

# Crossroads

The Quarterly Journal of the County Road Association of Michigan

Volume 4 | Issue 2

Winter 2018

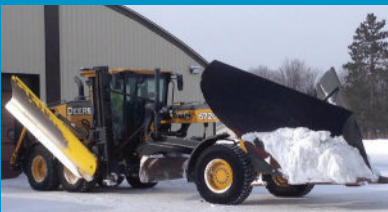


## Winter on *the* Peninsula

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*How a mecca for nonmotorized traffic and tourists tackles snow.*

*Photo: Troy Hinds of the Leelanau County Road Commission*



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- Kalkaska "drift plowing"
- Communications Corner - Have you streamed CRA's YouTube Channel?





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*Crossroads* is the quarterly publication of the County Road Association (CRA) of Michigan. The 83 county members of CRA represent the unified, credible and effective voice for a safe and efficient county road system in Michigan.

The Association, headquartered three blocks north of the State Capitol, is dedicated to helping members promote and maintain a safe, efficient county road system including stewardship of the county road right-of-way in rural and urban Michigan.

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## Next Publication

The theme for the Spring 2019 issue of *Crossroads* is county road agencies serving as "pre-responders." In emergencies and disasters, medical, fire and police crews – or "first-responders" – cannot access affected areas until county road agencies ensure there is safe passage.

*Crossroads'* editorial team wants to hear from you. Call CRA at 517.482.1189 and share ideas for future issues!

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## PRESIDENT'S CORNER



It is kind of funny! I think of "snow" as a bad four-letter word at county road agencies.

However, I was reminded by a road maintenance operator at a recent training that winter is the best time, especially for overtime. As we all know, winter maintenance for county road agencies can

be stressful in service delivery expectations and expenditures.

It was a good reminder for me too: Look at it as the glass is half full – we have come a long way.

Winter maintenance is one of the important areas in public service for county road agencies dating back to the early 1900s. Looking back on history, snow removal as we know it today began during the winter of 1917.

With World War I absorbing a considerable amount of available material, the railroads found themselves overloaded and congested. There was a need for an alternative system of guaranteeing the delivery of products from Michigan to the east coast to support the war. That alternative was to move goods over the public highways.

In 1920, the Board of Road Commissioners of the County of Kalamazoo even noted: "It is the policy of this state to keep the trunkline open at least for automobile travel throughout the winter. To keep all the less important roads open for autos during heavy snows would entail an expense that seems hardly justified."

Oh, how times have changed! County road agencies were the first to employ front plows on their vehicles; and therefore, we were the first to knock down mailboxes. Despite the problems such innovations may cause, county road agencies continue to be creative and innovative to meet the needs of the public safely.

Thank you for all your efforts in winter maintenance and your best practices to deliver the very best in public service safely for our teams and the public.

Joanna I. Johnson  
CRA President  
Managing Director  
Road Commission of Kalamazoo County

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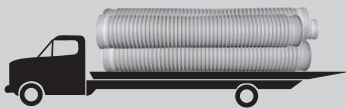
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# OF TRUCKS\* 14

- HP Storm uses less trucks
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# OF TRUCKS\* 49

- RCP uses more trucks
- Machinery required to unload

\* Based on 5,000 feet of 30" diameter pipe.

## STAGING

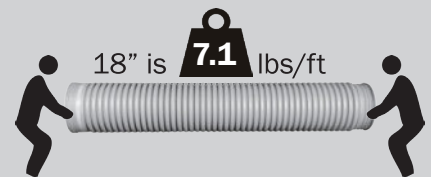


- HP Storm is able to be stacked high
- Nest smaller diameters



- RCP stacks two high

## STRINGING



- HP Storm can be moved quicker
- Handle safer



- RCP is moved two at a time
- Requires machinery

## INSTALLATION

A typical project with 5,000 ft specified on the plans will net you:

- 25 days using HP Storm (56 days with RCP)
- 250 joints using HP Storm (625 joints with RCP)



**30" HP Storm:**  
Installation Rate  
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**30" RCP:**  
Installation Rate  
of 88 ft per day\*\*

\*\*Data compiled from RSMeans

## MEMBER PROFILE

# LEELANAU COUNTY



*The National Park Service ferries over Maple City Foreman Gino Grimaldi, three equipment operators, a vehicle and tools from the Leelanau County Road Commission to South Manitou Island to make grade repairs to Shefler Road.*

## *A mecca for tourism and nonmotorized traffic*

Jutting into Lake Michigan on three sides, the Leelanau County peninsula has more Great Lakes exposure than most. Beautiful vistas in summer, but a true challenge for winter road maintenance crews.

If maintaining clear, slip-free roads against strong “lake effect” isn’t hard enough, add in a growing number of big city transplants to the region.

“Our population is increasing as more people retire and move to this area,” said **Dan Wagner**, PE, managing director of the **Leelanau County Road Commission** (LCRC). “Many times their expectations are unrealistic as far as keeping the roads clear – they don’t realize the volume of snow we get here.”

“Someone from Ohio may be used to 10 days of snow per year. We get hammered

with 120 to 140 inches of snow every year. In 2017, we had 170 inches of snow! We have snow events almost every week during the winter, some lasting for days,” Wagner said.

Most winter days the plow crews begin at 5 a.m., with 23 plow operators spread across two garages and a skeleton night crew of four. LCRC concentrates on MDOT and commuter routes first. An 8-inch snowfall is considered a “moderate event” in Leelanau.

Almost all LCRC trucks are now equipped with both wing plows and green lights. Green lights have been well-received by the public, Wagner noted.

Last year the LCRC took delivery of its first brine pre-wet equipped plow truck, which most road agencies have been using for some time to speed the

effectiveness of road salt and reduce the amount needed.

“It has been a slow starter,” according to Wagner, who said his supervisors and staff have been reluctant to embrace the new technology. “Before my time, but I understand it was the same story when we rolled out the wing plows. Hopefully, it will just take some trial and error to get used to it.”

### **Winter sanding economies create other costs**

LCRC uses a 5:1 sand-to-road salt mix on its local roads, to make the salt dollars stretch further. This is a much lower percentage of salt than used on MDOT roads where they use a mix of 1:1.

The downside of this economy is sand doesn’t wash away, creating a new task for road



## JUST THE

## Facts:

### Leelanau County Road Commission

<b>Office headquarters:</b>	Suttons Bay
<b>Staff:</b>	34 full time
<b>No. of commissioners:</b>	3 (elected)
<b>Miles of paved roads:</b>	Total: 490 Primary: 171 Local: 319
<b>Miles of unpaved roads:</b>	Total: 108 Primary: 0 Local: 108
<b>MDOT contract:</b>	Yes (209 lane miles)
<b>No. of bridges:</b>	1
<b>Annual budget:</b>	\$7,663,080 (FY 2018)
<b>Local revenue:</b>	\$1,248,000 (FY 2017)
<b>Annual snowfall:</b>	120-140 inches
<b>SCRC established:</b>	10 a.m., June 17, 1917
<b>No. of garages:</b>	2
<b>Office built:</b>	1951 (1990 addition)

#### FUN FACT:

LCRC is the only road commission with "Inspiration Point." This popular county road turn-out has a breath-taking view west across Big and Little Glen Lakes, the village of Glen Arbor, then across Lake Michigan to South Manitou Island. The property was deeded to the road commission in 1955.

agencies of berming and ditching along the roadbed.

When sand is applied to the road surface to improve winter traction, it accumulates alongside the roadbed, forming a small ridge that grows over time and can keep water on the road. If it isn't "bermed" or scraped away and the ditch re-graded periodically, the roadway is more susceptible to freeze-thaw damage along its edge – the oft-seen crumbling shoulder.

"We definitely experience rapid build-up of sod adjacent to the road due to sand use," Wagner said.

Berming and ditching are quite possibly the two most-neglected chores by cash-strapped road agencies in recent years as resources were focused on the road surface. Ironically, ditching and berming



**+** Crews from the Leelanau County Road Commission replace a failed culvert under North Shore Drive.

may help preserve the road surface.

"This year in particular, we're noticing the effect on the roads of not being able to keep up with right-of-way grooming," Wagner said. "As a MDOT contract county, we also have the responsibility to keep all of their culverts clear."

None of Leelanau County's 11 townships has millages, but there is a county-wide millage.

"We're hanging on because of a 30-year-old countywide one-half mill millage," Wagner said. "Without the millage our winter maintenance in particular would have to take a serious step back. We were primarily focusing on road maintenance until the new transportation funding was approved by Lansing. It has allowed us to expand our summer paving program somewhat. Unfortunately cost increases in the emulsion and asphalt industry threaten to overtake the gains."

### Hub of nonmotorized traffic

Destination traffic to Leelanau comes mostly in the non-winter months, to sites often featured in the Pure Michigan® campaign.

Tourist attractions include the Sleeping Bear Dunes National Lakeshore, marinas

in Northport, summer accommodations in Glen Arbor and boating to the Manitou Islands, where the LCRC once maintained 42 miles of roads on North Manitou and still maintains several miles on South Manitou.

Agriculture and tourism are the top two industries, and visitors "often compliment us on how well we do the roads here," Wagner said. Most residents are retired or commute to jobs in Traverse City.

"Our roads moreso than anywhere else in the state get used by nonmotorized traffic," Wagner said. "Leelanau County is used as a site for personal fitness challenge events, scavenger hunt teams, lots of organized biking events and now an Ironman competition is coming in 2019." The road commission's parking lot is even used for trailhead parking on weekends.

"We have been very accommodating of the biking community," he added.

That creates the challenge of finding ways to pave shoulders, and accommodate recreational events out on the road with very little local money. While the events are very beneficial to the community, they generate little to no additional funds for roads.

The competitive international 70.3-mile Ironman event being proposed sold out in record time and will draw in 2,400 competitors plus supporters to a county with only 21,000 residents.





**+** *Leelanau County Road Commission crews make grade and drainage improvements to Elm Valley Road before repaving.*

"We make accommodations for all of these special events wanting to use the roads that grow every year such as a 56-mile bike loop proposed for the Ironman, yet we charge only a \$40 permit fee," Wagner said. "That's a little different than the typical smalltown parade and really cuts into our staff's time."

LCRC works with TART, the Traverse Area Rails to Trails; the Sleeping Bear Heritage Trail; and most recently with a group of bikers trying to pave two miles of scenic road shoulders at the tip of the peninsula ending at Leelanau State Park, also home to the Grand Traverse Lighthouse Museum.

The road commission's policy calls for a 50:50 match on local road paving projects and Wagner notes this road is lightly used. LCRC had hoped the biking groups involved would raise private funds and township dollars to reach the 50 percent match.

At press time, the biking group had backed away from raising private funding for the project citing concerns over setting a precedent of funding their own nonmotorized road priorities.

"We receive a fair number of complaints from the bike riding community who would prefer that we repave our roads rather than sealcoat them. When we explain to them the cost differential they are typically quite surprised," Wagner said. "We receive no direct revenue from the bike riders to maintain our roads. Our County Sheriff would like to see a registration fee be imposed on bicycles that would generate some additional revenue for road improvements. I think it is a great idea," he said.

"We hear from time-to-time about the need to revise the formula to fund urban roads at the expense of rural roads. Rural counties such as Leelanau house some of the sites that make Michigan such a recreational gem," Wagner said. "What we really need isn't rural vs. urban; we need sufficient dollars to maintain roads from urban Detroit to the tip of Leelanau." ---

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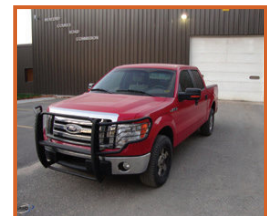
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*The St. Clair County Road Commission used ultra-high performance concrete on this bridge superstructure replacement project on Marine City Highway that was completed earlier this year.*



## ULTRA HIGH-PERFORMANCE CONCRETE IN ST. CLAIR COUNTY

When the Michigan Department of Transportation was looking for a place to test out a new ultra high-performance concrete (UHPC), it picked an agreeable partner in the **St. Clair County Road Commission (SCCRC)**.

With 228 bridges to oversee, SCCRC has the second-largest number of bridges and was open to trying something new.

MDOT had been working with University of Michigan engineers, who developed a generic blend of UHPC that is denser and more durable. But with most MDOT bridges carrying tens of thousands of drivers a day, they needed local bridges to

test it on that weren't in high-traffic areas.

"They wanted to use this on bridges, but not ones that were getting 30,000 cars a day on them," said **William Hazelton**, PE, director of engineering for SCCRC.

"It would be hard for MDOT to go out on a limb, but if we have a bridge with 3,000 cars a day, we can watch it, see if it's working and fix it if needed."

SCCRC is excited about the possibilities. In 2017, UHPC was used on two bridges and three more were done in 2018.

With a \$650,000 Federal Highway Administration Center for Accelerated

Innovation grant, SCCRC is exploring other bridge projects for UHPC for 2019.

UHPC is expected to last three times longer than traditional concrete without any specialized maintenance. SCCRC is using UHPC as joints between two pre-cast bridge units. Hazelton said the joints are typically the weakest part of the bridge when bridge units are put together.

"A lot of these bridge beams act together as a unit and one supports the other," Hazelton said. "When the joint fails, the beam cracks, steel is exposed, the rebar deteriorates and so forth."





Workers from the St. Clair County Road Commission pour ultra-high performance concrete to act as a joint between two bridge units on the bridge superstructure replacement project on Marine City Highway.

The ultra-high performance concrete is expected to last three times longer than traditional concrete without any specialized maintenance and has superior strength to typical concrete.

Crews pour UHPC on site, and it cures quickly. Traditional concrete can take several days or over a week to cure, where UHPC cures in one day, allowing the project to move forward more quickly.

Another benefit is the added strength. While normal concrete handles 5,000 pounds per square inch, UHPC can handle 20,000 pounds per square inch.

"The joints should be stronger than the actual bridge units, and this makes the joints as strong as possible," Hazelton said.

So why not pour UHPC for the entire bridge? The cost.

Hazelton said normal ready-mix concrete costs about \$80 to \$90 per yard, while UHPC is \$1,000 per yard due to its steel fibers. The fibers are hard to find domestically, so Hazelton hopes more US manufacturers can provide them and bring the cost down.

"This stuff is not cheap, but it's a good product that lasts a long time," Hazelton said. "So if you put down three yards of it on a bridge, it's worth it." ---







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# Ask SAM:

## "What are your best winter maintenance practices?"



Snow is already flying across Michigan, and a platoon of snow plows will launch to clear roads and ensure motorists' safety.

The leaders of that platoon are road agency superintendents, responsible for the timing and volume of plows on the roads.

So *Crossroads* set out to learn some of their best tips at the annual Superintendents Association of Michigan (SAM) conference.

**Sam SanMiguel, superintendent of Midland County Road Commission and SAM board member:**  
**COMMUNICATION**



Coordinating and communicating with neighboring and nearby counties in weather events is critical to responding to the public's needs.

SanMiguel's first call is to his crews and then to central dispatch. Soon after he's phoning his fellow superintendents nearby to discuss weather conditions.

"When we start to get weather, I'm on the phone with Gladwin, Clare, Isabella," SanMiguel said. "I have those guys on speed dial."

"Communication with the public is the biggest key," SanMiguel said. "A lot of guys know what to do when weather comes, but the public doesn't know why we're not salting, and it's because we know whatever salt we put down is going to be covered in the next hour.

"So it's important to update your website. If you have snow plow safety material, put it on your website."

**Walter Jansen, equipment superintendent of Allegan County Road Commission and SAM board member:**  
**TIMING**



It's one thing to monitor weather reports or look out a window to see what's happening outside. But Jansen said putting tires on the road is the best way to distinguish between an inch of icy snow and an inch of glazed-over snow.

"If there's a weather question, (maintenance superintendent) Phil Kernodle and I are on the roads driving by 3 a.m.," Jansen said. "That way we can determine if we have to send crews out early."

"What's going on in one part of the county might not be the case in another," Jansen said. "We make a decision that's

in the best interest of the public, and we're actually out there and not sitting on the couch saying, 'It doesn't look that bad.'"

**Rob Hudec, maintenance superintendent of Saginaw County Road Commission and SAM board member:**  
**ORGANIZATION**



Saginaw County has four districts, each with a foreman. Each will serve as the point person for all calls for a week before turning a shared pager over to the next foreman.

"Before the main call-out to the crew, the foreman will call myself and Maintenance Director Dan Medina," Hudec said.

Saginaw has an agreement between 911 Central Dispatch for Saginaw County about which roads are serviced first in snowstorms. First are emergency response routes, then primary roads followed by high-volume roads and subdivisions.

"It depends on the weather, but the emergency routes are our top priority," Hudec said.

*Continued on Page 17*





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David Greaves,  
superintendent of Gladwin  
County Road Commission  
and president-elect of  
SAM board: **SANDY MIX**



Greaves has been with the road commission for 29 years and said over the years, they have moved toward a salt/sand mixture. On lower priority roads, that mixture is 95 percent sand.

"It helps with salt conservation," Greaves said.

As a storm moves out, Gladwin County Road Commission monitors the temperature to get a feel for what kind of snow they're dealing with.

"It could be a wet, packing snow, and if the temperature's dropping, we can go get it off surfaces now," he said. "If the temperature is rising, we can blade it off."

Greaves said establishing a countywide snow route – Gladwin's being 178 miles of mostly primary routes – allows crews to respond faster to lower priority roads and subdivisions.

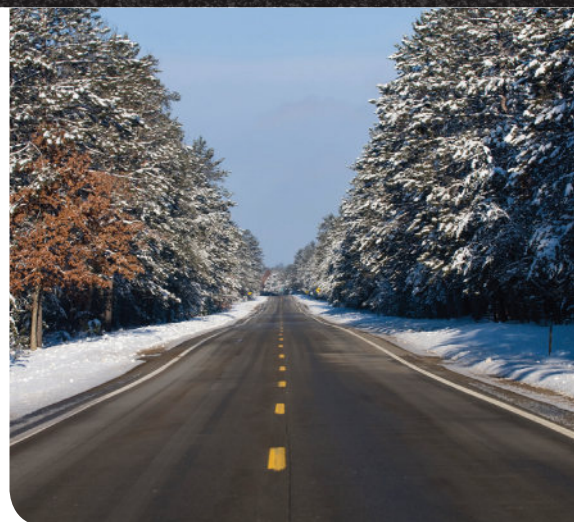
Pat Harmon, manager  
of Charlevoix County  
Road Commission and  
SAM board member:  
**PERSISTENCE**



The job isn't done until the job is done. That mantra is how Harmon deals with the average 125 inches of snow annually.

"When it starts snowing, it doesn't let up," said Harmon, who's been with the road commission for 33 years.

The key is getting out early so people can get to school and work, and while



all side roads might not get done right away, the main arteries and primary roads where the majority of motorists wind up are priorities.

"We do get through everything every day," he said. "Even if it's just in and out. If that means staying till 6 or 7 to get it done, that's the way it is." 🚧

# Award SPOTLIGHT



The **Road Commission of Kalamazoo County** (RCKC) recently won a 2018 Project of the Year Award from the American Public Works Association (APWA) for Transportation on a project less than \$1 million. RCKC used chip seal and fog seal to prolong South Burdick Street, despite it being an urban area, and did so for less than the project estimate and with minimal impact on the area during construction.

**Larry Hummel, PE**, engineer-manager for the **Van Buren County Road Commission** (VBCRC), recently was presented with the Harold M. Hultquist, P.E. Award by the American Public Works Association (APWA) in recognition of his dedication, work and accomplishments benefitting members of the Michigan Chapter.

Hummel served as president of the Michigan APWA from 2012-2013 and Council of Chapter Representative from 2014-present. He also serves on committees for the APWA Snow Conference and the State Annual Conference.



Larry and Kriss Hummel

In July, the **Wayne County Department of Public Services** (WCDPS) was awarded the prestigious APWA Accreditation designation. The program recognizes public works agencies that go beyond the requirements of the management practices established nationally for the public works industry. WCDPS applied for Accreditation in October 2017.

"As the largest county in the state, we are constantly looking for ways to provide exemplary and efficient service to the missions of residents and visitors," said WCDPS Director **Beverly Watts**. "APWA Accreditation confirms the Wayne County Department of Public Services' commitment to improving the quality of life within the county. I am proud that our Public Services team committed to this accreditation process."

WCDPS becomes the third agency in the state to be so accredited. The cities of Canton and Farmington Hills are the others.





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# KALKASKA 'DRIFT PLOWING'



Motorists in Kalkaska County are accustomed to an odd scene: A snow plow grader doing its thing in a field.

It's a practice that might seem strange to anyone outside Kalkaska County, but it's an effective technique for controlling drifting snow that's been employed for decades in a county that gets an average of 136 inches of snow annually.

"We get a lot of snow, and we have a lot of farm fields – mostly potato fields but other fields, too," said **John Rogers**, manager of **Kalkaska County Road Commission (KCRC)**. "When you get the snow volumes we get, that snow a lot of times will dump into the roads. So what we do is take the grader with a v-plow and cut roads in the field."

These plowed field "roads" give snow a place to accumulate, preventing the vast majority of it from blowing onto nearby roads. This buys the road commission time and ensures motorists have clearer roads for longer periods.

Rogers said crews focus primarily on fields that are west of roads and sometimes those that are north as westerly and northerly winds are common during the winter. Crews use a v-plow – larger than what's on the rest of the fleet – on a grader with 6-wheel drive and snow tires to get through the fields.

Plowing the field "roads" is in addition to the steady plowing done on the 621 miles of nonseasonal county roads for which KCRC is responsible.

"The majority of the roads are local roads, so 'drift plowing' makes it so we're not making four or five passes a day on roads," Rogers said. "We don't have the resources to send out to one or two locations where it drifts shut, and this allows us to spend more time on primaries."

Rogers could not pinpoint when KCRC started using "drift

plowing" but said he's been there 23 years, and "we've been doing it long before me."

"It is extremely effective," he said. "We have roads that sometimes will drift close to 12 feet deep, so we go out and run wind rows. The snow will fill those before it fills the road and keep the road open. That way, the road will end up never drifting closed."

Rogers said the key is working closely with farmers and getting their permission for the number of passes the road commission can do on their fields as well as how deep they can go.

For example, if a farmer has planted winter wheat and does not want the dirt exposed by "drift plowing," the road commission can still plow lanes in the field but leaves about 6 inches of snow over the crop.

"They have say over everything, they dictate what we can or can't do, and we try not to do more than three passes in a field," Rogers said. "But they remember that it's their families too who need to get out and go to work and go to school."

KCRC crews typically "drift plow" between 8 to 10 miles of field overall and do so about twice a year.

Rogers said the optimal time to plow the fields is when there is enough snow to drift onto and potentially close roads.

"We wait until the road shows signs of wanting to drift," he said. "You want to wait until you can get deep enough snow banks in the field. If you only have 10 inches of snow out in the field, those will close in quick. At that time, the road's not drifting shut. When you have 3- to 4-foot snow banks, then when the snow dumps in those roads, that's when it makes it impassable for traffic and that's when you want to go out there."

"When there's 2 feet out in the farmer's field, that means you can make nice roads deep enough to handle a large volume of snow." ❄️





## Key transitions at...

### ...Road Commissions and Departments

**Helen-Ann Cordes** has joined the **Alcona County Road Commission** as administrative assistant.

**Dori Hawkins-Freelain** has joined the **Monroe County Road Commission** as director of finance.

**Jessica Putney** has joined the **Manistee County Road Commission** as office manager/board secretary.

**David M. Leach** is now superintendent of maintenance at the **Monroe County Road Commission**.

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### ...CRA

**Jeff Bleiler** has joined **CRA** as communications specialist.

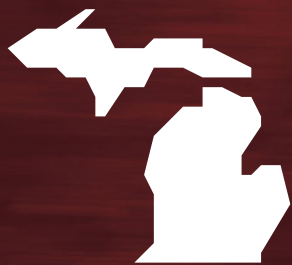
**Janet Wise** has joined **CRA** and **CRASIF** as a joint administrative assistant between the two organizations.

### ...Mile Markers

**Jan Erickson**, board secretary, **Manistee County Road Commission**, retired after 30 years of service.

### In Memorium

On August 19, 2018, **Michael Zwerk**, commissioner for the **Tuscola County Road Commission**, passed away. He was on the Tuscola board for 10 years.



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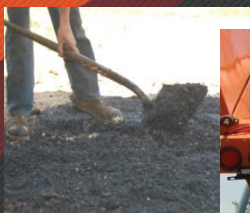


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# CRA'S Legal Issues Corner



This edition of the Legal Issues Corner has three summaries of cases relevant to county road agencies, authored by the Road Commission for Oakland County.

## 1 FOIA does not compel disclosure of documents prepared by an agent of a public body.

In *Bisio v. The City of the Village of Clarkston*, Michigan Court of Appeals, Docket No. 335422, (July 3, 2018) the Michigan Court of Appeals addressed the question of whether files kept by a city attorney and engineer are public documents under the Michigan Freedom of Information Act.

In December 2015, plaintiff Susan Bisio submitted a FOIA request seeking, among other things, documents prepared for the city by the city attorney, Thomas Ryan, and by engineering consultants Hubbell, Roth, & Clark (HRC).

Bisio received most of the records she requested, but the city refused to release certain documents from its attorney's files and the HRC files, on the grounds that the city had never received the records, and that therefore the documents were not public records and not subject to FOIA.

The same day, Bisio filed a FOIA complaint seeking all the records she had requested, regardless of where they were located. Bisio asserted that the physical location of the documents wasn't relevant, because the city attorney was the city's agent and under agency principles, documents related to city business that are in the city attorney's possession are "public documents" and discoverable under FOIA.

The Court of Appeals in its opinion called Bisio's use of agency principles to argue that the documents are public records, subject to disclosure under FOIA "seductive," but ultimately concluded this argument was not supported by the plain language of the relevant statutes.

The Court opined that the statute was clear, in that the definition of "'public body' provided by MCL 15.232(d)(iii) does not include officers or employees acting on behalf of cities, townships, and villages. By contrast, MCL 15.232(d)(i), which provides the definition of 'public body' relevant to the executive branch of state government, does include officers and employees acting on behalf of the public body."

The Court concluded that the legislature would have included agents in the definition of public body that applies to cities, townships, and villages, if it had intended that agents be included under this definition. The Court found support for this interpretation in the Michigan Supreme Court's decision in *Breighner v Mich High Sch Athletic Ass'n*, 471 Mich 217; 683 NW2d 639 (2004), in which the Michigan Supreme Court noted in a footnote that it would "defy logic to conclude that any person or entity qualifying as an 'agent' of one of the enumerated governmental bodies would be considered a 'public body' for purposes of FOIA.

The Court of Appeals thereby affirmed the dismissal of Bisio's FOIA claim on summary judgement.

## 2 OMA requires naming of specific litigation prior to entering closed session.

In *Vermilya v. Delta Coll Bd of Trustees*, Michigan Court of Appeals, Docket No. 341229 (July 31, 2018), the Court determined that the Open Meetings Act (OMA) requires a public body entering into closed session to discuss litigation, to name the specific cases it will discuss.

In this case, the Delta College Board of Trustees passed a motion to enter closed session “for the purpose of discussing *specific pending litigation* with legal counsel.” This language closely mirrored the language in OMA, which provides that a public body may meet in closed session “to consult with its attorney regarding trial or settlement strategy in connection with *specific pending litigation*.” MCL 15.268(e) (*emphasis added*).

Plaintiffs alleged violation of OMA, contending that it was insufficient for the Board to cite “specific pending litigation,” and that the Board must name the specific case that it intends to discuss before entering closed session.

In finding that the Board violated the OMA, the Court of Appeals noted that in the statutory phrase “specific pending litigation” the word “specific” would be redundant and unnecessary if the intent was to allow public bodies to make a generic statement that they are going in to closed session to discuss litigation. The Court noted that:

“When a public body meets to discuss pending litigation, it will necessarily discuss specific cases. Therefore, if the Legislature did not intend for the public body to disclose the particular case or cases it would be discussing, there would be no reason for the phrase “specific pending litigation” to contain the word “specific,” as the word has no practical impact on the permissible substance of the public body’s discussion in a closed session.”

## 3 Court of Appeals strictly applies notice requirement in governmental immunity cases.

In two companion unpublished cases, the Michigan Court of Appeals has adopted a strict interpretation of the statutory notice requirements for litigation involving the highway exception to governmental immunity.

The first case, *Wigfall v. City of Detroit*, Michigan Court of Appeals Docket No. 333448 (October 10, 2017) involved a suit against the City of Detroit over injuries Dwayne Wigfall received from a motorcycle accident allegedly caused by striking a pothole on a city street. Detroit sought to dismiss the case on the grounds that the claim was barred by governmental immunity, because Wigfall had failed to comply with statutory notice.

Specifically, the City asserted the relevant statute required service on the Detroit city clerk, mayor or city attorney, and Wigfall had mailed the notice to the Detroit “City Law Department-Claims,” not to an individual named in the statute.

Wigfall asserted that he substantially complied with the statute, and alternatively, that if there was no compliance, then equitable estoppel should bar defendant from claiming lack of sufficient notice. Wigfall argued he sent notice to the Detroit City Law Department and the Law Department is headed by the city attorney, and that he therefore substantially complied with the statutory requirement to serve notice on the city attorney.

In support of his equitable estoppel argument, Wigfall noted that the City of Detroit website directed notice of claims to be sent to the “City of Detroit Law Department-Claims Section” and that his lawyer called the Detroit Law Department and was given the same information on service of notice.

The Michigan Court of Appeals held that Wigfall’s service of notice was inadequate, reasoning that the law is clear, and a clear statute must be enforced as written. Wigfall didn’t serve an individual and didn’t serve the mayor, city attorney or city clerk as required by the plain language of the statute, therefore there was no notice or substantial compliance.

The Court of Appeals found that there was no estoppel because the website, and the law department in its telephone conversation, were referring to the notice requirements for informal proceedings, not to the formal statutory notice and the city can’t change the requirements of the statute by what it says or prints on its website.

The Court of Appeals reversed and remanded *Wigfall* for entry of summary disposition.

In a related case, *West v. City of Detroit*, Michigan Court of Appeals, Docket No. 335190 (December 12, 2017) the Court of Appeals rejected a new line of argument seeking to loosen the strict notice requirements for governmental immunity cases. West filed suit against the City of Detroit claiming injuries suffered as a result of a trip and fall on a city sidewalk. West attempted to serve notice on the city in essentially the same manner as *Wigfall*, by mailing it to the “City of Detroit Law Department.”

The new twist in this case is that West argued substantial compliance with the statute, focusing on the fact that the statute says “The notice *may be served* on any individual ... who may lawfully be served by process.” MCL 691.1404 (*emphasis added*). West emphasized that the statute uses the phrase “may be served” and not “shall be served,” arguing that the choice of the word “may” indicated the legislature did not intend for service of notice only on the city clerk, mayor or city attorney, but allowed for other forms of service.

The Court of Appeals rejected this line of argument, asserting that when read in its entire context, the statute was clear that service on an individual was required. ---

**Summaries by Matthew R. Willson**  
**Deputy General Counsel**  
**Road Commission for Oakland County**



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Did you know CRA has a YouTube channel that can help you tell our stories? CRA has several informative short videos to educate motorists about projects and safety.

"Many people are visual learners, so explaining a project or procedure in writing only might not be effective," said **Denise Donohue**, CRA director. "The YouTube videos we have done give viewers the information they need to understand road agency work. They can be viewed anytime from their smartphone, tablet or computer."

The videos, and the length of each, include:

- **Ditch maintenance (1:34):** Explains the importance of properly maintaining ditches in the right-of-way for water flow, including the need for removing sediment, mowing overgrown brush and controlling invasive species.

- **Chip sealing (2:13):** Walks viewers through the process, explains the benefits and precautions drivers should take once chip sealing has taken place.
- **Right-of-way (1:57):** A common term for county road agencies, but motorists might confuse it with who has the right to go first. This video explains what the 66 feet of right-of-way is, what can be in it and who is responsible for maintaining it.
- **Seasonal weight restrictions (2:23):** Explains the need for seasonal weight restrictions, what happens to roads during the thaw period and why following the restrictions placed by a county road agency is important.
- **Shake your mailbox (2:15):** Shows residents how to test the security of their mailbox before plow season begins and what a good (and bad) mailbox looks like.
- **Seasonal roads (1:20):** Explains what a seasonal road is and why the road agency cannot maintain it from November through April. Especially helpful to down-staters or out-of-state visitors. ---



Scenes from CRA YouTube videos on (from left) seasonal weight restrictions and chip sealing

These videos can easily be shared and embedded on county social media pages. Visit [youtube.com](https://youtube.com), search for "County Road Association of Michigan" and click "subscribe."

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## Bridging the Gaps

# An update on the Uniform Accounting Procedures Manual makeover

### One year later, one to go. What's new with the **Accounting Manual**?

The Fall 2017 issue of *Crossroads* detailed the work to update the *Accounting Manual*.

A subcommittee of finance and human resources professionals worked to update and revise the 344-page manual since 2017. The changes address many major developments in the transportation industry.

### What's new and improved?

Along with detailing new Governmental Accounting Standards Board (GASB) standards and other language updates, some of the additional changes coming to the *Accounting Manual* include:

- A chart of accounts that works with the new state chart of accounts;
- A section on wetland mitigation credits;
- Deletion of sample policies and moving them to the CRA website;
- A more in-depth section on pensions and other post-employment benefits (OPEB);
- Instructions on handling the buying and selling of federal aid;
- A legal section hyperlinked to all pertinent public acts;
- Updated and easier to use record retention;
- Month-end and year-end checklists for the finance process;
- Equipment lease section that complies with current rules; and
- Overall improved organization of material, among other various improvements.

All these changes have been addressed in the new *Accounting Manual* and significant future changes will be addressed as well with annual updates, something new for 2019.



### When can you expect to see it?

The Accounting Manual Subcommittee is making final edits and aims to submit the document to the Michigan Treasury Department by December 2018 for a May 2019 release – just in time for the CRA Finance & Human Resources Committee's annual conference.

While the subcommittee is undoubtedly excited to complete the handbook, **Melissa Williams**, director of finance, **Road Commission for Oakland County**, said the group feels good about its progress.

"After years of meeting with the Accounting Manual Subcommittee, the ending will be bittersweet," Williams said. "We are looking forward to unveiling the updated *Accounting Manual*, but these people have become a family. We are so grateful to the road commissions who have allowed their financial staff to take time out of their busy schedules to be a part of this process." --



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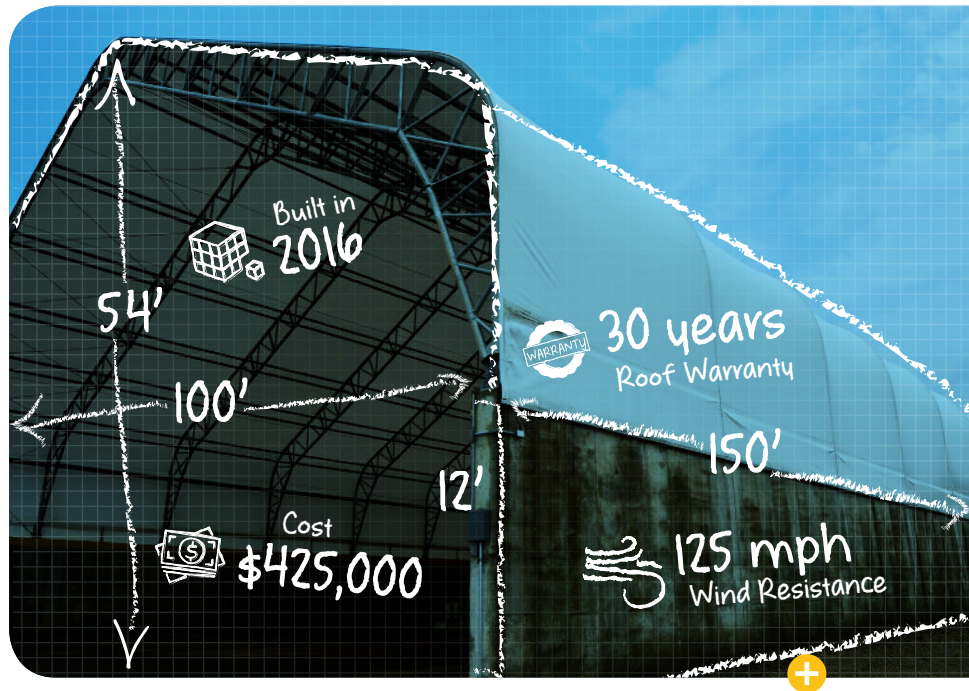
# Getting a-shed of winter

Salt and sand are precious commodities for county road agencies, come winter.

But often the only thing protecting these resources from the elements are aging wood buildings that are being eaten away by the salt they were constructed to protect.

Three county road commissions shared with *Crossroads* some new structures they've built to hold their de-icing agents.

These sheds lie at the intersection of function and fashion, and all three are vast improvements over the small, wooden buildings they replaced.



*Gladwin County Road Commission salt/sand shed*

## GLADWIN: Monster Dome

**Dave Pettersch** arrived at the **Gladwin County Road Commission** (GCRC), five years ago and could tell right away the salt shed was an issue.

"I walked in, looked at that and said, 'Something's got to change,'" he said. "We can't keep doing this."

What they were doing was housing salt in two small units: an old dome circa 1940s and a wooden shed from the '60s. To get an accurate measure on the commission's stockpile meant moving the salt from the dome to the shed to square it up!

Those days are over. In 2016, GCRC unveiled a 100-by-150-foot dome that is 54 feet high. It holds 2,500 tons of salt and 3,000 tons of sand, and has 12-foot concrete side walls that minimize corrosion.

"This has fully hot-dipped galvanized trusses, so it can withstand the salt environment," Pettersch said. "We built this for a lifetime."

They also built it for low cost, relative to traditional structures. This one cost \$425,000 to erect, which

Pettersch estimated is about half a stick-built structure. Plus, the vinyl roof has a 30-year warranty and a replacement cost of \$30,000, although sections of the roof can be replaced as needed rather than the entire thing.

Construction on the shed started in the summer of 2016 and it was completed that September.

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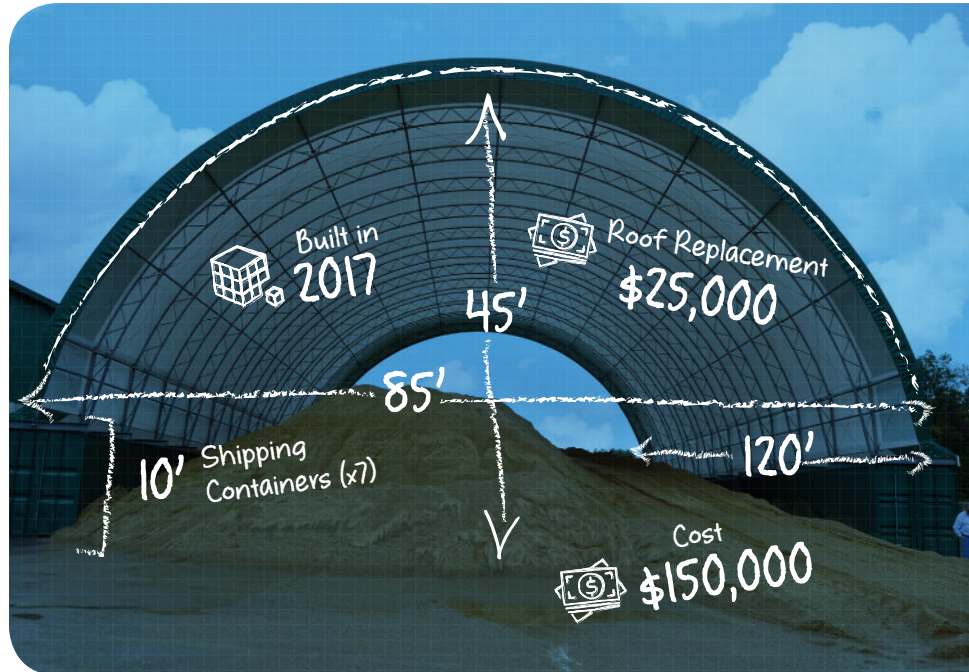
## ROSCOMMON: Their 'ship' has come in

Thirty miles north on **Roscommon County Road Commission's** (RCRC) campus is another style sand shed, with a function twist. RCRC's new sand shed is supported by seven shipping containers that provide solid footing and cold storage space.

"Companies reseal them so there's no leaks, they're all different colors and have names on them," said **Tim O'Rourke**, RCRC manager. "They just tell you to paint over the names. And now we have places to store stuff that we want out of the weather."

"When we got these, I hadn't seen them yet and had no idea they'd be this big," O'Rourke said. "I don't see how we could have built something better for this kind of price. The next thing will be to add lights inside."

The 85-foot-by-120-foot structure sits atop the 10-foot tall shipping containers – three on each side and one in the rear – and is open in the rear for easier mixing. The 2004 wood salt shed was built for \$800,000, while the larger and likely longer-lasting sand shed was constructed last year for about \$500,000.



Annually, RCRC goes through an average of between 8,000 and 10,000 tons of sand and about the same amount of salt. Increasingly, because of the rising cost of salt, RCRC uses brine to activate sand and outfitted its entire fleet with saddle tanks to spray brine while laying down sand.

## IOSCO: Do-it-yourself

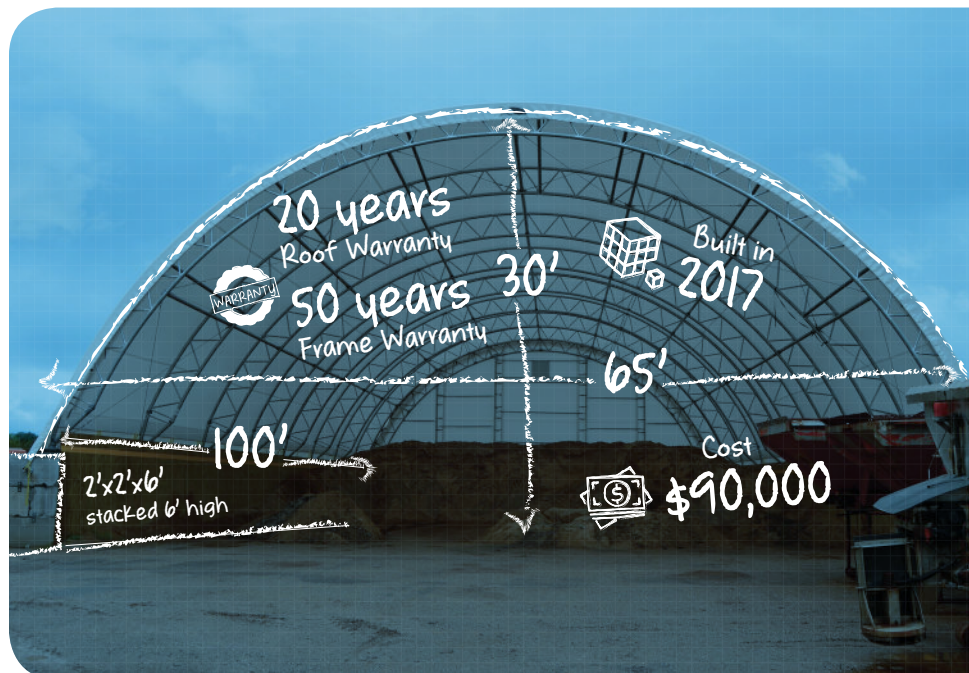
The smallest structure on this tour belongs to **Iosco County Road Commission** (ICRC), and how it was built is the interesting story. ICRC staff put together the 65-by-100-foot sand structure, including installing the tarp roof, by following some directions on the internet.

**Kevin Meske**, ICRC fleet manager, and two mechanics began the structure last spring and are now ready for winter. That included the concrete pieces that serve as the footing and figuring out how to secure the trusses and tarp to them.

"I had never done this before and didn't know how to put the trusses up," Meske said. "When we put the tarp up, I was a little nervous, but it went well."

ICRC used concrete slabs that were construction project waste and did all the work with its own staff. The structure cost about \$90,000, the two-piece tarp "roof" has a 20-year warranty and the frame comes with a 50-year warranty. The shed holds 3,000 yards of sand.

"This was a great project, and the return on investment: It's short," said **Bruce Bolen**, ICRC engineer-manager.



Prior to the sand shed, ICRC had nowhere to protect sand from the elements and that became an issue when it increased its use over the years. ICRC would get a delivery of sand and before it could use it all, the pile would freeze, leaving boulders of sand that were unusable until they thawed. ---



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## CROSSROADS EVENT Calendar

### December 4 (morning)

#### 4th annual Legal Issues Symposium

Sessions on "Considering Boundaries" include legal advice on the roles and relationships between county road agencies and drain commissioners; the optimal process for right-of-way acquisition; and developing mutual aid agreements. Held at the Comfort Inn & Suites, Mt. Pleasant.

**REGISTRATION LIVE!**

### December 4 (afternoon)

#### CRA Education Program

A weather catastrophe can strike any county at any time. How road agencies react is critical. This afternoon session walks attendees through each hour of a crisis, from the first three hours of mobilizing staff, to documenting everything and informing the public to returning to the "new normal." Held at the Comfort Inn & Suites, Mt. Pleasant.

**REGISTRATION LIVE!**

### February 5-7, 2019

#### County Engineers Workshop

Learn about new engineering topics in this CRA conference organized by LTAP. Continuing education credits are available. Held at Kewadin Casino & Hotel, Sault Ste. Marie.

To register and for details on all CRA events, visit [www.micountyroads.org/events](http://www.micountyroads.org/events).

## EDITOR'S NOTE

## Michigan logging trucks already get favorable load limits on the local road system!



Recently, CRA's board and General Policy Committee took a nearly-unprecedented step: to back away from the negotiating table on a piece of legislation.

After passionate board discussions in September and October, we concluded that CRA simply could not support Senate Bill 396, which confers broad non-permitted power on the logging industry at the significant expense of the local road system. Which, of course, belongs to every Michigan resident.

CRA and several impacted road

commissions have worked hard on this issue since May 2016, producing a nine-page white paper (Oct. 2016) requested by a Senator that reflected suggestions and views of two-thirds of county road agencies. It was accepted by all 83 county road agencies. No easy task.

Now more than two years later, only one of three logging associations has produced the requested white paper – and only one is utilizing the “best practices” document worked out by CRA and the industry over the last 24 months.

Meanwhile, county road agencies have accepted the no-driveway-permit legislation for logging, which eliminates more of our oversight – even though

we remain responsible if safety is compromised or drainage issues arise.

CRA has met repeatedly with the industry, initiated the “best practices” document, testified in the Senate, offered to provide training to loggers and even exhibited at a logging industry trade show in two states in order to improve understanding on the intersection of logging and local roads.

Over 20 county road agencies have already adopted an e-permit platform to make it easier for industry to do business with us.

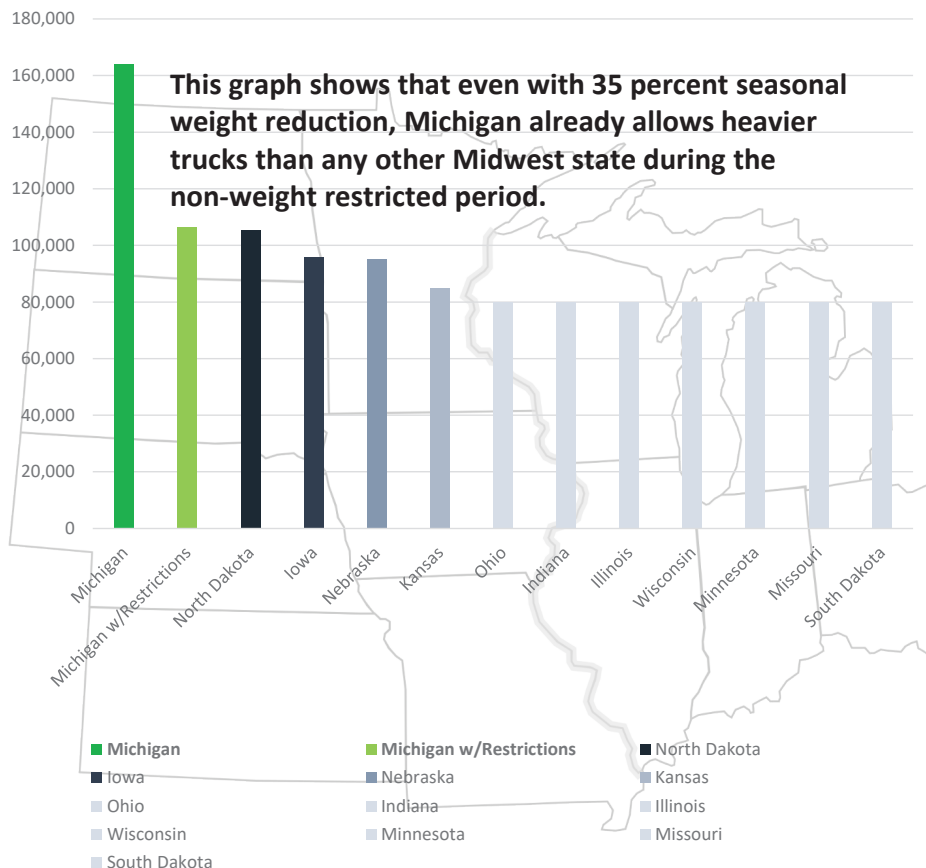
The phrase that comes to mind: What more can we do?

At this point, county road agencies are speaking with one voice saying that SB 396 is a bridge too far. It allows some of Michigan's heaviest trucks and equipment haulers to operate at full weight on county roads even during seasonal weight restrictions.

County road agencies simply want to work with the industry – which is why we have a no-profit permitting process – to help select routes with 48 hours advance notice, identify best timing during seasonal weight restrictions and keep Michigan businesses moving on a still-fragile road and bridge system.

CRA research reveals that even during seasonal weight restrictions, Michigan counties still permit the highest truck weights among Midwest states. What problem are we trying to solve, exactly?

*Denise Donohue*  
CRA Director



Source: US Department of Transportation Federal Highway Administration  
"Compilation of Existing State Truck Size and Weight Limit Laws," October 2012.



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