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Commissioners
Rick Winkel, Chair
John Smith
Mike Ryan

March 30, 2020

Secretary Chao
Director, Office of Infrastructure Finance and Innovation
Office of the Secretary
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

RE: FY 2017 TIGER grant – Clearwater County: BGCM Railroad Rehabilitation Jaype to Lewiston, ID

Dear Secretary Chao,

The Clearwater County Board of Commissioners is writing to inform the U.S. Department of Transportation that Clearwater County will not be pursuing obligation of the TIGER grant, awarded in FY 2017 under Funding opportunity Number DTOS59-17-RA-TIGER9. The decision follows years' of working with the Bountiful Grain Craig Mountain Railroad (BGCM) to implement this locally valued infrastructure improvement project. There are several factors not in the county's control contributing to this decision.

The BGCM contracted with Civil Design Inc. an engineering firm, in April 2019 with intent to meet the TIGER obligation prerequisites: develop a Statement of Work, provide Preliminary Engineering (30%) and Environmental documentation. The fieldwork performed for the application targeted bridges previously known to have experienced damage in the flood events 1996/97 and 2011. Civil Design Inc completed a comprehensive field inspection during the summer of 2019. The on the ground inspection identified significantly more bridge and trestle damage along Subdivision 4 (Orofino to Jaype) than had been identified in the TIGER application. We have compared the bridge assessment information from prior to application from BGCM to that of Civil Design Inc:

Bridge/Trestle Name	Mile Post	May 2018 Assessment - Application proposed work	Sept 2019 Field Review - Immediate action recommendations
Bridge 5-1	5.9	Remove/Replace damage abutment; add I-beams for added track support	Restore eroded bank with fabric and rip rap; Remove stream flow debris; Remove/Replace damaged bridge timbers and concrete pier; Repair pier 4; Remove/Repair timber span 4; Remove undermined/failed Pier 5 and repair
Bridge 6	6.7	Reconstruct 3 in stream bridge supports	Remove remaining stringers to prevent complete failure; Reconstruct support infrastructure, Install fabric & riprap to stabilize scour; Remove stream flow debris

Bridge 11-1	11.7	Reconstruct 2 bridge support footings	Remove stream flow debris; Bent 3 has considerable pile damage and undermining; Bent 4 pile failure; Bent 7 pile failure and broken bracing; Bent 8 complete failure, remove and salvage span 6 & 7; Consider adding additional span
Bridge 15-2	15.8	Reconstruct upstream abutment; 1 in stream pier and install I-beams for added track support	Remove stream flow debris; Span 7 failed and is partially in stream- remove, salvage timbers and reconstruct
Bridge 17-2	16.4	Reconstruct in stream pier	Remove stream flow debris between Bent 7 & 10; Redirect channel flow between Bents 8 & 10 and away from Bent 6 & 7 to prevent future damage; Bent 6 repair damage pile 4 and support scoured locations; Span 6 currently unsupported - provide support under stringers to settled Bent 7 cap; Bent 7 corbel support lost, major washout; Bent 7 to 8 repair longitudinal bracing add longitudinal support to prevent bent from tipping until Bent can be replaced; Span 7 stringers down - provide temporary support until Bent 7 reconstruction
Poor Man	21.3	Slope stabilization with 35 linear feet of rip rap upstream of trestle	Severely deteriorated piling is compromising the entire structure

Attached is a copy of the Civil Design Inc, 2019 Bridge Inspection Immediate Action report provided to the County by the Federal Railroad Administration. Based on communication from the BGCM, the preliminary engineering cost estimate identified a funding shortfall of at least three million dollars (\$ 3,000,000).

The County communicated with the Federal Railroad Administration (FRA) project manager about the additional damage and funding shortfall. During a phone call on 1/10/2020, the BGCM, County and FRA discussed whether additional funding might be available or whether a shift in project scope could be negotiated. The project scope change request would shift all TIGER project funding to Subdivision 4. Shifting the awarded grant and pledged match funding to only Subdivision 4 would enable the BGCM to rehabilitate the most damaged railroad infrastructure; and BGCM would assume sole responsibility for rehabilitation along Subdivision 1. The BGCM would have to complete Subdivision 1 rehabilitation to facilitate product transport along Subdivision 4. From the County perspective, this proposed change of scope was going to salvage the railroad rehabilitation project with BGCM. The following outlines the communications Clearwater County initiated to facilitate implementation of the proposed change of scope:

- On 1/20/20 the County reached out to Civil Design Inc to determine whether they and their subcontractors (GeoProfessional Inc and Water Civil & Environmental) a revised scope of work, focused on Subdivision 4 rehabilitation could meet the established obligation timeline of June 2020. The engineer's response was, *"I could start work on this project beginning tomorrow, however I am still owed money. Currently, I have paid out all funds that I have received directly to WCE or GeoProfessional. WCE has been*

paid to cover their expenses and direct labor. GeoProfessional has been paid approximately 60% of their total fees. It is close to covering their expenses and direct labor. I have not held any of the payment received from BGCM for CDI. That being said, I need to be paid. ... we are in agreement that some type of escrow account will need to be set up."

- On 1/20/20 the County contacted the owner of BGCM, Mike Williams, to learn of his plans to provide for funds to complete the preliminary engineering and environmental work. He suggested at that time the BGCM was waiting on a funding package tied to a railroad he owned in South Dakota; and, that he was diligently searching for partners to invest in the BGCM railroad rehabilitation project to cover funding shortfalls. Clearwater County provided Mr. Williams with information about the County's designation as an Opportunity Zone. Additionally, we provided contacts to Qualified Opportunity Funds that may be willing investors in such a rural economic development project.
- On 2/12/20 the County project coordinator met with Mr. Williams and an interested investor in Lewiston to discuss the project status, its economic potential and funding shortfall. We understood at this time BGCM was seeking log hauling contracts with regional timber companies.
- On 2/26/20 the County project coordinator met with a representative from a regional timber company, whom Mr. Williams was also in contact with; it became evident the negotiations between BGCM and timber companies for a log hauling contract was not going to happen until the BGCM demonstrated the rail line was functional and provided them with a detailed operational plan.
- On 3/5/20 Mr. Williams came to Orofino to meet with the County project coordinator. He indicated he was not able to secure a log hauling contract nor investors to cover the cost of the railroad rehabilitation scope of work.

Clearwater County applied for the FY 2017 TIGER funds with the understanding and commitment from BGCM that the railroad would provide all of the pledged match to complete the railroad rehabilitation. Additionally, the County and BGCM understood the requirement that the BGCM would maintain and operate the rail line from Lewiston to Jaype for at least the next 20 years. The County supported this project wholeheartedly through grant writing, project coordination and facilitation. Over the past two years, a significant amount of time has been dedicated in coordination, collection and communication of information to support the FRA and engineers' needs/requests by County staff. The County recognizes the value of an operational rail infrastructure for economic development. The County placed high value on that fact that an operational rail line would require rail infrastructure maintenance which, would reduce flood risk from debris-jammed bridge infrastructure in Orofino Creek to the community of Orofino and its residents. The reduction in log hauling would of reduced wear and tear on County roadways from loaded log trucks. We are deeply bothered by BGCM's failure to meet its obligations.

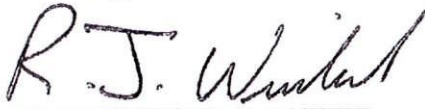
The County does not have the financial resources to meet the non-federal commitment of the FY 2017 TIGER grant. The County Road and Bridge program manages 212 miles of roadway (104 miles of asphalt and 116 miles of gravel surface). The County Road and Bridge primary revenue sources are Highway User fees from State fuel tax and vehicle registrations; and, because Clearwater County has 53% federal national forest lands they receive Forest Apportionment funds. The Highway User funds are a fairly consistent source of funds but the Forest Apportionment funds vary because of the lack of permanent appropriation of the Secure Rural Schools and Community Self Determination Act funding. Clearwater County Road and Bridge Highway Use fees and Forest Apportionment revenues do not keep up with Department expenditures. The following demonstrates this fiscal shortfall:

FY 2017		FY 2018		FY 2019	
Revenue	Expense	Revenue	Expense	Revenue	Expense
\$ 995,754	\$ 1,139,883	\$ 1,484,138	\$ 1,144,774	\$ 1,534,635	\$ 1,636,818

The County is constantly seeking out sources to fund its existing transportation network via state and federal grant funds and equipment procurement program available through government to government surplus offerings. Clearwater County does not have the funding nor have we identified possible alternative sources to meet the TIGER match obligation. Additionally, Clearwater County's Road and Bridge Department does not have the knowledge or capacity to take on maintenance of a railroad infrastructure. Over the past five years the County Road and Bridge Department has experienced a staffing exodus from retirements and leadership leaving for more lucrative jobs in the private sector. We are currently searching for a Department Foreman to provide overall program leadership and cannot find a suitable applicant we can afford to fairly and competitively compensate.

Given BGCM's inability to raise funds and the County's inability to provide funding towards the BGCM Railroad Rehabilitation effort, we respectfully request the awarded FY 2017 TIGER funds be released from obligation to Clearwater County and put to good use towards project(s) that are being implemented or could be given additional funding resources.

Sincerely,



Rick Winkel, Chairman

CC: Senator Crapo
 Senator Risch
 Representative Fulcher
 Valarie Kniss, Federal Railroad Administration
 Mike Williams, owner Bountiful Grain Craig Mountain Railroad

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Title 49

SECTION 172.822

CFR (<https://ecfr.io/>) › / Title 49 (<https://ecfr.io/Title-49>) ›

/ Volume 2 (<https://ecfr.io/Title-49/Volume-2>) ›

/ Chapter I (<https://ecfr.io/Title-49/Volume-2/Chapter-I>) ›

/ Subchapter C (<https://ecfr.io/Title-49/Volume-2/Chapter-I/Subchapter-C>) ›

/ Part 172 (<https://ecfr.io/Title-49/Part-172>) ›

/ Subpart I (<https://ecfr.io/Title-49/Part-172/Subpart-I>) ›

/ Section 172.822 (<https://ecfr.io/Title-49/Section-172.822>)

172.822 Limitation on actions by states, local governments, and Indian tribes.

§ 172.822 Limitation on actions by states, local governments, and Indian tribes.

A law, order, or other directive of a state, political subdivision of a state, or an Indian tribe that designates, limits, or prohibits the use of a rail line (other than a rail line owned by a state, political subdivision of a state, or an Indian tribe) for the transportation of hazardous materials, including, but not limited to, the materials specified in § 172.820(a), is preempted. 49 U.S.C. 5125, 20106.

[73 FR 20772, Apr. 16, 2008]