



Local Highway Technical Assistance Council
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LHTAC
QUARTERLY
NEWSLETTER

LHTACTimes

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New 2015 ISPWC Manual

The Idaho Standards for Public Works Construction (ISPWC) Manual is a reference document for construction and quality control of public works infrastructure projects. Public agencies are encouraged to adopt and use the ISPWC Manual by resolution, policy, or ordinance.

The ISPWC Executive Committee issued a new manual in 2015, which supersedes any prior manuals or updates. If you purchase a 2015 hard copy or CD, updates to the 2015 edition will be at no charge.

You can purchase the new manual through LHTAC. Please visit our website for more information and to order online.

www.lhtac.org/resources/ispwc

Want to earn \$250 cash just for the sharing your bright idea?

Innovation Idea Award

The Local Highway Technical Assistance Council (LHTAC) wants to recognize, reward and share your ideas for innovation!

Examples of innovations include cost saving techniques, developing new technology and resource sharing.

Award submissions are due August 10, 2015.

LHTAC will award 2 individuals and 2 jurisdictions. Submit online at www.lhtac.org/innovation.



Individual awards, including \$250 cash and one FREE T2 Center Course, will be presented to the recipient before their council or commission.

Recognition for the most innovative jurisdictions will be presented at the affiliated Association meeting in the fall and presented at the National LTAP Conference. These awards will include the opportunity to host a discounted T2 Course at their location with lunch provided by LHTAC.

We strive to assist the Local Highway Jurisdictions with utilizing the available resources for maintenance and construction of Idaho's Local Highway System in the most **efficient** and **effective** manner possible.

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UV Safety Month July

Skin cancer is the most common cancer in the US. In fact, more skin cancers are diagnosed each year than all other cancers combined. The number of skin cancer cases has been going up over the past few decades.

The good news is that you can do a lot to protect yourself from skin cancer, or catch it early so that it can be treated effectively. Most skin cancers are caused by too much exposure to ultraviolet (UV) rays. Most of this exposure comes from the sun, but some may come from man-made sources, such as indoor tanning beds and sun lamps.

You don't need any x-rays or blood tests to find skin cancer early – just your eyes and a mirror. If you have skin cancer, finding it early is the best way to make sure it can be treated with success.

American Cancer Society

Upcoming Calendar of Events

Date/Time	Event	Location
July 3, 2015	Observance of Independence day	LHTAC Office Closed
August 10, 2015	Innovation Idea Award Deadline	www.lhtac.org/innovation

www.lhtac.org



Local Highway Technical Assistance Council Members

Idaho Association of Counties

Don Ebert, Chairman
Commissioner, Clearwater County

Mark Rekow
Commissioner, Gem County

Lee Staker
Commissioner, Bonneville County

Association of Idaho Cities

Mac Pooler, Vice Chairman
Mayor, City of Kellogg

Paul Loomis
Mayor, City of Blackfoot

Diana Thomas
Mayor, City of Weiser

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Commissioner, Post Falls Highway District

Dan Schaeffer,
Commissioner, Hillsdale Highway District

Gilbert Hofmeister
Commissioner, Power Co. Highway District

Ex-Officio Members

Caitlin Rusche, Policy Analyst
Idaho Association of Counties

Seth Grigg, Executive Director
Association of Idaho Cities

Stuart Davis, Executive Director
Idaho Association of Highway Districts

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Wayne Herbel, PE, Federal-aid Engineer
Dan Coonce, PE, Federal-aid Engineer
G. Daniel Shirilla, Federal-aid Financial Officer
Craig Herndon, Federal-aid Engineer Assistant
Heather Parker, Federal-aid Administrative Assistant
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T. Matt Koster, PE Construction Staff Engineer
Megan Kautz, Construction Coordinator
Karissa Hardy, PE, Environmental Engineer (Part-Time)
Bev Williams, Construction Records Inspector
Laila Kral, PE, T2 & Safety Manager
Kevin Kuther, PE Safety Engineer
Steve Sprague, Safety Construction Coordinator
Lorie Cover, T2 Training Coordinator
Denise Shields, T2 Event Coordinator
Doug Chase, PE, T2 Instructor (Seasonal)

T2 Center Advisory Board

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Clearwater County Road & Bridge Dept.

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Road Supervisor
Post Falls Highway District

Leland Silkwood
Crew Chief of Adams Broom Crew
Ada County Highway District

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Buhl Highway District

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Bannock County

Don Barr
Street Superintendent
City of Nampa Street Division

Garth Newman
Technical Training Specialist
Idaho Transportation Department

Leo Hickman, Agreement Administrator
Consultant Services Project Manager
Idaho Transportation Department

Lori Porreca, PhD, Ex-Officio Member
Community Planner
FHWA-Idaho Division

www.LHTAC.org

Welcome Matt Koster!

We are pleased to announce that Matt Koster has joined LHTAC as our new Construction Staff Engineer.

LHTAC looks forward to a great construction season.



T2 Center

Do you have a request for a specific T2 Center class in your area?

If you have 15* or more students to commit to a class and haven't seen it offered in your area call us today to request it.

We can add additional classes to meet the needs of your group.

Call the T2 Center today and ask for Lorie.

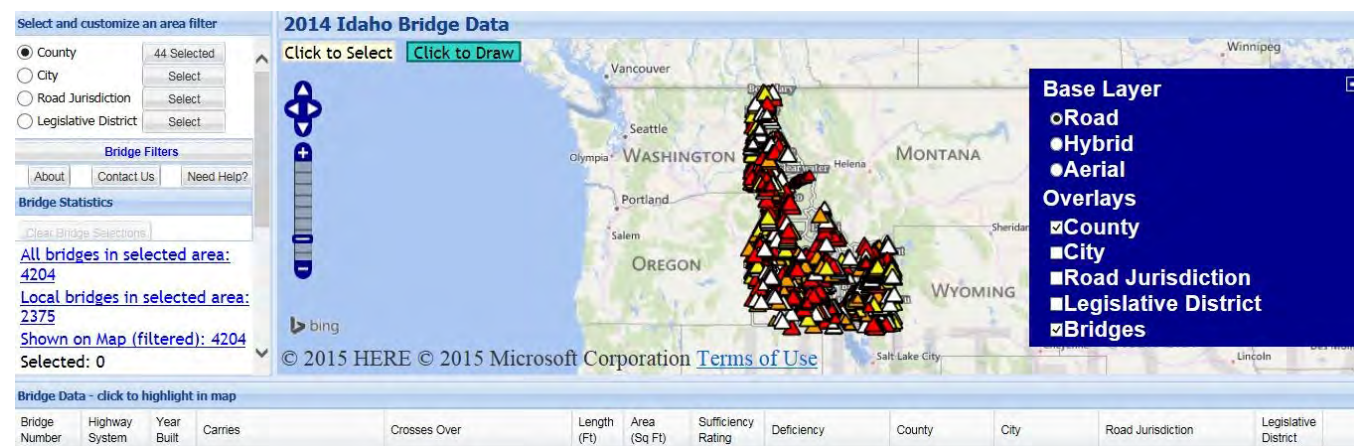
208-344-0565

**Please note that minimum of 15 students is required for most classes but may vary based on the course.*

SAFETY EDGE

FHWA owns an attachment for an asphalt paver that makes the safety edge. This equipment is available on loan to local highway jurisdictions through the LHTAC office. Please contact us if you would be interested in using it.





NEW INTERACTIVE BRIDGE MAP

Use LHTAC's interactive bridge map to view, search for, and filter all local and state bridges in Idaho. Data is from the National Bridge Inventory and ITD.

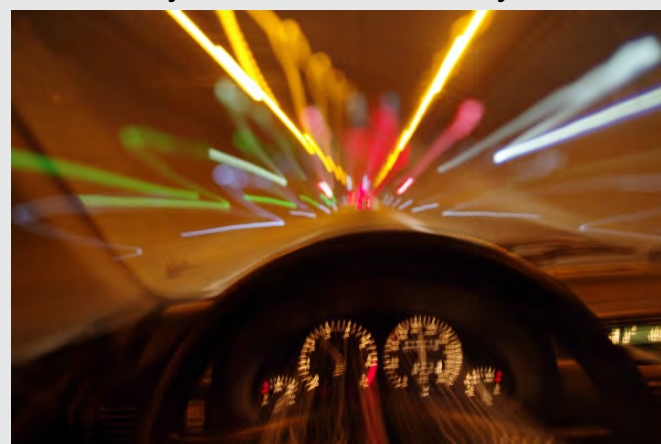
Visit our website to use this new tool.

Interactive Map <http://gis.lhtac.org/bridges/>



Holiday Weekend Safety Note

According to data from NHTSA, during July 4th holidays over the last five years (from 2008 to 2012), 765 people lost their lives in crashes involving drivers with a BAC of .08 or more. These fatalities account for 40% of all motor vehicle traffic fatalities over this same five-year period.



BUS TOUR & COUNCIL MEETING LEWISTON, ID

The Local Highway Technical Assistance Council (LHTAC) recently took a bus tour through some of our past and present projects in the Lewiston, Idaho area.

The tour included: Stimulus, Local Highway Safety Improvement Program (LHSIP), Local Rural Highway Investment Program (LRHIP) and Federal-aid Rural, Urban and Bridge projects.

On the tour we invited local sponsors and partners to help strengthen our relationships and allow them to share information on their projects!

Additionally, our quarterly LHTAC Council meeting was held at the ITD District 2 office.



Safety Fest
FREE
Training!

Safety Fest of the Great Northwest is in its 10th year of FREE 3 or 4 day training conferences available around the state.

These conferences provide safety and health training to the Northwest Region's front line workers while gearing classes towards the transportation and construction industry. Local highway jurisdictions and any business looking to improve the safety performance of their employees are encouraged to attend.

www.lhtac.org/training/safety-fest



Road Scholar Graduates



Susan Wolf
Doug Sheldon
Michael Jaecks
City of Coeur d'Alene

Road Master Graduates



Aaron Hentrup, Cody Brown, Victor Cabello, Chris Westburg, Mark Thompson, Terry Williamson, Bud Stradley, Dan Veenstra, Dale Eldredge & Tom Billman
Pictured with Dean Littler, Street Superintendent
City of Twin Falls

Public Comment for ITD Public Transportation Applications

ITD Public Transportation has made their 2015 applications available for public comment. Please visit their website for more information and share the link.

http://itd.idaho.gov/public_transportation/default.html



Dwight Parish, Darin Shaw, Scott Spencer, Bobby Worthington, Shaun Carson, Marty Zimmerman, Eric Bair & Rob Carson
Burley Highway District

Names listed left to right

House Bill No. 312

Road Scholar Graduates

Good News!

House Bill No. 312 passed this session providing an increase in highway distribution funds to local entities from gas tax, **7 cents per gallon**, and registration fees.



This is good news for local entities who receive a portion of the Highway Distribution Account (HDA), since they will see an increase in their revenue during the next state fiscal year beginning July 1st 2015. The first disbursement will be in October 2015, it will be lower since there is a lag with revenue collection. During the first year of implementation, disbursements during October 2015-July 2016, you will receive approximately a **25% increase in revenue** (based on 2014 revenue). The following years there will be an increase of approximately of **30% in revenue** (based on 2014 revenue).

It is important to note that in the house bill there are some specific legislative intents that **must be followed:**

-The new funding “shall be used exclusively for **road and bridge maintenance and replacement projects** both at the state and local level.”

-“It is the intent of the Legislature that ...**all local units of government receiving funds** collected under the provisions of this act, **shall prepare an annual report**.... Local units of government shall submit report information to the Local Highway Technical Assistance Council, which shall compile the reporting information into one report for submission.”

LHTAC is working with ITD to make the reporting and separation of funds as easy as possible. The reporting will be very similar, if not the same as the information that is currently submitted through the Road & Street Finance Report.

Please contact LHTAC with any questions you may have.

WWW.LHTAC.ORG



Tom Billman
City of Twin Falls



Brendon Sprute and Nolan Rehder
Keuterville & Cottonwood
Highway Districts
*Pictured with Laila Kral
LHTAC T2 Center Manager*



Marty Zimmerman
Burley Highway District



John Zamora and Bryan Lively
Buhl Highway District



Greg Skinner
Todd Boehme
Richard Crane
Bear Lake County Road and Bridge

Names listed left to right

HIGHWAYS CREATED BY ROAD PETITIONS

By David E. Wynkoop, Attorney at Law

David E. Wynkoop has actively practiced as an Idaho attorney for 35 years. He represents numerous Idaho local highway agencies as well as the Local Highway Technical Assistance Council. Mr. Wynkoop previously served as General Counsel and Commissioner for the Ada County Highway District. He is past Chairman of the Government Attorneys Section of the Idaho State Bar. Mr. Wynkoop is a partner in the firm of SHERER & WYNKOOP, LLP, 730 N. Main St., Meridian, Idaho 83642, phone 208-887-4800.

The Idaho Supreme Court recently clarified and reaffirmed Idaho law relating to the creation of public highways by road petition. In *Trunnell v. Fergel*, Idaho's highest court held that an unopened, unmaintained public right-of-way created in 1908 remains a dedicated public right-of-way, even though a buyer purchased the land with no knowledge of the right-of-way.

Creation of public highways by the road petition process was common in Idaho in the late 1800's and early 1900's. If property owners wanted a new road, they petitioned the county or highway district commissioners. The commissioners appointed viewers to research the proposed right-of-way and investigate the need for the road. The commissioners received the viewers' report, and if they agreed with the findings, declared the proposed right-of-way to be a public highway. The right-of-way was then recorded in a county road book kept in the county recorder's office.

There is usually no issue if the road was opened and maintained. However, if the road was never opened or maintained there had been some question whether the right-of-way retained its status as an unopened public right-of-way; particularly as against a buyer who purchased land with no knowledge of the road petition.

In the *Trunnell* case, County Road 32 was declared to be a public road in 1908 by the Bonner County Board of Commissioners. The declaration was based upon a road petition presented to the County. The road petition was entered into Bonner County's Road Book. County Road 32 was never opened or maintained at public expense.

In 1991, Fergel bought ten acres of land to build a home. Fergel had no knowledge of County Road 32. When she bought her property she observed "two wheel tracks" which ran north-south along the eastern edge of her property eventually reaching Trunnell's property. Trunnell purchased his property in 2001 and got into a dispute with Fergel whether he could use the two wheel track on Fergel's property. Litigation ensued.

The trial court held in favor of Fergel. The lower court ruled that because Fergel bought her land with no knowledge of County Road 32, she purchased her land free and clear of the County Road 32 right-of-way. The Idaho Supreme Court reversed, holding that County Road 32 remained a public right-of-way since it was validly created by the road petition statutes and had not been formally vacated by the County pursuant to Idaho Code Section 40-203(1). There can be no informal abandonment of a public road based upon the lack of opening or maintenance of the road.

The courts had to decide between the two competing legal principles. Generally, a buyer of land purchases the land free of any encumbrances if the buyer has no actual or constructive knowledge of the encumbrance. Constructive knowledge is imputed to the buyer if documentation of the encumbrance is recorded in the records of the county recorder.

The problem is that county and title company employees are not always aware of the road petitions or the county road books. It is not uncommon for a property buyer to purchase a title report which fails to reference the public right-of-way created by a road petition. Fergel argued that because she was not actually aware of the road petition when she purchased her land, she took her land free from the public right-of-way. The more difficult issue is whether Fergel had constructive knowledge of County Road 32 based upon the road petition and/or the county road book. Fergel produced testimony from a title company manager that a prudent person would not know to search for the road petition or the county road book. Apparently, Fergel purchased a title report which did not disclose the County Road 32 right-of-way.

The Supreme Court rejected Fergel's arguments, holding that since County Road 32 was properly created and was not formally vacated, it remained a public right-of-way.

Lessons Learned

1. Highway agencies should locate the applicable road petitions and road books and make copies. These documents should be located in the county recorder's or assessor's records but may have been placed in cold storage. County employees may not be aware of the significance of the documents. There is a risk that they could be disposed of.
2. Identify the road petition rights-of-way on your official map. If a right-of-way has never been opened or maintained, identify it on the map as an unopened public right-of-way.
3. Consider re-recording the road petitions in the county recorder's records to improve the odds that county and title company employees are made aware of the road petitions.
4. If a road is to be widened or relocated, check to see whether the new location is the subject of a road petition.

The importance of road petitions can be demonstrated with an example. An Idaho local highway agency decided to re-locate and widen a collector road. The agency purchased title reports and appraisals and began right-of-way acquisition negotiations with the appropriate land owners. Several of the land owners hired an attorney and demanded payments far in excess of the appraised valuation. Further research found a road petition from 1907 not disclosed by the title report which overlapped with the location of the new road.

After a copy of the road petition and the *Trunnell* case was supplied to the property owners' attorney, his clients became much more reasonable and quickly settled. As of this writing, the new road is under construction. The taxpayers were saved many tens of thousands of dollars because the road petition was located.

Idaho courts have treated road petition rights-of-way as dedicated public rights-of-way. This puts roads created by petition in the same category as roads created by subdivision plat. Such roads cannot be adversely possessed. Even if the road was never opened or maintained by a public agency, it remains a public right-of-way unless and until the statutory vacation procedures are followed.