduce their speed substantially below that of passenger cars but that does not cause heavy vehicles to operate at crawl speeds for any significant length of time or at frequent intervals. *Crawl speed* is the maximum sustained speed that trucks can maintain on an extended upgrade of a given percent. If the grade is long enough, trucks will be forced to decelerate to the crawl speed, which they can maintain for extended distances. Appendix A of Chapter 11, Basic Freeway Segments, contains truck performance curves that provide truck speeds for various lengths and severities of grade. The same curves may be used for uninterrupted-flow segments on multilane highways.
- *Mountainous terrain*: Any combination of grades and horizontal and vertical alignment that causes heavy vehicles to operate at crawl speed for significant distances or at frequent intervals.

Mountainous terrain is relatively rare. Generally, in segments severe enough to cause the type of operation described for mountainous terrain, there will be individual grades that are longer and steeper than the criteria for general terrain analysis.

The mountainous terrain category is rarely used, because individual grades will typically be longer and steeper than the criteria for general terrain analysis.

Exhibit 14-12 shows PCEs for trucks and buses and RVs in general terrain segments.

Exhibit 14-12
PCEs for Heavy Vehicles in General Terrain Segments

Vehicle	PCE by Type of Terrain		
	Level	Rolling	Mountainous
Trucks and buses, E_T	1.5	2.5	4.5
RVs, E_R	1.2	2.0	4.0

Equivalents for Specific Upgrades

Any grade between 2% and 3% and longer than 0.5 mi, or 3% or greater and longer than 0.25 mi, should be considered to be a separate segment. The analysis of such segments must consider the upgrade conditions and the downgrade conditions separately, as well as whether the grade is a single, isolated grade of constant percentage or part of a series forming a composite grade. Appendix A of Chapter 11 discusses the analysis of composite grades.

Exhibit 14-13 and Exhibit 14-14 give values of E_T and E_R for trucks and buses and for RVs, respectively. These factors vary with the percent of grade, length of grade, and the proportion of heavy vehicles in the traffic stream. Maximum values occur when there are only a few heavy vehicles in the traffic stream. The equivalents decrease as the number of heavy vehicles increases because these vehicles tend to form platoons. Because heavy vehicles have more uniform operating characteristics, fewer large gaps are created in the traffic stream when they platoon, and the impact of a single heavy vehicle in a platoon is less severe than that of a single heavy vehicle in a stream primarily composed of passenger

EXHIBIT 5

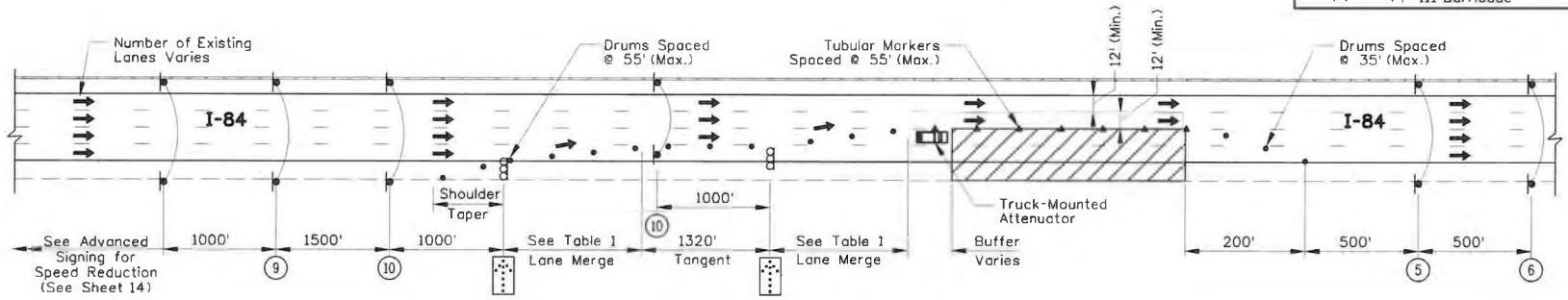
TABLE 1

Posted Speed	No. of Lanes	Width Tapered	Taper Length L	Lane Merge Taper (Min) 1 x L	Lane Shift Taper (Min) 0.5 x L
55 MPH	1	12'	660'	660'	330'
55 MPH	2	24'	1320'	1320'	660'
55 MPH	3	36'	1980'	1980'	990'

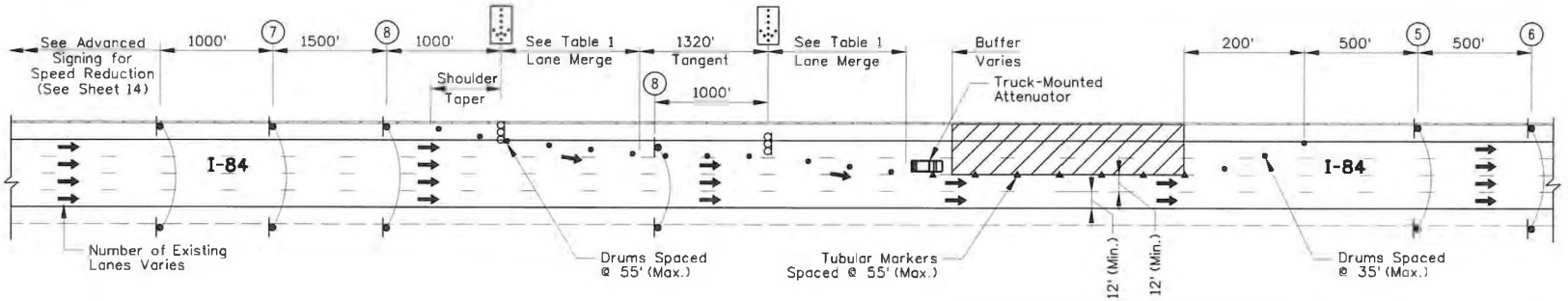
55 MPH Taper Rate (Merge) 55 to 1
55 MPH Taper Rate (Shift) 27.5 to 1
55 MPH Taper Rate (Shoulder) 18.3 to 1

LEGEND

- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade



DOUBLE LANE DROP DETAILS
(Right Side)
N.T.S.



DOUBLE LANE DROP DETAILS
(Left Side)
N.T.S.

(5) G20-2 48"x24" — END ROAD WORK

(6) R2-1(65) 48"x60" — SPEED LIMIT 65

(7) W20-5aL 48"x48" — 2 LEFT LANES CLOSED AHEAD

(8) W4-2L(o) 48"x48"

(9) W20-5aR 48"x48" — 2 RIGHT LANES CLOSED AHEAD

(10) W4-2R(o) 48"X48"

REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA	CADD FILE NAME 19289_trcp_003.sht	Parametrix	A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE DOUBLE LANE DROP DETAILS	COUNTY Ada
				DETAILED KMR/WNW	DRAWING DATE: March 2017				KEY NUMBER 19289
				DRAWING CHECKED PSA					SHEET 12 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 STATE OF IDAHO KENNETH C. COLSON

U:\Bois\Projects\Clients\4006-ITD\34-4006-050 I-84 5Mile to Orchard\99Svcs\CADD\DGN\SHEETS\19289_trcp_003.sht 3/28/2017 3:02:03 PM

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TABLE 1

Posted Speed	No. of Lanes	Width Tapered	Taper Length L	Lane Merge Taper (Min) 1 x L	Lane Shift Taper (Min) 0.5 x L
55 MPH	1	12'	660'	660'	330'
55 MPH	2	24'	1320'	1320'	660'
55 MPH	3	36'	1980'	1980'	990'

55 MPH Taper Rate (Merge) 55 to 1
55 MPH Taper Rate (Shift) 27.5 to 1
55 MPH Taper Rate (Shoulder) 18.3 to 1

LEGEND

- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

(5) G20-2 48"x24" — END ROAD WORK

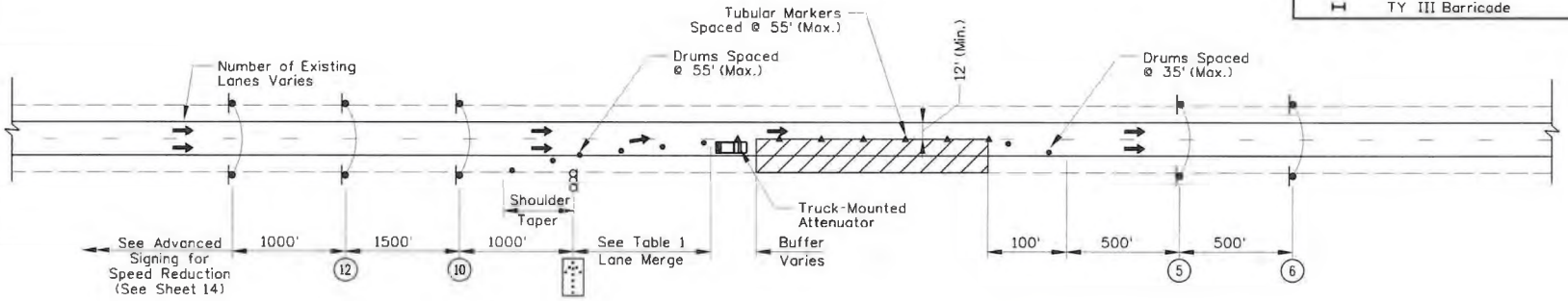
(6) R2-1(65) 48"x60" — SPEED LIMIT 65

(8) W4-2L(o) 48"x48"

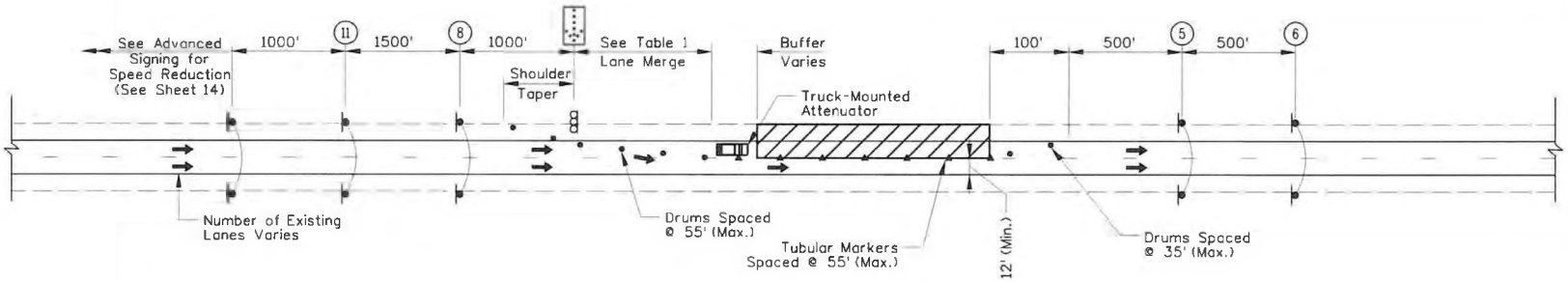
(10) W4-2R(o) 48"X48"

(11) W20-5L 48"x48" — LEFT LANE CLOSED AHEAD

(12) W20-5R 48"x48" — RIGHT LANE CLOSED AHEAD



SINGLE LANE DROP DETAILS
(Right Side)
N.T.S.



SINGLE LANE DROP DETAILS
(Left Side)
N.T.S.

REVISIONS			DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA		A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE	COUNTY Ada
				DETAILED KMR/WNW	CADD FILE NAME 19289_trcp_004.sht		SINGLE LANE DROP DETAILS	KEY NUMBER 19289
				DRAWING CHECKED PSA	DRAWING DATE: March 2017	Parametrix		SHEET 13 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 KENNETH C. COLSON STATE OF IDAHO

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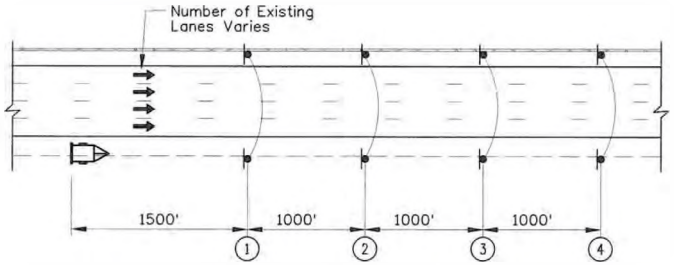
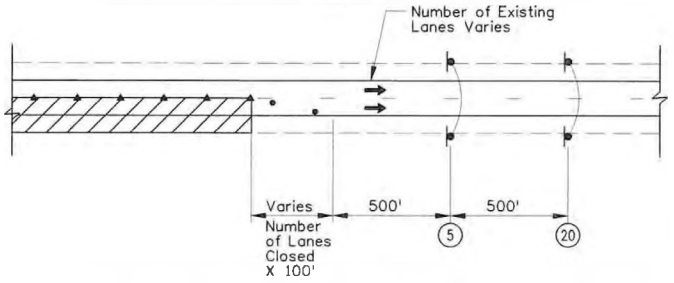
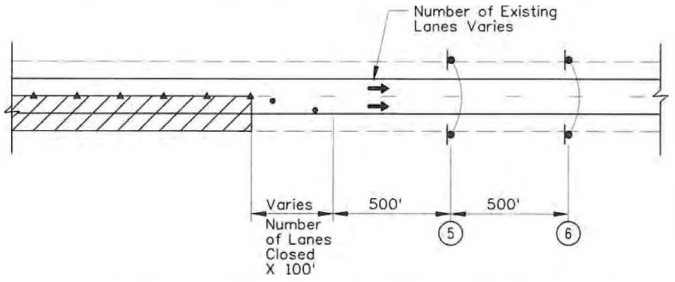


ADVANCED SIGNING FOR SPEED REDUCTION
N.T.S.



END ROAD WORK SIGNING FOR RETURN TO 60 MPH
N.T.S.



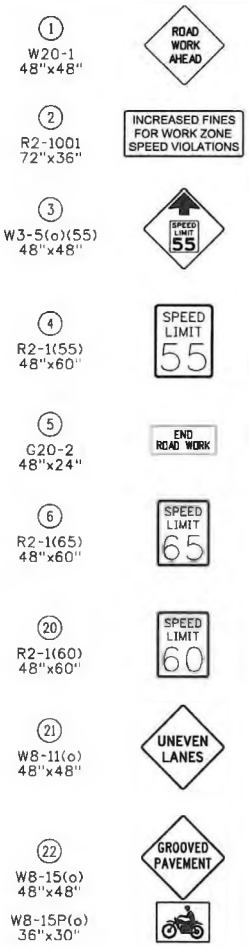
END ROAD WORK SIGNING FOR RETURN TO 65 MPH
N.T.S.

LEGEND

- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

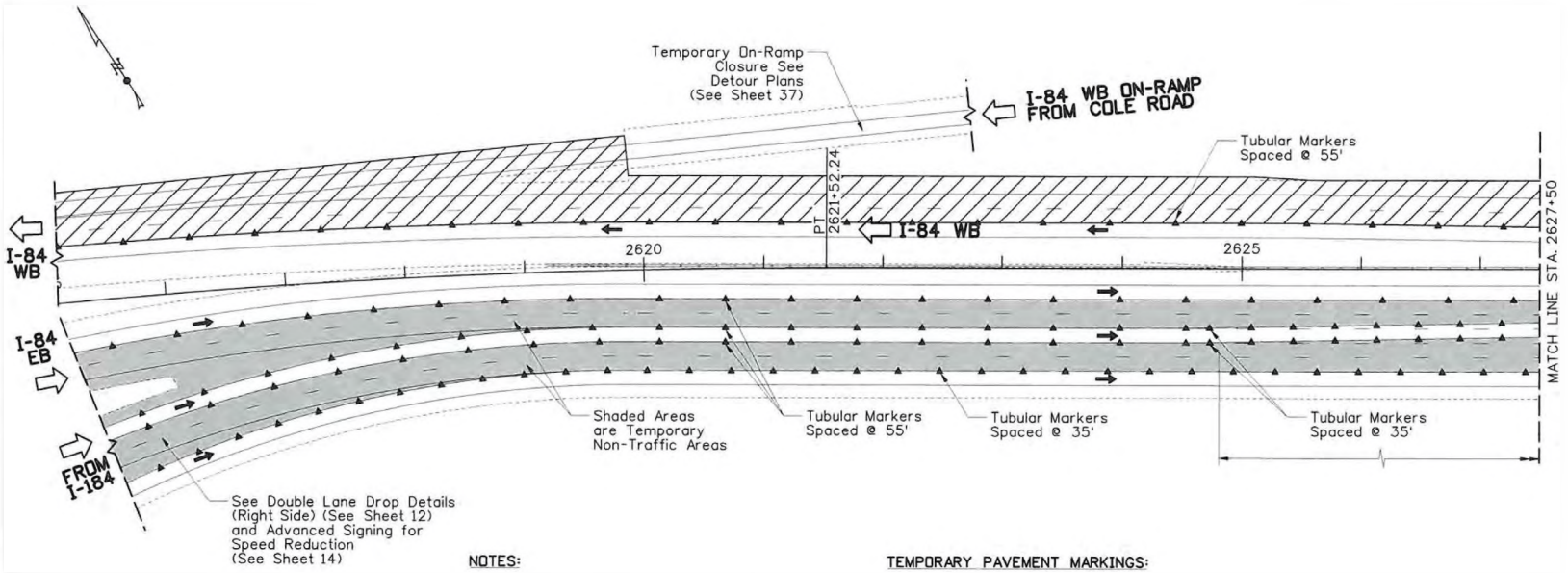
MOTORCYCLE TRAFFIC WARNING
N.T.S.

TO BE USED AS DIRECTED



REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA			A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE	COUNTY Ada
				DETAILED KMR/WNW	CADD FILE NAME 19289_trcp_005.sht			SIGNING DETAILS	KEY NUMBER 19289
				DRAWING CHECKED PSA	DRAWING DATE: March 2017	Parametrix			SHEET 14 OF 47

PROFESSIONAL ENGINEER
REGISTERED
3-28-17
7170
KENNETH C. COLSON
STATE OF IDAHO



LEGEND

- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

NOTES:

Station Line for Distance Reference Only.

Work Zone for Both I-84 Eastbound and Westbound Direction Shown for Convenience Only. Actual Traffic Control May or May Not Be In Place Simultaneously Depending on Contractor's Operations. See General Notes.

Actual Work Zone Limits May Vary Depending on Contractor's Operations. Unless Approved, Limits of Actual Work is Limited to 1-Mile Segments Not Including Advanced Signing.

TEMPORARY PAVEMENT MARKINGS:

Prior to Opening Night Time Work Areas to Daytime Traffic, the Contractor Shall Replace any Pavement Markings Removed During Work with Temporary Pavement Markings Per Item S900-60B at the Locations as Recorded Under Item S105-20A Record of Existing Pavement Markings. Temporary Pavement Markings Include, but are Not Limited to, Lane Markings, Edge Lines, and Gore Markings. All Work and Materials Necessary to Meet This Requirement, Including Maintenance, Shall be Included in Item S900-60B Pav Marking Waterborne Temporary.

REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA	CADD FILE NAME 19289_trcp_017.sht		A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE EAST WYE (RIGHT LANES PHASE)	COUNTY Ada
				DETAILED KMR/WNW	DRAWING DATE: March 2017	Parametrix			KEY NUMBER 19289
				DRAWING CHECKED PSA					SHEET 26 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 STATE OF IDAHO KENNETH C. COLSON

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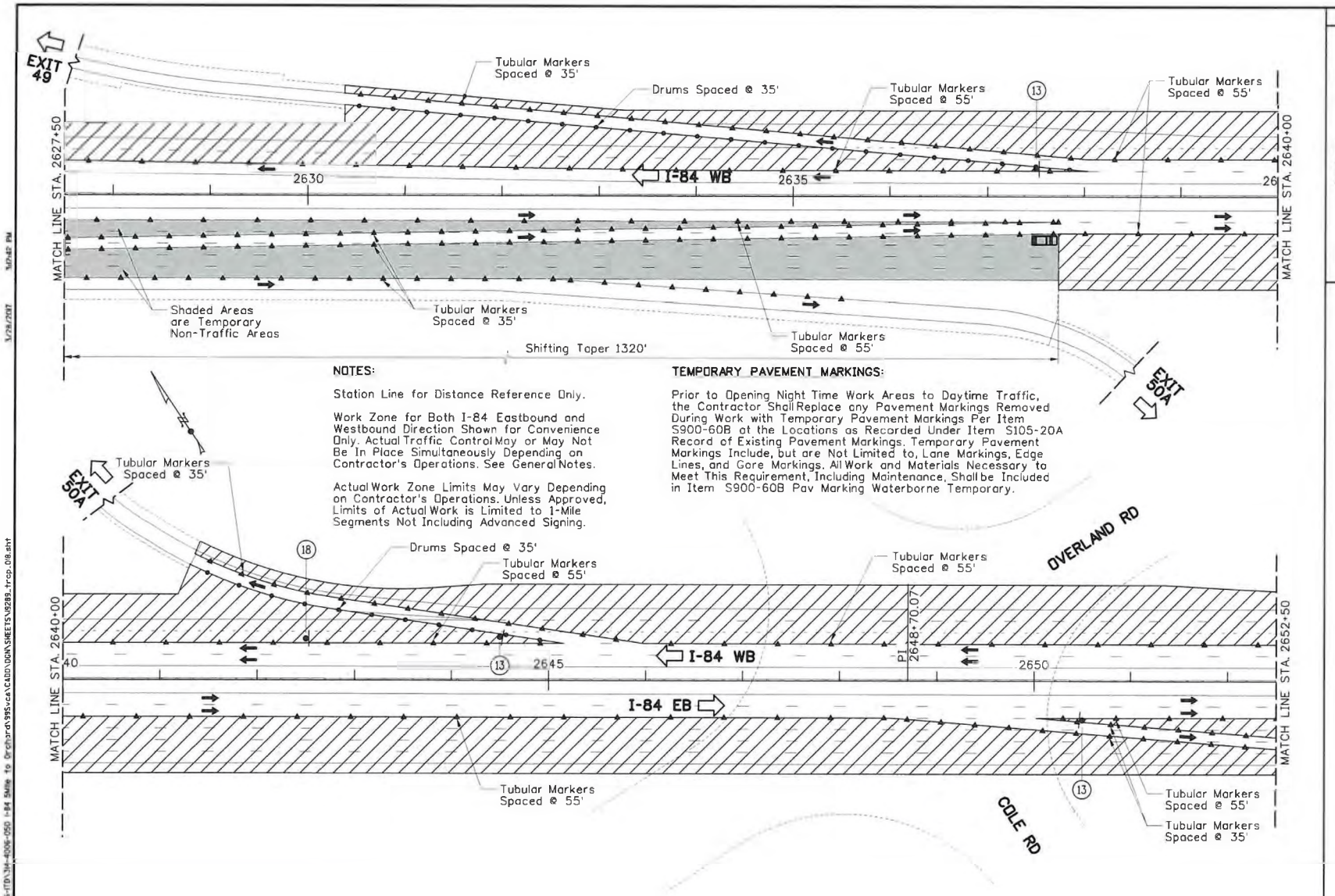


NOTES:

Station Line for Distance Reference Only.

Work Zone for Both I-84 Eastbound and Westbound Direction Shown for Convenience Only. Actual Traffic Control May or May Not Be In Place Simultaneously Depending on Contractor's Operations. See General Notes.

Actual Work Zone Limits May Vary Depending on Contractor's Operations. Unless Approved, Limits of Actual Work is Limited to 1-Mile Segments Not Including Advanced Signing.

TEMPORARY PAVEMENT MARKINGS:

Prior to Opening Night Time Work Areas to Daytime Traffic, the Contractor Shall Replace any Pavement Markings Removed During Work with Temporary Pavement Markings Per Item S900-60B at the Locations as Recorded Under Item S105-20A Record of Existing Pavement Markings. Temporary Pavement Markings Include, but are Not Limited to, Lane Markings, Edge Lines, and Gore Markings. All Work and Materials Necessary to Meet This Requirement, Including Maintenance, Shall be Included in Item S900-60B Pav Marking Waterborne Temporary.

LEGEND

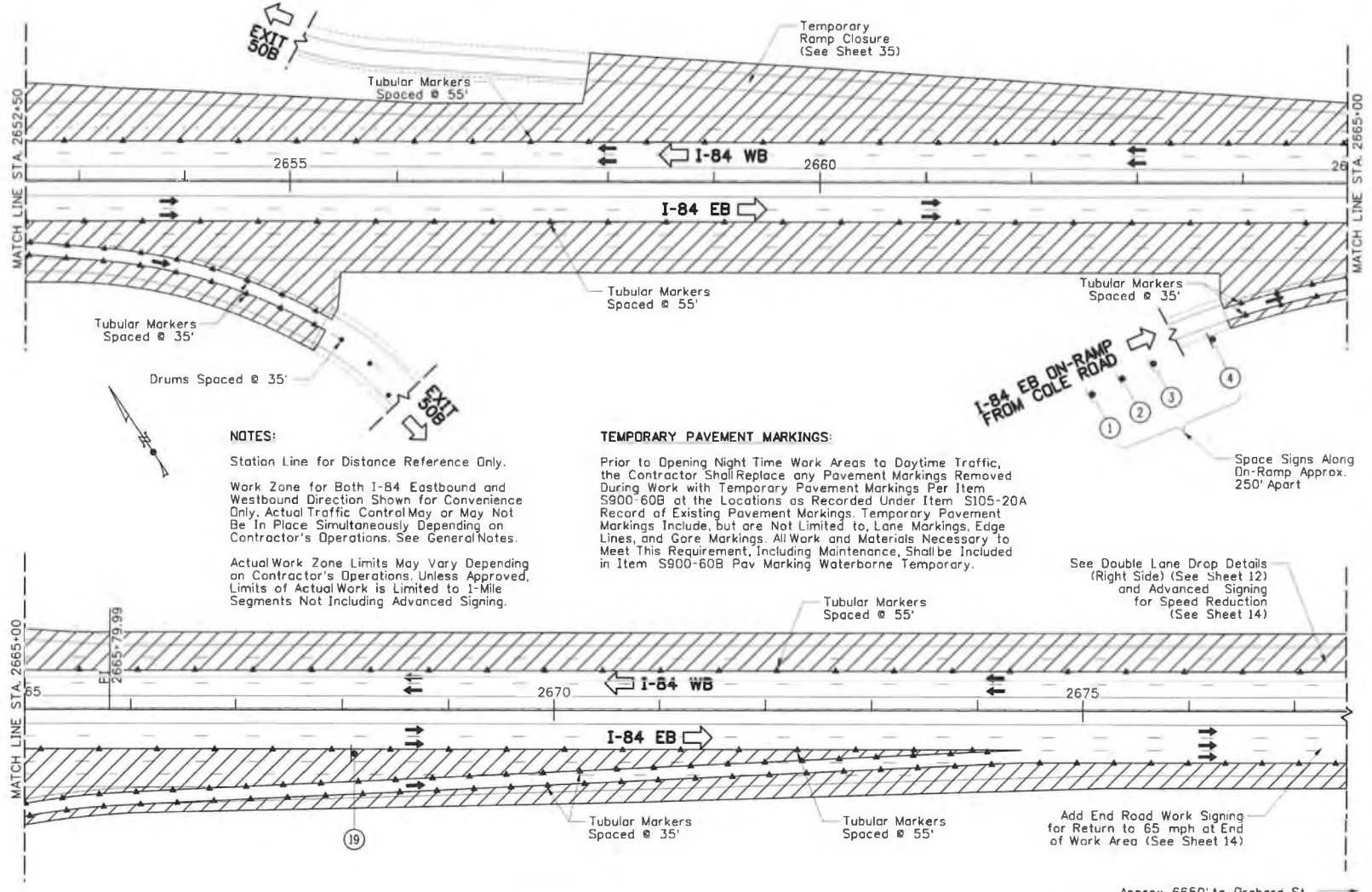
- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

13 SE-1(a) 72"x60"

18 R3-33 78"x36"

REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA			A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE EAST WYE (RIGHT LANES PHASE)	COUNTY Ada
				DETAILED KMR/WNW	CADD FILE NAME 19289_trcp_018.sht				KEY NUMBER 19289
				DRAWING CHECKED PSA	DRAWING DATE: March 2017	Parametrix			SHEET 27 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 STATE OF IDAHO KENNETH C. COLSON



LEGEND

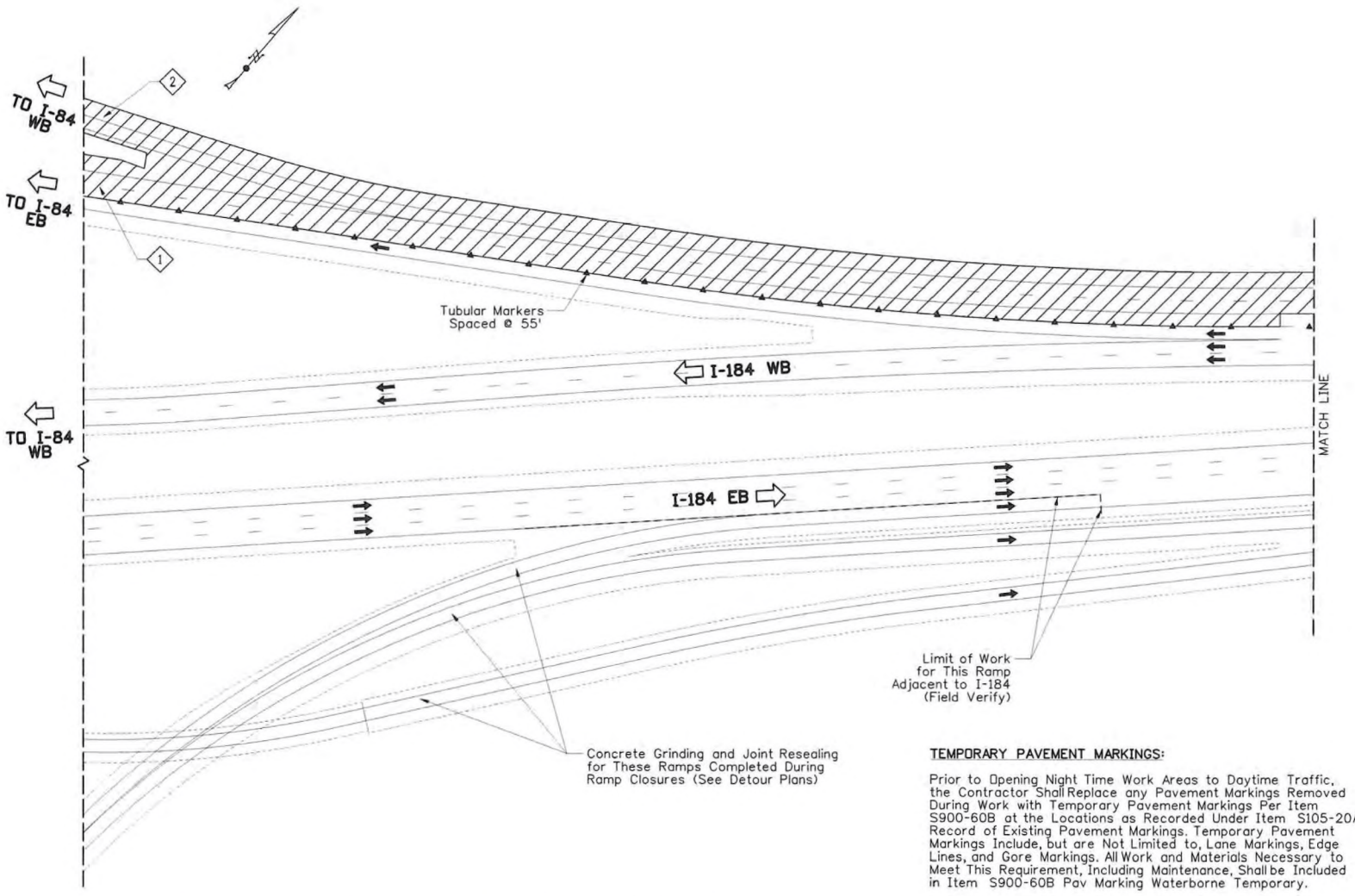
- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

1. W20-1 48"x48" — ROAD WORK AHEAD
2. R2-1001 72"x36" — INCREASED FINES FOR WORK ZONE SPEED VIOLATIONS
3. W3-5(o)(55) 48"x48" — SPEED LIMIT 55
4. R2-1(55) 48"x60" — SPEED LIMIT 55
19. W4-3(o) 48"x48"

REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA			A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE EAST WYE (RIGHT LANES PHASE)	COUNTY Ada
				DETAILED KMR/WNW	CADD FILE NAME 19289_trcp_019.sht				KEY NUMBER 19289
				DRAWING CHECKED PSA	DRAWING DATE: March 2017	Parametrix			SHEET 28 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 KENNETH C. COLSON STATE OF IDAHO

ITD000256



LEGEND

- Sign (Single Post)
- Sign (Double Post)
- Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

1. Work Zone Extends Across Flyover to Merge Point With I-84 Eastbound. Bridge and Approach Slabs are Excluded From Concrete Grinding and Joint Resealing. Add End Road Work Signing for Return to 65 mph at End of Work Zone. (See Sheet 14)

2. Work Zone Extends Along the Entire Ramp to the Merge Point with I-84 Westbound. Add End Road Work Signing for Return to 65 mph at End of Work Zone. (See Sheet 14)

TEMPORARY PAVEMENT MARKINGS:

Prior to Opening Night Time Work Areas to Daytime Traffic, the Contractor Shall Replace any Pavement Markings Removed During Work with Temporary Pavement Markings Per Item S900-60B at the Locations as Recorded Under Item S105-20A Record of Existing Pavement Markings. Temporary Pavement Markings Include, but are Not Limited to, Lane Markings, Edge Lines, and Gore Markings. All Work and Materials Necessary to Meet This Requirement, Including Maintenance, Shall be Included in Item S900-60B Pav Marking Waterborne Temporary.

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 STATE OF IDAHO KENNETH C. COLSON

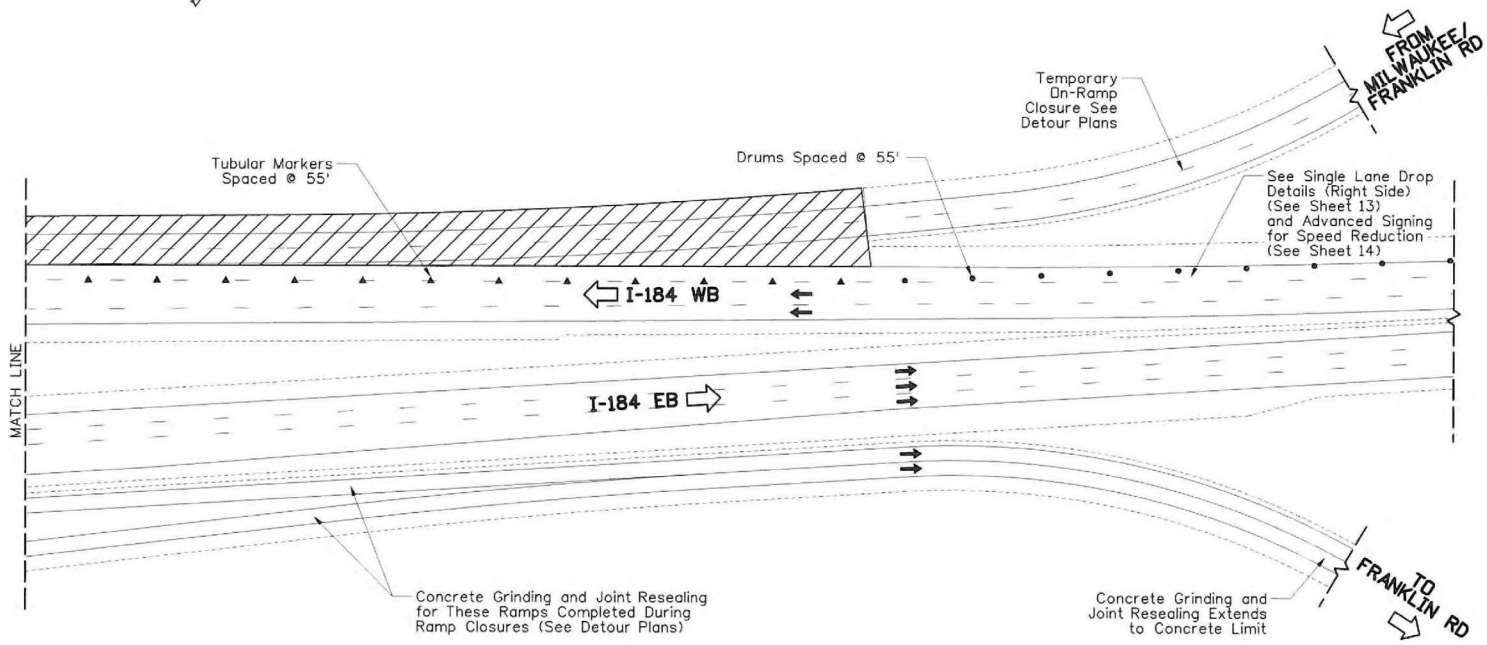
REVISIONS			
NO.	DATE	BY	DESCRIPTION

DESIGNED	KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY
DESIGN CHECKED	PSA	
DETAILED	KMR/WNW	CADD FILE NAME 19289_trcp_020.sht
DRAWING CHECKED	PSA	DRAWING DATE: March 2017

IDAHO TRANSPORTATION DEPARTMENT

Parametrix

PROJECT NO.	TEMPORARY TRAFFIC CONTROL		
A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE I-184 PHASE - 1	English	COUNTY Ada KEY NUMBER 19289 SHEET 29 OF 47



LEGEND

- Sign (Single Post)
- Sign (Double Post)
- B Sign Existing (Double Post)
- Drums
- Tubular Markers
- Advanced Warning Panel
- Work Area
- Traffic Travel Direction
- Truck Mounted Attenuator
- Portable Changeable Message Sign
- TY III Barricade

TEMPORARY PAVEMENT MARKINGS:

Prior to Opening Night Time Work Areas to Daytime Traffic, the Contractor Shall Replace any Pavement Markings Removed During Work with Temporary Pavement Markings Per Item S900-60B at the Locations as Recorded Under Item S105-20A Record of Existing Pavement Markings. Temporary Pavement Markings Include, but are Not Limited to, Lane Markings, Edge Lines, and Gore Markings. All Work and Materials Necessary to Meet This Requirement, Including Maintenance, Shall be Included in Item S900-60B Pav Marking Waterborne Temporary.

REVISIONS				DESIGNED KCC	SCALES SHOWN ARE FOR 11" X 17" PRINTS ONLY	IDAHO TRANSPORTATION DEPARTMENT	PROJECT NO.	TEMPORARY TRAFFIC CONTROL	English
NO.	DATE	BY	DESCRIPTION	DESIGN CHECKED PSA			A019(289)	I-84, FIVE MILE RD TO ORCHARD RD & RAMPS, BOISE I-184 PHASE - 1	COUNTY Ada
				DETAILED KMR/WNW	CADD FILE NAME 19289_trcp_021.sht				KEY NUMBER 19289
				DRAWING CHECKED PSA	DRAWING DATE: March 2017	Parametrix			SHEET 30 OF 47

PROFESSIONAL ENGINEER REGISTERED 3-28-17 7170 Kenneth Colson STATE OF IDAHO KENNETH C. COLSON

ITD000258

EXHIBIT 6

TRAFFIC CONTROL MAINTENANCE DIARY

Project Name: I-84. Five Mile to Orchard Grind				**Project Number: 17-047**
Location(s) (Be Specific): WB ORCHARD to EXIT 50A				**Flagging Roster: n/a**
Date(s): 3/MAY/2018	**Day** ☐	**Night** ☒		
Crew: J. ROPER, MASON, DAVID				
Task:	**Truck #** TC 111 97 120			
Maintenance ☒	**Trailer #**			
Lane Closure ☒	**Arrow Board (A) / Message Board (M)**			
Lane Shift ☐	(A) M # 32	**S:** 11972.9	**E:** 11880.1	
Road Closure ☐	(A) M # 3	**S:** 3332.2	**E:** 3339.3	
Paving ☐	A / M #	**S:**	**E:**	
Milling ☐	A / M #	**S:**	**E:**	
Striping ☐	A / M #	**S:**	**E:**	
Manholes ☐	A / M #	**S:**	**E:**	**Materials Purchased/Used:**
Misc:	A / M #	**S:**	**E:**	

Daily Notes (*MUST* include times and location within the project)

Put up signs @ 9pm. Talked w/ Penhall and they wanted a triple and we told them that they are set up for a Double and we could Give them a triple when we set the RLC

- Started Double left at 945 p. Traffic was pretty light for WB traffic at this time. We set 1½ miles for Penhall to saw.
- Traffic Died Down around 1am to a few cars throughout the night.
- Penhall was off the Road at 415 am and we started picking up cones at 420 am. All Lanes were open at 5:15 am. WB traffic wasn't busy at this time so I feel we were still safe at this time.
- All signs Dropped By 545 am and went to DT @ 6 am.

Specialty00318

TRAFFIC CONTROL MAINTENANCE DIARY

Project Name: I-84. Five Mile to Orchard Grind				**Project Number: 17-047**
Location(s) (Be Specific): WB Exit 49 to END FIVEMILE				**Flagging Roster: n/a**
Date(s): 1 JUN 2018	**Day** ☐ **Night** ☒			
Crew: J. Roper MASON DAVID ZACH				
Task:	**Truck #** TC 111 120 116			
Maintenance ☒	**Trailer #**			
Lane Closure ☒	**Arrow Board (A) / Message Board (M)**			
Lane Shift ☐	(A) / M # 3	**S:** 3339.3	**E:** 3347.0	
Road Closure ☐	(A) / M # 32	**S:** 11880.1	**E:** 11887.7	
Paving ☐	A / M #	**S:**	**E:**	
Milling ☐	A / M #	**S:**	**E:**	
Striping ☐	A / M #	**S:**	**E:**	
Manholes ☐	A / M #	**S:**	**E:**	**Materials Purchased/Used:**
Misc:	A / M #	**S:**	**E:**	

Daily Notes (*MUST* include times and location within the project)

- CAME IN EARLY to bump up Double left, Penhall didn't HAVE material to SEAL so they just kept SAWING.
- STARTED pull on at 945pm AND Penhall WAS on the ROAD by 10 PM. WE PULLED the Double left to the END of the PROJECT.
- STAGED FOR triple Right for the most night.
- TRAFFIC WAS busy AS it WAS A friday night, it DIDN'T DIE DOWN until 1 AM then Picked up just A bit when the bars let out.
- PENHALL WAS off at 5 AM. ONCE the REACHED the END TRAFFIC WAS light on WB at this time.
- CREW HAD LANES OPENED by 530 AM AND All SIGNS DROPPED by 550 AM DT WAS AT 6 AM

TRAFFIC CONTROL MAINTENANCE DIARY

Project Name: I-84. Five Mile to Orchard Grind				**Project Number: 17-047**
tion(s) (Be Specific): ORCHARD to Exit 49 WB				**Flagging Roster: n/a**
Date(s): 2 Jun 2018	**Day** ☐ **Night** ☒			
Crew: J. Roper DAVID. MASON ZACH				
Task:	**Truck #** TC 111 116 120			
Maintenance ☒	**Trailer #**			
Lane Closure ☒	**Arrow Board (A) / Message Board (M)**			
Lane Shift ☐	A/M # 13	S: 31.1	E: 41.2	
Road Closure ☐	A/M # 32	S: 11882.7	E: 11897.9	
Paving ☐	A/M # 3	S: 3347.0	E: 3357.6	
Milling ☐	A/M #	S:	E:	
Striping ☐	A/M #	S:	E:	
Manholes ☐	A/M #	S:	E:	**Materials Purchased/Used:**
Misc:	A/M #	S:	E:	

Daily Notes (*MUST* include times and location within the project)

Set Triple Right starting at East end of Project WB. Traffic was heavy but manageable. Had to merge Orchard on Ramp with 3rd Lane Closure. By the time traffic was in the single lane traffic backed up just a little to Orchard off Ramp.

- Started pull on at 9:30pm. Penhall on at 10 pm.
- Closed Exit 50B at 130 so they could saw the Ramp. Had all signs in Place to Do this. Opened back up At 330am and closed 50A at this time to Do that Ramp. Made sure Exit 49 was always opened. Opened 50A at 530am.
- Traffic Died Down Around 1am and was Dead A 4am.
- Penhall was off the Road By 715 am and we had everything pulled off By 800 am all Signs Dropped By 820 am and DT at 830 am

TRAFFIC CONTROL MAINTENANCE DIARY

Project Name: I-84. Five Mile to Orchard Grind				Project Number: 17-047	
Location(s) (Be Specific): ORCHARD to END WB				Flagging Roster: n/a	
Date(s): 3 Jun 2018	Day ☐	Night ☒			
Crew: J. Roper MASON ZACH DAVID					
Task:	**Truck #** TC111 120 116				
Maintenance ☑	**Trailer #**				
Lane Closure ☒	**Arrow Board (A) / Message Board (M)**				
Lane Shift ☐	A / M # 3	S: 3357.6	E: 3364.4		
Road Closure ☐	A / M # 13	S: 41.2	E: 44.1		
Paving ☐	A / M # 52	S: 11897.9	E: 11904.8		
Milling ☐	A / M # 14	S: 5516.2	E: 5519.0		
Striping ☐	A / M #	S:	E:		
Manholes ☐	A / M #	S:	E:	**Materials Purchased/Used:**	
Misc:	A / M #	S:	E:		

Daily Notes (*MUST* include times and location within the project)

Pulled on triple AGAIN @ 935pm. Penhall needed to get to the Fly over before we could Break Down the triple. Had Penhall on by 1015pm. Shifted cole on Ramp to Shoulder then to far Right Ln so Penhall could work in that space. @ 11pm we started to stage for a Double Right starting at Exit 49 @ midnight we Shifted Cole on Ramp behind Penhall so they could finish the little bit they missed were traffic was Driving. At 1am we had the Double set at 49 so we pulled the triple off and bounced up the AB. The triple was off at 130 and at 2am we set the shift were the 184 & 84 meet. 84 WB stated in the Left Lane and both 184 Ramps merged to the Right ln and rode the shoulder soft Down before shifting to the Left lane. @ 3am we shifted traffic (184 Ramp) behind Penhall at the junction Penhall was off the Road at 4am and we had all Lanes open by 4:30 All signs Dropped by 450 am and DT @ 5 Am.

Specialty00332

TRAFFIC CONTROL MAINTENANCE DIARY

Project Name: I-84. Five Mile to Orchard Grind				Project Number: 17-047	
Location(s) (Be Specific): Exit 49 to END WB				Flagging Roster: n/a	
Date(s): 4 Jun 2018	Day ☒	Night ☒			
Crew: J. Roper Mason Zach David					
Task:	Truck # TC111 120 116				
Maintenance ☒	Trailer #				
Lane Closure ☒	Arrow Board (A) / Message Board (M)				
Lane Shift ☐	(A) M # 14	S: 5519.0	E: 5524.1		
Road Closure ☐	(A) M # 3	S: 3364.4	E: 3369.5		
Paving ☐	(A) M # 32	S: 11904.8	E: 11910.0		
Milling ☐	A / M #	S:	E:		
Striping ☐	A / M #	S:	E:		
Manholes ☐	A / M #	S:	E:	Materials Purchased/Used:	
Misc:	A / M #	S:	E:		

Daily Notes (*MUST* include times and location within the project)

Started pull on at 935pm. Traffic was light At this time. Had to shift 184 again to the far left lane on 84 but we Extended the shift taper An additional 250 ft making it more lean. Traffic was backing up because of this merge but not bad and it worked out better Because it slowed traffic Down.

- Penhall on the Road at 1015 pm
- we Staged Drums for a Double left just Encase Penhall wanted to seal the fast lanes First on Wed Night.
- Penhall was off at 130 Am And Finish measuring At 230 Am. We had the lanes open by 330 And all signs Dropped at 4 Am And went to DT at this time.

Specialty00334

TRAFFIC CONTROL MAINTENANCE DIARY

I-84 Penhall				**17047**	
Location(s) (Be Specific):				**Flagging Roster:**	
I-84, Orchard to Fivemile					
Date(s): 6/14/18	**Day** ☐ **Night** ☐				
Crew:					
Mason, Zack, Chad, David, Jake					
Task:	**Truck # 116, 111, 88, 120, 95**				
Maintenance ☐	**Trailer # T 5**				
Lane Closure ☐	**Arrow Board (A) / Message Board (M)**				
Lane Shift ☐	A / M #20	**S: 8312.5**	**E: 8320.3**		
Road Closure ☐	A / M # 32	**S: 11992.6**	**E:12000.7**		
Paving ☐	A / M # 13	**S: 73.81**	**E: 80.9**		
Milling ☐	A / M # 14	**S: 5528.5**	**E:5534.4**		
Striping ☐	A / M # 35	**S: 9649.9**	**E: 9658.8**		
Manholes ☐	A / M #	**S:**	**E:**	**Materials Purchased/Used:**	
Misc:	A / M #	**S:**	**E:**		

Daily Notes (*MUST* include times and location within the project)

I showed up on site at 7:30, I dropped of the Three Left Lanes Closed Ahead signs for EB. I then loaded up the detour clusters fc : Milwakee closure. Zack showed up at at 7:30, Jake showed up at 7:45. Jake, Zack and I met with Bruce with penhall and Caleb with Diamond and went over the plan for the pull on and the next couple days. Chad and David showed up on site at 8:30, they put up the EB signs on their way through to the stock yard. David, Zack and Jake loaded up barrels for the gore point at the junction of I-184 and I-84 EB. Chad and I left to go put up signs on I-184 for the lane cloures for penhall. Chad and I then put up the closure signs around Milwakee and Franklin and set the detour route leading traffic up Cole to get on the freeway. Chad and I then started pulling on turn bay closures and the gore point on Milwakee at 9:30, At 9:45 we closed the onramp and put. David, Zack and Jake started pulling on the triple left lane closures on EB I-84. Chad and I pulled on the right lane closure on I-184 and dropped a candle line up onto the flyover. Then Chad and I went back to the stock yard to get an arrow board to close the right lane on the Namp on ramp from I-184. Jake, Zack and David were done dropping candles at 10:15 and Diamond got on the road EB. Penhall had started on the Milwakee on ramp. Traffic EB was backed up passed the Locust Grove overpass due to the lane closures. Chad and I walked on the candle line on the bottom side of the Nampa onramps and carried the candle line down the far right lane for 1,000 ft. passed the junction so that Penhall could access the seam along the fog line. At 11:30 Jake left the job site. Traffic had started to thin out and was merging nicely by the second lane closure EB. I fixed two barrels at the gore point for I-184 EB, there was also a candle that had been drug passed our work zone almost to Cole and it was laying in the middle of I-84. Zack, David, Chad and I met at the stock yard at 11:45. I told Chad and David that I wanted them to start doing maintenance runs every half hour due to the amount of material that had been hit since pull on. At 3:00 I met with Scott and bruce with Penhall, they were just finishing up with the ramps on I-184. At 3:15 Zack and I started pulling the lane closure on the nampa ramp. Once we finished pulling that lane closure off we swapped into TC 95 and picked the candle line on the fly over. We opened up the barricades on the Milwakee onramp at 3:45 we started opening up the turnbay closures on Franklin and Milwakee. I had Chad and David hook up to T5 in TC 120 and go to the end of the EB lane closures. At 4:00 Diamond was done and left the work zone, Zack and I started to drop all the closure signs and the detour. Once the d was dropped I sent Zack back to the stock yard in TC 95 to park it and swap into TC 111 and get ready to pull two of the arrowboards back to the stock yard. I looped around to Curtis on I-184 and dropped the speed reduction and the lane closure signs. I then looped around on I-84 and helped Chad and David pick the rest of the candle line. We then pulled off the three lane closures, Chad and David went back to the stock yard to drop off T-5, Zack followed with two of the arrowboards. I pulled the last taper and hooked up to the last arrowboard and then dropped it off at the stock yard. We then dropped the speed

We then pulled off the three lane closures, Chad and David went back to the stock yard to drop off T-5, Zack followed with two of the arrowboards. I pulled the last taper and hooked up to the last arrowboard and then dropped it off at the stock yard. We then dropped the speed reduction and lane closure signs and then left the job site at 5:30.

TRAFFIC CONTROL MAINTENANCE DIARY

I-84 Penhall				**17047**
Location(s) (Be Specific): I-84, Orchard to Five Mile				**Flagging Roster:**
Date(s): 6/15/18	**Day ☐**	**Night ☐**		
Crew:				
Mason, Zack, Anthony, Chad, David				
Task:	**Truck # 116, 111, 112, 120, 95**			
Maintenance ☐	**Trailer # T5**			
Lane Closure ☐	**Arrow Board (A) / Message Board (M)**			
Lane Shift ☐	A / M # 32	**S: 12000.7**	**E: 12009.3**	
Road Closure ☐	A / M # 13	**S: 80.9**	**E: 89.6**	
Paving ☐	A / M # 35	**S: 9665.8**	**E: 9669.28**	
Milling ☐	A / M # 14	**S: 5534.4**	**E: 5539.9**	
Striping ☐	A / M # 20	**S: 8320.3**	**E: 8325.8**	
Manholes ☐	A / M #	**S:**	**E:**	**Materials Purchased/Used:**
Misc:	A / M #	**S:**	**E:**	

Daily Notes (*MUST* include times and location within the project)

We all showed up at the stock yard at 8:30, Chad and David put up the signs for the triple left lane closures up on EB and the s reduction signs. Zack, Anthony and I went over the plan for the pull on. Chad then got into TC 95 and he and I put up the signs on I-184 outbound for the speed reduction and the right lane closure on the fly over. Chad and I then put up all the closure signs around Milwakee and Franklin. At 9:30 Chad and I started pulling on the turn bay closures and detour signs. At 9:45 Chad and I pulled on the barricades and barrels closing the Milwakee on ramp. Anthony, Zack and David started pulling on the lane closures EB. Chad and I pulled on the right lane closure over the flyover and Penhall started at 10:00. Chad and I then pulled on the right lane closure on the I-184 Nampa ramp and I walked on the candle line. Chad staged TC 95 at the end of the candle line so we could extend the tangent 500 ft. Zack, David and Anthony pulled on the gore point at the Junction of I-84 and I-184 and then continued the candle line passed the Cole EB on ramp where they ran out of material. Anthony left the job site at 11:00, traffic EB was backed up passed Locust Grove and was at a standstill. At 11:30 I had Chad and David go pick up tapers from WB so that we could set a double left lane closure within our triple so we could pull it off and extend the candle line to the end. Zack and I laid out where the tapers would go then we set the two left lane closed signs and the merges. At 12:00 Chad and David hooked up to T5 in TC 120 and they started to pick the candle line back to the West end of the lane closures. While they picked up the candles I hooked up to AB 32 and AB 13 and moved them up into the double left lane closure. Once Chad, David and Zack had pulled up to the tapers I helped them pull the barrels off and then hooked up to AB 35 and took it back to the stock yard. Then Chad and David took the candles they had picked from the triple lane closures and extended the candle line to the end. Then Chad and David looped around and dropped the lane closure signs for the triple lefts. Zack and I met with Bruce from Penhall and discussed the plan for the next ramp closure. At 2:00 Penhall was done and had left the work zone. I had Chad and David swap into TC 95 and we picked the candle line for the I-184 Nampa ramp and then Chad and David went up onto the fly over and picked that candle line. Zack and I pulled off AB 20 and the taper, then we went up the Milwakee Nampa onramp while it was still closed and helped with the I-184 right lane closure. When we started pulling off the barrels for the taper I had Chad go down to Milwakee and Franklin and open up the barrels and barricades. Once the right lane was off Z nd I helped Chad open up the turnbays and drop the clsoure signs and the detour signs. I had David loop around and drop the speed reduction and lane closure signs. We then took the arrowboards and TC 95 back to the stock yard. Zack and I started to lay out for the right lane closure WB so Penhall could close Exit 49, while Chad and David picked up barrels to stage the taper. Once that was stagged Zack and I staged the barricades while David and Chad staged the closure signs up on Cole. Once that was done I had Chad and David go hook up to T5 in TC 120 and Zack and I staged the signs for the ramp

TRAFFIC CONTROL MAINTENANCE DIARY

I- 84 Penhall				17047
Location(s) (Be Specific): I-84, Orchard to Fivemile				Flagging Roster:
Date(s): 6/16/18	Day ☐ Night ☐			
Crew:				
Mason, Zack, Anthony, Chad, David				
Task:	Truck # 116, 111, 120, 95, 112, 123			
Maintenance ☐	Trailer # T5			
Lane Closure ☐	Arrow Board (A) / Message Board (M)			
Lane Shift ☐	A / M # 14	S: 5539.9	E: 5550.0	
Road Closure ☐	A / M # 32	S: 12009.3	E: 12019.0	
Paving ☐	A / M # 13	S: 89.6	E: 99.6	
Milling ☐	A / M # 35	S: 9669.28	E: 9679.54	
Striping ☐	A / M # 1	S:662.4	E: 671.1	
Manholes ☐	A / M #	S:	E:	Materials Purchased/Used:
Misc:	A / M #	S:	E:	

Daily Notes (*MUST* include times and location within the project)

We all showed up onsite at 8:30, Anthony put up the speed reduction and lane closure signs for the triple left lane closure EB . (and David picked up the barrels that got pulled onto the shoulder for the gore point at I-184 and I-84. Chad swapped into TC 95, He and I went down to Vista to get the speed reduction signs WB for the right lane closure to close Exit 49. At 9:30 Chad and I pulled on the right lane closure, we built the gore points for Exit 50B and 50A. We also put up the closure sign for Exit 49. Then Chad and I finished dropping the candle line to close off the exit. Anthony, Zack and David started pulling on their lane closures EB at 9:45. Once we had finished with the right lane closure Chad and I put up the closure signs and detour. Chad and I started closing turn bays and the left lane on Cole for the Cole Nampa onramp closure. Diamond got on the road at 10:00, Penhall got on the road at 10:30. Traffic EB was backed up passed Locust Grove. Chad and I looped around to drop a candle line starting at the gore point at I-84 and I-184 EB. We dropped the candle line to close off Exit 1A and the City Center onramp. Chad and I put up the closure signs for Exit 1A. At 11:30 there was a major accident EB at the Cloverdale overpass. A semi was not paying attention to the traffic that was slowed due to the merging and struck 5 other vehicles. The semi then caught on fire. Boise PD then closed down EB and WB I-84. We helped BPD where we could, there were officers pushing traffic up the 50B ramp. We moved candles to help channelize traffic. We staged signs and barrels just after our lane closure WB to be able to set a double right so Penhall could access a joint on the 8 in. line on the edge of Exit 49. We did not set the lane closure due to the freeway closure and the corresponding traffic. At 2:00 TC 111 had been hit by a driver that had fallen asleep at the wheel and drove through the barrel taper and hit the truck that was sitting in the lane closure empty. We cleaned up the accident and had the truck towed away. Zack and I then had the truck swapped out for TC 123 so that we could still pick up arrowboards when we pull off. We then ran maintenance on all of our lane closures, fixed multiple candles on Cole and fixed the candles for the gore point at 50B. At 6:00 both crews were done, we started to pick up the lane closures and pull off the ramp closures. Zack and David pulled off the triple left lanes EB. The picked the candles onto T5 hooked up to TC 120. Chad and I pulled the Franklin Rd 1A exit candle line first and then we pulled the right lane closure closing Exit 49. Once those two lane closures were off the road Chad and I pulled the barricades on Cole opening those ramps and then started pulling the turn (losures and the left lane closure at Overland and Cole. Zack and David were done pulling EB at 7:30. they took their arrowboards back to the stock yard and then looped around and turned all the lane closure signs and speed reduction signs. Chad and I dropped all the detour and closure signs then we dropped the lane closure signs and speed reduction signs WB. After everything was dropped we met at the stock yard and held an end of shift meeting and then we left the job site at 8:30.

EXHIBIT 7

[redacted]

From: Dave Statkus <Dave.Statkus@itd.idaho.gov>
Sent: Tuesday, September 5, 2017 9:47 AM
To: Daniel Kircher; Steve Erichson; Vincent Coletta
Cc: Bryon Breen; Jim Hoffecker
Subject: RE: KN 19289 Traffic Control

Daniel
After consideration, D3 Residency 2 will continue using the 55' spacing for the tubular markers, as per the plans.

From: Daniel Kircher [mailto:dkircher@specialtysupply.com]
Sent: Tuesday, September 05, 2017 6:15 AM
To: Dave Statkus; Steve Erichson; Vincent Coletta
Subject: RE: KN 19289 Traffic Control

Dave,

Would the State be agreeable to moving to 110' spacing if there is 12' of longitudinal buffer between traffic and the work area (for example, if Penhall is working in the far left/fast lane, the left two lanes are closed, attenuator truck is in place, but no work is happening in the right-hand left lane that is closed). This can be a judgement call for Steve in the field if that works better.

We still believe that the MUTCD compliant 110' spacing is sufficient, and any opportunity the State can give us to go to 110' spacing will allow us to move much more quickly to set up and tear down the lane closure for Penhall, expanding their working hours. Right now per the contract there is potential to be placing ~400+ double-weighted tubular markers per night, and then picking them back up. That takes a significant amount of time in our already short work window.

Thank you for considering this.

Daniel Kircher
Traffic Control Administrator
Specialty Construction Supply
208.322.6800 phone
208.322.2636 fax
208.573.2682 mobile

From: Dave Statkus [mailto:Dave.Statkus@itd.idaho.gov]
Sent: Tuesday, August 29, 2017 1:35 PM
To: Steve Erichson <Steve.Erichson@itd.idaho.gov>; Daniel Kircher <dkircher@specialtysupply.com>; Vincent Coletta <vcoletta@penhall.com>; Bryon Breen <Bryon.Breen@itd.idaho.gov>
Cc: Jim Hoffecker <Jim.Hoffecker@itd.idaho.gov>; David Vanlydegraf <David.Vanlydegraf@itd.idaho.gov>; Kelly Byrne <Kelly.Byrne@itd.idaho.gov>
Subject: RE: KN 19289 Traffic Control

Vincent
After an internal discussion ITD will keep the 55' spacing for the tubular markers in the tangents. Steve also mentioned that the waste site now being utilized is getting full, so you will need to submit another formal request (please use your letterhead) to use the other site. If you need to inspect the site please let me know and I will make arrangements for ITD personnel to meet you there. I would also like to request that you send in the specifications for the profilograph that you

are proposing to use so that ITD can determine that it meets the requirements of the specifications. Thanks and if you have any questions please give me a call.

From: Steve Erichson
Sent: Sunday, August 27, 2017 8:52 PM
To: Daniel Kircher
Cc: Dave Statkus; Jim Hoffecker
Subject: RE: KN 19289 Traffic Control

I passed it on the next morning after I received it. I have not heard an official response.

Steve Erichson
Project Inspector
Cell 208.484.8207

From: Daniel Kircher [mailto:dkircher@specialtysupply.com]
Sent: Friday, August 25, 2017 7:27 AM
To: Steve Erichson
Subject: Re: KN 19289 Traffic Control

Hi Steve - has anything come of this? Thanks,

DK

On Aug 17, 2017, at 10:44 AM, Daniel Kircher <dkircher@specialtysupply.com> wrote:

> Morning Steve,
>
> I would like to formally request an adjustment to the traffic control plan, in order to facilitate a more streamlined operation nightly on this project. The traffic control plans for this project (sheet 12 of 47, for example) show that tubular markers in tangents will be spaced at 55'. I would like to request that this spacing be extended to 110', which is MUTCD standard for lane closure tangents. We believe this will not reduce the safety of the project or the workers, who are protected by Truck Mounted Attenuators, and this will shorten our setup time and allow us to more effectively set up, tear down, and manipulate the lane closures for Penhall. There is precedent for this 110' spacing from all previous concrete grind projects I have ever performed. Currently we are working on a concrete grind in District 4 (KN 19185 & 19348) in which the speed limit is reduced to only 70MPH, and there is a TMA on site, and the spacing for portable tubular markers in tangents is still 2x times the speed limit in feet. Also, KN 13057 Meridian to Five Mile was a concrete grind on the same four-lane expressway, and the tubular marker tangent spacing was also 2x times the speed limit in feet as well. Since our speed is reduced to 55MPH on this project, 110' spacing for tangents is within MUTCD guidelines, as well as a normal and accepted construction practice.
>
> If you have any questions, please feel free to call. Thank you,
>
> Daniel Kircher
> Traffic Control Administrator
> Specialty Construction Supply
> 208.322.6800 phone
> 208.322.2636 fax
> 208.573.2682 mobile

EXHIBIT 8

Basis of Payment. The Department will pay for accepted quantities at the contract unit price as follows:

Pay Item	Pay Unit
PCM SIGN	Hr

S626-30A TRAFFIC CONTROL MANAGER

Description. This work shall be performed in accordance with 105.14 – D. Maintenance of Traffic and shall consist of furnishing an experienced Traffic Control Manager (TCM) for resolution of traffic control conflicts, continuous monitoring of the traffic flow through a work zone setup and determine any potential improvements to the traffic control operations and phasing in accordance with the approved traffic control plans.

Construction Requirements. The TCM will be ATSSA Certified with a minimum of 5 years of Work Zone Traffic Control experience to maintain, monitor, and manage traffic control. Evidence of the required certification, qualifications, and experience shall be submitted for approval to the Engineer.

The TCM shall have access to direct all equipment, materials, and manpower needed to install and maintain traffic control and handle traffic related situations and coordinate for the completion of the items in this contract.

The TCM shall be available within 30 minutes after notification of an emergency situation, prepared to positively respond to repair the work zone traffic control or to provide alternate traffic arrangement. Where reasonable to expect potential problems, emergency plans shall be prepared in advance.

The TCM shall maintain a daily diary and document the design and approval of all work zones and any changes in configuration to an established work zone, and direction from coordinating with the Prime Contractor. The TCM shall make daily entries in the diary of all traffic control pay items, personnel used in traffic control operations and unusual occurrences involving the traveling public. A copy of the day's diary entries shall be submitted to the Engineer by 10:00 AM the following work day.

Each daily record provided by the TCM will count as a single day of TCM to be measured for payment. Daily records shall be prepared and certified by the TCM, and approved.

Method of Measurement. The Engineer will measure acceptably completed work by the day.

Basis of Payment. The Department will pay for accepted quantities at the contract unit price as follows:

Pay Item	Pay Unit
Traf Cntl Manager	Day

S626-35A NIGHT WORK LIGHTING 11/15

Description. Provide temporary illumination for all work on this project between the hours of 7:00 PM and 6:00 AM or as directed.

Construction Requirements. Limit working hours to the hours of 7:00 PM to 6:00 AM. Provide Portable lighting during the hours of darkness at each operation. Maintain a minimum of 5 foot-candles of illumination for each flagging station and work area. Provide self-generating light towers (Gas or Diesel) with fixtures using metal halide or high pressure lamps capable of producing required illumination from a

EXHIBIT 9

Use water to abate accumulated dust on public highways and streets resulting from hauling related with the work, as directed by the Engineer. The Department will pay for dust abatement in accordance with 205.05 or, if the contract does not specify a dust abatement contract pay item, as extra work in accordance with 104.02.

D. Maintenance of Traffic

Unless otherwise directed by the Engineer, maintain the road for use by traffic and minimize traffic delays during roadway construction. Ensure that individual traffic delays do not exceed 15 minutes and that all traffic delays do not exceed a total of 30 minutes through the length of the project, unless otherwise approved, in writing, by the Engineer. Implement remedial action to eliminate the excess delays to traffic.

Before starting the work, submit a traffic control plan to the Engineer for approval and include the following information:

1. Construction phasing
2. Areas of work
3. Proposed detours
4. Traffic control devices
5. Pavement markings

Also submit to the Engineer for approval proposed measures to address traffic delays resulting from emergencies, highway incidents, emergency vehicles, and scheduled school bus routes within the project limits. Notify the Engineer at least 2 calendar days before making changes to the traffic control plan and submit the revised traffic control plan to the Engineer for approval.

Provide a Worksite Traffic Control Supervisor, certified in accordance with the American Traffic Safety Services Association, or an approved equal, to direct the installation, modification, and maintenance of traffic control devices required by the contract.

Perform the following functions at no additional cost to the Department unless otherwise specified by the contract:

1. Maintain traffic so that the roadway and structures are kept passable to traffic at all times
2. Provide and maintain temporary approaches, crossings, and intersections with trails, roads, streets, businesses, parking lots, residences, garages, and farms in a safe condition.

The Department considers the cost of monitoring traffic control work during working hours to be included in the contract unit prices for the respective traffic control devices.

Monitor and maintain traffic control devices during non-working hours and non-working days. During non-working hours, make an employee available to maintain traffic control devices. During non-working days, perform required maintenance and review the project traffic control at least once per day as approved by the Engineer. Provide a written statement describing the time and work performed during non-working days. The Department will pay for Engineer-approved time and work performed during non-working hours and non-working days as the *Traffic Control Maintenance* contract pay item in accordance with 626.

E. Maintenance of Temporary Detours

If approved in writing by the Engineer, the Contractor may reroute traffic over detours constructed and maintained at no additional cost to the Department instead of maintaining traffic through the project improvements. The Department will not pay for quantities that exceed the estimated quantities provided by the Department on the bid schedule for traffic control devices, flagging, and pilot cars used to maintain traffic on approved temporary detours.

Use water or dust oil to abate accumulated dust on detour routes, as directed by the Engineer. The Department will pay for dust abatement in accordance with 205.05 or, if the contract does not specify a dust abatement contract pay item, as extra work in accordance with 104.02.

EXHIBIT 10

Detailed History for Police Event #W18044318 As of 7/17/2019 16:49:39

Output for: 2406

Priority:3 Type:MA - Motorist Assist
Location:EB I84 @ 49, BOI at EB I84 @ 49, BOI <0/0>

Created:	06/15/2018 00:29:51	3RCC03	4072
Entered:	06/15/2018 00:31:53	3RCC03	4072
Dispatch:	06/15/2018 00:34:41	3RCC02	3435
Enroute:	06/15/2018 00:34:41	3RCC02	3435
Onscene:	06/15/2018 00:42:37	3RCC02	3435
Closed:	06/15/2018 00:46:27	3RCC02	3435

ICUnit: PrimeUnit:643 Dispo:NAT Type:MA - Motorist Assist
RCC:RCCW Group:ME1 County:1A Area:1A3 ☑Detail

00:29:51 CREATE 4072/3RCC03 Location:EB I84 @ 49, BOI Type:MA Name:SCOTT RPaddr:PEGASIS TOWING Phone:208/890-5774 Group:ME1 Area:1A3 TypeDesc:Motorist Assist LocDesc:at EB I84 @ 49, BOI <0/0> Priority:3 Response:1TPR RCC:RCCW LocType:M
00:31:53 ENTRY Comment:CONSTRUCTION HAS TRAFFIC SHUT DOWN TO 1 LANE PEGASIS TOWING TRYING TO PICK UP A CAR AND TRAFFIC GIVING HIM NO ROOM REQUESTING A TROOPER TO HELP SLOW DOWN TRAFFIC SO HE DOESN TGET HIT
00:31:53 -NPREMS Comment:(none)
00:31:55 NOMORE
00:34:39 SELECT 3435/3RCC02
00:34:41 DISPER 643 Serial:3421 OperNames:BECKNER,KENNETH A
00:34:41 -PRIU 643
00:42:37 ONSCN 643
00:42:37 -PRIU 643
00:46:27 CLEAR 643 Dispo:NAT
00:46:27 -CLEAR
00:46:27 CLOSE

CONTACT INFO:

Name	Phone	RPaddr	RPSIGN	BLKAGE	DRG/ALC	WPNS
SCOTT	208/890-5774	PEGASIS TOWING				

Detailed History for Police Event #W18044568 As of 7/17/2019 16:49:52

Output for: 2406

Priority:3 Type:AB - Aband Veh
Location:EB I84 @ 48, BOI at EB I84 @ 48, BOI <0/0>

Created:	06/15/2018 22:01:14	3RCC02	3435
Entered:	06/15/2018 22:01:14	3RCC02	3435
Dispatch:	06/15/2018 22:01:14	3RCC02	3435
Enroute:	06/15/2018 22:01:14	3RCC02	3435
Onscene:	06/15/2018 22:01:14	3RCC02	3435
Closed:	06/15/2018 22:24:41	3RCC02	3435

ICUnit: PrimeUnit:643 Dispo:TOW Type:AB - Aband Veh
RCC:RCCW Group:ME1 County:1A Area:1A3
Case #:B18001803 ☑Detail

22:01:14 CREATE 3435/3RCC02 Location:EB I84 @ 48, BOI Type:MA Group:ME1 Area:1A3 Plate:2CHP404 TypeDesc:Motorist Assist LocDesc:at EB I84 @ 48, BOI <0/0> Priority:3 Response:1TPR RCC:RCCW LocType:M
22:01:14 ENTRY Plate:2CHP404
22:01:14 DISPOS 643 Location:EB I84 @ 48, BOI Serial:3421 OperNames:BECKNER,KENNETH A
22:01:14 -PRIU 643
22:01:14 -NPREMS Comment:(none)
22:01:24 LOGM 643 Message:011806160401002266 MessageType:Text Received:06/15/2018 22:01:19 Comment:VEH
22:02:20 CHANGE 3683/3RCC01 643 Type:MA-->AB TypeDesc:Motorist Assist-->Aband Veh
22:03:17 INV 3435/3RCC02 643 InvType:AB Priority:3 Plate:2CHP404 VehCol:WHI Yr:2003 Make:FORD Model:XPL Style:LL VIN:1FMZU73K33UB83386 InvDesc:HERNANDEZ TORRES,SALVADOR/HERNANDEZ MORENO,JUANA NAMPA Category:V
22:03:31 LOGM 643 Message:011806160403002383 MessageType:Text Received:06/15/2018 22:03:24 Comment:BY VIN NO LIEN
22:04:55 MISC Comment:NO LISTING ON SPILLMAN
22:06:12 CASE 3683/3RCC01 643 Case#:B18001803
22:06:14 MISC 3435/3RCC02 Comment:NO LL OR DL'S LOCATED
22:06:20 REQUST 3683/3RCC01 643 RType:SML Plate:2CHP404 RequestRsn:AB Community:BOI Company:IDRECO Location:EB I84 @ 48, BOI
22:07:10 LOGM 643 Message:011806160407002445 MessageType:HTML Received:06/15/2018 22:06:21 Comment:IDAHO RECOVERY / ETA 15-20
22:07:21 SENT 643 RType:SML Company:IDRECO
22:07:26 CONTCT 643 Comment:ADV'D OF TOW
22:12:02 MISC 643 Comment:HAVE TOW COMPANY COME DOWN RIGHT SHOULDER / BUMPER TO BUMPER TRAFFIC
22:22:19 MISC 4072/3RCC04 643 Comment:TOW A/S
22:24:41 CLEAR 3435/3RCC02 643 Dispo:TOW
22:24:41 -CLEAR
22:24:41 CLOSE
22:25:27 BRIEF Comment:WHI 2003 FORD XPL -RO HERNANDEZ TORRES,SALVADOR/HERNANDEZ MORENO,JUANA

Detailed History for Police Event #W18044586 As of 7/17/2019 16:50:13

Output for: 2406

Priority:5 Type:ITD - ITD
Location:EB I84 @ 47, BOI at EB I84 @ 47, BOI <0/0>

Created:	06/15/2018 23:26:08	3RCC04	4072
Entered:	06/15/2018 23:26:56	3RCC04	4072
Closed:	06/15/2018 23:33:53	3RCC04	4072

ICUnit: PrimeUnit: Dispo:CH Type:ITD - ITD
RCC:RCCW Group:ME1 County:1A Area:1A3 ☑Detail

23:26:08	CREATE	4072/3RCC04	Location:EB I84 @ 47, BOI Type:ITD Group:ME1 Area:1A3 TypeDesc:ITD LocDesc:at EB I84 @ 47, BOI <0/0> Priority:5 RCC:RCCW LocType:M
23:26:56	ENTRY		Comment:MULTIPLE CALLERS REQUESTING THE ITD READERBOARDS BE ACTIVATED FARTHER WEST ON I84 ALERTING TO THE TRAFFIC BEING CONVERGED
23:26:56	-NPREMS		Comment:(none)
23:26:57	NOMORE		
23:32:57	MISC		Comment:PER 643 - THERE IS PLENTY OF SIGNAGE WITH FLASHING LIUGHTS AND CONES // NO NEED FOR THE BOARDS
23:33:38	NOTIFY		Notified:STATECOMM Comment:THERE IS PLENTY OF SIGNAGE
23:33:51	SELECT		
23:33:53	CAN		Dispo:CH Comment:CH
[06/20/2018]			
15:22:15	XREF	3761/3RCC01	Service:P Event:#W18044821 Type:CRF RCC:RCCW Comment:PREVIOUS CALLERS
15:23:06	-NPREMS		Comment:(none)

Detailed History for Police Event #W18044587 As of 7/17/2019 16:50:29

Output for: 2406

Priority:1 Type:TCOM - Traffic Complt
Location:EB I84 @ 49, BOI at EB I84 @ 49, BOI <0/0>

Created:	06/15/2018 23:29:42	3RCC04	4072
Entered:	06/15/2018 23:31:12	3RCC04	4072
Closed:	06/15/2018 23:49:43	3RCC02	3435

ICUnit: PrimeUnit: Dispo:NR Type:TCOM - Traffic Complt
RCC:RCCW Group:ME1 County:1A Area:1A3 ☑Detail

23:29:42 CREATE 4072/3RCC04 Location:EB I84 @ 49, BOI Type:TCOM Name:CADEN Phone:208/573-0633 Group:ME1 Area:1A3 TypeDesc:Traffic Complt LocDesc:at EB I84 @ 49, BOI <0/0> Priority:1 Response:1TPR RCC:RCCW LocType:M

23:31:12 ENTRY Comment:WHITE CHEVY TAHOE - NEWER MODEL // VEH CONTINUED ON I84 HOPPED A BUNCH OF CONES IN THE CONSTRUCTION ZONE / ALMOST HIT A SEMI / WENT OFF ROAD MULT TIMES
RP IS NOT FOLLOWING

23:31:12 -NPREMS Comment:(none)

23:31:17 NOMORE

23:32:59 XREF 3435/3RCC02 Service:P Event:#W18044588 Type:TCOM RCC:RCCW Comment:SAME VEH

23:33:12 MISC Comment:BROADCASTED 419 OOP

23:33:13 SELECT

23:33:14 -HOLD

23:33:22 COMBIN Service:P Event:#W18044588 Type:TCOM RCC:RCCW

23:34:55 NOTIFY Notified:ADA Comment:ON INTERCOMM

23:36:04 NOTIFY Notified:STATECOM BRYANT Comment:ADVISED OF THE CONES

23:49:43 CAN Dispo:NR Comment:NOT IN POSITION///STATECOMM ADVISED THEIR FOREMAN IS AWARE OF THE POSSIBLE DOWN CONES

CONTACT INFO:

Name	Phone	RPaddr	RPSIGN	BLKAGE	DRG/ALC	WPNS
CADEN	208/573-0633					

Detailed History for Police Event #W18044591 As of 7/17/2019 16:50:51

Output for: 2406

Priority:1 **Type:**TCOM - Traffic Complt
Location:EB I84 @ 44, MER at EB I84 @ 44, MER <0/0>
Loc-Info:MEDIAN

Created:	06/15/2018 23:45:31	3RCC02	3435
Entered:	06/15/2018 23:47:05	3RCC02	3435
Closed:	06/16/2018 00:24:10	3RCC02	3435

ICUnit: **PrimeUnit:** **Dispo:**NR **Type:**TCOM - Traffic Complt
RCC:RCCW **Group:**ME1 **County:**1A **Area:**1A2 ☑ Detail

23:45:31	CREATE 3435/3RCC02	**Location:**EB I84 @ 44, MER **Type:**TCOM **Loc-Info:**MEDIAN **Name:**AMY **Phone:**208/391-8194 **Group:**ME1 **Area:**1A2 **TypeDesc:**Traffic Complt **LocDesc:**at EB I84 @ 44, MER <0/0> **Priority:**1 **Response:**1TPR **RCC:**RCCW **LocType:**M
23:47:05	ENTRY	**Comment:**911 TRANSFER RIGHT SIDE --CARS ARE DRIVING ON THE MEDIAN TO PASS STOPPED TRAFFIC IN THE CONSTRUCTION ZONE
23:47:05	-NPREMS	**Comment:**(none)
23:48:48	NOTIFY	**Notified:**STATECOMM BRYANT **Comment:**ADVISED
23:48:56	MISC	**Comment:**BROADCASTED
23:49:02	NOMORE	
23:49:54	SELECT	
23:49:58	HOLD	
23:57:39	XREF	**Service:**P **Event:**#W18044593 **Type:**TCOM **RCC:**RCCW **Comment:**SAME COMPLAINT...
[06/16/2018]		
00:00:48	NOTIFY	**Notified:**643 **Comment:**ADVISED THE AREA IS WELL LIT AND SIGNS ARE PLACED ACCORDINGLY.
00:24:10	CAN	**Dispo:**NR **Comment:**SGT AWARE

CONTACT INFO:

Name	Phone	RPaddr	RPSIGN	BLKAGE	DRG/ALC	WPNS
AMY	208/391-8194					

Detailed History for Police Event #W18044593 As of 7/17/2019 16:50:58

Output for: 2406

Priority:1 Type:TCOM - Traffic Complt
Location:EB I84 @ 48, BOI at EB I84 @ 48, BOI <0/0>

Created:	06/15/2018 23:55:28	3RCC04	4072
Entered:	06/15/2018 23:57:00	3RCC04	4072
Closed:	06/16/2018 00:24:20	3RCC02	3435

ICUnit: PrimeUnit: Dispo:NR Type:TCOM - Traffic Complt
RCC:RCCW Group:ME1 County:1A Area:1A3 ☑ Detail

23:55:28	CREATE 4072/3RCC04	Location:EB I84 @ 48, BOI Type:TCOM Name:KEVIN Phone:208/342-0811 Group:ME1 Area:1A3 TypeDesc:Traffic Complt LocDesc:at EB I84 @ 48, BOI <0/0> Priority:1 Response:1TPR RCC:RCCW LocType:M
23:57:00	ENTRY	Comment:"EVERYONE FLYING DOWN THE LEFT LANE AND NO ONE IS REACTING TO THE LANE ENDING // PEOPLE USING THE SHOULDER TO PASS AND GET AROUND THINGS"
23:57:00	-NPREMS	Comment:(none)
23:57:01	NOMORE	
23:57:21	SELECT 3435/3RCC02	
23:57:39	XREF	Service:P Event:#W18044591 Type:TCOM RCC:RCCW Comment:SAME COMPLAINT...
[06/16/2018]		
00:00:53	NOTIFY	Notified:643 Comment:ADVISED THE AREA IS WELL LIT AND SIGNS ARE PLACED ACCORDINGLY.
00:19:04	-HOLD	
00:24:20	CAN	Dispo:NR Comment:SGT AWARE

CONTACT INFO:

Name	Phone	RPaddr	RPSIGN	BLKAGE	DRG/ALC	WPNS
KEVIN	208/342-0811					

EXHIBIT 11

Placeholder for Audio Files

Files were produced by the State of Idaho in this case as Bates Nos. ISP000100, ISP000105, ISP000110 and ISP000111

EXHIBIT 12

Idaho State Communications Center
ITD Highway Incident
I-HWY-2018-02797

Date/Time: 06/15/2018 23:28
Caller: Justin
Agency: ISP Region 3

Callback #:
Agency Callback #: (208) 846-7500

Districts: 3 Unit: Tone

Location: Highway I-84 MP: 47 - 47 EB
Description: Construction Problem
Debris Quantity: NA
Extent In Roadway: EB lanes

Unit Responding: Tone

Notification:
In Service:
En Route:

On Scene:
Resolved:
Out Of Service:

Notifications

Date/Time	Name	Agency	Method	Status	Contacted By
06/15/2018 23:36	Josh Roper	Specialty Construction Company	Cell Phone	Left Message	Caruthers, Bryant
06/15/2018 23:41	Jeromy Magill	PenHall	Cell Phone	Left Message	Caruthers, Bryant
06/15/2018 23:44	Bruce Kidd	PenHall	Cell Phone	Acknowledged	Caruthers, Bryant
06/15/2018 23:48	Bruce Kidd	PenHall	Cell Phone	Acknowledged	Caruthers, Bryant
06/16/2018 00:43		ITD District 3	Email	Emailed	Caruthers, Bryant

Notes

Date/Time	Note	Created By
06/15/2018 23:28	ISP Region 3 called to inquire whether there were any DMS that could be activated on the EB side for the construction at MP 47. Justin advised they have gotten a couple complaints. Justin was advised that the only two signs are at Locust Grove (MP 45) and Laster Road in Nampa. Just advised to hold off on posting anything and he will check with his trooper.	Wright, Elbert
06/15/2018 23:33	Justin with ISP Region 3 called back to advise their trooper went through the area and there is plenty of signage.	Wright, Elbert
06/15/2018 23:35	Kelly with ISP Region 3 called to advise a vehicle hit a bunch of the cones between MP 47 and 48.	Wright, Elbert
06/15/2018 23:36	Left a message for Josh Roper, Speciality Construction.	Caruthers, Bryant
06/15/2018 23:41	Left a message for Jeromy Magill, Penhall.	Caruthers, Bryant
06/15/2018 23:44	Notified Bruce Kidd with Penhall.	Caruthers, Bryant
06/15/2018 23:47	Updated ISP. Kelli advised that people are using the median to pass.	Caruthers, Bryant
06/15/2018 23:48	Notified Bruce Kidd with Penhall.	Caruthers, Bryant

Communications Specialists

Type	Name
Primary	Wright, Elbert
Supporting	Caruthers, Bryant
Supporting	Ronge, Bradley

Printed: 12/13/2019 6:49:37 pm

Placeholder for Audio File
(Exhibit 12)

File was produced by the State of Idaho in this case as Bates No. STATE_COMM000010.

Audio/Video File

No images produced for this record

EXHIBIT 13

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAWRENCE MANLAPIT, JR., individually as father of LAWRENCE P. MANLAPIT, III, DECEASED,	Lead Case No. CV01-2019-06625
Plaintiff,	Consolidated with Case Nos. CV01-2019-23246
vs.	CV01-2020-00653
	CV01-2020-02624
KRUJEX FREIGHT TRANSPORT CORP.; KRUJEX TRANSPORT CORP. KRUJEX TRANSPORT SYSTEMS, LLC KRUJEX LOGISTICS INC.; ALBERTSON'S COMPANIES; CORNELIU VISAN; DANIEL VISAN; LIGIA VISAN; STATE OF IDAHO; STATE OF IDAHO DEPARTMENT OF TRANSPORTATION; IDAHO STATE POLICE; PENHALL COMPANY; PARAMETRIX, INC., SPECIALTY CONSTRUCTION SUPPLY LLC, and DOES 1 through 150, inclusive,	CV01-2020-07803 CV01-2020-08172
Defendants.	
And Consolidated Actions	

VIDEOTAPED DEPOSITION OF DAVE STATKUS

February 1 and 2, 2021

Boise, Idaho

Reported by: Andrea J. Wecker, CSR #716, RDR, CRR, CRC

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get to that point, it, in fact, may be different from what you originally thought I was going to ask you, number one.

Number two, if we're talking over one another, it's really important, the court reporter has a difficult time taking down what's being said by two at the same time. So, again, it's for clarity of record, and we want to make sure that your testimony is accurately transcribed here today.

Understood?

A. I understand.

Q. All right. At some time after this deposition, you'll be given an opportunity to review it, make any changes to your testimony that you deem appropriate.

I should tell you that you may -- if you make any changes that are of a substantial nature, the fact that you made those changes at a point in time after the deposition was over when I'm not there to ask follow-up questions could potentially, depending upon the nature of the change, be used to question your credibility as a witness.

Understood?

A. I understand.

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Q. Now, that doesn't mean that if you testify one way during this deposition and then 15 minutes later you realize, "I should have said something different," you can do that. All fair because I'm here to ask and everybody else is here to ask follow-up questions. It's just any changes at the conclusion of this deposition, okay?

A. I understand.

Q. All right. Now, sir, do you know of any reason, physically or mentally, why you can't sit here for probably about an hour and a half because that's all I'm going to be able to last today --

A. No.

Q. -- and answer some questions?

A. No. I'm fine.

Q. All right. Any medication or physical or medical condition that you believe would affect your ability to understand questions or testify truthfully?

A. No.

Q. All right. Mr. Statkus, would you give me a short outline of your educational background.

A. I graduated from the University of Idaho in 1986.

Q. What degree?

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A. Civil engineering.

Q. All right. And did you then obtain your licensure in civil engineering?

A. That is correct.

Q. All right. And are you licensed or certified in any state other than Idaho?

A. I am.

Q. What other state or states?

A. Idaho, California, Oregon, and Wyoming.

Q. What prompted you to get licensure in California, Oregon, and Wyoming? Did you have projects that you were doing in those states at that time?

A. I started my career at Caltrans in District 10, Stockton, for 15 years. Then decided to come back to Idaho, and then worked for three different consulting firms prior to coming to ITD, and those consulting firms did business in those states.

Q. Oregon and Wyoming and California?

A. Yes.

Q. Okay.

MR. MOORE: All three? Did you hear his question? All three states?

THE WITNESS: Oh, that's right. Four states.

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MR. MOORE: Okay.

Q. (BY MR. ROBBINS) Idaho, California, Oregon, and Wyoming; all four states?

A. Yes.

Q. And when did you begin your work with ITD?

A. The year 2015.

Q. So you had worked with ITD for just approximately two years before this project commenced in 2017?

By "this project," I'm talking about the I-84 Five Mile to Orchard and Ramps Project.

A. I worked for ITD, yes, about two years prior.

Q. Prior to that? Okay.

Now, before 2015, had you had any involvement in the development or implementation of temporary traffic control plans for either highway construction or maintenance projects?

A. I did.

Q. Could you describe for me what your background and experience in that was.

A. The 15 years that I was at Caltrans and the prior years to coming to ITD, including at ITD, my specialty is roadway work, which includes

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temporary traffic control plans.
Q. What --
A. Drainage and --
Q. Go ahead.
A. -- signing and striping.
Q. Okay. Let me just focus on temporary traffic control plans for this next question.
What is your impression, based upon that background and experience, of what the purpose of a temporary traffic control plan is when we're talking about a highway construction or maintenance project?
A. A temporary traffic control plan is an overview of all of the signing, traffic control items that need to be in -- in proper order according to the MUTCD.
Q. Is it your understanding that temporary traffic control plans have some bearing on the free flow of motorist traffic through work zones?
A. Could you repeat that?
Q. Yeah.
Is it your understanding that temporary traffic control plans are involved in facilitating the free flow of traffic through work zones?
A. Yes.

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Q. And is it your further understanding that the purpose of temporary traffic control plans is to avoid the development of lengthy queues through work zones?
MR. MOORE: Object to the form. Foundation.
Q. (BY MR. ROBBINS) By "queues," I mean traffic queues.
MR. MOORE: Same objection.
THE WITNESS: Could you repeat that again?
Q. (BY MR. ROBBINS) Sure.
Is it your understanding that another purpose of temporary traffic control plans and the special provisions for their implementation is to avoid the development of lengthy traffic queues through work zones?
MR. MOORE: Object to the form. Foundation.
Go ahead.
THE WITNESS: I wouldn't necessarily say that because traffic control plans cannot overcome inadvertent drivers going through traffic, inattentive drivers going through the traffic control.
Q. (BY MR. ROBBINS) Well, I'm not saying it's --
Well, I suppose there was kind of the

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passing of two ships in the night.
I didn't have any question about inattentive or inadvertent drivers. All I'm asking is that one purpose of a temporary traffic control plan --
Is it your understanding that one purpose is to avoid the development of lengthy traffic queues through work zones?
MR. MOORE: Same objections. Form and foundation.
Go ahead.
THE WITNESS: Free-flowing traffic is what we strive for.
Q. (BY MR. ROBBINS) Okay. And to avoid, as much as possible, the development of lengthy traffic queues through work zones.
Is that also correct?
MR. MOORE: Object to the form. Foundation.
THE WITNESS: As much as one can do.
Q. (BY MR. ROBBINS) Sure. Understood.
Do you, sir, recognize the safety risk posed to motorists and workers by end-of-queue accidents involving traveling through a work zone with reduced lanes?
A. Would you please repeat that?

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Q. I can because I can read it.
Do you, sir, recognize the safety risk posed to motorists and workers by end-of-queue accidents involving traveling through a work zone with reduced lanes?
MR. MOORE: Object to the form.
Go ahead.
THE WITNESS: I'm going to have to ask you to read that one more time. I'm sorry. I'm trying to gather --
Oh.
Q. (BY MR. ROBBINS) Let me make it real quick for you here.
What I'm very simply, very discretely trying to ask you is: Do you recognize that a traffic jam through a work zone poses a risk to workers and motorists that are trying to traverse through that work zone?
MR. MOORE: Object to the form.
Go ahead.
THE WITNESS: I don't -- I really don't understand the question.
Q. (BY MR. ROBBINS) Well, what's mystifying? I'm asking about a -- the concept of a traffic jam through a work zone.

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A. Uh-huh.
Q. That, you've got in your mind?
A. Yes.
Q. Okay. Do you have an understanding in your mind that that -- that is, a traffic jam through a work zone -- poses a risk of rear-end collisions to motorists attempting to traverse that work zone under those conditions?
MR. MOORE: Object to the form.
Go ahead.
THE WITNESS: Potentially, it could.
Q. (BY MR. ROBBINS) All right. Okay.
And the purpose of the traffic control plan is to try to moderate the occurrence of such accidents.
Would you agree?
A. I would agree.
Q. Okay. Would you also agree that the most frequent vehicular accident in work zones with reduced traffic lanes is a rear-end collision?
A. That, I don't know.
Q. Okay. Have you ever seen any studies that have addressed that risk?
A. No.
Q. Okay. Do you know whether or not the

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risk of rear-end accidents is particularly acute in areas routinely traversed by truckers hauling loads?
A. I do not.
Q. Now, in your work with Caltrans as well as with ITD prior to June of 2018, did you believe it was important for ITD work zone inspectors, such in this case as Mr. Mensinger and Mr. Schwendiman --
You know both those individuals?
A. I do.
Q. Do you think it was important for those ITD work zone inspectors to be familiar with the traffic control plan and its special provisions for this project?
A. I do.
Q. So you would expect them to have reviewed it and familiarized themselves with the traffic control plan and the special provisions?
A. Yes.
Q. Why do you think that was important for the ITD work zone inspectors to do?
A. One, typically inspectors are -- are required to -- to know traffic control when they place drums or tubular markers so they can see that

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they intuitively --
And especially the people that we had were very seasoned.
Q. Mr. Mensinger was very seasoned, correct?
A. Yes.
Q. Okay.
A. And so they could see maybe something if they happened to be driving through.
Q. Now, would you expect that the ITD work zone inspectors also be mindful of the traffic response to the temporary traffic controls that had been placed in the work zone?
A. Could you please repeat?
Q. Yeah. Bad question. Would you --
Do you believe that it was part of the job of the ITD work zone inspectors to monitor the response of motorists -- that is, the traffic -- to the temporary traffic control measures that had been put in place in a work zone?
A. No.
Q. Why don't you think that it was important for them to see how traffic was responding to the TTC?
A. We had an item for a traffic control

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manager. That was his job.
Q. But the ITD work zone inspectors didn't have any involvement in seeing where the TTC was appropriately placed and that the traffic was responding appropriately?
A. The inspectors on this job were tasked with watching quantities and the operations of the -- of the main prime contractor.
Q. "The inspectors on this job were tasked with watching quantities and the operations of the main prime contractor."
By that, you mean Penhall's operations?
A. Correct.
Q. Part of Penhall's operations, wasn't it, is that they had retained a traffic control manager to work on this project?
A. Correct.
Q. So was one of the ITD work zone inspectors' job duties and responsibilities to see whether Penhall's traffic control manager was properly doing his job out there?
A. Yes.
Q. Now, Mr. Statkus, I know that you had -- and we'll go through these -- some interactions with Parametrix during the course of what we'll

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MR. MOORE: Object to the form. Foundation.
THE WITNESS: Correct.
Q. (BY MR. ROBBINS) Thank you.
MR. MOORE: Can I help you?
MR. ROBBINS: God, yes. Please.
MR. MOORE: Were they e-mails with your name on them?
THE WITNESS: Yes.
MR. MOORE: Okay.
MR. ROBBINS: That's great.
Q. (BY MR. ROBBINS) But in terms of the subject area, we've covered the subject areas generally of what those e-mails were?
A. Correct.
Q. Okay. So let me ask you to take a look at -- let's just kind of go through these somewhat quickly. Page 329. It's the kickoff meeting. You are identified as, I believe, an attendee, as was Mr. Breen and Mr. Colson.
Directing your attention to page 330, second paragraph, that section says, "In the four-lane sections, it was agreed to show the two-lane work zone with two lanes open to traffic, but ITD was open to the idea of possibly going down to one lane when the grinding/joint work passes

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closest to the drums if the work coincides with a low enough traffic volume time of the night. Bryon said to review hourly traffic volumes. ITD can provide an hourly volume report."
To your knowledge, during the course of the project, did ITD ever approve reducing active traffic lanes to something less than two in a four-lane section?
A. No.
Q. Were there ever, during the course of the development of the TTCP, further discussions about the concept of reducing open traffic lanes in four-lane sections to less than two?
A. I do not recall.
Q. Let me ask you to take a look next at the preliminary design review meeting. And it is --
This, obviously, just from what this says, this was at the point in time when Parametrix was still in the process of developing their traffic control plan?
A. Are those notes in here?
Q. I'm sorry. 332.
And specifically, I'm asking: The preliminary design review meeting, that's at a

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point in time when Parametrix was still in the process of developing their traffic control plan for this project?
A. Correct.
Q. Okay. And you were in attendance; Mr. Breen, Mr. Colson, and other people were there as well. Jon Mensinger was there.
Do you see other individuals who ultimately were assigned to work as work zone inspectors having been attendees at this design review meeting?
A. Jon Mensinger is the only one.
Q. Okay. Do you know why he didn't attend the kickoff meeting? I'm not suggesting that there should be a reason. I'm just wondering why he appears here and not on the last one, if you know.
A. That's not his area of expertise of scopes of work in man-hour estimates.
Q. Oh, okay. So what is his area of expertise insofar as temporary traffic control plans are concerned, as you understood them?
A. He's an inspector.
Q. Right.
A. So --
Q. So he would need to know about the

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temporary traffic control plan?
A. Right. Correct.
Q. All right. Now, let me ask you to turn to page 333, second paragraph there. And it speaks of reviewing hourly traffic volume data, and here we're talking about weekends and whether, you know, we could extend the work time over weekends depending upon what traffic volume data shows.
But what is your understanding of the importance of utilizing and evaluating traffic volume data in developing a temporary traffic control plan?
A. Well, in the case of this paragraph, extending the hours on the Saturday and Sunday workdays.
Q. Okay. But evaluating traffic volume allows you to determine what lane capacity there is to accommodate the expected volume in an area.
Is that generally correct?
A. Correct.
Q. Okay. And at ITD, how is it that traffic volume information is obtained for a particular area of work zone, if you know?
A. I believe they would be contacting our traffic area in District 3.

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Q. And I would hope I'm using the acronym correctly. They're TTRs? Are those the device that -- that counts traffic volume?
A. ATRs?
Q. Even better. ATRs, yes.
Is that the device that counts traffic volume?
A. I believe so, yes. Yeah.
Q. And are you familiar enough with the device to explain to me what the intervals are that the ATR collects information on traffic volume for?
A. No, I'm not.
Q. Okay. All right.
Next, I'll ask you to take a look at page 334. That's the final design review meeting. And at that point, I take it that Parametrix had done the bulk of their work in developing the temporary traffic control plan and special provisions. And the purpose of this was to tweak, for want of a better word, the plan and the special provisions.
Is that generally correct?
A. Correct.
Q. Okay. In there, we see that you were present, Mr. Breen is present, Colson, and

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Mr. Mensinger is also present. And, again, Mr. Mensinger was present because it was anticipated that he would be a work zone inspector for this project?
MR. MOORE: Object to the form.
THE WITNESS: No.
Q. (BY MR. ROBBINS) What do you mean no?
A. Could you rephrase that question?
Q. Sure.
My question is: The presence of Mr. Mensinger at the final design review meeting, did that have to do with the fact that it was anticipated that he would be work zone inspector for the project?
A. That he would be working on the project as an inspector?
Q. Yeah.
A. Yes.
Q. Okay. All right.
And, again, is he the only anticipated inspector who was present during the final design review meeting?
A. Correct.
Q. Okay. Let's go to page 335. There's an issue that was apparently raised -- at least as is

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reflected in the meeting notes by Mr. Hoffecker. I'll just ask whether you recall this being raised, about a flagging item.
Now, it's my understanding that all of the work that was to be done on this project was to be done at night.
Is that correct?
A. All work was to be done at night.
Q. Is it unusual for flaggers to be used in traffic control activities where night work is involved?
A. No.
Q. Okay. Flaggers would be out there, that notwithstanding?
A. Correct.
Q. Why is a flagger used in a project such as this that is being done at night? Would it be in order to address situations that unexpectedly occurred out at the worksite?
A. No.
Q. Okay. In other words, why a flagger and not a sign?
A. Physical presence on detours to keep people from going through the detour --
Q. Okay.

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A. -- even though it was signed and -- properly.
Q. Okay. All right.
Would they have any involvement in giving motorists advanced notice of abrupt changes in traffic speed?
A. No.
Q. Okay. Now, down in the last line, there's a reference -- last line -- last paragraph -- or second-to-last paragraph, if you will, attributed to Mr. Breen. And we'll chat with Mr. Breen tomorrow. I know that.
Do you have a recollection of his interest in tightening, if you will, the specification for the traffic control manager for this project? Do you have a recollection of why he had that interest?
And you may not. I'm just wondering whether or not this prompts a memory in your mind.
A. It does not.
Q. Okay. Do you have a recollection one way or the other as to whether Mr. Breen's recommendations concerning the traffic control manager as identified in this paragraph were ultimately adopted in the specifications for the

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TTCP on this project?
A. Yes.
Q. And they were?
A. Yes.
Q. Okay. Let me ask you to take a look at Tab 18, page 634. This has been identified by the NTSB as the rationale for estimating lane capacity and requirement to maintain two lanes open in four-lane sections of I-84.
I'll give you a chance to just refamiliarize yourself with pages 635 to 638. But my ultimate question to you will be: Is that, in your estimation, an accurate description of the subject of this e-mail?
A. You said 635 through --
Q. 635 through 638, I believe.
A. Yes.
Q. Okay. And you had an opportunity to review this e-mail --
I do apologize. I meant -- you know, let me try a different --
And I apologize, sir. It's a little lengthy today. But let me take a look real quick here. Let me try to redirect you.
Yeah. Tab 16, page 470 through 472.

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That's described as a March 7, 2017, e-mail from Mr. Colson to you. And I apologize --
MR. MOORE: Is this the same one, Counsel?
MR. ROBBINS: No, no. No. This was from March 7, 2017. And for whatever reason, what I had attached before appears to have been the August 29. So that's entirely my mistake, but I'm trying to correct myself.
MR. MOORE: Thank you for doing that. I was trying not to interrupt.
MR. ROBBINS: Oh, God forbid.
MR. MOORE: Yes, God forbid. That would never happen.
Q. (BY MR. ROBBINS) I apologize for the confusion, sir.
I wanted to direct your attention back to the March 7, 2017, e-mail from Mr. Colson to you. That extends from 470 to 472.
And after you have a chance to familiarize yourself with that, are you able to recollect what the purpose of this e-mail to you from Mr. Colson was?
A. Time restrictions and volumes.
Q. Pardon me? I didn't --
A. Time restrictions.

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Q. Ah. So that was his calculation in terms of the volumes anticipated through the work zone and how it would relate to time restrictions for work?
A. Correct.
Q. Okay. You know, and on page 471 but right under that box, there's a reference to, "Failure to have the stated number of traffic lanes open will result in a charge," et cetera, et cetera.
Do you know whether at any time during or after the project, Penhall was ever charged a fine, if you will, for want of a different word, as indicated there in that paragraph?
A. I do not.
Q. You would agree that certainly on June 16, there was a failure to have the stated number of traffic lanes open?
MR. MOORE: Object to the form. Foundation.
Go ahead.
THE WITNESS: Can you repeat that? Sorry.
Q. (BY MR. ROBBINS) Yeah.
Would you agree that on June 16, 2018, that there was a failure to have the stated number of traffic lanes open on this project?

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A. I did not know at the time.
Q. No. But thereafter, did you?
A. Correct.
Q. Okay. Did you ever have any discussions with anybody at ITD about the concept of levying a fine for that violation?
A. No.
Q. Okay. At any time prior to June 16, 2018, were you aware that there were other occasions when four-lane stretches of highway were reduced down to one open lane?
A. No.
Q. That is, during the course of the project or thereafter, you've never become aware of that?
MR. MOORE: That question is vague. Object to the form.
Can you rephrase it?
MR. ROBBINS: Yeah.
Q. (BY MR. ROBBINS) What I'm asking you is: Through and including the present, have you ever become aware that there were times other than June 16, 2018, where traffic lanes were reduced in four-lane sections of the highway in work zones to less than two lanes?

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provisions were?
A. Yes.
Q. Okay. Well, rather than just going through the Parametrix special provisions since you don't, I guess, have a recollection of having received it, let's go to -- and I'll ask you to take a look at and identify for me what I believe are the special provisions that formed a part of the ITD/Penhall contract for this project.
And for that, sir --
MR. MOORE: Tab 6.
Q. (BY MR. ROBBINS) -- if you would be so kind as to take a look at Tab 6 starting at page 23. And it appears to extend through page 45.
Generally, just taking a look at it, does it appear to you that those pages encompass these special provisions for this project insofar as the temporary traffic control plan is concerned?
A. Correct.
Q. Okay. Then let me ask you to take a look at page 27.
Under "Alternate Staging and Temporary Traffic Control Plan," is it your understanding that if there was an alternate temporary traffic control plan or any change to the approved

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temporary traffic control plan, that such a request would have to have been made by the contractor to ITD in writing?
A. Correct.
Q. All right. And do you know whether any such request for any change in the traffic control plan was ever submitted by Penhall or Specialty to ITD on the project?
A. To my knowledge, no.
Q. Okay. Would that request have been submitted to you in your position before you transitioned out of the position that you were dealing with or would it have been submitted to somebody else, if you know?
A. It would have been submitted to Bryon.
Q. To Bryon Breen?
A. Yes.
Q. Okay. And would you expect that Mr. Breen then would have reached out to you to get your input in the requested change, if one had been made?
A. He might have.
Q. Would you expect that he would have, given your background and experience?
A. I think he would have called Ken since

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they did the traffic control plans.
Q. Ah. He would have given -- he would have called Ken and said, "Hey, this is what's proposed. What do you think?"
A. Correct.
Q. Okay. Let's go to page 28. I don't want to beat any more than need be beaten, but under the restriction, there is the restriction of four four-lane sections and greater and providing that a minimum of two lanes shall remain open during the -- in the work zone.
Is that correct?
A. Correct.
Q. Okay. Let me ask you to take a look, please, to page 34. The "Traffic Control Manager," the next-to-last paragraph in that section, talking about TCM maintaining a daily diary, and there's also a provision that a copy of the day's diary entries shall be submitted to the engineer by 10:00 a.m. the following day.
Do you know who was meant to be identified by the term "engineer" in that section in this particular project?
A. That would have been Bryon or myself.
Q. Okay. What was your position insofar as

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this project was concerned prior to your rotation out? Transition out, I should say.
A. For this specific project?
Q. Yes, sir.
A. I was a project coordinator.
Q. What generally does a project coordinator do at ITD in highway construction and/or maintenance projects?
A. Administer the contract.
Q. Let me ask you: There's been some question --
MR. MOORE: Counsel, I don't know that he was finished with his answer.
MR. ROBBINS: Oh, God forbid.
MR. MOORE: Come on. Don't be --
MR. ROBBINS: Please.
MR. MOORE: Don't be --
MR. ROBBINS: I'm not.
Q. (BY MR. ROBBINS) Was there something more you wanted to add?
A. Administer the contract, review change orders. That's it.
Q. Okay. When you say administration of the contract, I've asked some questions on that general concept.

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Q. Okay.
A. Jim, Jim Hoffecker.
Q. Jim Hoffecker.
A. Sorry.
Q. But why is it that they would go to either you and/or Mr. Hoffecker and not to Bryon Breen?
A. Bryon may have been cc'd on there. Most of these diaries were submitted via e-mail and some submitted hard copy, I believe.
Q. Okay. And ultimately, the standard practice of ITD, would the standard construction diaries find their way into the project file?
A. Correct.
Q. Do you know if they always found their way in the project file for this project?
A. I do not.
Q. Okay. And how about with respect to the TCM diaries? Would they always find their way into the project file for this project?
A. That would be the procedure.
Q. Okay. Did anybody prior to June 16, 2018, compare the TCM diaries with the standard construction diaries?
MR. MOORE: Object to the form. Foundation.

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MR. ROBBINS: Yeah.
Q. (BY MR. ROBBINS) Did anybody undertake a review on the one hand of the TCM diaries and compare them for accuracy with the standard construction diaries?
MR. MOORE: Same objections.
MR. ROBBINS: Or vice versa.
MR. MOORE: Same objections.
THE WITNESS: I don't recall.
Q. (BY MR. ROBBINS) Okay. Is that something you ever did?
A. No.
Q. Okay. Do you know if that's something that Mr. Breen ever did?
A. I don't recall.
Q. Okay.
MR. GALE: Mr. Robbins, Eric Gale here.
MR. ROBBINS: Hey, Eric. How are you?
MR. GALE: I am getting tired.
MR. ROBBINS: Oh, gosh.
MR. GALE: How about you?
What's the time estimate on the remainder of this?
MR. ROBBINS: You know, Eric, just for you and only for you, I'm going to cut off at 5:30.

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Hell, I was going to go until 9:00, Eric, but I'm going to cut off at 5:30 just for you.
MR. GALE: I'm glad I asked.
MR. MOORE: I think as he gets tired, he tries to come up with these jokes, but I think we talked about 5:30, Eric.
MR. ROBBINS: We did, and that's what we're doing.
MR. GALE: Thanks. I did not hear that. Thanks.
MR. ROBBINS: We were hiding it from you. I always want to give you a surprise sometimes. But that's what we're doing.
MR. GALE: You never cease to amaze me, Clay.
MR. ROBBINS: There you go.
Q. (BY MR. ROBBINS) Let me ask you, please, to take a look at Tab 18, page 640.
MR. MOORE: Just a second so we can get it out.
MR. ROBBINS: Yeah, yeah, yeah.
Q. (BY MR. ROBBINS) Sir, I will tell you that I got this document from the NTSB docket concerning their investigation of this accident. It purports to be a copy of a pre-construction conference agenda that supposedly took place on

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June 26, 2017, and it identifies you as being a participant.
Do you recall having participated in the pre-construction conference agenda?
A. I do.
Q. Okay. In the deposition of Mr. Brinkman, he identified that there's only one pre-construction conference agenda for a -- excuse me. There's only one pre-construction conference for a project, generally speaking.
Do you subscribe to that view as well?
A. Correct.
Q. Because there was some indication of another pre-construction conference when the project started up again in, I believe, the 2018 time frame.
Do you recall another construction conference that occurred when work was restarted on this project?
A. Only through the notes that Mike --
Q. You were an attendee at the pre-construction conference for June 26, 2017, but the other construction conference, you were not an attendee at, correct?
A. Correct.

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Q. Okay. So here at this project, we've got you, Mr. Breen, and -- among others, and also Steve Erichson as project lead inspector.
MR. MOORE: Clay, you misspoke.
MR. ROBBINS: Did I?
MR. MOORE: Inadvertently. It's July, but --
MR. ROBBINS: Oh, okay. What did I say? June?
MR. MOORE: It's okay.
MR. ROBBINS: Would you make me look good?
THE REPORTER: I'm trying, man.
MR. MOORE: Now, we get all sorts of jokes from him. We don't need Andrea to start picking on the lawyers.
Q. (BY MR. ROBBINS) With that correction, the July 26, 2017, pre-construction conference, you are identified as a participant, Mr. Breen.
My question related to Steve Erichson: Is it -- he is identified as project lead inspector, and is there -- is there a reason why Mr. Erichson is identified as lead inspector as opposed to Mr. Mensinger, if you know?
A. There's always a lead inspector on a project, especially one of this size --
Q. Right.

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A. -- with many locations.
Q. Okay.
A. So --
Q. So he was the lead.
How many total inspectors do you recall being on this project for ITD in the 2017 time frame, if you know?
A. Total number that went through?
Q. Yeah.
MR. MOORE: On this project?
MR. ROBBINS: On this project, 2017.
MR. MOORE: 2017?
THE WITNESS: '17?
Q. (BY MR. ROBBINS) Because I saw Erichson, Van Lydegraf, and I -- I know Mensinger, but I don't know whether he was out there in '17 or not.
A. My recollection is maybe four, five.
Q. Okay. Was Mr. Erichson lead inspector --
MR. MOORE: Just a second.
MR. ROBBINS: Oh, sure, go ahead.
MR. MOORE: Are you guessing at that or do you know? I mean, he doesn't want you to guess.
MR. ROBBINS: And if you don't follow his direction, sir, then I don't know what I can do

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to --
THE WITNESS: I am --
I can't answer that, the exact number.
Q. (BY MR. ROBBINS) No worries. No worries.
Do you know whether Mr. Erichson was the project lead inspector throughout the project?
A. I don't -- I don't know.
Q. Do you know if in 2018, he was still the lead inspector?
A. I do not know.
Q. Okay. Maybe I'll ask that of Mr. Breen. Do you think he might know? Probably should have asked Mr. Brinkman, but it's too late.
All right. In any event --
MR. MOORE: Ask me off the record.
MR. ROBBINS: Bless you.
Q. (BY MR. ROBBINS) Do you recall whether any law enforcement personnel was present during the July 26, 2017, pre-construction conference?
A. They were not.
Q. Okay. Why was that? Do you know?
A. At this type of pre-construction meeting, it mostly has to do with contract administration.

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I don't know.
Q. Okay. No worries.
Do you recall approximately how long that pre-construction conference was?
A. Over an hour.
Q. Okay. There's some indication it lasted an hour and 54 minutes.
And that was audiotaped.
Is that correct?
A. That is correct.
Q. Have you ever listened to that audiotape since that conference?
A. I have.
Q. Okay. When was the last time you listened to it?
A. This morning.
Q. Okay. And did that refresh your recollection concerning the subject matters discussed in that pre-construction meeting?
A. It did.
Q. And during that pre-construction meeting, was the subject of the special provision limiting lane closures to two lanes in four-lane sections addressed?
A. It was discussed.

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severe congestion did occur, they would probably be notified by the State Highway Patrol."
I guess that's ISP, Idaho State Police?
That's your version of the highway patrol?
MR. MOORE: Uh-huh.
THE WITNESS: Yes.
MR. ROBBINS: I know. I'm trying to get it from him. Thanks.
Q. (BY MR. ROBBINS) Do you recall that issue being discussed?
A. I believe it was discussed, but I don't remember any of the details.
Q. All right. What, in your mind, would constitute severe congestion in a work zone?
And by "congestion," we're talking about traffic. You understand that, right?
A. Correct.
MR. MOORE: Object to the form.
Go ahead.
Q. (BY MR. ROBBINS) Just a clarification. It's a traffic queue through the work zone. That's what we're talking about, correct, sir?
A. Correct.
Q. What would you consider severe congestion in terms of motorist traffic through a

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work zone?
A. Could be an accident.
Q. No. How long congestion --
A. Oh.
Q. What length of queue would you describe as severe congestion?
A. My guess would be, like, five miles or so.
Q. Five miles?
A. Yeah.
Q. How about 1.2 miles?
A. I would consider that moderate.
Q. Oh, really? How about two miles?
A. Somewhat moderate.
Q. You recognize, though, that there is a risk of rear-end collisions associated with queues, even moderate queues, in your use of the term.
Would you agree with that?
A. There would be -- there would be that --
Q. We're not pulling teeth here, sir. It's a pretty straightforward question.
MR. MOORE: Give him a chance to answer the question.
MR. ROBBINS: I am.
MR. MOORE: You're not when you start to

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interrupt him.
Q. (BY MR. ROBBINS) Would you like me to read that question back to you?
MR. MOORE: Counsel, let him answer the question at his pace.
MR. ROBBINS: I want to make sure that he's got the question in mind.
MR. MOORE: Okay.
MR. ROBBINS: Would you like me to read it back to you?
THE WITNESS: Yes, please.
Q. (BY MR. ROBBINS) You recognize, though, that there is a risk of rear-end collisions associated with queues, even moderate queues, in your use of the term.
Would you agree with that, sir?
MR. MOORE: Object to the form and foundation.
Go ahead.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. Let me ask you to take a look at Tab 16, pages 484 and 485.
A. Excuse me. What pages?
Q. 484 through 487.
Have you ever seen this e-mail from

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Mr. Colson?
A. No.
Q. Did you ever have any discussions with Mr. Colson in August or September of 2018 regarding opinions he, Mr. Colson, was providing to ITD with regard to the accident investigation?
A. No.
Q. Okay. Let me ask you, and, again, I apologize for toggling back and forth here, but I guess that's going to happen.
Let me ask you to take a look again at Tab 17, page 524. Let me ask you to take a look at the second paragraph under note 7 there. It speaks of a May 31, 2018, meeting that was held, and it's described there as a pre-construction meeting, but we know from our deposition of Mr. Brinkman that it's not technically a pre-construction conference, so to speak.
And there may also be an error insofar as the date reflecting in May. It may, in fact, have been in April.
But do you recall attending such a meeting along with Penhall that occurred shortly before the restart of this project?
A. I do not recall being there.

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Q. Okay. It was Mr. Brinkman's belief that you, in fact, did attend that meeting. It is your statement here that you did not, in fact, attend that meeting?
A. My statement is that I don't recall being there at that meeting.
Q. Okay. Well, let me ask, and we'll just go through it just to see if something clicks for you.
It says that no minutes were kept of this meeting, but if you don't have a recollection of attending the meeting anyway, I wouldn't expect you to know one way or the other.
It proceeds, it says, "Bruce Kidd from Penhall attended the meeting with Bryon Breen, the resident engineer for ITD -- and Bryon Breen, resident engineer for ITD was present." No personnel from traffic subcontractor were at the -- this meeting.
"Penhall indicated that at this meeting, they had requested to be allowed to close -- they had requested to be allowed to close a third lane during joint sealing operations."
Do you recall that issue ever being raised by Penhall during the course of this

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project?
MR. MOORE: Object to the form.
Go ahead, sir.
THE WITNESS: I don't recall.
Q. (BY MR. ROBBINS) Okay. It goes on, "The resident engineer," and I take that to be Mr. Breen, "told the NTSB that he recalled that item coming up in the meeting but was not sure how it was resolved other than no written requests were submitted as required by the special provisions to the contract."
He then proceeds, "His clarified comment was that he had specifically told the contractor that a written request was required to change the traffic control plan."
Do you recall there being a conversation during which you were present or that you were informed of by somebody wherein Mr. Breen informed Mr. Kidd with Penhall that a written request to change the project plans would have to be submitted in order for there to be a closure of the third lane in a four-lane stretch?
Do you recall that being discussed?
MR. MOORE: Object to the form.
Go ahead, sir.

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THE WITNESS: I do not recall.
Q. (BY MR. ROBBINS) All right. Have you ever seen the probable cause -- probable cause report issued by the NTSB concerning this accident?
A. No, I have not.
Q. Let me ask you to move under Tab 17 to page 573. Would you do that for me, please.
A. And that was 573?
Q. Yes, sir.
And specifically, I'd direct your attention to the section entitled "Probable Cause," and actually, probably the midportion of that paragraph, I think, if I were to direct your attention, that's where I'd like you to look. Starting with, "Contributing to the crash."
You tell me when you're done reading that.
A. Yeah.
Q. Do you agree with Item Number 1 after the reference to, "Contributing to the crash"?
MR. MOORE: Object to the form. Foundation.
Counsel, I also object on the basis of the federal statute. This area of inquiry is --
MR. ROBBINS: Yeah.
MR. MOORE: -- is -- let me finish -- is not

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a subject that's permitted under the federal statute, and I move to strike.
MR. ROBBINS: You can make an objection real quick on that one.
MR. MOORE: I can.
MR. ROBBINS: You didn't, though. That's okay.
MR. MOORE: But the problem is my detail --
Q. (BY MR. ROBBINS) Can you answer my question, sir?
MR. MOORE: My problem --
MR. ROBBINS: I'm not interested in a dialogue, Mike.
MR. MOORE: I'm getting tired of your not being interested, but you can control exactly what everybody else gets to say.
MR. ROBBINS: No, what you say --
MR. MOORE: No.
MR. ROBBINS: -- on the record when you go beyond just simple objections, Mike.
MR. MOORE: I'm going to make an objection on the basis of --
MR. ROBBINS: Do it correctly.
MR. MOORE: -- the federal statute.
I will do it as I do it in Idaho.

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MR. ROBBINS: Site the statute.
MR. MOORE: I do it on the basis of the NTSB federal statute that addresses the -- that the probable cause findings of the NTSB is not admissible in the court.
MR. ROBBINS: Got it.
MR. MOORE: Okay.
Q. (BY MR. ROBBINS) Okay. So with that in mind, sir, and that notwithstanding, do you agree with the first -- number 1 after, "Contributing to the crash," wording?
A. I cannot agree to it because I did not write the report or how they came up with those conclusions.
Q. Well, based upon what you know the conditions were at the site -- at the scene of the accident on the night of the accident itself, do you agree or not agree with that statement after (1)?
MR. MOORE: Same objections as before.
MR. ROBBINS: I'll let you reserve your objections. As a matter of fact, Mike, you can reserve all your objections. You don't need to object anymore. Any objection you want to make, you'll be able to.

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MR. MOORE: Okay. I will continue to make them.
Q. (BY MR. ROBBINS) You can respond, sir.
MR. MOORE: Same objections.
Go ahead.
THE WITNESS: I would agree.
Q. (BY MR. ROBBINS) You would agree? Okay. Let me ask you then to take a look at number 2.
Do you agree with that statement?
MR. MOORE: Same objections. Form, foundation, and the federal statute on probable cause.
MR. ROBBINS: So, what, "same objection" didn't cover it, Mike?
MR. MOORE: Go ahead.
Well, in this state, I'm trying to do it appropriately.
THE WITNESS: I do not agree with number 2.
Q. (BY MR. ROBBINS) What is it that you don't agree with Item Number 2?
MR. MOORE: Same objections.
Go ahead.
THE WITNESS: The term "lack of proper oversight by ITD."
Q. (BY MR. ROBBINS) Okay. Is that because,

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in your opinion, ITD provided no oversight of temporary traffic control out at the site of the -- the scene of the accident?
MR. MOORE: Object to the form. Foundation. Federal statute.
Go ahead.
THE WITNESS: It was the duty of the temporary traffic control manager's responsibility.
Q. (BY MR. ROBBINS) Yeah.
Is it your position that ITD played no part in oversight of TTC at the worksite on the night in question?
A. Could you -- could you restate that?
Q. Yeah.
Is it your position that ITD played no part in oversight of TTC at the worksite on the night in question?
You don't need to look at Mike, sir.
MR. MOORE: Counsel, he wasn't.
MR. ROBBINS: It's on video, Mike.
MR. MOORE: I'm not looking at him.
THE WITNESS: The -- the role of the temporary traffic control manager was to make sure all the -- all of the proper temporary traffic control was in place.

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Q. (BY MR. ROBBINS) I would agree with that, sir.
So in answer to my question then, ITD did play a part in the oversight of TTC at the worksite on the night in question.
Would you agree with that?
A. No.
Q. Well, okay. But you just told me that they had involvement in assuring proper placement of TTC, correct?
A. I'm a little --
MR. MOORE: Counsel, that's not what he said. Reread the answer.
MR. ROBBINS: The role of the temporary traffic control manager was to make sure --
Good point, Mike. That's the best point I think I've heard you make.
MR. MOORE: Come on. Don't be condescending, Counsel.
Q. (BY MR. ROBBINS) Insofar as the ITD inspectors, did the ITD inspectors play any role in assuring that temporary traffic control was properly placed?
A. Their role was to make sure that they got their quantities. They were not responsible in

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discussing in pages 684 and 685, notwithstanding the fact that you had not approved it?
MR. BOTTARI: Object to the form.
THE WITNESS: I'm trying to understand. So --
Q. (BY MR. ROBBINS) Do you want me to read it back again, sir?
A. No. I'm trying -- just trying to understand your question as to did they try to implement --
Q. Yeah.
A. -- 110-foot spacing instead of the 55?
Q. Yeah. In other words, they were making a request for a change in spacing.
A. Right.
Q. My question to you is: You've denied it. Do you know if at some point during the project, Penhall just went ahead and implemented those changes that it was making an inquiry about?
A. I do not.
Q. Okay. All right.
Would you answer me this: Why is it -- if this was a proposed change to the temporary traffic control plan, why didn't you tell Mr. Kircher that they needed to submit that request

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in writing in order for it to be properly decided?
A. I don't know.
Q. That would have been the proper procedure, correct?
A. Correct.
Q. And that was the procedure that you asked them to follow in the earlier e-mails; page 680, right?
A. Correct.
Q. Is it possible, sir, that Penhall at some point during this project made a request to you, either by e-mail like this or verbally, for a change in the temporary traffic control plan to allow for reduction of open lanes in a four-lane stretch down to one lane, and that was approved verbally by you?
MR. MOORE: Object to the form.
Go ahead, sir.
THE WITNESS: No.
Q. (BY MR. ROBBINS) Would never happen. Is that your testimony?
A. No. Yes, that's correct.
Q. Okay. In order for Penhall to have properly presented a request to change the temporary traffic control plan as to four-lane

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stretches to reduce to one open lane instead of two, I understand that they would have had to present a written proposal, but what would that proposal, in your mind, have had to include?
A. A set of stamped plans.
Q. Yeah. And in order to get a set of stamped plans, would there have to be an evaluation of lane capacity?
A. I --
Yes.
Q. Would there have to be an evaluation of anticipated traffic volume?
A. Yes.
Q. So they would have had to go through the whole process that Mr. Colson had done back in 2017 in order to justify reduction of lanes from two open lanes to a single open lane in a four-lane stretch, correct?
A. Correct.
Q. Why, to your way of thinking, would it be important for such a re-evaluation of the traffic control plan to be done in order to allow the reduction of a four-lane stretch of highway down to simply one open lane in a work zone?
Why is it important to go through this

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process that we just discussed? The Colson process, let's call it.
A. That would give you -- doing an analysis, that would give you a better representation as to a recommendation of whether you could even go down to one lane.
Q. It would -- it would give you an evaluation as to whether by doing that, you would cause traffic backups through the work zone, correct?
A. Correct.
Q. And increase the risk of safety to motorists driving through that work zone as well as workers, correct?
A. Potentially.
Q. That was never done here prior to June 16, 2018.
Would you agree with me, sir?
A. Of this -- of the report and all that? No, they did not.
Q. Mr. Statkus, I appreciate your time. Thank you.
MR. ROBBINS: I pass the witness.
MR. ORLER: No questions from me.
MR. MONTELEONE: I have a few questions,

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Mr. Statkus.

EXAMINATION

BY MR. MONTELEONE:

Q. My name is Jason Monteleone, and I represent the Westall family, who lost their daughter in this collision.

Did anyone ever discuss, prior to the collision on June 16th, 2018, using the shoulder as a traffic lane for construction?

A. I do not recall that.

Q. Okay. Do you have any opinion as to whether that would have been feasible on the date of this collision?

A. I'm sorry. Could you say -- repeat that?

Q. Do you have any opinion as to whether it would have been feasible on the date of this collision to have used the shoulder as a traffic lane to absorb traffic volume?

A. I do not.

Q. Have you ever considered that before today?

A. I have not.

Q. Has anyone ever mentioned that to you?

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A. No.

Q. Are you aware of what MUTCD signage would be necessary in order to use the shoulder as a traffic lane in a construction zone such as we had on this project?

A. I do not.

Q. Do you believe that the traffic control was sufficient on the date of this accident?

MR. MOORE: Object to the form. Foundation.

Go ahead, sir.

THE WITNESS: I can only speculate that it was up and running. That's all. I was not out there personally.

Q. (BY MR. MONTELEONE) Well, with what you've reviewed and understand was involved in this collision, do you believe that the traffic control was adequate on the date of the collision?

MR. MOORE: Object to the form and foundation.

Go ahead, sir.

THE WITNESS: I believe from what I know now with -- with the traffic control set up in such a way that there was four lanes and they went down to one lane, it would be inadequate.

Q. (BY MR. MONTELEONE) It would be inadequate, correct?

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A. Correct.

Q. Thank you, sir.

Did you ever talk to Mason Garling, the traffic control manager at one point in time, about this project or the collision?

A. I do not.

Q. You don't recall --

A. I do not recall.

Q. Thank you, sir.

As I understand it, on the date of the collision, the work that was being done was the sealing of pavement joints.

Is that correct?

A. I don't recall exactly what operation was going on at the time.

Q. To whom would I want to speak to have that answered: What exactly was the work occurring that Saturday night when the collision occurred?

A. Who would you speak to?

Q. Yes. Would it be Mr. Breen?

A. I would start with Bryon.

Q. Okay. Would it be the inspectors on the job?

A. That would be correct.

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Q. Okay. Anyone else other than Mr. Breen, the resident engineer, and the three ITD inspectors that would be able to tell me what work was actually being performed at the time of the collision?

Excuse me, I'm being corrected. Two inspectors. Thank you, Counsel.

A. I'm sorry. Could you repeat that?

Q. Sure.

Other than Mr. Breen and the two inspectors from ITD, anyone else you can think of that could educate me on what work was actually being performed on the night of the collision?

A. I could not, other than maybe the contractor on the night.

Q. And by that, you mean Penhall?

A. Correct.

Q. You've looked at the traffic control plan in this case.

Is that fair to say, sir?

A. Correct.

Q. And you saw the signage layout in the NTSB report.

Have you seen that?

A. I have not.

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A. I do not recall him mentioning or discussing that.
Q. Do you recall Vince Coletta telling you that the preferred approach for Penhall was to complete work in the fast lanes and then do the slow lanes and ramps at the same time?
A. I do not recall that.
Q. Do you recall --
I guess, what do you recall about the pre-construction meeting in July of 2017?
A. Specific points? Is that what you're asking me?
Q. Just in general, do you recall anything? I know you stated yesterday that you had listened to the audio prior to your deposition. I don't know if that refreshed your recollection as to what occurred during the meeting, but I'm just generally interested in what you remember.
A. There was an agenda that we go through for -- and it's a fairly generic form that we use and go through certain points of the project, including -- we -- payment, change order process, if there was any questions on the traffic control plans or -- and their methods of operation that they intended on doing is generally what I

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remember.
Q. Do you remember Ken Colson from Parametrix being present at that pre-construction meeting?
A. Correct.
Q. Okay. And do you remember any conversation about Penhall's request to complete work without live traffic on either side of its workers and the concern that Mr. Colson expressed with that?
A. I do not recall.
Q. Do you recall Vince Coletta indicating that some situations may be more complicated windows and may need to schedule -- they may need to schedule a meeting in the future to address those issues?
A. I do not recall.
Q. Are you aware of any circumstances where a meeting was scheduled in the future to address those issues?
A. I am not aware.
Q. Do you agree that changes sometimes are made and approved in the field?
MR. MOORE: Object to the form. Foundation. Overbroad. Doesn't have the necessary specificity.

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It's going to lead to a confusing answer.
Go ahead, sir, if you can.
Counsel, you may want to rephrase it.
Q. (BY MR. BOTTARI) Does ITD ever allow a change to be made in the field?
MR. MOORE: Same objection. Overbroad. I repeat the entire objection.
THE WITNESS: Not to my knowledge.
Q. (BY MR. BOTTARI) And that includes any type of a change?
MR. MOORE: Same objection. "Any type" without any detail at all leads to confusion and misunderstanding. I object to the form and foundation.
Q. (BY MR. BOTTARI) Does ITD, to your knowledge, or has ITD throughout the course of this project allowed any of its inspectors to make a change to the temporary traffic control throughout the course of the project?
A. No.
Q. To your knowledge, has ITD throughout the course of this project allowed any inspectors to make any changes to the length of time that Penhall was allowed to work on the project on a particular date?

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A. Not to my knowledge.
Q. If that had happened, would that be permissible?
MR. MOORE: Object to the form. Foundation. Vague. Incomplete hypothetical.
Go ahead.
THE WITNESS: If that happened? I am a little -- I'm --
Can you restate that?
Q. (BY MR. BOTTARI) Yes, I can. Bear with me. I'm going to go to a specific diary entry.
But my general question is: Do you recall any instances in which an ITD inspector allowed Penhall to remain at the worksite longer than was permitted under the contract?
A. I do not recall.
Q. And were ITD inspectors allowed to authorize that?
MR. MOORE: Object to the form.
Go ahead.
THE WITNESS: My answer would be no.
Q. (BY MR. BOTTARI) Okay. If the ITD inspector was not allowed to authorize that, then who was?
MR. MOORE: Object to the form. Foundation.

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the standard construction diaries of David Van Lydegraf or Steve Erichson?
A. I do not recall.
Q. Would there be anything that would help you recall?
A. I guess I could pull their diaries and read them.
Q. And that may refresh your recollection as to whether you read those?
A. I'm confused as to what you're asking me.
Q. I'm simply asking, sir, that by reviewing those standard construction diaries, that may help you remember whether, in fact, you actually read them in the fall of 2017.
Do you agree with that?
A. It may, but I would not --
Q. Was that part of your job responsibilities on this project, to review the standard construction diaries that ITD inspectors provided?
A. On a daily basis, no.
Q. On any basis?
A. I would talk to my inspectors and got a feel for what was going on in the field.

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Q. How often would you talk to your inspectors?
A. At least twice, maybe three times a week.
Q. Was anyone else from ITD, such as Byron [sic] Breen, communicating with the ITD inspectors on a regular basis?
Bryon. I apologize.
MR. MOORE: If you know, go ahead.
THE WITNESS: I do not know.
Q. (BY MR. BOTTARI) Was Bryon Breen the resident engineer for ITD on this project?
A. That is correct.
Q. Would you expect Bryon Breen to be communicating with the ITD inspectors as part of the normal job duties on this project?
MR. MOORE: Object to the form.
Go ahead, sir.
THE WITNESS: I would say yes.
Q. (BY MR. BOTTARI) And on the standard construction diaries that ITD inspectors fill out and prepare, are those to be reviewed by anyone?
A. That would be Bryon and myself and Jim Hoffecker.
Q. Were Bryon Breen and Jim Hoffecker to

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review those on a more frequent basis than you?
A. Can you clarify that? What do you mean by "more frequent"?
Q. Well, you said that you likely reviewed --
Or maybe I'm remembering incorrectly.
Can you pull up a document -- let's go with 615. It's the number 615.
A. In section?
MR. MOORE: Tab 18.
MR. BOTTARI: I apologize. I don't know that.
MR. MOORE: We've got it.
MR. ROBBINS: We've got it.
Q. (BY MR. BOTTARI) I'll represent to you that the document I'm looking at, 615, and it's a standard construction diary dated October 2nd of 2017, and the inspector's name is David Van Lydegraf.
A. That's correct.
Q. Do you see that?
A. That is correct.
Q. And at the bottom of that page, it says -- it has the inspector's signature, and then there's also "reviewer's signature."

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My question is: Was someone from ITD expected to review and approve the standard construction diaries?
A. I would say correct.
Q. And I'm not representing that that did not happen, but the copy of this document that is in front of us does not have a reviewer's signature.
Do you know whether it was ITD's standard practice to actually have someone sign these and put them in a file?
A. To file them --
MR. MOORE: Object --
Go ahead. Go ahead.
THE WITNESS: To file them.
Q. (BY MR. BOTTARI) I guess, was the person who reviewed these standard construction diaries required to sign them?
A. I would say yes.
Q. Do you have, to your knowledge, or does the ITD have any signed copies of these documents?
A. Not to my knowledge.
Q. So I just want to make sure I'm clear on this.
During the fall of 2017, do you ever

MR. BOTTARI: That's what I mean, sir; in this project.
THE WITNESS: I do not.
Q. (BY MR. BOTTARI) If traffic was excessively backing up for any reason, would the ITD inspector have authority to require another lane to be opened?
A. That would be up to the temporary traffic control manager.
Q. I'm jumping around on you again, Mr. Statkus.
Have you ever worked with Specialty Construction in the past?
A. I have not.
Q. Okay. So throughout --
And as I understand it, you started working for ITD in 2017.
Is that correct?
A. Working for ITD in 2015.
Q. 2015. I apologize.
So from 2015 to the present date, you have never worked with Specialty Construction?
A. That is correct.
Q. Have you watched the video of the accident in this case?

A. No, I have not.
MR. BOTTARI: Those are the only questions I have, Mr. Statkus. Thank you.
MR. ROBBINS: Any others?
MR. MOORE: Mr. Perkins? Mr. Gale?
MR. PERKINS: David Perkins --
[Discussion held off the record.]
MR. MOORE: Did David say he doesn't want to --
MR. ROBBINS: He had no questions.
Anybody else have any questions?
MR. MOORE: Gary? Eric? Bob?
MR. GALE: None from me, Mike. It's Eric.
MR. MOORE: Thank you.
MR. ROBBINS: Okay. Then --
MR. WETHERELL: Yeah, none -- not from me, Mike. This is Bob.
MR. MOORE: Thank you, Bob.
MR. MONTGOMERY: This is Gary. I have none.
MR. MOORE: Okay.
MR. ROBBINS: I think we are at a conclusion point.
THE VIDEOGRAPHER: Is that it?
MR. ROBBINS: Yep.
THE VIDEOGRAPHER: Okay. So this concludes

our video deposition of David Statkus on February 2nd, 2021. The time is 12:57 p.m., and we are off the record.

(The videotaped deposition concluded at 12:57 p.m. on Tuesday, February 2, 2021)
* * *
(Signature was requested.)

VERIFICATION

STATE OF _____)
) ss.
COUNTY OF _____)

I, DAVE STATKUS, being first duly sworn on my oath, depose and say:
That I am the witness named in the foregoing deposition taken the 1st and 2nd days of February, 2021, consisting of pages numbered 1 to 176, inclusive; that I have read the said deposition and know the contents thereof; that the questions contained therein were propounded to me; that the answers to said questions were given by me, and that the answers as contained therein (or as corrected by me therein) are true and correct.

Corrections Made: Yes_____ No_____

_____
DAVE STATKUS

Subscribed and sworn to before me this _____ day of _____, 2021, at _____, Idaho.

_____
Notary Public for Idaho
Residing at_____, Idaho
My Commission Expires: _____.

REPORTER'S CERTIFICATE

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

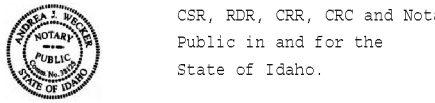
I, ANDREA J. WECKER, Certified Shorthand Reporter and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true and verbatim record of said deposition.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 6th day of February, 2021.



ANDREA J. WECKER
CSR, RDR, CRR, CRC and Notary Public in and for the State of Idaho.

My Commission Expires: 02-14-23

EXHIBIT 14

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAWRENCE MANLAPIT, JR., individually as father of LAWRENCE P. MANLAPIT, III, DECEASED, Plaintiff, vs. KRUJEX FREIGHT TRANSPORT CORP.; KRUJEX TRANSPORT CORP. KRUJEX TRANSPORT SYSTEMS, LLC KRUJEX LOGISTICS INC.; ALBERTSON'S COMPANIES; CORNELIU VISAN; DANIEL VISAN; LIGIA VISAN; STATE OF IDAHO; STATE OF IDAHO DEPARTMENT OF TRANSPORTATION; IDAHO STATE POLICE; PENHALL COMPANY; PARAMETRIX, INC., SPECIALTY CONSTRUCTION SUPPLY LLC, and DOES 1 through 150, inclusive, Defendants. And Consolidated Actions	Lead Case No. CV01-2019-06625 Consolidated with Case Nos. CV01-2019-23246 CV01-2020-00653 CV01-2020-02624 CV01-2020-07803 CV01-2020-08172

VIDEOTAPED DEPOSITION OF DANIEL KIRCHER

INDIVIDUALLY AND 30(b)(6) SPECIALITY CONSTRUCTION SUPPLY, LLC

April 19, 2021

Boise, Idaho

Reported by: Andrea J. Wecker, CSR #716, RDR, CRR, CRC

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It's not to say that other exhibits might not be relevant, but at least those are the ones that I think I'll be talking about. But may I please ask you to take a look again at Tab Number 100, page 3, and we'll just kind of go through subject areas 1 through 7, if we could.

So it's my understanding that you will be presented on behalf of Specialty to respond to questions concerning communications with and documentation exchanged by and between the NTSB and Specialty regarding the NTSB investigation.

Did you understand that to be the case?

A. Yes.

Q. Okay. Next are any and all revisions to the temporary traffic control plan for the I-84 Five Mile to Orchard Road and Ramps.

Do you understand that was the area that we're going to be talking with you about here too?

A. Yes.

Q. Number 3, any and all directions by authorized representatives of the State of Idaho and/or Penhall to Specialty that when the final stage of construction on the subject project commenced to replace the pave and seals on eastbound lanes of I-84, that the same three-lane

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closures should be used that had previously been used in the westbound lanes during September and October 2017.

That was a rather long-winded designation that comes from an interrogatory response that was given earlier in this case, but do you understand that designation, and you understand that you are here to discuss those subject areas -- or that subject area?

A. I do, yes.

Q. Okay.

MR. PERKINS: And, Clay, just for the record --

MR. ROBBINS: Yes.

MR. PERKINS: -- we have -- we will be producing Mason --

MR. ROBBINS: Yes, sir.

MR. PERKINS: -- Garling as well, and he is also going to have specific knowledge about each of these topics. So he is here to testify to the extent that he has knowledge of these topics, and they are topics within his knowledge.

MR. ROBBINS: Absolutely.

MR. PERKINS: Okay.

MR. ROBBINS: That was my understanding. His

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knowledge concerning that may have been secondhand through Mason or he may also have had some direct conversations too, and I figured I'd just broach all of the areas, so to speak.

MR. PERKINS: Just wanted to make sure we were clear on that.

MR. ROBBINS: Got it. Got it.

MR. MORTIMER: I have a question on that.

So he's been designated as a 30(b)(6) representative, correct?

MR. PERKINS: That's correct.

MR. ROBBINS: Yes.

MR. MORTIMER: So we shouldn't limit his testimony to his own personal knowledge. He's speaking on behalf of Specialty with regard to these subjects, correct?

MR. PERKINS: Yes.

MR. MORTIMER: Okay.

MR. PERKINS: He's speaking to the extent of the knowledge that he's gained as a representative of Specialty, and he is the person that may be the most or the second most knowledgeable about the topics that have been presented.

MR. ROBBINS: And it's my understanding that there's overlap as to a couple of the topics.

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MR. PERKINS: That's correct.

MR. ROBBINS: As we just discussed, Mr. Kircher and Mr. Garling as to certain areas are going to overlap, and that's fine because I've asked for designee or designees --

MR. PERKINS: Correct.

MR. ROBBINS: -- on those subject areas.

MR. MORTIMER: Okay. Thank you.

MR. ROBBINS: Sure.

Q. (BY MR. ROBBINS) Going to page 4 then, subject area 4, the proper implementation and monitoring of the temporary traffic control plan and its effect on traffic during the subject project.

That's a subject area that you will address here during this deposition?

A. Yes.

Q. Okay. 5, how to monitor whether the temporary traffic control plan on the subject project as implemented on the eastbound lanes of I-84 from June 14 to June 16, 2018, was appropriate considering prevailing traffic volume and conditions during the time work was being performed.

Similarly, that's going to be an area

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that you will address?
A. Yes.
Q. How Specialty provided for the safety of workers in and motorists through the work zone of the subject project by its implementation and monitoring of the temporary traffic control plan.
That's an area you're going to address?
A. Yes.
Q. And then finally, the appropriate process, evaluation, determinations, and considerations needed in order to safely reduce the number of open lanes of traffic beyond that which was called for in an approved temporary traffic control plan for a highway construction project as understood by Specialty during the period of 2015 through June 16, 2018.
That, similarly, is an area that you will address?
A. Yes.
Q. Okay. Mr. Kircher, can you tell me what, if any, documents you reviewed preparatory to this deposition before coming here today.
A. Just the summons for the deposition itself, and then I --
Q. Okay.

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A. -- I met with my attorney to discuss the issues.
Q. Okay. And I'm not going to get into what you and your attorney discussed.
But insofar as documents that were shown to you, did you look at any documents in preparation for this deposition other than the notice of deposition?
A. No, I did not.
Q. Okay. All right.
Mr. Kircher, would you give me a brief background of your educational history from college.
A. I graduated high school in 2001, went to Bible school in Spokane that summer. It was a one-year program. I went back home after that, back to Boise.
And then would you like me to go into work experience at that point or --
Q. I was going to ask: If there is no further educational background, degrees from college or beyond, then, yes, I would ask for your work history from approximately, what, 2002/2003 onward.
A. Okay. I worked for Specialty -- I went

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to work for Specialty Construction at that point when I came back from Bible school --
Q. Okay.
A. -- or soon thereafter, within the same year.
Q. No worries.
A. I worked until 2004 or 2005. I left to go build custom homes right as the market was tanking. It was a beautiful decision to do that.
But in 2007, when that company decided to close its doors, I went back to Specialty Construction, and I have been with Specialty Construction ever since.
Q. Okay. In your first stint with Specialty from 2004/2005, what were your job duties and responsibilities?
A. Inside sales and traffic control administrator.
Q. And what background or training did you receive in traffic control administration? Was it on-the-job training from Specialty?
A. On-the-job training, yes.
Q. Okay. And can you describe what that amounted to, just generally.
A. Uh-huh. Our on-the-job training started

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with scheduling and working to understand the standards for construction, estimating, finding costs, and bidding projects and working towards future certifications, which take a few years of OJT before you can qualify for those.
Q. And what certifications have you received relevant to traffic control administration?
A. Through ATSSA, which is the American Traffic Safety Services Association, I am a traffic control supervisor, TCS; traffic control technician; and I have completed the traffic control design specialist course through ATSSA.
And also have a certification for maintenance and short-duration activities, which is a different course that they offer.
Q. Okay. Let's go to traffic control --
Was it traffic control supervision or supervisor?
A. Supervisor.
Q. What is involved as a traffic control supervisor? What were you taught that needs to be done?
A. It's a three-day course. You're required to have 4,000 hours, I believe. That's

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probably not right. It might be 2,000 hours.
Q. Of work experience, you mean?
A. Yeah. It might be 2,000 hours.
Q. Okay.
A. But it's a three-day course, and the first day is a traffic control technician course with an overview of more basic traffic control setups and operations and standards.
And then the final two days are called a supervisor course, and that is a more in-depth look at various more difficult, more intense, more complex traffic control --
Q. All right.
A. -- operations.
Q. So when you completed that course, you received certification as both a traffic control technician and a traffic control supervisor?
A. [Witness indicates.]
Q. Indicating "yes"?
A. Yes.
Q. Okay. When did you take that course, ballpark?
A. I do not remember.
Q. Did you take it during your first stint with Specialty or your second?

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A. Second.
Q. Okay. So it was sometime after 2006?
A. Yes.
Q. Okay. Because you started back with Specialty --
Was it 2006 or 2007?
A. '7.
Q. Okay.
A. 2007.
Q. All right. How about the certification for traffic control design?
What was involved in that certification process?
A. As it was several years ago, I do not remember specifically how many days it was, but it was a very in-depth look at traffic control plans, different traffic control scenarios, different types of traffic control operations that you might encounter on a varying scale.
Q. Did that certification mean that you were certified to actually design a traffic control plan or was it more that you were certified to implement an approved traffic control plan?
A. Design.
Q. Okay. And once you received that

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certification, have you since been involved in the design of any temporary traffic control plans?
A. Yes.
Q. How many, if you can recall?
A. Generally, several hundred.
Q. All right. And in developing a temporary traffic control plan, do you work with engineers to evaluate such issues as traffic volume, lane capacity?
A. Yes.
Q. Okay. And does Specialty have those engineers on staff with whom you could work or are you generally in a place where you contract out and retain engineers to assist in the development of a temporary traffic control plan?
A. We contract out. We do not have an engineer on staff.
Q. Okay. And is there a particular engineering group that you contract out -- "you" being Specialty -- contract out with, say, during the time period 2010 to 2016?
A. No.
Q. Okay. Are there a number of different engineering groups that you work with?
A. Yes.

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Q. Do you ever work with Parametrix?
A. Yes.
Q. Okay. Did you work with Parametrix prior to the particular project that we're going to be talking about today? And that I'll describe as the I-84 Five Mile to Orchard Road and Ramps project.
A. Yes.
Q. Okay. How many projects had you the experience of working with Parametrix on prior to the I-84 project?
A. I don't know.
Q. Okay. More than five?
A. Yeah, I don't know.
Q. Okay. Can you describe for me, just differentiate what it is the engineer does in the development of a traffic control plan, a temporary traffic control plan, for a highway project.
And you had been involved in those types of temporary traffic control plans prior to the I-84 project?
A. Can you repeat the question?
Q. Yeah. It was a real bad one.
Had you --
Let me ask the preliminary question that

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I was getting to midway through my question.
Had you had the experience of being involved in the design of a temporary traffic control plan for a highway maintenance or construction project before the I-84 project?
A. Yes.
Q. Okay. And insofar as your involvement in those other projects where you were involved in the preparation of a temporary traffic control plan on a highway construction or maintenance project, can you tell me basically where the division of labor is in the development of the temporary traffic control plan between the engineer and the individual in your position?
MR. PERKINS: Object to the form.
Q. (BY MR. ROBBINS) Do you understand the question?
A. [Witness indicates.]
I don't think I can --
I don't know. I don't think I can answer the question of what the engineer's responsible for versus --
Q. Okay. What do you ask for the engineer to perform insofar as what they are being called upon in the preparation of a temporary traffic

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control plan for a highway project?
MR. PERKINS: Object to the form.
THE WITNESS: Yeah, I -- I don't know.
Q. (BY MR. ROBBINS) Okay. On any of those prior projects, had there been a requirement that the temporary traffic control plan accommodate a reduction of lanes on a highway from however many lanes were usually open to a lesser or fewer number of lanes?
A. Yes.
Q. Okay. And under those circumstances, would you call upon the engineer to assist in the evaluation as to how many lanes would be appropriate to reduce the particular highway down to?
MR. PERKINS: Object to the form.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. And do you know what the engineer does in --
Strike that.
Do you know what the engineer did in evaluating how many lanes the particular stretch of highway that was being constructed can safely be reduced to?
A. Could you repeat that question?

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Q. Sure.
Do you know what it is the engineer did in undertaking his or her evaluation of whether a particular highway could accommodate a reduction of lanes that was being called for?
MR. PERKINS: Are we referring to this particular project --
MR. ROBBINS: No, sir. No. Prior.
MR. PERKINS: -- or any project?
MR. ROBBINS: No. The projects on which he worked --
MR. PERKINS: Prior --
MR. ROBBINS: -- prior to the I-84 project.
MR. PERKINS: Thank you for the clarification.
THE WITNESS: I don't have direct knowledge of that. That would be speculation, I think.
Q. (BY MR. ROBBINS) Okay. What is it that you generally get back or got back from the engineers under those circumstances where you were asking for the assistance of an engineer in the preparation of a temporary traffic control plan when you were dealing with a highway project? And specifically, calling for the reduction of lanes.
A. Usually, we would receive back a plan

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with red lines or comments or a note that said, "Approved."
Q. In other words, you present the engineer with what you wanted to accomplish in terms of a temporary traffic control for a highway construction project, and the engineer would get back to you to say whether or not what you were proposing could be accommodated in the lanes provided?
MR. PERKINS: Object to the form. And just to clarify my objection, things aren't always the same on every project, and so sometimes he may receive back one set of -- type of plans, and another time he might --
And the question that's being asked is overly broad in that sense. I don't want to be objecting to it --
MR. ROBBINS: No, no.
MR. PERKINS: -- but I know what you want and I want you to get what you want, but I needed to clarify that.
MR. ROBBINS: No.
MR. PERKINS: And sorry for a speaking objection.
MR. ROBBINS: No, no, no. No, it's fine.

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Q. (BY MR. ROBBINS) What I'm trying to get at is: I know that an engineer is involved. And here, what we're talking about is a temporary traffic control plan that addressed the accommodation of lanes, a reduction of lanes in order to accommodate work that was being performed in a particular stretch of highway.
Understood?
A. Yes.
Q. All right. And insofar as those types of temporary traffic control plans are concerned, have you had occasion prior to the I-84 project to have dealt with engineers in the development of a temporary traffic control plan to accommodate a reduction of lanes within a work zone?
A. Yes.
Q. All right. With respect to those prior projects, what generally are you looking at to receive from the engineer as input back from them from their review of the proposal of a lane reduction that I --
If I understand correctly, that's the way things kind of flow. They come from your proposal, the engineer reviews it, and then basically says whether or not what you're doing can

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be accommodated.
Is that generally correct?
A. Yes.
Q. Okay. Can you describe for me what it is you get back? Is it just essentially a red line of what you gave him with suggestions and recommendations?
A. Normally, we would receive back comments about the standards for the plan or the area that was being implemented, all pertaining to the Manual of Uniform Traffic Control Devices.
Q. MUTCD?
A. MUTCD.
Q. Okay. And as part of that, when you're dealing with a proposed reduction of lanes on a highway to accommodate a construction zone, do you look for the engineer also to perform evaluations concerning whether the reduction of lanes can be accommodated given the volume of traffic in the area and the traffic capacity of the lanes as designed?
A. Yes.
Q. Okay. What goes into those types of evaluations?
Do you know?

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A. An evaluation of traffic volume --
Q. Right.
A. -- based on time frames.
Q. Okay. I guess -- and it's a function of my question to you is -- what's causing me some confusion.
Is it your understanding that the engineer undertakes an evaluation of lane capacity based upon historical volumes of traffic in an area in order to determine whether the lane reduction can be accommodated?
A. Yes.
Q. Is the purpose for that to make sure that lengthy traffic backups or traffic queues do not occur within a work zone --
MR. PERKINS: Object to the form.
Q. (BY MR. ROBBINS) -- where you are dealing with a temporary traffic control plan?
MR. PERKINS: Same objection.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. Would you agree that one purpose of a temporary traffic control plan when we're dealing with a highway construction project is to make sure that you get the smooth transition of traffic through a work zone?

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A. Yes.
Q. Okay. Would you also agree that another purpose of a temporary traffic control plan in a highway construction project is to make sure that you don't have abrupt changes in traffic speed going through a work zone?
A. Yes.
Q. Okay. Would you also agree that it is important that a temporary traffic control plan be implemented as it was designed and approved by the engineer?
MR. PERKINS: Object to the form.
THE WITNESS: Can you repeat that?
Q. (BY MR. ROBBINS) Sure.
Do you believe that it is important that a temporary traffic control plan be implemented as it was approved and designed by the engineer?
MR. PERKINS: Same objection.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. In other words, if there is going to be a deviation from the approved temporary traffic control plan, is it your opinion that the input from a qualified engineer should be sought in order to evaluate whether the changes can be accommodated by the lane capacity?

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MR. PERKINS: Object to the form.
THE WITNESS: Yeah, can you repeat that question?
Q. (BY MR. ROBBINS) Sure.
Do you believe that it is important for a temporary -- for a --
Strike that.
Do you believe that it is important if there is to be a change in the approved temporary traffic control plan for a highway project, that input be received from a traffic engineer in order to evaluate whether the proposed change to the temporary traffic control plan is reasonable under the circumstances there on the site?
MR. PERKINS: Object to the form and calls for speculation.
THE WITNESS: Can you rephrase it so that it's --
Q. (BY MR. ROBBINS) Yeah. Basically, we know that the original temporary traffic control plan has the input of an engineer. Basically takes a look at it and says, "Yes, the proposal can be accommodated by the lane capacity," when we're talking about a temporary traffic control plan that contemplates reduction of lanes in a highway --

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section of highway during a construction project.
Understood?
A. Yes.
Q. Okay. So what I'm trying to get at is: That being the case then, if there is a change during the course of the construction project in the terms of a temporary traffic control plan, do you agree that it would be advisable for there to be the input of that same or a different similarly qualified engineer to evaluate whether those changes can be accommodated by the conditions in the area?
MR. PERKINS: Object to the form.
THE WITNESS: Would a representative of the engineer be someone that you're talking about? Is that --
A representative of the engineer or the engineer whose stamp is on the drawing?
Q. (BY MR. ROBBINS) Well, somebody who is knowledgeable about the development of temporary traffic control plans and who has the engineering background to evaluate whether the change in the temporary traffic control plan can be accommodated by the capacity of the lanes being addressed.
A. I would say it depends. I don't know if

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that's an acceptable answer, but --
Q. Well, no, it certainly is.
A. Okay.
Q. It certainly is an acceptable answer.
But what I'm getting at is: Originally, the temporary -- the engineers who reviewed the proposed temporary traffic control plan that you had presented -- and here we're talking about prior to the I-84 project, that when you would present a proposed temporary traffic control plan to the engineers that you asked review, they would give you their evaluations as to whether the lanes and the volume capacity of those lanes could be accommodated by the proposed traffic control plan, I think is what you testified to previously, correct?
A. Yes.
Q. So what I'm trying to find out is: Would you need -- would you think it advisable to have that same evaluation done by a knowledgeable engineer in the area of temporary traffic control design in order to see whether a change is reasonable or appropriate?
MR. PERKINS: Asked and answered.
THE WITNESS: Again, I would say it depends.

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Q. (BY MR. ROBBINS) Depends on what?
A. The situation and the engineer having representation on the site and being a part of the operations on a nightly or daily basis, depending on the job.
Q. Yeah. Okay.
How often was it before the I-84 project that you had been involved in highway construction projects where the temporary traffic control plan had been changed during the course of the project?
A. Very often.
Q. All right. And on those occasions, is there input --
Strike that.
And on those occasions, had any of those involved the reduction in lanes for traffic beyond that which had been called for in the approved temporary traffic control plan?
A. Yes.
Q. All right. And on those occasions where there was a change in the temporary traffic control plan that called for a greater reduction of lanes than that which was originally called for, what types of evaluations had been undertaken by the engineers, if any, to determine whether those

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further lane reductions could be accommodated?
MR. PERKINS: Object to the form.
THE WITNESS: Modifications to lane closures in situations like the ones you're referencing would be undertaken by reviewing traffic, discussing with the engineer and their representatives, monitoring the situation to make sure that the lane closure is acceptable.
There's a lot -- I would say there's a lot of things that happen.
Q. (BY MR. ROBBINS) Okay. That's the process that you had seen happening on the prior occasions where there had been changes in a temporary traffic control plan for a highway project where a lane reduction greater than that which was originally approved was undertaken?
A. Yes.
Q. Okay. All right.
Would you agree that traffic backups in construction zones creates a risk of rear-end collisions?
A. Yes.
Q. Do you think that that risk is particularly acute, let's say where you're dealing with a construction project that is happening at

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night?
A. Yes.
Q. Okay. Why don't we do this. Just going through the designee areas, the first one had to do with communications with the -- between Specialty and the NTSB.
What was your involvement on behalf of Specialty with regard to the NTSB's investigation of the June 16, 2018, accident?
A. I was a party to the investigation.
Q. Okay. Had you been a party to NTSB investigations before this particular investigation?
A. No.
Q. Okay. What did you understand your involvement as a party representative to be in the NTSB investigation?
A. I took my participation to be someone who has firsthand experience about the incident and also has work experience regarding traffic control.
Q. All right. Did you have any --
Strike that.
Did you attend any meetings back in Washington with NTSB representatives concerning this investigation?

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A. No.
Q. All right. Did you have any meetings with NTSB investigators out here in Idaho concerning their investigation?
A. Yes.
Q. All right. How many such meetings do you recall having personally attended?
A. I don't remember.
Q. More than one, though?
A. I do not remember if it was one or two.
Q. Okay. Did anyone else on behalf of Specialty attend the meetings that you can recall having attended or meeting that you --
A. Yes.
Q. And who, in addition to yourself, attended that meeting or those meetings?
A. Tracy Hopkins.
Q. All right.
A. Mason Garling.
Q. All right. What was Ms. Hopkins' involvement with the subject project, if you know.
A. Mr. Hopkins is the --
Q. Ah, so sorry. I said Ms. Mr. Hopkins.
A. -- general manager of Specialty Construction. He is my boss.

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Q. Okay. To your knowledge, did Mr. Hopkins ever appear at the site of the work being performed on the I-84 project?
A. I don't know.
Q. Did you ever appear at the site of the I-84 project during the time work was being performed?
A. Yes.
Q. On how many occasions, if you can recall.
A. I cannot recall.
Q. Any of those pre-date June 16 of 2018?
A. Yes.
Q. Were you there on the date of the accident; June 16, 2018?
A. No.
Q. Okay. With what frequency when work was being performed was it that you would appear on site during the course of construction activities for the I-84 project?
A. You're specifically asking during construction activity or at any point during the day?
Q. Well, I guess what I'm getting at is: To the extent that your job duties and

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A. Hopkins, yes.
Q. Hopkins?
A. Yes.
Q. Hopkins.
And do you know whether Mr. Garling also reviewed the highway factors factual report?
A. I don't know.
Q. Okay. Did you and Mr. Hopkins review the highway factors factual report together or did you review it separately and then get together and have a discussion about it?
A. Both, actually.
Q. Okay. Do you recall when that review and, ultimately, discussion took place?
A. I don't remember.
Q. Okay. Let me ask you to take a look at page -- Bates stamp number 523 on Tab 17. It addresses the content of a pre-construction conference meeting that was held July 26, 2017.
You were present at that meeting?
A. Yes.
Q. Okay. Down in the paragraph below Bullet Point 10, there's a reference to a discussion that was held during that pre-construction conference meeting that the

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investigator relates as follows: "Penhall had a question regarding what to do if traffic was backed up. They asked about any special provisions similar to the East Coast where contractors would be required to terminate a lane closure if the traffic backed up."
Do you recall that subject matter being discussed during the July 26, 2017, meeting?
A. I do not.
Q. Okay. Do you have any reason to believe that that subject area was not addressed during that meeting as related by the NTSB investigator?
MR. MOORE: Object to the form and foundation.
Go ahead.
Q. (BY MR. ROBBINS) You can respond.
A. Do I have --
Can you repeat the question?
Q. Sure.
Do you have any reason to believe that that issue was not broached by Penhall during the course of that July 26, 2017, meeting as reflected here in the highway factors factual report?
MR. MOORE: Same objection. Objection to the form and foundation. It's requiring him to

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speculate.
THE WITNESS: No.
Q. (BY MR. ROBBINS) Okay. It continues, "ITD indicated that they had accounted for the traffic and did not expect anything like that to occur. ITD indicated that if severe congestion did occur, they would probably be notified by the State Highway Patrol."
Do you recall that issue being discussed during the July 26, 2017, meeting?
A. No.
Q. What do you think would constitute severe congestion during -- within a work zone within the context of a temporary traffic control plan?
MR. MOORE: Objection.
MR. PERKINS: Object to the form.
MR. MOORE: Go ahead.
Object to the form and foundation.
MR. ROBBINS: You guys get on the same page here.
MR. MOORE: He had his back turned to me. I didn't know he was going.
Go ahead, sir.
THE WITNESS: I would say that severe

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congestion would be where traffic is stopped and not moving for a significant period of time.
Q. (BY MR. ROBBINS) Would, in your mind, severe congestion also include a traffic queue that extended a distance of 1.24 miles through the work zone?
MR. PERKINS: Object to the form.
Foundation.
MR. MOORE: Same objections.
Go ahead.
THE WITNESS: Can you repeat the question?
Q. (BY MR. ROBBINS) Yeah. I'll just read from the highway factors report at page 536.
Would you understand that severe congestion would include a situation where, quote, "In this accident, a stop-and-go queue developed and extended from the end of the third taper back to MP 47.007, a distance of 1.24 miles or approximately 6,547 feet"?
MR. MOORE: Objection to form.
MR. PERKINS: Object to the form.
MR. MOORE: And foundation.
THE WITNESS: I would say that it depends.
Q. (BY MR. ROBBINS) It depends on what?
A. It depends on how quickly traffic is

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able to respond and move through even though they've been slowed down.

Q. Okay. Well, here, it talks of stop-and-go queues.

In your mind, it depends upon how long it takes a car to travel through the work zone regardless of the length of the queue?

A. Yes.

Q. Okay. Prior to June 16, 2018, did you --

Strike that.

Prior to June 16, 2018, to your knowledge, did Specialty ever request that a representative from the Idaho State Police be present in the work zone in order to help deal with traffic congestion?

A. I am not sure. I have -- I have been told that we did, but I -- I think I need to give you the answer of I don't know.

Q. Okay. Who do you recall having told you that, if you know?

A. Jake Loux --

Q. Okay.

A. -- an employee.

Q. Right.

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And what do you recall Mr. Loux telling you in that regard, if you have a recollection of that statement?

A. That they requested through the State to have ISP, Idaho State Police --

Q. Uh-huh.

A. -- on site at some point throughout the operation.

Q. Do you know whether that request went out before the date of the accident, though? Because I'm aware of that request going out after the accident date --

A. Oh.

Q. -- but I'm wondering whether you recall any such request for ISP assistance prior to the date of the accident.

A. From what I've been told, yes.

Q. Okay. And, again, that was from Mr. Loux?

A. Yes.

Q. Okay. And did Mr. Loux tell you what response was received by Specialty to that request?

A. Yes.

Q. What do you recall Mr. Loux telling you in that regard?

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A. That ISP came out for one night.

Q. And anything else?

A. [Witness indicates.]

Q. Indicating "no"?

A. No.

Q. All right. Do you recall if you were told what ISP did on that one night that they apparently were out at the project?

A. No.

Q. Okay. Now, on page 524 under paragraph 7, I'll ask -- I'll direct your attention to the second paragraph there, and it purports to relate certain statements having been made during a May 31, 2018, ITD and Penhall conversation regarding the project.

Do you recall any such communications between ITD and Penhall that were related to you during the course of a pre-construction conference before the startup of the I-84 project -- re-startup of the I-84 project?

A. No.

Q. The paragraph proceeds that there was no representative from the traffic control subcontractor there, but there were representatives from, apparently, Penhall and ITD.

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Were you told -- were you aware of the statements that purportedly were made during the course of that Penhall/ITD project as related here where it says, "Penhall indicated that at this meeting, they had requested to be allowed to close a third lane during joint sealing operations"?

MR. PERKINS: Object to the form. Foundation.

MR. MOORE: Join.

Q. (BY MR. ROBBINS) Prior to June 16, 2018, were you aware of any such conversation between Penhall and ITD?

MR. MOORE: Object to the form and foundation.

THE WITNESS: No.

Q. (BY MR. ROBBINS) Okay. Prior to the restart of the project, are you aware of circumstances during which during the September to October 2017 time frame Specialty was directed to reduce the number of lanes of the highway -- of a highway section from four down to one lane?

A. Can you repeat the question?

Q. Sure.

Prior to the restart of the I-84 project in or around June of 2018, are you aware of

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Specialty having been instructed by either Penhall and/or the State to reduce the number of lanes of a four-lane stretch of highway from four open lanes down to one open lane during the course of construction activities?

MR. MOORE: Object to the form and foundation. It's confusing, Counsel, the way that came across when followed by your earlier question, and I'm not sure I know what you're asking in this one.

Earlier you asked about 2017 --

MR. ROBBINS: Yeah, no. What I'm talking about is prior to the restart of the I-84 project in or around June of 2018, are you aware of Specialty having been instructed by either Penhall or the State to reduce the number of lanes of a four-lane stretch of highway from four open lanes down to one open lane during the course of construction activities --

MR. MOORE: Objection.

Q. (BY MR. ROBBINS) -- at any time prior to that during the course of this I-84 project?

MR. MOORE: Object to the form and foundation.

Go ahead, sir.

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THE WITNESS: Yes.

Q. (BY MR. ROBBINS) Okay. When do you recall first --

Strike that.

When do you recall Specialty first receiving such an instruction during the course of this project?

A. 2017. I --

Q. Okay.

A. -- can't give a --

Q. There have been certain discovery responses that speak about some communications in September or October of 2017.

Does that refresh your recollection?

A. No.

Q. Okay. Who was it --

Strike that.

Who did Specialty receive those instructions in 2017 from?

MR. MOORE: Object to form. Foundation.

Go ahead.

THE WITNESS: I don't know.

Q. (BY MR. ROBBINS) Okay. Who at Specialty received those instructions?

A. Josh Roper.

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Q. All right. What was Mr. Roper's position during this project?

A. Traffic control manager for all of 2017.

Q. Okay. That's what I was wondering, because I saw that he was designated in 2017, but it looks then that Mr. Garling took over in 2018?

A. Yes.

Q. Is there a reason why that took place?

A. Josh Roper is in the -- was in the National Guard.

Q. All right.

A. He had some type of training that took him away for a significant period of time.

Q. Okay. Do you know for how many days during the 2017 time frame it was that four-lane stretches of highway were reduced down to one open lane during the course of construction activities?

A. No.

Q. More than one day?

A. I don't know.

Q. Okay. Was there a written proposal for those -- or for that reduction that was undertaken in 2017 that was ever presented, to the best of your knowledge, to the engineer on this project?

A. I don't know.

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Q. Do you know whether Mr. Roper ever asked to be shown the written proposal requesting authority to reduce four open lanes down to a single open lane on this project in the 2017 time frame?

MR. PERKINS: Object to the form.

THE WITNESS: I don't know.

Q. (BY MR. ROBBINS) Okay. To your knowledge, was there ever a written proposal presented to the engineer --

By "engineer," you understand I'm talking about the resident engineer on behalf of the State of Idaho?

A. Yes.

Q. Okay. Was there ever a written proposal presented to the engineer for this project requesting authority to reduce four open lanes down to one open lane, to the best of your knowledge?

A. I don't know.

Q. Have you ever heard that there was a written proposal for reduction of four open lanes down to one on this project?

A. No.

Q. Okay. The highway factors factual report at pages 522 and 523 states that no changes

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were submitted by the contractor.
Do you have any reason to disagree with that statement?
A. I don't know.
Q. You don't know one way or the other?
A. I don't know one way or the other.
Q. To your knowledge, did Mr. Roper ever object to the direction that four open lanes of highway be reduced to a single open lane?
A. I don't know.
Q. Do you know whether Mr. Garling ever objected to the proposal of reducing four open lanes of highway to a single open lane in 2018?
MR. PERKINS: Object to the form.
THE WITNESS: I don't know.
Q. (BY MR. ROBBINS) Let me ask you to turn to page 525 of Tab 17. There it speaks of an August 17, 2018, meeting between representatives of ITD, Penhall, Specialty, and NTSB staff.
Did you attend that meeting?
A. Well, I believe that was the meeting I was at.
Q. Yeah. Does that refresh your recollection that --
Well, strike that.

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Do you recall attending a meeting with the NTSB in or around August of 2018?
A. Yes.
Q. Okay. And during the course of that meeting, do you recall the subject being addressed as to why the special provisions of the contract requiring two of the four eastbound I-84 lanes to remain open was not followed?
A. Can you repeat the question?
Q. Sure.
Do you recall that during the course of that meeting that you attended, the question of the determination of why the special provisions of the contract requiring two of the four eastbound I-84 lanes to remain open was not followed?
MR. PERKINS: Object to the form.
Q. (BY MR. ROBBINS) Do you recall that subject area being addressed during the meeting?
A. Yes.
Q. And did you know that that subject was going to be addressed during that meeting before you attended the meeting?
A. I don't remember.
Q. Okay. The paragraph here continues. Mason Garling, the traffic control supervisor for

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Specialty Construction, stated that when they began the final stage of the construction to replace the pavement seals in the I-84 eastbound lanes on Thursday, June 14, 2018, that he was told by Penhall to use the same three-lane closure that he had previously used in the westbound lanes in September and October of 2017.
Do you recall Mr. Garling saying that during the course of that meeting?
A. Yes.
Q. Had Mr. Garling told you that he had been so instructed by Penhall prior to this August 17, 2018, meeting?
A. Yes.
Q. Okay. When was the first time that you recall Mr. Garling telling you that he had received the direction that I just described from Penhall?
A. I don't remember.
Q. Was it at or around the time of the accident?
A. I don't remember.
Q. What was your response to what Mr. Garling told you about the instruction that he had been given, if you remember?
A. I don't remember.

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Q. Okay. Did Mr. Garling tell you that he objected when he was given that direction from Penhall?
A. I don't remember.
Q. Okay. Do you remember who from Penhall gave him that direction?
Strike that.
Do you remember being told by Mr. Garling who from Penhall gave him that direction?
A. I don't remember.
Q. Did you ever have any discussions with any representatives of Penhall about their purportedly having given Mr. Garling the instructions related in this paragraph of the highway factors factual report?
A. I don't remember.
Q. Okay. After the accident happened, do you recall attending any meetings held and attended by ITD representatives and Penhall representatives about the accident occurrence itself?
A. Not until the NTSB meeting.
Q. Okay. That was the only meeting that you can recall attending with representatives of Penhall and ITD concerning the cause of the

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accident?
MR. MOORE: Object to the form. Foundation.
Q. (BY MR. ROBBINS) And I'm just talking about your recollection.
A. That is the only meeting I remember.
Q. Okay.
MR. ROBBINS: We've been going a while. Why don't we take a break, and we'll pick up again in about ten minutes.
MR. MOORE: Sounds good.
THE VIDEOGRAPHER: We are off the record at 2:58 p.m.
[Break taken from 2:58 p.m. to 3:09 p.m.]
THE VIDEOGRAPHER: We are back on the record, and the time is 3:09.
Q. (BY MR. ROBBINS) Mr. Kircher, let me read you a response that Specialty Construction provided to interrogatories that were asked of it by Plaintiff Daisy Johnson in this.
This had to do with, "Please identify every communication between Defendant Penhall, including any of its employees, agents, and/or contractors and yourself regarding the decision to close three lanes of travel leaving only one travel lane in the work zone at issue in this lawsuit."

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There's some more there as well.
In answer, there's an objection, and then after the objection, it states, "Defendant states that in or around May 31, 2018, through June 2, 2018, Defendant had multiple verbal communications with Defendant Penhall Company regarding the decision to close three lanes of travel in a four-lane section of Interstate 84.
"Defendant Penhall Company stated that it had cleared the closure with the Idaho Transportation Department, who had an inspector on site during this time. Defendant expressed concern with exceeding the contract specifications to close a third lane during an on-site meeting.
"Penhall and Jon Mensinger, an inspector with the Idaho Transportation Department, directed Defendant to do such. These communications were between Bruce Kidd and Scott Reed of Penhall Company and Mason Garling and Josh Roper of Specialty Construction Supply." That's the end of that sentence.
My question to you, sir, is: Do you recall either Mason Garling or Josh Roper telling you that they had received such instructions from Penhall and from Mr. Mensinger?

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MR. MOORE: Object to the form and foundation.
Go ahead, sir.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. When do you first recall being told that those instructions were given?
A. I don't remember.
Q. Was it before the accident?
A. Yes.
Q. What was your response to having been told that Mr. Garling and Mr. Roper had received these instructions?
MR. MOORE: Object to the form. Foundation.
Go ahead.
THE WITNESS: I don't remember my exact response.
Q. (BY MR. ROBBINS) Well, can you give me your recollection, if you have one, of your general response?
A. To proceed because the State approved it.
Q. Okay. Did you contact anybody at the State to confirm that, in fact, an authorized representative of the State had approved this

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deviation from the temporary traffic control plan?
A. No.
Q. Did you reach out to the engineer on this case, this particular project, Mr. Breen, to find out whether he had approved the proposed deviation?
A. No.
Q. Okay. It says here that Defendant, being Specialty, expressed concern with exceeding the contract specifications.
Do you recall what those concerns were?
A. The concerns were that the contract stated that two lanes were to remain open without approval from the State.
Q. Right. Were there --
A. Minimum of two lanes. Sorry.
Q. No, that's okay. No, I didn't mean to speak over you.
To your knowledge, were there any concerns expressed regarding whether the traffic capacity afforded by a single lane in the stretch of I-84 could accommodate the known traffic history in that area?
A. Can you repeat the question?
Q. Sure.

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around.
Q. Sure. But the MUTCD addresses location of traffic control devices based upon the anticipated volumes of traffic in an area and based upon the determination of a temporary traffic control plan.
Would you agree?
MR. PERKINS: Object to the form. Foundation.
THE WITNESS: Traffic control -- through the MUTCD, traffic control plans are designed for speeds and the type of roadway it is.
Q. (BY MR. ROBBINS) Sure.
And here, the traffic control plan and the MUTCD devices, approved devices, that were set in accordance with the traffic control plan were based upon volume determinations of traffic that had been made by a traffic control engineer.
Would you agree?
MR. PERKINS: Object to the form.
THE WITNESS: They were based on a -- the standard for closing lanes in a 55-mile-per-hour zone on an expressway.
Q. (BY MR. ROBBINS) Sure. But they anticipate closure of lanes in accordance with a

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particular volume in an area.
Would you agree with that?
A. I think it depends.
Q. It depends upon what?
A. Well, we do many traffic control jobs for many different entities. Sometimes -- oftentimes not even designed by an engineer.
So there's a full spectrum of different types of plans, and what goes into designing them, I'm -- I'm not 100 percent sure on each one of them.
Q. All right. Well, in this particular case, there has been a determination by the NTSB that the traffic control plans, as approved, complied with MUTCD guidelines.
MR. PERKINS: Objection.
Q. (BY MR. ROBBINS) Did you see that in the factual report?
MR. PERKINS: Object to the form and misstates the conclusions of the NTSB report and objection to the extent that the NTSB report conclusions are inadmissible.
Q. (BY MR. ROBBINS) All right. So compliance with the MUTCD doesn't have any bearing upon the adequacy of the temporary traffic control

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plan?
A. Can you repeat the question?
Q. Sure.
Compliance with MUTCD doesn't have anything to do with the adequacy of the temporary traffic control plan?
MR. PERKINS: Object to the form.
THE WITNESS: I'm not sure I understand the question.
Q. (BY MR. ROBBINS) Well, in this case, we know that there was an engineering determination made that a four-lane section of highway should not be reduced below two open lanes and that certain -- the MUTCD guidelines were then implemented under the determination of the temporary traffic control plan itself.
My question to you is: If the temporary traffic control plan is violated, how is it that the MUTCD guidelines are not also violated?
MR. PERKINS: Object to the form and foundation.
THE WITNESS: The MUTCD isn't violated when you take the principles and the designs of the MUTCD and apply them to a roadway.
Q. (BY MR. ROBBINS) Right. But if the

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conditions on the roadway are changed, doesn't there need to be an evaluation made concerning how to apply the MUTCD guidelines?
MR. PERKINS: Object to the form. Calls for speculation.
THE WITNESS: I would say no.
Q. (BY MR. ROBBINS) All right. Let me ask you to take a look at Binder 1-B, Tab 10, starting at page 302. I'd ask you to take a look also at page 322, which is the signature section on it.
My question to you is: Taking a look at it, does this appear to you to be the subcontract entered into between Penhall and Specialty for the I-84 project?
A. It appears to be so.
Q. All right. And as part of the subcontract, there was a requirement that the general contract --
Strike that.
There was a requirement that the temporary traffic control plan provisions be provided to the subcontractor here?
A. I'm sorry. Can you repeat that?
Q. Yeah.
You were given a set of the plans and

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the special provisions with respect to the plans for the I-84 project, correct?
A. Yes.
Q. All right. Did you review the plans insofar as the temporary traffic control plan was concerned?
A. Yes.
Q. And did you review the special provisions?
A. Yes.
Q. Do you know whether Mr. Roper reviewed the temporary traffic control plans and special provisions associated with this project?
A. I believe so.
Q. When you say you believe so, is that not something that the traffic control manager would be expected to do?
A. Yes.
Q. Okay. Did Specialty have a custom and practice in 2017 and 2018 where their traffic control managers would be given the actual copy of the traffic control plans that they were expected to manage?
A. Yes.
Q. Okay. And do you believe also that

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Mason Garling was provided with a copy of the temporary traffic control plan and special provisions?
A. Yes.
Q. And in accordance with the custom and practice at the time, is it your expectation that Mr. Garling would have reviewed those special provisions and the temporary traffic control plan?
A. Yes.
Q. Let me ask you to take a look at Binder 1-A, Tab 6, and I'll ask you to pick up at page 23, Bates number 23.
MR. PERKINS: Page number or Bates number?
MR. ROBBINS: Bates number 23.
MR. PERKINS: That would be the number in the corner over there. Different --
MR. ROBBINS: And that goes -- it's actually the middle of the page.
Q. (BY MR. ROBBINS) And I'll ask you to just look generally through Bates number 45, and my general question to you is: Does that appear to you to be the special provisions for this I-84 project insofar as the temporary traffic control plan is concerned?
MR. PERKINS: Bates number 45 looks like

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this.
MR. ROBBINS: No. Bates number 23 to Bates number 45.
MR. PERKINS: That's 34.
MR. ROBBINS: No. No, no, no. This one right here.
MR. PERKINS: Oh.
MR. ROBBINS: Different Bates numbers.
MR. PERKINS: He's back on these numbers at the bottom.
MR. ROBBINS: Yeah. I never left those numbers.
THE WITNESS: This appears to be --
Q. (BY MR. ROBBINS) Okay.
A. -- the special provisions for that contract.
Q. And what generally is the purpose of special provisions in the context of a temporary traffic control plan?
A. To lay out the guidelines for traffic control on this particular project.
Q. All right. And is it your belief that the terms of the special provisions should be followed in managing the temporary traffic control plan?

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A. Yes.
Q. Let me ask you to go to page 27, Bates number. In that section that speaks of alternate staging and temporary traffic control plan, do you understand those to be the conditions under which the temporary traffic control plan could be changed?
MR. PERKINS: Object to the form.
THE WITNESS: Yes, unless otherwise directed.
Q. (BY MR. ROBBINS) Well, where does it say, "Unless otherwise directed"?
A. It doesn't say that.
Q. Okay. That's something you added?
A. Yes.
Q. All right. The second sentence there, it says, "Allow 14 calendar days for the Engineer to review."
Where it says "Engineer," with a capital E, do you understand that to be the resident engineer for this project, Mr. Breen?
A. No.
Q. Who do you understand is being encompassed within the term, capital E, "Engineer"?
A. An engineer licensed in the State of Idaho.

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Q. Well, it says, "Allow 14 calendar days for the engineer to review alternate staging and temporary traffic control plans that replace or supplement the contract construction staging."
You don't understand that as being the engineer for ITD on this project?
A. I believe it can -- it can definitely mean that. The first sentence of that paragraph also has "engineer" capitalized and is talking about a different entity.
But I do believe that this is referencing the resident engineer.
Q. All right. All right.
And then down -- the second sentence to the bottom, "Changes in traffic will not be allowed until alternate plans are approved in writing. Once alternate plans are approved, the approved plans must be followed unless new plans are submitted and approved."
By that, do you understand that to be approved by the resident engineer?
A. No.
Q. What do you read that as meaning then?
A. As the engineer or representative of the engineer.

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Q. Where do you see anywhere in that paragraph a reference to a representative of the engineer?
A. Operations at -- at night between 10:00 to 5:00, the engineer isn't on site, and there are other representatives of the engineer that can direct.
Q. But the contract explicitly provides that before a change be allowed in the temporary traffic control plan, that the Engineer, capital E, be allowed seven calendar days to review the submittal.
Does that mean to you that it has to be reviewed and approved by the resident engineer before it can be implemented, any proposed change could be implemented?
A. I do agree that that's -- that is what this says, yes.
Q. Okay. Are you aware of any modification of the contract between the State and Penhall that provided for an alternate temporary traffic control plan other than as is set forth in the paragraphs we've been discussing at page 27?
A. The changes that were implemented in 2017 were agreed upon between the State and

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Penhall, and --
Q. Who at the State agreed on those changes, to your knowledge?
A. I don't know.
Q. What leads you to believe that the State approved those changes?
Strike that.
What leads you to believe that the resident engineer ever approved of the changes to the temporary traffic control plan in 2017?
A. I don't know that the RE, resident engineer, approved.
Q. Do you know if any engineer approved of the deviation from the temporary traffic control plan in 2017?
A. I don't know.
Q. Okay. If it was not approved by an engineer, then it would have been in violation of the expressed provisions of the contract that we just went over.
Would you agree?
A. Yes.
Q. Okay. I'm going to ask you to take a look at page 28.
Under "Working Hours," it gives a "Time"

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section and a "Restrictions" section. And you'll note that under "Restrictions," the second paragraph provides that, "For existing four-lane sections and greater, a minimum of two lanes shall be maintained in each the eastbound and westbound direction or as shown in the temporary traffic control plan."
Are you aware of that restriction ever having been modified in writing during the course of this project?
A. No.
Q. Let me ask you to take a look at page 34.
Under "Traffic Control Manager," the second section, "Construction Requirements," provides that the TCM, traffic control manager, will be ATSSA certified with a minimum of five years of work zone traffic control experience.
Do you know whether in 2017, Mr. Roper had that designation?
A. Had the designation?
Q. ATSSA. Yeah. Was he certified ATSSA in 2017?
A. Yes.
Q. Okay. And in 2018, do you know whether

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Mr. Garling was ATSSA certified?
A. Yes.
Q. Did each of them have a minimum of five years of work zone traffic control experience respectively in 2017/2018?
A. I don't know.
Q. If they did not, then their being appointed as temporary traffic --
Strike that.
Did you do anything prior to Mr. Roper or Mr. Garling appearing on the worksite and performing work as traffic control managers had the minimum experience designated in the contract?
A. Can you repeat that question?
Q. Yeah.
Did you do anything to confirm that Mr. Roper and Mr. Garling, before they appeared at the project, the I-84 project, to work as traffic control manager, had the minimum experience called for in the contract?
A. Yes.
Q. What did you do?
A. Verified their work history. As direct reports to me, they've managed projects for me before, so that was part of the selection process

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was making sure that they had the experience necessary.
Q. Sure. But did you confirm that they had a minimum of five years of work zone traffic control experience as required in the contract?
A. Yes.
Q. Okay. And you did that by just making inquiry of the individuals?
A. And reviewing their employment history.
Q. Okay. During the course of this project, did you, as a matter of custom and practice, review the traffic control diaries?
A. Yes.
Q. With what frequency did you review the diaries?
A. Daily.
Q. Did you review them before they turned them in?
A. Yes.
Q. Okay. In reviewing those traffic control maintenance diaries in 2017, did you notice that there were occasions where four lanes of highway were being reduced down to a single open lane?
A. Yes.

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MR. MOORE: Object to the form.
Q. (BY MR. ROBBINS) When you saw that, did you make any inquiries as to why that was being done when you knew that two open lanes were required on this project?
A. Yes.
Q. Okay. When was the first time that you made that inquiry?
A. When I saw the diary or spoke with Josh Roper the following day.
Q. Okay. And my next question was going to be: You made the inquiry directly of Mr. Roper?
A. Yes.
Q. Okay. And what do you recall Mr. Roper telling you?
A. That the State approved and Penhall directed.
Q. All right. And did he tell you who at the State had approved and who at Penhall had directed?
A. I don't remember.
Q. Okay. And that was in 2017.
Do you recall reaching out to the resident engineer to confirm that they had, in fact, approved the reduction of lanes from four

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down to a single lane?
A. No.
Q. Did you reach out to any Penhall representative to find out under what authority they had to request the reduction of four open lanes down to a single open lane in 2017?
A. No, not that I remember.
Q. If you had, would you have reduced that down to writing somewhere to memorialize that you had checked with Penhall, and Penhall had told you that they had made this request and received the authorization?
MR. PERKINS: Object to the form. Calls for speculation.
THE WITNESS: Maybe.
Q. (BY MR. ROBBINS) Maybe and maybe not?
A. I don't know what I would have done.
Q. Okay. But if there was an approved change in the traffic control plan, would Specialty as the subcontractor in charge of traffic control management have received a copy of those approved plans changing the traffic control plan?
A. Can you repeat the question?
Q. Sure.
Would you not have expected that

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Specialty Construction as the traffic control management company for this project would have received the documents reflecting the change of the temporary traffic control plan to accommodate a reduction of four lanes down to a single lane?

MR. PERKINS: Object to the form. Also assumes facts that are contrary to his testimony.

Q. (BY MR. ROBBINS) Well, in other words, the contract states that a proposed change of the traffic control plan would have to be submitted and approved in writing.

Would you agree with that?

A. That's what the contract says, yes.

Q. Yeah. So if the contract had been followed, would it not also follow that Specialty would have had to receive a copy of the approved revised plans if there had been such approval?

A. No.

Q. How can Specialty manage a traffic control plan if it doesn't know the details under which it was being revised?

A. As the traffic control company, with approval from the State and the prime contractor, we are allowed to make adjustments, and through our training, we are allowed to make adjustments to the

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traffic control plan.

Q. Okay. But you -- Specialty didn't make adjustments to the traffic control plan.

Would you agree?

MR. MOORE: Object to the form.

Go ahead, sir.

Q. (BY MR. ROBBINS) In other words, it wasn't Specialty who changed the traffic control plan. Specialty was told to do something differently, agreed?

MR. MOORE: Object to the form. Foundation.

Go ahead.

Q. (BY MR. ROBBINS) Or not.

A. Yes.

Q. Okay. But Specialty didn't request to see in writing the provisions that allowed for the change of the temporary traffic control plan?

A. No.

Q. Okay. And then in 2018, you reviewed the traffic control maintenance diaries on a daily basis as well?

A. Yes.

Q. Okay. And there you saw that there had similarly been a reduction of open lanes in a four-lane stretch from four lanes down to a single

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open lane?

A. Yes.

Q. Did you make any inquiry at that time as to why it was that the four open lanes had been reduced to a single open lane?

A. Yes.

Q. Who did you make that inquiry of?

A. Mason Garling.

Q. And what, if anything, do you recall Mr. Garling telling you?

A. That we were required to do that for the safety of Penhall's operations.

Q. What insofar as the safety of Penhall's operations were you told by Mr. Garling were being accommodated by the reduction of lanes in 2018 from four open lanes to a single open lane?

A. Basically, that Penhall, without the three-lane closure, would have been on an island surrounded by moving traffic on both sides of their operation.

Q. But when you heard that, did you make any inquiry as to why perhaps a shoulder wasn't utilized?

A. Utilized for?

Q. Traffic moving through the area of the

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construction rather than closing down four open lanes to a single open lane.

A. No, I didn't.

Q. Was there a reason why you wouldn't have asked that question?

A. Utilizing the shoulder is not a typical operation that I've seen on the freeway.

Q. Have you never seen shoulders utilized to accommodate traffic going through a work zone in highway construction projects?

A. At times.

Q. Okay. What was it about this particular project in June of 2018 that would not have made that an appropriate alternative?

MR. PERKINS: Object to the form.

MR. MOORE: Same.

THE WITNESS: Speed, cleanliness of the shoulder, debris.

Q. (BY MR. ROBBINS) Okay. So the change you were told by Mr. Garling that was requested by Penhall had to do with the safety of the Penhall workers.

Is that right?

A. Yes.

Q. Did you make any inquiry as to what was

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being done to accommodate the safety needs of the motoring public traveling through the work zone?
A. Yes.
Q. What did you ask in that regard?
A. I ensured that the signs were set up correctly per the -- per the MUTCD; that the PCM had the message directed by ITD.
Q. "PCM," what do you mean by "PCM"?
A. Portable changeable message sign.
Q. Okay. Did you do anything to make sure that the PCMs were placed at a location beyond where the traffic backup was starting?
A. I wasn't aware of where the traffic backup was starting.
Q. All right. I think you mentioned that you had a custom and practice of being out to the work zone nightly from -- Monday through Friday, correct?
A. So I never meant to indicate that I was out there every night, but I was on the worksite twice a day throughout the duration of the project.
Q. All right.
A. But definitely not every night.
Q. And when you say --
A. Many times --

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Q. Okay. So you would be out there perhaps during the daylight hours when work was not being performed?
A. [Witness indicates.]
Q. Indicating "yes"?
A. Yes.
Q. Okay. All right.
When you realized that a four-lane stretch of highway was being reduced down to a single lane, did you give any instructions to your traffic control manager as to what steps should be undertaken to monitor the -- traffic's response to that reduction?
A. I don't remember.
Q. Did you at that time have a personal custom and practice of requesting that monitoring be adjusted if there was going to be such a change in a temporary traffic control plan?
A. Yes.
Q. Okay. And what was your custom and practice at that time as to what you would direct your traffic control managers to do?
A. Specifically, we would monitor traffic so that our daily log reflects when traffic is the heaviest and -- in order to advise the State and

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even the prime contractor on changes.
Q. All right. Well, when you say "monitoring," what is involved in the monitoring of traffic's response to the temporary traffic control plan?
A. Observing.
Q. Okay. Where they actually go out there and see the traffic that's driving through the work zone?
A. Yes.
Q. And the advanced warning area?
A. Yes.
Q. Okay. How frequently do they go and travel those areas, the work zone, through the advanced warning area to check on traffic response?
A. Depends.
Q. Depends on what?
A. Other operations that may be going on on the site that are taking their attention. Work on both sides of the freeway would mean that they're spending time on one side of the freeway and then going to the other side of the freeway.
But I would say frequently, they're observing.
Q. All right. Now, during the June 14 to

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June 16 time frame, was Specialty involved in both sides of I-84 or only on the eastbound side?
A. Both sides of I-84.
Q. All right. And who was acting as the traffic control manager on either side in June of 2018?
A. Mason Garling.
Q. Okay. So my understanding is that the traffic control devices would be set, and after they were set, then it was Mr. Garling's responsibility to monitor the traffic's response to the traffic control devices?
A. Yes.
Q. And what is your understanding of the frequency with which Mr. Garling was monitoring the traffic on the eastbound side of I-84 in the June 14 to June 16 time frame? That is, how many times a night during the work that was being performed?
MR. PERKINS: Object to the form.
Q. (BY MR. ROBBINS) If you know.
A. I don't know.
Q. Did Specialty have a custom and practice at the time as to what they would expect of their managers insofar as the frequency of monitoring is

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concerned?
A. Yes.
Q. What was that custom and practice?
A. If the crew was not moving material or setting another lane closure somewhere else on the project, then the project would be constantly monitored, meaning driven through and inspected.
Q. Now, when you were told by Mr. Garling in 2018 that he had been directed to reduce four lanes of traffic down to a single open lane, did Mr. Garling tell you that he had objected to the direction in 2018?
A. Yes, I believe so.
Q. Okay. Do you know whether that objection was ever reduced to writing?
A. I don't believe so.
Q. All right. Do you know whether that objection was phrased any more than one occasion?
A. I don't know.
Q. Let me ask you to take a look at Tab 9. And just if you could basically look through that. And my question is: Are you able to identify the documents behind Tab 9 as being the temporary traffic control plans for this project?
A. Yes, I believe so.

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Q. Now, at page 254, up at the top is reflected "Temporary Traffic Control General Notes."
At Bullet Point 3, it's a short version of what we previously read in the special provisions about how to present an alternative to the temporary traffic control plan?
A. Yes.
Q. Okay. The next subparagraph 4, "Work conditions will be monitored by the contractor under various conditions of traffic volume, light, and weather to ensure traffic control measures are operating effectively." I think we spoke about that.
Is that the monitoring of the effect on traffic of the temporary traffic control devices that are placed?
A. Yes.
Q. Number 5 says, "Distances shown between temporary traffic control devices are approximate minimums, and some adjustments may be necessary."
The minimums addresses the MUTCD provisions, agreed?
A. They can, yes.
Q. All right. And this provision basically

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allows for there to be an adjustment of the traffic control -- location of traffic control devices depending upon response to traffic in the area?
MR. PERKINS: Object to the form.
THE WITNESS: Yes.
Q. (BY MR. ROBBINS) Okay. And down at paragraph 12, "Additional signing may be required as directed."
Do you understand that direction to have been received by the State or the general contractor or could Specialty, as the special -- as the traffic control manager, have suggested additional signing?
A. Specialty may have suggested.
Q. Down at page 255, the first section there, "Class B Temporary Traffic Control Sign Quantities," there's a provision for, "Two Left Lanes Closed Ahead."
Do you see anything in there that provides for signage that would address three left lanes closed or three right lanes closed?
A. No.
Q. Page 256, this is double lane drop details.
There's no provision in the temporary

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traffic control plan for three lane drop details in a four-lane stretch.
Would you agree?
A. Yes.
Q. And over to the right-hand margin, there's a provision there showing two left lane -- signage allowing for "Two Left Lanes Closed Ahead" and "Two Right Lanes Closed Ahead," correct?
A. Correct.
Q. Nothing provided for three right or left lanes closed ahead.
Would you agree with that as well?
A. Yes.
MR. ROBBINS: Why don't we take a break for about five minutes.
THE VIDEOGRAPHER: We are now off the record at 4:11 p.m.
[Break taken from 4:11 p.m. to 4:24 p.m.]
THE VIDEOGRAPHER: We are back on the record, and the time is 4:24 p.m.
Q. (BY MR. ROBBINS) Let me ask you just real briefly to go back and to page -- or Tab 9, page 256, and specifically, where it gives the description of the signage over in the right-hand margin.

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A. No, because we had approval from the State and Penhall.
Q. Right.
You heard that you had approval from the State, agreed?
A. Yes.
Q. Okay. Let me ask you to take a look at Binder 5. Let me first direct your attention to Tab 85. It's an e-mail that purports to be from you dated May 23, 2017.
I'll give you a chance just to review those two e-mails; the original one, 9:14, and the other at 10:45.
A. That looks like my e-mail, yes.
Q. Okay. And who is Forrest Moranda?
A. A previous employee of Specialty Construction.
Q. Okay. In the bullet point in the 9:14 e-mail, the first bullet point, it says, "We are anticipating using the traffic control plans provided in the bid. If the prime contractor would like to revise the staging and phasing plans, an engineer's services would need to be retained."
The prime contractor there, you're speaking of Penhall?

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A. This was sent blind probably to every contractor that received my quote.
Q. Right. Yeah.
All I'm getting at --
A. Yeah.
Q. -- is: The prime contractor referred to there is Penhall?
A. Yeah. This is before the contract was awarded, so this was sent to everybody.
Q. Agreed. The contract wasn't awarded to you guys until August of 2017, agreed?
A. I'm not sure of the exact date, but --
Q. We'll get it. I can --
A. Yeah.
Q. -- dive back into the contract again, but I will tell you it was signed by --
A. Tracy?
Q. -- Tracy in August of 2017.
But what I'm getting at is in May of 2017, you were aware that if there was going to be a revision to the temporary traffic control plan, that an engineer's services would need to be retained, agreed?
A. Yes.
Q. And they would need to be retained in

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order to undertake the evaluation similar to what Parametrix had done originally on this project?
A. Yes. A redesign.
Q. And insofar as the change in the traffic control plan that you previously testified to that was implemented in 2017 and 2018 on this project, an engineer's services were not retained to evaluate those proposed changes before they were implemented.
Would you agree?
MR. PERKINS: Object to the form.
THE WITNESS: Not that I'm aware of, no.
Q. (BY MR. ROBBINS) Next, Tab Number 86, these are the pre-construction conference agenda, and that was dated July 26, 2017.
Now, again, that was dated before Specialty received the contract from Penhall, and I can refer you to Tab 10 in Exhibit 1-B at page 322 -- or actually 302.
So the contract was let to Specialty August 8, 2017?
A. August 8.
Q. Okay.
A. Yes.
Q. And do you remember your attendance at

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this pre-construction conference meeting?
A. Yes.
Q. Okay. Now, on page 3500, the section entitled "Traffic Control," do you recall discussions taking place during the course of this meeting with regard to those subject areas?
A. Generally, yes.
Q. Okay. One bullet point says, "Submit any changes to the traffic control plan in writing. Changes require a new TCP with an engineer's stamp. Approval must be received prior to implementation."
That was your understanding, again, even before the contract was let to Specialty?
A. Yes.
Q. So this contemplates then that there be an entirely new traffic control plan developed if there was going to be a proposed change to the traffic control plan?
MR. PERKINS: Object to the form.
Q. (BY MR. ROBBINS) Just from your having attended this pre-construction conference agenda and the discussion points of the agenda itself.
A. Yes.
Q. Down at the bottom of that section, the last bullet point says, "Nighttime work is required

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for this project. This contract specifies nighttime work as a requirement for all construction activities."

Do you have an understanding as to why that was a discussion point? In other words, is there enhanced risk associated with nighttime construction activities?

MR. PERKINS: Object to the form.

Q. (BY MR. ROBBINS) Or do you know?

MR. PERKINS: Same objection.

THE WITNESS: Usually nighttime work is required on high-volume roads.

Q. (BY MR. ROBBINS) And nighttime work on high-volume roads presents an enhanced risk of both workers and to motorists traveling through the work zone, correct?

A. Yes.

Q. Let me ask you to take a look at Tab 88. These are --

And you used the term before, submittals. Are these what you were referring to as what would be submitted by Specialty to, in this case, Penhall with regard to the traffic control devices that were being obtained for the project?

A. These submittals are different than the

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ones I was talking about earlier.

Q. Okay. How so are they different?

A. These would be pre-project submittals on things like a supervisor -- supervisor's name and number and a list of the equipment we would use on a project. The submittals I was referring to are weekly submittals showing the hours worked on the job.

Q. Okay. I think I've got that.

Let me ask you, 91, 3518, is that an example of the submittals that you were talking about?

A. Yes.

Q. And there we see on page 3522 some of the devices that were used, and then the signage is on 3523.

A. Yes.

Q. And on 3523, there's a, "Two Lanes Closed Ahead."

Now, I will tell you --

MR. ROBBINS: And, David, I have not seen any -- maybe I've just not seen it, but I haven't seen any submittals similar to this for the 2018 time frame.

MR. PERKINS: I don't think I have either.

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MR. ROBBINS: Okay.

Q. (BY MR. ROBBINS) Do you know whether for 2018, there were submittals issued to Mr. Erichson that are similar to these that I've just showed you at Tabs 91 and 92?

A. Do you specifically mean a sign list --

Q. Yes.

A. -- or do you mean the entire submittal?

Q. Well, the submittal, which would include hours and the signs.

A. There should -- there should be.

Q. There should be --

A. Oh, yes.

Q. -- for 2018?

A. Yes.

Q. Okay. And that's something that was done --

Was it done on a weekly basis while Specialty was out there on the project?

A. These e-mails would have been sent weekly, yes.

Q. Okay. And so if there was an order for "Three Lanes Closed Ahead" signs, they would have been included in submittals such as these that we've been looking at?

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A. They should have been, yes.

Q. Okay. Well, my submittals, at least that I have attached -- and, again, if there are others, there are others, but these are the only ones I was able to find -- go through the date October 2 -- e-mail date October 2, 2017, which addresses September 17 through September 23.

Specialty was out on the project through October of 2017, correct?

A. Did you say October --

Q. October 2017, yeah.

A. Yes. In 2017, yes.

Q. Okay. All right.

MR. ROBBINS: Well, David, if you could check just to see what -- if they've already been sent, then my bad. But if they're --

MR. PERKINS: I've made a note of it. I will ask that it be reviewed, and I'll tell you what we find out.

MR. ROBBINS: Okay. Appreciate it.

Q. (BY MR. ROBBINS) Let's take a look at some of these submittals. I won't go through them in detail. I just want to get your description of what we should be seeing here.

And, for example, if we take a look at,

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So the 22nd would have been in the week of the 26th.

Q. Ah. Okay. So the other ones above were ones that had previously been paid for?

A. It looks that was, yes.

Q. Okay. Again, the indication of "Left Two Lanes Closed Ahead." No indication of three lanes closed ahead, correct?

A. Correct.

Q. And then let's take a look at Tab 93. That's an e-mail from you dated September 26 to Mr. Erichson. And then the backup -- the following documentation, which is pages number 3530 through 3533 is, again, just identification of the employees and then the message boards and then traffic control manager, construction signs, barricade, et cetera.

Then at 3534, it gives dates; it looks like running from August 14 through August 22, and then September 6, 7, 8, and 9.

Again, no indication there of three lanes closed ahead, agreed?

A. Yes.

Q. Now, Tab 94 is another submittal. This one is dated October 2. And I guess what I'm

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trying to compare is, if we could, if you could just put your finger on 3534 and then take a look at 3540, and it looks like a running time frame here where it gives the sign descriptions.

A. Uh-huh.

Q. Is that the way Specialty presented the signage that was being used to Penhall was kind of on a rolling basis? And here we're dealing from August 14 through September 16?

A. Yes. Since signs are only paid once upon initial use, when we submit to the State, we date the date it's used, and then we list the sign out.

Q. Okay. So as of October 2, these identify the signs that were used, at least from August 14 through October 2?

A. Through September 16th, it looks like.

Q. September 16th.

Again, no reference there to three lanes closed ahead.

Would you agree?

A. Correct.

Q. Now, there's a second transmittal dated October 2, 2017, from you. That's at Tab 95. That doesn't have -- at least I don't have the page --

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or, excuse me, a sign page to it. But the two e-mails that are 94 and 95 were sent on the same day.

Can you tell me how it is those two e-mails differed from one another?

A. When preparing quantities to submit to the State for payment, I did it -- I must have done both of those weeks on the same day, the 2nd day of October, and submitted them to Steve.

Q. Okay. So I sort of see. At 3536 as compared to 3542, 3536 dealt with the week of September 16.

A. Yes.

Q. And 3542 dealt with --

A. Week ending the 23rd.

Q. Correct.

Similarly, the employees dealt with the week ending September 16 on 3537 and on 3543, September 23, correct?

A. Correct.

Q. All right. Now, I don't see a page for signage. And assuming that I didn't error and I didn't include a Penhall 1639, if there was not a signage page, does that mean that no new signs were utilized during that week?

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A. Yes.

Q. Okay.

A. The page 3545 indicates all new items that week, week ending the 23rd.

Q. Okay.

A. So just manager days that week. No devices.

Q. Okay. So does that then indicate to you that at least as of that week, there were no three lanes closed signs utilized for the week ending September 23, 2017?

A. Yes.

Q. Okay. Let me ask you to take a look at Tab 89. And it's an e-mail dated August 17, 2017, from you to Mr. Erichson, and it addresses a request you were making for a change in the traffic control plan.

Do you recall what prompted your request on that date for a change in the traffic control plan?

A. Yes.

Q. What was it that prompted that?

A. I believe this was the first project I've ever seen designed with device spacing in the tangent at 55 feet. And we typically close lanes

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on the freeway with twice that spacing --
Q. Right.
A. -- in devices.
Q. Right.
A. So it seemed not only to be excessive in what it's costing the State. It also slowed down the operation as far as installing and then picking them up at the end of the night.
Q. Did you have any discussions with either Mr. Erichson or Mr. Coletta about the proposed change in the traffic control plan?
A. Specifically regarding this change that we're talking about?
Q. Yes, sir.
A. Steve Erichson and Vincent Coletta?
Q. Yes.
A. I don't remember if I called either of them before I sent this e-mail.
Q. Let me ask you to take a look at 1-B, Tab 18, page 684. 684 and 685. What I've attached is an e-mail chain going -- starting from your August 17, 2017, inquiry up to September 5, 2017.
Do you recall having seen these e-mails from either Mr. Statkus or -- well, it would just be from -- well, Mr. Statkus or Mr. Erichson.

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A. Yes.
Q. Okay. So does this refresh your recollection --
Strike that.
Do you recall having any telephone conversations or face-to-face conversations with Mr. Statkus about the proposed change you were asking?
A. No. I don't recall any face-to-face --
Q. Okay.
A. -- discussions.
Q. All right. But the end result apparently was that they declined the request?
A. That is correct.
Q. Let me ask you to take a look at an e-mail chain that spans from 680 to 683. And once you've had a chance to review it, my question to you is: Do you have a recollection of having received at least some of the e-mails reflected there?
A. What was the question again?
Q. Do you recall having received these -- at least some of these e-mails?
A. Yes.
Q. Okay. And these e-mails address a

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proposed change to the traffic control plan?
A. Yes.
Q. Okay. And in Mr. Statkus' response to Mr. Coletta's e-mail dated August 22, 2017, on which you purport to have been a recipient, Mr. Statkus asks Mr. Coletta, "Have you submitted a revised TCP that shows your proposed method or sequence? ITD would like to review prior to any changes," et cetera.
Having reviewed that, does that confirm your understanding from having reviewed the special provisions and the temporary traffic control plan that the State expected to review a revised temporary traffic control plan before they approved it?
A. Yes.
Q. And then just above, there's an e-mail exchange between Mr. Coletta and Mr. Blackburn. You don't show as being a recipient of that, but -- wherein Mr. Coletta asks, "What's the process to revise the TCP?"
Were you aware that Mr. Coletta was inquiring as to how to revise a TCP in August of 2017?
A. I believe so.

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Q. How is it that you were advised that he was asking how to revise the TCP?
A. Through this e-mail.
Q. Okay. Taking a look at page 680, there's an e-mail between Mr. Coletta and you wherein you're asked, "Daniel, is this an item that your team can do? This is important to our grinding plan. Please let me know as soon as possible, please. Thank you." And then your response, "We don't have a staff engineer for designing and stamping these plans."
You testified earlier today that Specialty simply didn't have a design engineer on staff, right?
A. Yes.
Q. So from your involvement in these e-mails and this exchange of e-mails with Mr. Coletta, did you develop an understanding that Penhall knew that in order to change the traffic control plan, they would need to have an engineer to design and stamp the plans for the proposed change?
MR. PERKINS: Object to the form.
THE WITNESS: Can you repeat the question?
Q. (BY MR. ROBBINS) Yeah.

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A. They were not involved with the physical labor part of it, dropping cones and setting up signs.

Q. Okay. So there's some hesitancy there. So to what extent were they involved with it?

A. They were involved in directing us on a nightly basis for where they would be working and what lanes they needed closed.

Q. Could Specialty ever set up signs and cones without Penhall approval on the project?

A. We could, yes.

Q. Okay. Did that ever happen?

A. I am not aware of any time where that happened.

Q. Could Penhall set up the signs and cones without Specialty?

MR. BOTTARI: Object to the form. Asked and answered.

THE WITNESS: I'm sure they could.

Q. (BY MR. MORTIMER) Did that ever occur?

A. No.

Q. So if Penhall requested that Specialty use a different sign that, let's say, is not approved by the temporary traffic control plan,

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could Specialty do that?

MR. PERKINS: Object to the form. Calls for a legal conclusion.

THE WITNESS: Yes.

Q. (BY MR. MORTIMER) I'm going to jump to another topic real quick.

So what kind of training was provided by Specialty to Mason Garling and Josh Roper prior to their involvement with the I-84 project?

A. On-the-job training and then when they received enough hours to be qualified, the ATSSA certification.

Q. Okay. Anything else?

A. I don't believe so.

Q. Was the written temporary traffic control plan related to the I-84 project -- I mean, the actual -- I'll have to find it, but the actual plan provided to Josh Roper and Mason Garling?

A. Yes.

Q. Okay. And did they --

Would it have been a hard copy or e-mail?

A. Hard copy.

Q. Okay. And do you know if they kept that with them on the job, on the project?

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A. I believe so.

Q. Okay. Is there any documentation, as in did Specialty have them sign off on anything saying that they'd read and reviewed it?

A. No.

Q. So there's no way for us to know whether they read and reviewed it other than some testimony that they read and reviewed it?

MR. PERKINS: Object.

Q. (BY MR. MORTIMER) The documentation.

MR. PERKINS: Object to the form.

THE WITNESS: No other way that I'm aware of.

Q. (BY MR. MORTIMER) No documents that would prove it?

A. No.

MR. MORTIMER: I think Clay asked the rest of these that I already was going to discuss, so I don't think I have anything else. Thank you.

EXAMINATION

BY MR. MOORE:

Q. I just have a few questions, so let me jump in here. My name is Mike Moore, and I introduced myself earlier.

Could you pull out a document for me.

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It's, I believe, Tab -- or Exhibit 46. Or it may be called Tab 46.

MR. PERKINS: Do you have a page number?

THE WITNESS: I don't think I have a Tab 46.

MR. ROBBINS: Are you looking at Exhibit Number --

He's going to need another book there.

MR. MOORE: It's the interrogatory answers from Specialty.

MR. ROBBINS: Okay.

THE REPORTER: It's back here in one of these.

[Discussion held off the record.]

MR. ROBBINS: I am showing the witness Exhibit 3, Tab 46, Defendant Specialty Construction Supply's answers to Daisy Johnson's first set of interrogatories.

MR. MOORE: Thank you, Counsel. I appreciate it.

Q. (BY MR. MOORE) Could you turn to the fourth page of that document. I believe it's -- at the very bottom, it says it's answer to Interrogatory 14.

Is that correct?

A. I see 15. Are you asking about 14?

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A. Not to my recollection.
Q. Okay. You've never been present when any of that kind of discussion took place. Is that correct?
A. Not to my recollection.
Q. Okay. Have you talked with Mason Garling about this subject? In other words, multiple verbal communications with Defendant Penhall Company regarding the decision to close three lanes of travel in a four-lane section?
MR. PERKINS: Object to the form. Also asked and answered, but you can --
Q. (BY MR. MOORE) Go ahead.
A. Yes, I have.
Q. And how recent have you been speaking with him about that subject?
A. Within the last two months.
Q. Okay. And share with me what you understand Mason Garling says took place between May 31, 2018, and June 2nd, 2018, in which Specialty had multiple verbal communications with Defendant Penhall Company regarding the decision to close three lanes of travel in a four-lane section of Interstate I-84.
MR. PERKINS: And to the extent that that

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involved counsel, I direct you not to answer it.
MR. MOORE: And I'm not intending for it to --
MR. PERKINS: It wasn't an exclusion in the question, so I'm just making it clear.
MR. MOORE: Well, okay.
MR. ROBBINS: Boys, get along. You're acting like me.
MR. MOORE: I sure don't want to do that.
Q. (BY MR. MOORE) Let me say it this way: Excluding any conversations with David, did you have any conversations with Mason Garling on this subject here recently?
A. Yes.
Q. Okay. Can you share with me what you understand his position is?
A. So to the extent that I remember correctly my conversation with him --
Q. Sure.
A. -- I believe he heard from both Bruce Kidd and Jon Mensinger that the three lane closure was approved.
Q. Okay. Do you know where that conversation took place?
MR. PERKINS: Object to the form.

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MR. MOORE: Let me say it a different way.
Q. (BY MR. MOORE) Did he tell you -- did Mr. Garling tell you where the conversation took place?
A. I am not sure that I remember that.
Q. Okay.
A. I could speculate, but --
Q. And I'm interested in what you know, okay?
A. [Witness indicates.]
Q. If you have reasonable speculation based on something that he had told you, that's fine. You heard Mr. Robbins earlier, instructions which were sound.
MR. PERKINS: Object.
MR. ROBBINS: Oh, God bless you.
MR. MOORE: Let me start again here.
Q. (BY MR. MOORE) Based on your conversations with him, was it out there in the field? Was it at Specialty's offices? Where do you understand this conversation took place with Bruce Kidd?
A. I understand that it would have taken place at the Orchard pit.
Q. Okay. And when you say that this

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conversation took place, did he tell you that Mr. Mensinger actually participated in it or was he in the room or what is your understanding as to what he said about that conversation?
A. He confirmed that -- that Jon approved it, but I -- I guess I cannot remember if that was personally said by Jon or if that was secondhand information through Bruce.
Q. Okay. Other than this conversation that you've just described, were there any other conversations that Mason Garling told you or provided to you that is the basis of this comment that says, "Defendant had multiple verbal communications With Penhall Company"?
A. He did not communicate any more to me.
Q. Than that one conversation, that being the one with Bruce Kidd?
A. Yes.
Q. Do you know when that conversation took place?
A. No.
Q. It says here that the Defendant Penhall Company stated that it had cleared the closure with the Idaho Transportation Department. Do you know how -- or what is meant by

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Q. What did you mean by using the term when you say "continuously observe traffic"? What is that meant to mean?
A. Can you repeat the question?
Q. Sure.
What did you mean when you stated "continuously observe traffic"?
A. I believe what I meant was continuously between the hours of 10:00 and 5:00, 10:00 p.m. and 5:00 a.m. --
Q. Okay.
A. -- during construction operations.
Q. The sentence goes on to say, "And work to resolve any conflicts in the field."
What conflicts would you need to resolve?
A. That's a -- that would be a broad statement saying that there would be conflict between where Penhall wanted to be and what we could set up.
And I'm not throwing them under the bus. Any contractor wants to work within the purview of his contract, and it's our job to get them onto the road as safely as possible.
That's all I mean, resolving that

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conflict.
Q. The sentence goes on, it says, "But it is all of our responsibilities to make sure the owner, the contractor, his subs, and the traveling public are all kept as safe as possible."
Did I read that accurately?
A. Yes.
Q. Who are you referring to when you use the term "our responsibilities"?
A. Everyone involved in the project.
Q. That meant the State, true?
A. Yes.
Q. And then Penhall, true?
A. True.
Q. That meant Specialty, true?
A. True.
Q. Anybody else?
A. Penhall's subcontractor, Diamond.
And you said "the State," so I would assume that that covers ISP, the traveling public, and ITD.
Q. And I would assume it's fair to say that even though you prepared this on June the 22nd, 2018, you felt that prior to June the 16th, 2018.
Is that fair?

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MR. PERKINS: Object to the form.
THE WITNESS: Can you clarify your question? What -- what --
Q. (BY MR. ORLER) So here you're talking --
Sure. Here you're talking about the responsibilities, to make sure -- right, you have [garbled audio] are all kept as safe as possible, right?
A. Yes.
Q. I would assume that you had felt that way prior to June the 16th, 2018, during the course of this project.
Isn't that true?
A. Yes.
MR. ORLER: I don't have any other questions. Thank you.
MR. ROBBINS: Anyone else?
Okay. Let me ask just a --
Jake, you got any questions?
MR. BOTTARI: Yeah. I just have a couple of quick questions.
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EXAMINATION
BY MR. BOTTARI:
Q. Mr. Kircher, my name is Jake Bottari, and I represent Defendant Penhall Company.
Are you familiar with Diamond Drilling?
A. Yes.
Q. And how are you familiar with Diamond Drilling?
A. Through working with them on the I-84 project.
Q. And did you have any communications, direct communications, with Diamond Drilling on the I-84 project?
A. I don't believe I did.
Q. Do you know when Diamond Drilling first started its work on the I-84 project?
A. Generally, it was in 2018. It was not in the first year of the project. But that --
I don't know specifically -- I can't remember specifically.
Q. Okay. Do you know where --
Was Diamond Drilling working on the eastbound lanes of the project? Do you know that?
A. Yes.
Q. And did you understand that Diamond

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Drilling was working on the eastbound lanes of I-84 on the night of the accident?
A. Yes.
Q. And if you know, did Diamond -- when they were doing their work on the project, did they request which lanes they wanted closed on a nightly basis?
A. I believe so, but that would have been coordinated directly with the supervisor, my supervisor, Mason.
Q. When you say your supervisor, do you mean your traffic control supervisor who was on site?
A. Yes.
Q. Okay. And so that's probably a better question to ask Mason?
A. I believe so.
MR. BOTTARI: Okay. Thank you. Those are the only questions I have.

FURTHER EXAMINATION
BY MR. ROBBINS:
Q. Okay. Just a quick question, if I could, sir.
On the occasions before the I-84 project

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where you -- when Specialty had worked with ITD on highway construction projects, had a majority of those involved temporary traffic control plans?
A. Yes.
Q. Okay. And those highway projects, did they involve what, during normal traffic hours, would be considered high-volume highways?
A. Some, yes.
Q. All right. On those where the highway construction project dealt with high-volume highways, did you ever receive -- do you recall, did Specialty ever receive a request that a four-lane stretch of highway be reduced down to a single lane?
A. Yes.
Q. On how many occasions before the I-84 project?
A. Multiple occasions.
Q. Was that something that was reduced to writing; that is, the request to reduce down to a single traffic lane on a four-lane stretch?
A. Can you ask that again?
Q. Sure.
Was that change of the traffic control plan something that was made in writing to

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Specialty?
A. No.
Q. Okay. Was that change something that an engineer had reviewed and approved before it was presented to Specialty to implement?
A. Not that I'm aware of.
MR. ROBBINS: Okay. I don't have any other questions for you. Thank you, sir.

FURTHER EXAMINATION
BY MR. MOORE:
Q. Do you have that project in mind that you're referring to? You said that there was an earlier project prior to the one that brings us here today.
A. Uh-huh.
Q. Which project are you thinking about that you were speaking to Mr. Robbins about?
A. Meridian to Five Mile overpass.
Q. Approximately when was that?
A. 2014.
Q. Okay. And any others that you can think of that you're referring to or is that the one?
A. There was a project located on the Wye itself where we had to move traffic around for sign

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structures. And I could find that information, but I don't have that project name. It was a sign upgrade.
Q. I'm not understanding your terminology, so bear with me.
When you say it's a sign moving around, can you help me understand why that would be a change in the traffic control and why that necessitated this change?
A. A sign upgrade specified for roadside or overhead white-on-green directional -- we're talking big -- 14-, 16-, 18-foot signs, those signs.
Q. Those signs that are high up in the air?
A. Yeah, up on a structure. Those signs got replaced 2013.
Q. Okay. Does that require roadwork, road closing --
A. Yes.
Q. -- to do that kind of thing?
A. Yes.
Q. And was the process for those signs, was that already predetermined in some traffic control plans?
A. Some, but we had to modify others.

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Q. And it's your testimony that that was done without a written change order?
A. Yes, just through the approval of the inspector.
Q. Okay. And the other one was what?
A. Meridian to -- I-84 Meridian to Five Mile.
Q. And what do you recall about that one?
A. We had to take the freeway down to one lane to facilitate all of the restriping in that section.
Q. Okay. How many nights was that, just to do that change order?
A. Several.
Q. Okay. And what time of the day or night did that project take place?
A. 10:00 p.m. to 5:00 a.m.
Q. Okay. Any other projects that you are thinking of at this point or have we covered them?
A. No, not at this time.
MR. MOORE: Okay. Thank you, sir.
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FURTHER EXAMINATION
BY MR. ROBBINS:
Q. So your recollection is the -- the Meridian to Five Mile overpass originally, the original traffic control plan, had a provision in there that allowed that four lanes would be reduced to no more than two lanes?
A. Yes.
Q. All right. And then during the course of that project, there was a change that was allowed to allow the closure to go down to a single open lane?
A. Yes.
Q. And that extended for several days, you said?
A. Yes.
Q. Okay. And there was no engineer evaluation of that?
A. Not to my recollection.
Q. And that direction was given to Specialty by an on-site inspector?
A. Yes, I believe so.
Q. Do you know who that inspector was?
A. Steve Erichson.
Q. Okay. Is Mr. Erichson, to your

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knowledge, an engineer?
A. Can you repeat the question?
Q. Yeah.
To your knowledge, was Steve Erichson an engineer?
A. No.
Q. Okay. No, you don't know, or, no, he was not?
A. I --
Q. My problem.
A. I don't know that he was an engineer.
MR. ROBBINS: Okay. All right. Thank you, sir. I appreciate your testimony.
We are done.
MR. GALE: Yeah. This is Eric Gale. I've got a couple of hours of questions, and --
Just kidding. No questions for me.
Thank you.
THE VIDEOGRAPHER: All right. This concludes the deposition of Daniel Kircher, individually and 30(b)(6) designee for Specialty Construction Supply, LLC, and the time is 7:35 p.m. We are off the record.
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(The videotaped deposition concluded at 7:35 p.m.)
* * *
(Signature was requested.)

VERIFICATION

STATE OF _____)
) ss.
COUNTY OF _____)

I, DANIEL KIRCHER, being first duly sworn on my oath, depose and say:

That I am the witness named in the foregoing videotaped deposition taken the 19th day of April, 2021, consisting of pages numbered 1 to 233, inclusive; that I have read the said deposition and know the contents thereof; that the questions contained therein were propounded to me; that the answers to said questions were given by me, and that the answers as contained therein (or as corrected by me therein) are true and correct.

Corrections Made: Yes_____ No_____

_____
DANIEL KIRCHER

Subscribed and sworn to before me this _____ day of _____, 2021, at _____, Idaho.

_____
Notary Public for Idaho
Residing at_____, Idaho
My Commission Expires: _____.

REPORTER'S CERTIFICATE

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

I, ANDREA J. WECKER, Certified Shorthand Reporter and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true and verbatim record of said deposition.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 30th day of April, 2021.

_____
ANDREA J. WECKER
CSR, RDR, CRR, CRC and Notary Public in and for the State of Idaho.

My Commission Expires: 02-14-23

EXHIBIT 15

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAWRENCE MANLAPIT, JR., individually as father of LAWRENCE P. MANLAPIT, III, DECEASED, Plaintiff, vs. KRUJEX FREIGHT TRANSPORT CORP.; KRUJEX TRANSPORT CORP.) KRUJEX TRANSPORT SYSTEMS, LLC) KRUJEX LOGISTICS INC.; ALBERTSON'S COMPANIES; CORNELIU VISAN; DANIEL VISAN;) LIGIA VISAN; STATE OF IDAHO; STATE OF IDAHO DEPARTMENT OF TRANSPORTATION; IDAHO STATE POLICE; PENHALL COMPANY; PARAMETRIX, INC., SPECIALTY CONSTRUCTION SUPPLY LLC, and DOES 1 through 150, inclusive, Defendants. And Consolidated Actions	Lead Case No. CV01-2019-06625 Consolidated with Case Nos. CV01-2019-23246 CV01-2020-00653 CV01-2020-02624 CV01-2020-07803 CV01-2020-08172

VIDEOTAPED DEPOSITION OF BRYON BREEN

February 2, 2021

Boise, Idaho

Reported by: Andrea J. Wecker, CSR #716, RDR, CRR, CRC

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Q. Okay. How about resident engineer? Same questions.
Did you have involvement in the review and comment of temporary traffic control plans?
A. I did.
Q. Okay. Those plans insofar as highway construction and maintenance projects are concerned.
I'm trying to clarify my question.
A. Well, I guess just to clarify, maintenance typically were not part of my purview, maintenance projects.
Q. Well, okay. And it's -- that's a clarification that -- because I -- that I'd like to make. And I appreciate you raising that issue.
We're here today to talk about a project that I'll identify. It's the I-84 Five Mile to Orchard Road and Ramps project.
You're familiar with that?
A. Yes.
Q. Okay. And we'll refer to that generally as "the project" in this deposition.
In your mind, is that a maintenance project or is that a highway construction project?
A. Well, so in the way that I have gone

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through in my career, you know, there's maintenance, which is a separate section within the district, and that's the guys in the orange shirts out there with the snowplows and the pothole patching.
So that term is kind of the maintenance I'm talking about.
Q. Right.
A. Now, on the construction side of things, there are construction projects that would be termed, you know, a preventive maintenance overlay, say, or something like that.
Q. Right.
A. But it's a --
In my mind, I refer to those as construction projects.
Q. Okay.
A. It's just the type of construction.
Q. I just didn't want to get it confused, and it may not be a confusion to anyone other than me.
When we speak of "construction," I quite often think of new construction, whereas when I think of work on an existing facility, I'm thinking more of either renovation or maintenance work. But

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that may be a burden that I carry, and I don't suggest that you carry the same ones.
But insofar as the project is concerned, as I just defined that, in your mind that would be considered a highway construction project?
A. Yes.
Q. Okay. Very good. Very good.
So in your position as resident engineer of highway construction projects, did you have involvement with the review and comment of temporary traffic control plans for those projects?
A. I did.
Q. Okay. How about insofar as implementation is concerned?
A. Well --
Q. When I say --
A. -- through staff, yes. I -- I typically was not, on a daily basis, out on construction jobs.
Q. Well, and that's a question that I was going to ask you.
Insofar as the project is concerned, did you ever, during the course of that project, have occasion to be out on the worksite during the time that work was being performed on the project?

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A. I was not.
Q. Okay. All right.
Generally speaking, the ITD representatives on site would be the inspectors?
A. Yes. And, on occasion, the project engineer or project manager.
Q. Okay. Were you not the project engineer, though, for the project?
A. I would term myself as the resident engineer on the project.
Q. Okay. And that is your identification. We'll get into the details a little later on. But let me ask you, please, to take a look at Tab 6 that's in front of you. And we'll go directly to page 1, which seems like a good place to start.
A. Okay.
Q. Now, turning to page 2, you see there right under "Notice of Letting," you are identified as resident engineer for this project?
A. Yes, that's correct.
Q. Okay. So --
And the other title that you referenced that you -- the inspector or another engineer that would be the persons who you would expect to be the ITD representative on site, what was his title

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again?
A. Well, I -- I don't recall exactly. I mean, they're either a project engineer if they were actually a registered -- or an engineer by education or they were project manager, which is -- typically in ITD would have been a position as a transportation staff engineer assistant, a TSEA. That was their level.
Q. Okay. Did the project have either a project engineer or a project manager assigned to it?
A. I believe that was Dave Statkus.
Q. He'd be the project engineer?
A. Uh-huh.
Q. Indicating yes?
A. Yes. I'm sorry.
Q. That's all right.
So the ITD representative on site to the extent that the individual was on site would have been, for the project, either Mr. Statkus or the ITD inspectors?
A. That's correct.
Q. All right.
A. I would also -- I believe that one of our other project managers that was on my staff,

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Jim Hoffecker, was also involved.
Q. Understood.
A. And I think Dave and Jim were kind of working collaboratively to --
Q. Mr. Hoffecker has passed?
A. Yes, he has.
Q. Okay. If I wanted to check on the days that Mr. Hoffecker was present on the site of the project during active work, is there some documents I would look to to familiarize myself with that?
A. Well, I guess there's a possibility that he could have filled out a -- you know, an inspection report potentially. I don't know that that's the case.
But I tend to doubt that he probably did. The only other one would be is if he attended any of the project meetings on site where they would have taken a -- you know, a -- written up and signed in as to who attended that meeting.
Q. Right.
On this project, I've come to understand that there was one pre-construction meeting, and then there was another startup meeting.
Is that your understanding or do you have any understanding one way or the other?

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A. As far as --
Yes, there was a pre-construction, which is routine. We do that on every construction project. And then, yes, when they came back or before they came back for the second season, we had a brief meeting before they started back up.
Q. And that brief meeting was not recorded, to the -- at least from what I've seen in certain records.
Is that your understanding?
A. Yes, that's right.
Q. Okay. Now, are you aware of any other meetings that occurred on site that included ITD, either a project engineer or a project manager?
MR. MOORE: Counsel, you phrased that question as though the other meetings were on site because you said, "Were there any other meetings," and I know -- I know that's a -- clearly unintentional, and I just would ask you to fix that.
MR. ROBBINS: I'm not that devious, Mike. I can't be that intentional.
MR. MOORE: I know.
Q. (BY MR. ROBBINS) Let me just ask: Insofar as meetings with -- in between ITD and

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contractors, other than the pre-construction meeting and the other meeting that occurred at the reinitiation of construction activities, were there any other meetings that you can recall occurring between Penhall where either you and/or Mr. Statkus was present along with the contractors during the course of the project itself?
MR. MOORE: Thank you.
THE WITNESS: I can only say that I didn't attend any others.
Now, typically, on a project, there's usually either a weekly or every-two-week project meeting on site with the subs and the prime and ITD and any others involved.
I don't know if those were taking place.
Q. (BY MR. ROBBINS) Would those have been memorialized in writing if they did take place on the project?
A. The project meetings I attend would usually have a sign-in sheet that people would sign in. Again, I can't say on this particular job if that was being done.
Q. Do you know whether that was the custom and practice of Mr. Statkus, if he attended such project meetings on site?

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Could you give me a description of your educational background from college.
A. Yeah. I received a bachelor's of science in civil engineering from University of Idaho.
Q. Okay.
MR. MOORE: Go Vandals.
Q. (BY MR. ROBBINS) Did you, thereafter, receive your licensure from any particular state or states?
A. Yes. I'm licensed in Idaho.
Q. Anywhere else?
A. No.
Q. Okay. After obtaining your licensure as a civil engineer in Idaho, did you work for any other construction entity or construction-related entity other than ITD?
A. I worked for a consultant but was not in the construction side on things.
Q. Okay. Let me ask you to take a look at --
Well, we'll just go in order here.
Let me ask you to take a look at Tab 11, please. And specifically, let's go to page 330. This relates to meeting notes of a kickoff meeting.

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It identifies that you were present along with Mr. Statkus and Ken Colson.
Ken Colson was the representative of Parametrix who worked on this project, correct?
A. Yes.
Q. Okay. And on page 330 --
Strike that.
What's generally the purpose of the kickoff meeting? And I may be getting ahead of myself because the line below says, "The purpose of the meeting was to introduce team members and give an overview of the project."
Is that generally correct?
A. Yes, that's correct.
Q. All right. On page 330, there's -- the second paragraph on that page says, "In the four-lane sections, it was agreed to show a two-lane work zone with two lanes open to traffic, but ITD was open to the idea of possibly going down to one lane when the grinding/joint work passes closest to the drums if the work coincides with a low enough traffic volume time of the night. Bryon said to review hourly traffic volumes. ITD can provide an hourly volume report."
Do you know whether on the project,

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there was ever authority given by ITD to its contractors to reduce down to one lane of traffic in a four-lane section?
A. No, there was not.
Q. Were there ever any further discussions between ITD and Penhall concerning that subject, to the best of your knowledge?
MR. MOORE: Between ITD --
Excuse me. I misspoke.
Go ahead.
MR. ROBBINS: It's getting late in the day.
MR. MOORE: It is.
MR. ROBBINS: The elderly, we have to --
MR. MOORE: God bless you.
THE WITNESS: Yes, I do believe that subject came up in our meeting before we got going again for the second season of the project.
Q. (BY MR. ROBBINS) Okay. That is the restart meeting, for want of a better term?
A. Right. Restart meeting.
Q. Okay. All right. We'll get to that in the fullness of time.
Any other occasion other than this mention of it in a meeting that basically was between ITD and Mr. Colson and then the startup

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meeting that you just described?
MR. MOORE: Any others other than the one in -- on 329, Tab 11, which is the Parametrix meeting and the one that was the startup meeting in 2018?
MR. ROBBINS: No. January 18, 2017, and --
MR. MOORE: Oh, I'm sorry. Yes. I misspoke. Okay.
THE WITNESS: Not to my recollection.
Q. (BY MR. ROBBINS) Okay. All right. So let's go then to the meeting notes of March 2, 2017.
Again, there's an indication that you were present along with Mr. Colson, Mr. Statkus with regard to ITD. Also Mr. Hoffecker was present there as well as Jon Mensinger.
Now, it's my understanding Mr. Mensinger was an ITD inspector for the project.
Is that correct?
A. Yes, that's correct.
Q. Do you know why it was that Mr. Mensinger was present at this meeting?
A. Well, this is a preliminary design review meeting, and it's usually -- it's quite common or I would say at least from --

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On my staff, I like to have the construction guys in -- involved in input on the design side of things.

Q. All right.

A. So that's why he would have been there. Jon as well as Jim --

Yeah.

Q. And Jon was --

A. And Mike Shepard also is construction.

Q. But Jon was contemplated to be the ITD inspector for this project, or one of them, correct?

MR. MOORE: Object to the form.

Go ahead, sir.

THE WITNESS: You know, I don't know at this stage because this is preliminary design review. I don't know that we would have actually selected the inspectors at that time.

Q. (BY MR. ROBBINS) Okay. Mr. Mensinger was, in fact, an inspector on the project, though?

A. Yes, he was.

Q. Okay. But you just don't know as of that date, March 2, 2017, whether the decision would be made -- had been made at that point who would be what for the project?

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A. That's right.

Q. Okay. Regardless of whether a decision had been made at that point as to whether Mr. Mensinger would be an ITD inspector for the project, did you in your position with ITD believe that it was important for ITD inspectors to be familiar with the temporary traffic control plan and specifications pertaining to the traffic control plan for the project?

A. Yes.

Q. Okay. And to your knowledge, for the project, were the ITD inspectors given access to the temporary traffic control plan and specifications that were approved for the project?

A. Were they given them?

Q. Were they given access to them, either physically or directed to review them on the project file?

A. Once the project was actually designed and the plans and specs --

Q. Precisely, yes.

A. Yes.

Q. Okay.

A. They would have been given access.

Q. Let me ask you then to go to the final

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design review meeting, March 22, 2017. Again, you are identified as an attendee as well as Mr. Statkus, Mr. Colson, Mr. Hoffecker, and also Mr. Mensinger.

Do you know whether at that point, it had been determined that Mr. Mensinger would be an ITD inspector for the project?

A. You know, I just can't say for a fact. I would say that it was likely, but the way it works in terms of construction projects, going from design to construction, you're never absolutely certain what time, when there's going to be -- they're going to go out to bid.

Meanwhile, you've got two or three other projects and you're putting inspectors where they need to go.

So it was not uncommon to not know who was actually going to be an inspector until, you know, a couple, two, three weeks before the project actually went to construction.

Q. Once a project goes to construction then, are ITD inspectors assigned to that particular project and that is their focus throughout the project until its end unless reassigned?

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A. Yeah. Ideally, that would be how you would have it. But on occasion, you would have to move one person from one place to go to another or, you know, people get -- they get promoted, they retire. You know --

Q. Right.

A. So --

Q. Okay.

A. Ideally, I mean, on my construction projects, the guys that started the project, I'd like to have them stay with the project.

Q. And the job duties and responsibilities of the ITD inspector on a project, do they remain the same throughout the duration of that project unless they are changed by the engineer?

MR. MOORE: Object to the form. Foundation.

If you understand the question, go ahead.

THE WITNESS: Well, I'm not sure I do.

Q. (BY MR. ROBBINS) Okay. Let me try to make that question a little bit better.

I'm just wondering whether the -- the work performed by the ITD inspector, is that work the same throughout the course of the project? Albeit at different locations within the project,

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but is it essentially the same type of work they do day in and day out or do their work duties or responsibilities change day-to-day?
A. Well, they can change.
Q. Okay.
A. It just depends on the nature of the project.
Q. All right.
A. Because in some cases, the project, the work itself is changing on a weekly or monthly basis, so the inspectors' work would change along with the change in whether they're --
Maybe they're out there putting base material down or they're pouring concrete or, you know, laying asphalt, whatever it may be.
So you can't just say that they're going to do the same thing day after day on -- on a construction project. Ideally, if somebody is doing a particular job and that job stays throughout the project, that person typically would stay doing that job.
Q. Typically, on a construction -- highway construction project, does the responsibility of the ITD inspector include if there is a temporary traffic control plan inspection for the placement

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of that temporary traffic control to make sure that the placement complies with the plans?
MR. MOORE: Are you talking about this project or are you just saying any other projects?
MR. ROBBINS: I said typically on a highway construction project. So it's generally speaking, typically.
MR. MOORE: I object to the form. Vague.
Go ahead, sir.
THE WITNESS: Well, typically, unless we have that duty assigned to somebody else, typically, the inspection of traffic control would fall on ITD.
Q. (BY MR. ROBBINS) But even if that assignment is given to, for example -- in this particular case -- a traffic control manager, does the ITD inspector nonetheless have some ongoing responsibility to make sure that the traffic control is properly implemented on the site as per the plans and specifications?
A. I would have to go back and reread the responsibilities as spelled out in the contract as to what the traffic control manager's responsibilities were.
Q. Right.
A. Because I -- as I recall, that was --

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the responsibility was placed on the traffic control manager.
Q. To your knowledge, in the project, did the ITD inspectors have any involvement in the monitoring for whether the traffic control had been properly implemented during the course of this project itself?
A. Can you give me that one again?
Q. Sure. Did the traffic control --
Strike that.
Did the ITD inspectors that worked on the project, did they have any involvement in checking to see whether traffic control had been properly placed in accordance with the plans and specifications?
MR. MOORE: Object to the form.
Go ahead, sir.
THE WITNESS: I think most of the inspectors, just as a general rule, just because they're -- that's part of the nature of their work, they would generally drive through --
Once the traffic control is set up, they would drive through and just make a cursory review to see if it looked right.
Q. (BY MR. ROBBINS) Based upon their having

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familiarized themselves before with the temporary traffic control plan and the specifications?
MR. MOORE: Object to the form.
Go ahead, sir.
THE WITNESS: I would say yes.
Q. (BY MR. ROBBINS) And in the event that an ITD inspector saw a condition out at a worksite that violated the terms of either the temporary traffic control plan or the specifications for the implementation of the temporary traffic control plan, did that ITD inspector on this project have the authority to stop work until that violation had been corrected?
A. I would say it depends on what the violation was.
Q. Okay.
A. And in my mind, in this particular situation, if one of the inspectors, ITD inspectors, was to see something that was not right, that should have gone to the traffic control manager to find out what's going on, and the traffic control manager should have then, if there was something wrong, taken action.
Q. Well, let's do a wild hypothetical here, and let's say that, for example, the ITD inspector

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was out on the worksite while work was being performed and saw that for whatever reason the traffic control placement in a four-lane section of highway had been reduced down to one lane in violation of the TTCP and the specifications.

What would the authority of the ITD inspector be under those circumstances as you understood them?

MR. MOORE: Object to the form and foundation.

Go ahead, sir.

THE WITNESS: If he had seen it?

Q. (BY MR. ROBBINS) Yep.

A. Again, I would say he would have talked to the traffic control manager. The traffic control manager was ultimately responsible for implementing the traffic control plan out in the field, and he was the one solely responsible to make sure it was right.

Q. Well, let's say, for example, that the ITD inspector did go to the traffic control manager and the traffic control manager declined to make the change of the traffic control provisions out there to comply.

What would the authority be of the ITD

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inspector under those circumstances?

MR. MOORE: Object to the form and foundation.

Please go ahead, sir.

THE WITNESS: Well, then it would have been my expectation that the ITD inspector would have notified me or notified Dave Statkus or Jim Hoffecker to -- you know, as to what the situation was.

Q. (BY MR. ROBBINS) Okay. Now, to my understanding, the work on the project took place at night hours, right?

A. Yes, that's right.

Q. Did the ITD have your personal home number or cell number?

A. They had my cell number.

Q. Okay. So too with Mr. Statkus? Did they have Mr. Statkus' cell number just in the off chance perhaps you weren't available?

A. I would assume that they had Dave's cell number and they --

As a matter of fact, I know they had Dave's cell number, and they had Jim Hoffecker's cell number as well.

Q. Okay. So the -- under my hypothetical,

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the steps would have been, first, ITD inspector goes to the traffic control manager, brings it to the attention of the traffic control manager. If he can't get it to satisfaction then, he either goes to either you, Mr. Statkus, or Mr. Hoffecker, correct?

A. Correct.

Q. Okay. Let me ask you to take a look at page 334, which is the final design review meeting.

Now, this is a meeting that basically takes place after the proposed design of the temporary traffic control plan and specifications had been presented by Parametrix, and this is the opportunity of ITD to comment upon what has been presented, at least on a preliminary basis?

A. Yeah. Final design review typically is the plans and specs are pretty much -- at least from the designer's perspective, fairly finalized, and it gives ITD the chance to go through with a fine-toothed comb and see if there's anything that needs to be adjusted, changed; that sort of thing.

Q. Okay. Now, on page 335, and I'll just go directly down to the second-to-last paragraph. There is a paragraph there where it addresses your interest in having the traffic control manager's

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specification tightened up a tad. My word, not yours.

Do you have a recollection of making that request during the course of this meeting?

A. Yes.

Q. Why was it that you believed that there was a need to tighten up the specification?

A. Well, it was my feeling that because of the location that we were going to be working in, which is, I think, one of the highest volume areas in the state, plus the complexity and the number of lanes and so on, the traffic control manager in this case, we just wanted to make sure that we had somebody in that position that was well-qualified and was able to, you know, run the -- run the deal to the best that -- you know, so that everything was done right.

Q. You wanted to make sure --

I'm trying to paraphrase you.

You wanted to make sure that the traffic control plan as approved and specifications as approved by ITD were properly carried out at the scene of the work, correct?

A. That's right, as well as the maintenance of it throughout as, you know, I'm sure you've seen

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it where the barrels get knocked over --
Q. Yep.
A. -- and things get hit or whatever it is; that somebody is out there full time, 100 percent attention, making sure that that traffic control setup is what we want.
Q. And so you wanted also the traffic control manager to have frequent maintenance runs through the area of the work zone to make sure that the traffic control that had been put up in place was still standing and hadn't been knocked over or otherwise was inappropriate for the conditions?
A. Yes, that's right.
Q. Okay. And can I ask you, though: Was your interest in having a competent traffic control manager in part -- particularly in light of the fact that you were dealing with a high-volume traffic area here, in part related to your interest as the project engineer to make sure that traffic queues didn't develop through the work zone --
MR. MOORE: Object to the form. Foundation.
Go ahead, sir.
Q. (BY MR. ROBBINS) -- because of an inappropriate application of the temporary traffic control plan?

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MR. MOORE: Same objection.
Go ahead, sir.
THE WITNESS: I can't say that that -- specific to the traffic control manager, if that was, you know, part of the reason. Because that goes back to the original design of the traffic control plan and the fact that we did do the analysis to make every assurance that we would minimize queues.
Q. (BY MR. ROBBINS) And the reason that you wanted to minimize queues is because you recognized that there is a potential hazard associated with lengthy queues developing through work zones and that hazard being of rear-end or end-of-queue collisions?
MR. MOORE: Object to the form and foundation.
Go ahead, sir.
THE WITNESS: No. I wouldn't say --
It's more about delays. I mean, that's a part of my charge in design and construction as it came all the way from, you know, the top in terms of driver convenience and making sure that we didn't delay traffic too much.
So that's primarily what our interest is

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in terms of, you know, we don't want to stack traffic up out there and people expecting to be able to go through there generally at their speed that they normally would or at the speed of the construction zone, but that they're not sitting in a queue for a half hour.
Q. (BY MR. ROBBINS) And motorist convenience, I can understand, certainly.
But an additional interest on the part of ITD, was it not also to reduce to a maximum the potential hazard that is presented by queues that develop through work zones? Hazard to both the motorists and the worker?
MR. MOORE: Object to the form. Foundation.
Go ahead, sir.
THE WITNESS: Well, as far as a queue --
Now, if a queue goes beyond the signing, the -- the signing that is telling the motorist that, "You're coming upon a construction zone," the advanced signing that we have out there --
That's why we have advanced signing, right? To give them a heads up that --
Q. Sure.
A. -- "You're approaching a construction zone. There may be slower traffic. There may be a

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queue. Pay attention." That's why we have them.
Now, if, in fact, a queue goes back beyond that advanced signing, then I can see that that's a hazard.
Q. Well, regardless of whether the queue goes beyond the signage or not, the existence of the queue itself, don't you recognize as presenting a potential risk to the motorist of rear-end collisions, albeit perhaps as a result of an inadvertent motorist themself, but isn't there that risk that you realize --
MR. MOORE: Object to the form and foundation.
Q. (BY MR. ROBBINS) -- and appreciate?
MR. MOORE: Object to the form and foundation.
Go ahead, sir.
THE WITNESS: Well, you know, traffic queues happen all the time, right? And on almost every single construction job that I have or had, we would have queues.
And so if you're saying, you know, the fact that somebody is stopped in the road in a queue, is it a good thing? I mean, we would prefer not to.

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below that that says, "Failure to have the stated number of traffic lanes open," et cetera, et cetera.

Does that penalty, in your interpretation, apply during the time that work is being performed on the project or is that applying to a different point in time?

A. Well, this was intended --

The reason we put a statement in there like that is that they're off the road by the 5:00 a.m. or they're off the road by the 7:00 a.m. or the 9:00 a.m., depending on, you know, what day of the week it is.

That was the intent of that, is to make sure that we didn't have big problems with traffic. When the traffic increased, all lanes were back open.

Q. Okay.

A. So that's the primary reason for that.

Q. As a secondary reason, would it also have application to a circumstance where, for example, the contractor had reduced the stated number of traffic lanes during the course of work being performed on a night to -- for example, in a four-lane section to something less than two open

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lanes?

A. No. I guess because then he was out operating outside the traffic control plan. Shouldn't have been allowed.

Q. Well, yes. Would there be a penalty under the provisions of the contract that you are aware of that could be imposed on the contractor under those circumstances?

A. Well, you know, I -- I think if -- the way you could read this and interpret it potentially, that that would be the case. But that was not the intent of this --

Q. Okay.

A. -- because in my mind, we wouldn't let them operate outside the traffic control plans.

So this would have only been in play if they were working outside their construction window.

Q. All right. So it is a potential as you're looking at it now, but the intent of it had to do with them being on the project after either 5:00 a.m. or 9:00 a.m.?

A. That's right.

MR. MOORE: Objection.

THE WITNESS: Sorry.

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MR. MOORE: Go ahead.

Q. (BY MR. ROBBINS) Now, let me ask you to take a look at page 16 of 27. That's the provision of the traffic control manager.

And it doesn't appear --

A. I'm sorry. Where are we at?

Q. It's 16 of 27 of that same document you're looking at.

A. Okay.

Q. And specifically under the "Traffic Control Manager" --

A. Okay.

Q. -- heading.

A. Uh-huh.

Q. Now, I don't see there that there was ever a change adopted by Parametrix to require that the traffic control manager be a licensed professional engineer.

Do you recall any discussions about that subject before the final traffic control plan was presented by Parametrix?

A. No. I don't recall any.

Q. When you saw this traffic control manager provision, did you have any disappointment that it didn't include a requirement that the TCM

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be a licensed professional engineer?

A. Maybe I'm missing something, but where is that coming from, that it should be a licensed professional?

Q. Well, you, sir --

A. Did I say that?

Q. -- in the final design meeting. You said in one of the -- the requests to tighten things up, you -- there's -- at least as reflected in this memo --

A. Okay.

MR. MOORE: Clay, just a second. I'm sorry. Can you have him go to that memo? He'll read it with you.

MR. ROBBINS: Oh, heck yeah. Let's go to page 11, 335, down where it gives you your name, Bryon Breen, traffic control manager.

MR. MOORE: Thank you.

Q. (BY MR. ROBBINS) You raised the issue. That's all I'm getting at.

A. Right.

Yeah. I mean, raised the issue. Kind of, "What about -- you know, should we consider that," kind of thing, and I guess through discussion, it was determined that that's probably

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submitted to you for your review during this project?
A. Typically not.
Q. During the course of this project, did you ever access the project file to look at the TCM diaries and compare them with the standard construction diaries?
A. No, I did not.
Q. At any time during the course of this project, did it ever come to your attention prior to June 16, 2018, that the contractors during the course of their work responsibilities on site had, on occasion, reduced open lanes in a four-lane section of highway down to a single lane?
A. No, it did not.
Q. If you had found that out, what would you have done?
A. I would have stopped it.
Q. Because of the risk that would have been created by doing that?
A. Well --
MR. MOORE: Object to the form. Foundation.
MR. ROBBINS: All right.
THE WITNESS: Because of the specification that we specifically say in there: If you're going

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to change anything, it needs to be in writing and we need to analyze it. And then whether we approved it, modified it, or just gave them permission to do it, that was not done.
So anytime a contractor operates outside of the plans and specifications, there needs to be a, "Hey, wait a second. What's going on here?"
Q. (BY MR. ROBBINS) And is it more particularly important if the contractor is outside -- is operating outside of the plans or specifications and that operation creates a risk of injury to motorists or workers?
A. Give me that again.
Q. Is it more particularly important, that is that somebody makes sure that the contractor is operating in accordance with the plans and specifications if operating outside of the plans or specifications creates a risk of injury to motorists or workers?
MR. MOORE: That changed.
I object to the form and foundation.
MR. ROBBINS: I don't care if it changed. It is the question that's being presented to him.
MR. MOORE: Well, it is from the prior discussion.

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MR. ROBBINS: Well, that's my question.
MR. MOORE: Go ahead.
Object to the form. Foundation.
THE WITNESS: Well, the fact that, you know, you reduce four lanes to one lane or -- that is not -- I mean, the -- the traffic control plan still potentially is a viable plan.
Q. (BY MR. ROBBINS) How so?
A. Well, in that it's still following the standard MUTCD guidelines and so on. So it's not necessarily -- it's --
They're not following the contract, so, therefore, that's why we would say, "Wait a second. Stop. You need to submit that so we can analyze it." And then, again, potentially modify it, potentially deny it, potentially say, "Well, you can do it between, you know, 1:00 a.m. and 3:00 a.m. on Tuesday and Wednesday when the traffic is the lightest."
So we wouldn't necessarily have not allowed that to happen, but the fact that they were doing it without our knowledge and without a written authority to do so was -- they were outside the bounds of the contract.
Q. Well, and being outside the bounds of

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the contract when they violate the terms of the temporary traffic control plan and specifications means that they are reducing the lanes and increasing volume in the available lanes beyond the contemplation of Parametrix when they developed the traffic control plan to begin with, agreed?
A. Potentially.
MR. BOTTARI: Object to the form.
MR. ROBBINS: Okay.
MR. MOORE: We've been going for an hour and 40.
Q. (BY MR. ROBBINS) Let me ask you to take a look at --
MR. ROBBINS: Hang tight.
Q. (BY MR. ROBBINS) Let me ask you to take a look at Tab 10, sir; page 299. It's the request to subcontract -- or subcontract. It identifies you as the resident engineer.
And this pertains to the subcontract between Penhall and Specialty, correct?
A. Yes.
Q. And on page 300, your signature appears.
Is that indicating your approval to the subcontract being let by Penhall to Specialty?
A. Well, I am signatory to this, but I

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think this -- this primarily is related to DB -- what is it? -- disadvantaged business and some of these other federal employment requirements. It's not as if we're saying, "Yeah" -- it's --

I sign it, and then I think it went to one of our administrative people and they checked to make sure that Specialty dotted all their Is and crossed their Ts on that they are approved to work on a federal job, something along those lines.

Q. But as a resident engineer, was it your responsibility to ensure that the subcontractors that Penhall was going to bring onto this project were competent and knew their business?

A. No.

Q. Okay. That was all on Penhall?

A. Well, they're hiring them.

Q. Yeah. That's why you got an indemnification provision in the agreement with Penhall, correct?

MR. MOORE: Object to the form. Foundation.

Go ahead, sir.

Q. (BY MR. ROBBINS) Is that correct?

MR. MOORE: Same objection.

THE WITNESS: Well, yeah. I mean, I -- I'm not verifying anything about a subcontractor.

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It's -- again, this is only a federal requirement --

Q. (BY MR. ROBBINS) Okay.

A. -- to make sure that they are, you know, doing the DBA and all these other federal employment things. It doesn't have anything to do with the competency of the subcontractor.

Q. Okay. Did ITD do anything to vet the competency of Specialty before they were granted access by ITD to this project?

A. That's really not our job.

Q. That's all up to Penhall?

A. Yeah, as long as Specialty had the equipment and manpower and performed work --

I mean, if they were on the job and they weren't doing something according to the contract or they were doing something unsafe, then ITD could say, "Look, where did you get these guys?"

But otherwise, we're not going to vet subcontractors on any project.

Q. Did ITD ever do that with regard to Specialty's involvement on this project prior to June 16th?

A. Vet their competency?

Q. Yeah.

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A. Not that I know of.

Q. All right. Did ITD --

For example, you say, "I mean, if they were on the job and they weren't doing something according to the contract or they were doing something unsafe, then ITD could say, 'Look, where did you get these guys?'"

That's specifically what I'm asking.

At any time before June 16, did you ever go or anyone from ITD ever go to Penhall under those circumstances and say, insofar as Specialty is concerned, "Hey, where did you get these guys?"

A. No.

Q. How about after June 16, after this accident happened? Did you or anyone with ITD ever go to Penhall and ask, insofar as Specialty is concerned, "Hey, where did you get these guys?"

A. No.

Q. Is there a reason why that wasn't a question asked at that point?

A. I guess at this point -- at that point, the project was almost done, and there was no -- there was no reason for me or --

Well, I can only speak for myself. There was no reason for me to --

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Because Specialty had a good reputation and had worked a number of ITD jobs, there was not a reason for me to think that they were somehow substandard.

Q. All right. Let me ask you to look at 302; page 302, again, of Tab 10. In the box, Contractor's identified as Penhall; subcontractor is Specialty; prime contractor is Penhall; and then the owner is Idaho DOT.

That's ITD, correct?

A. Yeah.

Q. Okay.

A. ITD.

Q. So under the contract documents, is it your understanding that for the purpose of this project, that Specialty was provided a copy of the temporary traffic control plan and the special provisions pertaining to that plan?

A. Yes, they would have been provided.

Q. All right. Now, let me ask you to take a look at page 312. There's a provision for the subcontractor maintaining insurance, and it gives the types of insurance under.

Was there anyone at ITD whose job responsibility it was to see if the subcontractor

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Well, there is no agenda for --
But let me ask you this: There has been some testimony of a pre-startup construction meeting. Not a pre-construction conference, but a pre-startup meeting that was held -- that was attended by apparently you and Mr. Kidd. There's an indication that it occurred in May of 2018, and there's a suggestion that perhaps that's incorrect; that it should have been in April of 2018.
Do you know one way or the other whether, number one, this pre-startup construction meeting attended by you ever took place?
A. Yes, it did take place.
Q. Do you know what month? Was it April or May or --
A. I do not remember.
Q. Okay. And it's correct that no minutes were kept of that meeting?
A. That's correct.
Q. Do you know why that was, that no minutes were kept?
A. Not specifically, but the meeting, as I recall, was -- it wasn't intended to, you know, cover a lot of topics. It was more a kind of meet-and-greet and kind of get an idea of when

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they're going to --
Q. All right.
A. -- get out there on the road and --
Q. Do you recall who attended that meeting from Penhall?
A. I don't recall their names. One gentleman was -- I remember specifically he was from Texas.
Q. He had a drawl to him?
A. Had a drawl and talked a lot about Texas, but I don't recall their names.
Q. Do you recall Bruce Kidd? Does that name ring a bell to you?
A. That names sounds familiar.
Q. All right. Was there anyone other than the representative from Penhall, whoever that may or may not have been, and yourself present during the course of this pre-startup meeting, let's call it?
A. My recollection was that it was myself, Jon Mensinger, and I think Jim Hoffecker. I can't remember if Dave Statkus was there.
Q. Okay. Do you know if anybody from Specialty was present at this?
A. I don't recall.

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Q. Okay. Do you recall that during the course of this meeting, that Penhall stated that they -- it requested to be allowed to close a third lane during joint sealing operations?
A. I remember --
Q. And by "third lane," I mean third lane in a four-lane stretch.
A. In a four-lane.
I remember the topic came up, and I remember telling them that they needed to submit it in writing and give us the details so we could analyze it so that we knew where they were going to do it, when they were going to do it, how long was it going to take, and then we could analyze it and figure out if it was going to be acceptable or not.
Q. Would you expect that in that presentation, that there would need to be an appropriate engineering workup similar to that which Mr. Colson had done in the first instance for the temporary traffic control plan and special provisions?
A. I'm not sure I follow.
Q. Would you anticipate that in presenting that written proposal, that the contractor would need that proposal to include an evaluation by a

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competent engineer such as Mr. Colson to undertake an evaluation of capacity and traffic volumes similar to that which he did in performing the evaluation for the temporary traffic control plan and special provisions for the project?
A. Well, the specific traffic control plan would need to be stamped by an engineer. That's in the spec.
Q. Okay.
A. I wouldn't necessarily expect Penhall or Specialty to do the analysis. They would just simply need to tell us, "Look, you know, this work is going to take us this many nights. This is where we're going to do it. Here's the traffic control plan," and then we, ITD, could do the analysis with the traffic volumes and so on to determine when the appropriate time would be to allow them to do that work.
Q. Well, yeah. But you anticipate, though, that the contractor, in making this proposal, would present an alternate traffic control plan, right?
A. Yeah, traffic control plan.
Q. So in preparing that alternate traffic control plan, wouldn't you need -- wouldn't you believe that the contractor would have had an

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day-to-day. They were the ones filling out the pay estimates and getting the contractor paid, putting all that information into the systems to get the pay. I didn't do that.

So it's just I'm one step above that level, and I'm kind of trying to coordinate all that and not on a day-to-day basis.

Q. And I understand that. I'm just trying to get an understanding of if you have any knowledge as to why an engineer or somebody like Mr. Statkus, somebody with that background, wasn't put into that position at the time that you transitioned out.

A. Like I said, that was not unusual at all. As I say, it's actually the opposite. A project engineer for ITD was actually a little more unusual because we didn't have enough staff engineers to have a project engineer on every project. We had a lot of TSEAs that were basically, you know, working as the project manager.

Q. Does the ITD have any policies or procedures that address traffic control in or near construction zones to prevent traffic queues from forming?

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MR. MOORE: Object to the form.

Go ahead, sir.

THE WITNESS: Policies or procedures. Well, you know, I think it's, you know, everything from the design manual to the project specifications to the MUTCD. I'm sure there's some ITD policies out there as well. I couldn't name them specifically to you.

But, yeah, there's a whole bunch of documentation that tells us how -- you know, how to put together project traffic control plans.

Q. (BY MR. ORLER) Well, that's what I'm interested in.

When you say that there's other, potentially, ITD policies that are out there, that's what I'm interested in are these policies that are maybe not part of the TTCP or the special provisions.

A. Well, I do know there's --

And I guess I would direct you to ITD to provide you with those policies. Since I've been retired for two years, I couldn't tell you. But I can tell you there are internal policies and manuals that are used for that purpose.

Q. I guess that's what I'm interested in

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because I haven't seen any internal policies or manuals that have been produced in this case. So are you telling me that there is -- is there --

Does the ITD have, when you were employed, just any -- like, an employee manual, a handbook? Anything like that?

A. Well, I don't recall exactly what the name of the document was, but it had to do with construction on the interstate or --

I don't know if I'm allowed to ask Jason for some help here.

MR. ROBBINS: Generally, no.

MR. MOORE: Generally, no, but I suspect that Mark can call me. Mark can call me up and ask. I don't think that that's --

THE WITNESS: There was this manual that actually came out of the chief engineer's office here -- I don't know -- five years ago, and I do not recall what the name of it is. But it had some safety guidance in terms of construction on the interstate and what to do about crossing traffic over and when you're allowed to cross traffic over and some stuff like that.

As far as specific policies, I've got to believe that there is a policy or two out there. I

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couldn't tell you what the name of that policy is.

But the design manual and the -- and the traffic manual are -- they're basically the guidebooks to ITD designers to -- how to put together that kind of stuff.

Q. (BY MR. ORLER) Yeah. I understand you're referring to the MUTCD, right?

A. No.

Q. Or something different?

A. ITD has got a design manual, a traffic -- traffic manual.

Q. What about policies and procedures relating to construction zone safety for motorists and workers?

Is there something that you --

A. Well, I think -- I think what I've just talked about, those are part of -- part of those -- those manuals.

MR. ORLER: That's all I have. Thank you.

EXAMINATION

BY MR. MONTELEONE:

Q. Mr. Breen, for the record, my name is Jason Monteleone. I represent the Westall family whose daughter died in the collision. I have just

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a few questions to ask you. One is about this idea of traffic queues.

Could we agree that the presence of a traffic queue poses a greater hazard to motorists than if there's no traffic queue present at all?

MR. MOORE: Object to the form.

Go ahead, sir.

THE WITNESS: You know, I -- just the fact that there is a queue, I am not sure I can say that that's a greater hazard.

Q. (BY MR. MONTELEONE) Well, then, what -- Is the effort to avoid the accumulation of traffic in queues simply borne of an effort for driver convenience? Is that the sole purpose?

A. Well, my -- I guess I would say that my feeling is that as long as you're alerting the motorists with proper signing, that it is not -- it is not an increased hazard. Because if you're telling them, "Hey, folks, congestion ahead. Construction ahead. Be paying attention. All you've got to do is put on your brake, and you're fine."

So in my way of thinking, as long as it's signed properly, site distance is good, everything else being equal, it shouldn't be an

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increased hazard.

Now, to me, where that goes astray is when drivers aren't paying attention and they're doing something else and they don't realize traffic is stopped ahead of them.

I mean, when I drive down the road, I'm looking ahead. If I see somebody stopped, I stop. But if you're looking out the window, you're doing something else, you're not paying attention to what's going on in front of you like you should when you're driving, then, yes, it could be a problem.

Q. Did you ever perform any assessment as to whether the driver of the tractor-trailer, Illya Tsar, could see from his height and position in the tractor's cab the three lanes closed from the left sign when he was west of the Cloverdale bridge?

MR. MOORE: Has he done that?

MR. MONTELEONE: Let's start with that.

THE WITNESS: No. I did see the video of -- from his cab when I attended that meeting with NTSB, and from the video in his cab, the road ahead was lit up like a Christmas tree of brake lights, and you could see that from a long way away.

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Q. (BY MR. MONTELEONE) But my question was specifically as to the "Three Lanes Closed From the Left" signage.

Did you see that in the video?

A. No. I saw all the other advanced warning signs.

Q. But you couldn't see the one that actually said three lanes would be closed on a four-lane portion of the interstate.

Is that correct?

A. No.

Q. That's not correct?

A. Well, yes, that's correct. I'm sorry.

Q. Okay. Thank you.

Sorry. Sometimes in this stilted process of giving a deposition, it's hard to not talk over one another.

Did you ever assess whether there were any shortcomings vis-à-vis the MUTCD relative to the signage upon the work zone -- in the work zone on the day of the collision?

A. Was the signing that was there, was it deficient from the MUTCD?

Q. Yeah. Did it comply with the MUTCD, both the mandatory and suggested provisions?

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A. My understanding from discussions was that it was in compliance with MUTCD.

Q. With whom did you have those discussions?

A. I think Jason Brinkman.

Q. Anyone else?

A. I don't recall talking with anybody else about it.

Q. Did you ever discuss with anyone, whether it's Mr. Brinkman or otherwise, compliance with the MUTCD prior to the day of the collision?

MR. MOORE: Concerning this project?

MR. MONTELEONE: Concerning --

Yeah. I'm only talking about this project for now.

THE WITNESS: So could you give me that again, Jason?

Q. (BY MR. MONTELEONE) Sure, sure. Prior to the day of the collision, June 16th, 2018, had you ever discussed with anybody the necessity to comply with all the provisions of the MUTCD?

A. Yes. I mean, that was a topic of discussion with my staff all the time. You know, I wanted -- on all my projects, that was a -- the

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traffic control plan and the setup and the maintenance of traffic control was, you know, very important to me, and I made sure that my staff knew that it was important.

And from my experience, my staff was really quite good at making sure that the traffic control was set up properly.

Q. Did you ever discuss the importance of compliance with the MUTCD with anybody at Specialty?

A. No. I wouldn't. I would, I guess, assume that that's -- that's their profession. That's what they do. If they want to stay in business, they probably ought to be pretty much compliant with that.

Q. During your work as the resident engineer on this project, did you contemplate that a mile-long-plus traffic queue would occur?

A. Well, when you say "contemplate," you know, we try to do everything we could to make sure that we didn't have long traffic queues, which is why there were occasions when we didn't allow them to work until after a certain hour because there was something out at the Idaho Center that was going to be releasing at 11:00 at night or there

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was a BSU football game going until 11:00 at night.

We tried to -- and there were other things, other events, as well. So you try the best you can, and you are working based on hourly -- average hourly volumes, so you generally know when you're going to be a little busier and a little less busy. But you cannot account for just the random nature of the traffic flow at some times.

You know, again, back to -- I was aware that --

You know, again, my thing would have been I would have never wanted the traffic to be backing up beyond where the warning signs -- the advanced warning signs were in place.

You know, whether it is a mile backup, that doesn't bother me too much. A mile backup like that, depending on the speed of that queue going through, you know, you're through that queue in 10 minutes or less. So it's not really about the length of the queue. It's, you know, the delay that that causes.

Q. Is it fair to say, Mr. Breen, that you believe yourself and your colleagues at ITD had anticipated that there would be some backup in a traffic queue during this project?

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MR. MOORE: Object to the form. Foundation.

Go ahead, sir.

THE WITNESS: Well, I don't know that -- to say "anticipated." I -- I think you could say that we all knew it was a possibility just, like I said, because of the nature of traffic. And we don't know every single event going on around the Valley and how those -- you know, where those people are going, right?

So, you know, you might be -- one minute everything is going fine, the traffic is flowing right through it, and then all of a sudden you get a big slug of traffic all at once, and within minutes, you've got a little bit of a queue built up.

So it's just the nature of the game. You do the best you can to make sure you have the signing and the safety in place for that, but, you know, like I say, on construction projects that I've worked through my career, you know, traffic queues are very common.

Q. (BY MR. MONTELEONE) Was there any special event that would have affected traffic volume on June 16th, 2018?

A. That, I don't know.

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MR. MOORE: He wasn't here.

MR. MONTELEONE: I'm sorry?

MR. MOORE: He wasn't here.

MR. MONTELEONE: Oh, he was out of town. I understand that.

But my question is: Have you learned at any point in time that there was a special event, whatever it may have been -- an event at the Idaho Center, a collegiate sporting event -- that was occurring that evening?

THE WITNESS: No. I -- I don't know. Again, I was -- I wasn't back until a week after that happened, and by the time I got back, you know, those discussions, if there were those discussions, had already been done.

Q. (BY MR. MONTELEONE) That was a blissful ignorance?

A. It was.

Boy, you know, I got off the main Salmon River and got back into town, like, at midnight a week later, and I was quite shocked at what I saw had happened.

Q. How did you learn of the fatality collision?

A. The news.

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A. No, I'm not aware of that.
MR. MOORE: Object to the form.
THE WITNESS: Sorry.
MR. MOORE: That's okay.
Q. (BY MR. MONTELEONE) Have you learned -- I understand you're -- again, I'm using the word "blissfully" -- away from your job and retired.
Have you learned at any time, even up to today, whether Specialty can still work on ITD jobs?
A. I'm not aware of that.
Q. Do you believe in this collision with, I acknowledge, a limited review and the hindsight being 20/20, whether Specialty did anything wrong on this project?
A. Well, I guess I would have to say that they did. I mean, their traffic control manager had to have been aware that there was a four-lane down to a one-lane, which was obviously not in the traffic control plans. There had been no approval of that traffic control plan that was in place out there.
So I would have to conclude that they made a mistake.

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Q. Did you ever speak with a gentleman named Mason Garling?
A. That name sounds familiar, but --
Q. He was the traffic control manager per se early in the project, and then I thought he had left, but I could be wrong on that.
A. Yeah. I --
The name sounds vaguely familiar, but I couldn't place him.
Q. Okay. I'm going to ask you the same question about Penhall.
In your 30 years of experience as a professional engineer with ITD, did you form any opinion whether Penhall, as the primary contractor, was monitoring the job site appropriately?
MR. BOTTARI: Object to the form.
THE WITNESS: Can you give me that again?
Q. (BY MR. MONTELEONE) Sure. Sure, sure. I ask a lot of bad questions. Take it out and shoot it.
Whether you think, Mr. Breen, Penhall had monitored the contract appropriately.
MR. BOTTARI: Same objection.
THE WITNESS: So am I allowed to answer then?
MR. MOORE: Yes.

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MR. MONTELEONE: Yes, you sure can.
MR. ROBBINS: Yes.
THE WITNESS: Well, in hindsight, again, back to the traffic control, I mean, even though my understanding is what was set up out there was technically in compliance with the MUTCD, the fact that they were operating outside of an approved traffic control plan, an ITD-approved plan, that was a mistake.
Q. (BY MR. MONTELEONE) Did you happen to discuss that with anyone at Penhall at any time?
A. No. Again, I -- I don't recall when this project concluded, but I think it was almost done within a couple weeks after this accident.
Q. And speaking of which, do you know what work was actually being performed on the date of the collision that evening?
A. It was joint resealing.
Q. Is that typically a part of the project that would occur towards the tail end of the project?
A. Yeah. In this particular case, concrete rehab, we grinded it, and then once you've ground it, you strip out the old joints and put the new joints in and --

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Q. But it wasn't as extensive a scope of work as slab replacement?
A. No. Well, I'm sorry, but I don't know that that's a good categorization. I mean --
Q. What --
A. -- you know, replacing the joints, there's a lot of linear feet of joint to replace, so it's fairly extensive.
Q. And my question --
A. But just a -- one slab of concrete isn't that big a deal either, you know? So I don't -- your characterization is just a little off for me.
Q. And that's fair. My question was probably inartful and shows my ignorance. But relative to interstate road construction projects --
A. Okay. Right.
Q. -- how would you characterize this project? A small project, large project, mid-size?
MR. MOORE: Counsel, I have tried to give you some room, but that's really a vague question, interstate projects without any idea what's taking place.
Can you rephrase that, please?
MR. MONTELEONE: I'm happy to.

VERIFICATION

STATE OF _____)
) ss.
COUNTY OF _____)

I, BRYON BREEN, being first duly sworn on my oath, depose and say:

That I am the witness named in the foregoing deposition taken the 2nd day of February, 2021, consisting of pages numbered 1 to 145, inclusive; that I have read the said deposition and know the contents thereof; that the questions contained therein were propounded to me; that the answers to said questions were given by me, and that the answers as contained therein (or as corrected by me therein) are true and correct.

Corrections Made: Yes_____ No_____

_____
BRYON BREEN

Subscribed and sworn to before me this _____ day of _____, 2021, at _____, Idaho.

_____
Notary Public for Idaho
Residing at_____, Idaho
My Commission Expires: _____.

REPORTER'S CERTIFICATE

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

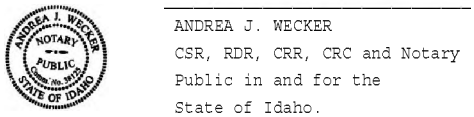
I, ANDREA J. WECKER, Certified Shorthand Reporter and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true and verbatim record of said deposition.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 6th day of February, 2021.



ANDREA J. WECKER
CSR, RDR, CRR, CRC and Notary Public in and for the State of Idaho.

My Commission Expires: 02-14-23