



Matthew H. Mead  
Governor

# STATE OF WYOMING

## DEPARTMENT OF ADMINISTRATION AND INFORMATION

### Construction Management Division

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Per your request, the following is a summary of information and a timeline of events related to the construction of the South Facility at the Wyoming State Penitentiary:

#### Key Players

- State Entities
  - State Building Commission: oversight entity/ all contracts in SBC name
  - Governor: Jim Geringer (chief of staff: Rita Meyer)
  - Dept. of A&I
    - Art Ellis & Frank Galeotos: directors (exact dates unknown)
    - Steve Mollenhauer & Mike Abel: A&I General Services Administrators/ SBC secretary (exact dates unknown)
    - Dave LaPlante: lead project manager
    - Ken Burnett: assistant project manager
    - Daniela Lucero: construction clerk
  - DOC
    - Judy Uphoff: DOC director
    - Doug Shope: former DOC facilities manager
- Contractors:
  - High Country
    - dirt work, water lines, some drains
  - KK Mechanical
    - HVAC, sprinklers
  - Intermountain Electric (IME)
    - Site electrical and building electrical
  - CCC Group
    - signs, doors, some windows
  - Mask
    - security, some fencing
  - Custom Fence
    - Security fencing
  - Groathouse:



- general construction (but not necessarily general contractor) for south facility, A unit, Central Production Facility (CPF), K unit
- Project manager: James Mackey, superintendent: Rick Nelson
- subcontractors: Elco Drilling, Barton Construction, Custom Fence, Mobile Concrete, others to be determined
- Kloefkorn/ Ballard:
  - general construction (admin/ warehouse building only)
- Design Professionals
  - Plan One (south facility including A unit, not CPF/ K unit)
    - Subcontractors: Terracon (soils testing, etc.), Bay & Lower (structural), others to be determined
    - Lead design: Skip Young
  - Tobin (CPF/ K unit)
    - Subcontractors: to be determined
  - Terracon
    - Geo-tech (generally subbed out, but some direct contracts with SBC)
- Bonding/ Funding Entities
  - Wyoming Building Corporation (WBC): quasi-public facility lessor, site lessee, funding source (i.e. floated bonds to finance construction)
  - Hanihen Imhoff: investment/ bonding team: (also local teams)
  - Kutak Rock: bond counsel (also some local counsel)
  - Wyoming Bank & Trust: trustee/ depository of various bonds and available construction funds

### **Key Dates:**

- October 1977: BLM grants 640 acres to State for development of penitentiary
- 1980: north facility opens (housed about 500 medium security inmates)
- Late 1980s/ Early 1990s (approximate): State sued by federal Bureau of Prisons for prison conditions at north facility
- Late 1980s/ Early 1990s (approximate): SBC sues design professional of north facility
- Early/ Mid 1990s (approximate): re-grouting project undertaken to repair structural issues at north facility, due to spread footing/ pad design
- October 1995: initial bond counsel & investment bankers' correspondence with details of lease revenue bond financing, for south facility construction
  - State will convey title to facilities to public nonprofit corporation (separate entity from State), which would then lease facilities back to State
  - State must make periodic rent payments subject to appropriations
  - Corporation will issue certificates of participation (through indenture of trust) in amount equal to sale price, secured by interest on the facilities



- Trustee would be assignee of all rights of corporation, and administer the financing program/ collateral
- If default, State would have to vacate leased facilities
- December 1995: DOC contracts with Criminal Justice Institute for study of prison needs & capacity
  - Study finds north facility has expanded beyond capacity/ outside of safe operating conditions
  - Many inmates housed out-of-state at high costs to the State
- March 1996: legislature appropriates \$41.7 million for new construction, per section 300(b)(i) of budget bill
- October 1996: SBC contracts with Plan One for design services at south facility
- December 1996: letter from Plan One to Director Uphoff, explaining information from soils report
  - Handwritten notes: “Existing prison is spread on pad type [foundation] we don’t recommend”
- February/ March 1997: because of proposed lease bond revenue financing, legislature removes \$41.7 million appropriation for new construction
- October 1997: letter from Plan One to LaPlante w/ copy of Terracon proposal for soils testing
  - Plan One recommends go-ahead, question of direct billing v. subcontracting
  - Scope of services: evaluate subsurface soil & groundwater conditions, provide recommendations for foundations, slab, and dirt work
- October 1997: original Terracon soils report prepared for Plan One
  - Geo-tech report & recommendations for subsurface soil/ groundwater/ bedrock conditions, foundation/ floor slab/ pavement design & construction, lateral earth pressures, earthwork, and drainage
  - 23 test borings drilled with groundwater, bedrock & soil testing
  - “Site appears suitable for proposed construction” but expansive bedrock & soils “will require particular attention in the design and construction”
  - Grade beam/ drilled pier foundation recommended
  - Structurally independent slabs may lessen floor movement due to bedrock moisture changes
  - If owner selects slab on grade, recommends fill of non-expansive soil & gravel, isolation joints, contraction joints, and isolation of partition walls
  - Also contains recommendations for surface drainage (including grading) gutters with 10 foot offset for gutters/ sprinklers, no planters, etc.
  - Recommends Terracon review final design specs for geo-tech issues



- November to December 1997: SBC retains investment bankers and private bond counsel for lease bond revenue financing
- December 1997 to January 1998: SBC selects trustee, approves draft legislation, approves \$47.36 million in lease bond revenue financing (approximately \$5million in capitalized interest), prepares legal documentation for various entities
- February 1998: dirt work addendum from Plan One, includes moisture control
- February to April 1998 (approximate): legislature approves prison bill for lease bond revenue financing, WBC formed, bonds advertised/ rated/ underwritten
- March 1998: LaPlante hired as A&I's lead project manager
  - Dave LaPlante required to: (1) act as A&I's on-site project representative; (2) review all quality and technical issues with A&I and design professionals; (3) review all inspection reports, pay applications and other correspondence with A&I and design professionals; (4) attend pay application meetings; and (5) provide written progress reports as requested by A&I.
  - LaPlante was primary State contact point for all construction and design issues. A&I's directors/ administrators had a lesser degree of involvement with day-to-day issues
  - SBC required change order approval/ escalation for higher amounts through LaPlante, A&I director, then governor
- March 1998 (approximate): HB0054 signed, approving lease bond revenue financing for south facility
  - Background info: Existing north facility designed for only 541 inmates, but total statewide prison population of 1,286 as of February 1998
  - Statement of intent: relating to leasing of correctional facility, authorizes SBC to approve the formation of a Wyoming nonprofit corporation from which the State may lease prison facilities
  - Authorizes DOC, subject to SBC approval, to execute a lease agreement with a private party to obtain use of prison facilities
    - DOC cannot pledge state's full faith/credit for lease payments
    - Lease obligations for State can be terminated if no appropriation
    - Lessor will be a nonprofit corporation, separate from the State, but its organization is subject to SBC approval
    - Bond financing scheme subject to independent consultant's review
- March 1998: public AG opinion issued on financing plan, concludes WSP financing/ legislation did not create an unconstitutional public debt
  - SBC would approve the formation and an initial, self-perpetuating board of directors of the WBC, a nonprofit entity



- State would continue to own the land for the new facility, which would be leased to the WBC for a 24-year term.
- The WBC would float 20-year bonds for approximately \$72 million in WSP construction costs.
- The SBC (through A&I) would construct/ equip WSP for a fixed price, as part of a construction agreement with WBC
- WBC would own the WSP facilities, and lease the facilities to the State for 19 years subject to a non-appropriation clause.
- The WBC would use its lease payments to service the bond debt and purchase general liability insurance.
- After 19 years, the State could exercise an option to purchase the WSP facilities.
- March 1998: bid packages opened for south facility, No. E-0144A-I
  - \$44.7 million total (with 5% contingency)
  - Dirt work split into phases, Phase I package bid in Feb. 1998, Phase II bid later
- April 1998: SBC approves WBC articles of incorporation & initial organization, selects board of directors
  - WBC acts as a public benefit corporation under W.S. 17-19-1804
  - Upon dissolution, all assets go to the State
  - State's default may result in foreclosure on leased facility
  - Substantial completion set for October 2000
- May 1998: Groathouse provides proof of liability insurance (\$2 million general, \$5 million umbrella)
- May 1998 (approximate): dirt work at south facility begins
- May 1998 (approximate): WBC/ SBC facility lease executed
  - WBC pays taxes, utilities, general liability insurance
  - State pays rent, provides public liability insurance
  - WBC holds title, but State can modify/ remodel at its own expense
  - Standard State non-assignment/ destruction/ sovereign immunity clauses
- May 1998 (approximate): WBC/ SBC site lease executed
  - Begins at date of execution, terminates October 2023 (bond maturity date), subject to early purchase option or default
  - Standard state right of entry/ destruction/ sovereign immunity clauses
  - WBC pays rent, also provides general liability insurance
- May 1998 (approximate): WBC/ SBC agreement to construct executed
  - WBC= facility owner
  - SBC= general contractor & site owner



- SBC required to construct improvement on land, acquire/ install improvements, meet completion dates, process change orders if no material adverse effect to value
  - SBC must require 1 year warranty period from subcontractors (i.e. prime contractors)
  - SBC assigns rights to proceeds from bonding claims to WBC
  - SBC requires subcontractors to carry builder's risk insurance until WBC insures for these purposes
  - WBC can enforce construction contracts if necessary
- As consideration for improvements of prison, WBC has paid SBC \$55 million from 1998/ 2000 bonds, will pay additional \$8.5 million from 2001 bonds (but actual issue closer to \$50.4 & \$12.9 million)
- SBC can request payment (if lien waiver) as project proceeds
- If default, State consents to use of leased property as a private prison
- May/ June 1998: SBC contracts with various prime contractors executed
  - IME: \$3.5 million for electrical services
  - Custom Fence: \$1.3 million for fencing
  - Kloefkorn- Ballard: \$ 3.4 million for general construction of admin./ warehouse buildings
  - Groathouse: \$13.95 million for general construction of south facility (including Pod A later via change order)
  - KK Mechanical: \$7.95 million for mechanical work for south facility & admin./ warehouse buildings
  - High Country Construction: \$1.058 million for rough grading, dirt work, construction of building pads/ roads
  - Mask Systems: security systems (not bid until July 1998)
- June 1998: first agreement to construct between SBC/ WBC executed
  - SBC will construct improvements/ acquire & install equipments promptly, in exchange for payment from construction account
  - Requires performance & payment bonds from all subcontractors (i.e. prime contractors), also contains insurance requirements
  - Pre-construction design services complete, paid from State funds but will be reimbursed to State from portion of bond funds
- June 1998: \$50.4 million in AAA-rated bonds issued to fund construction+ design of south facility
  - Several funds created, including construction fund with project account
  - Bond issue secured by interest in leased property (total of 16 acres leased)
  - 404 bed facility of around 170,000 sq. ft.
  - All bids finalized except finish site work (security, etc.)



- No GMP set for primes' contracts
- SBC will use standard construction contracts, builder's risk insurance required
- WBC holds general liability/ public liability insurance for leased property
- State required to pay attorneys' fees for certain WBC litigation
- June 1998: prime contractors mobilize on site, i.e. build phase begins
- July 1998: correspondence from investment bankers to A&I
  - WBC's EIN 83-0322325 established under "governmental organization"
  - \$50.4 million in tax-exempt bonds issued that month, approximately \$44 million on deposit with trustee for paying construction costs, etc.
- July 1998 (approximate): some (most?) piers completed at south facility
- August 1998: formation of grade beam for C/D/E units
- Fall 1998 (approximate): floor slabs poured/ some foundation work continues
- September 1998: inter-agency A&I memo re: deductible for builder's risk insurance
  - appears as though State holds E&O insurance on project
  - but no reference to policy number/ insurer
- October 1998: letter from Lower to LaPlante re: foundation system
  - Drilled piers used b/c shallow bedrock & expansive soil conditions
- April 1999: \$3.5 million in general funds appropriated (during build phase) for taut-wire fence and re-lighting
- June 1999: Plan one design contract amended for additional testing services through Terracon (original amount maxed out)
- June 2000 (approximate): legal survey/ title search conducted, no issues
- August 2000: SBC contracts with Tobin for \$408k in design services for CPF facility
- August 2000: south facility 98% complete, admin/ warehouse building 100% complete
- September 2000: certificate of occupancy issued for South Facility
- October 2000: design stage for CPF begins, construction will begin early spring 2001, substantial completion set for April 2002
- October 2000: change order log for Groathouse completed
  - Includes additional \$6.5 million for Pod A construction
  - Final amount: \$22 million
- February/ March 2001: \$9.13 million appropriated for CPF, and \$994k appropriated to rehab water service to bring new buildings online
- March 2001: SBC contracts directly with Groathouse for general construction of CPF, \$8.023 million
- April 2001: substantial completion of south facility



- April 2001: SBC contracts directly with Terracon for soil testing/ inspection services at CPF
- May 2001: certificate of occupancy issued for admin/ warehouse building
- May 2001: WBC/ SBC agreement to construct amended (second time) to reflect new construction/ additional projects
- July 2001: all inmates moved from north facility, study of that facility commences
  - North facility fully vacated at this time aside from kitchen/ laundry
- December 2001: North facility study completed & presented to legislature
  - Prepared by Plan One, in association with Criminal Justice Solutions, Rosser, Lower & Co., TST Consulting Engineers, Terracon, and Grothouse
    - Prepared for DOC/ A&I (and ultimately legislature) to determine whether to repair or abandon facilities
    - Looks at structural integrity, life safety, security, overall systems, and compliance issues
  - Difficult to staff additional facility at Rawlins for projected inmate populations
  - Numerous geo-tech & structural problems
    - Slab on grade floors in fair condition (except in mechanical rooms, poor condition there)
    - High failure rate for buried metals (reactive soils)
    - Very poor, sometimes non-existent internal drainage systems
    - Could overall be rehabilitated with full replacement of mechanical room slabs (including structural fill) & drainage systems
    - Significant deterioration of ceiling and floor tiling, cracked interior masonry walls, total failure of precast exterior walls
  - Numerous code violations, window & door leaks, etc.
  - Plumbing/ HVAC/ electrical systems in fair to good condition
  - Overall poor to fair condition assessment
    - Full renovation to bring buildings up to code, etc.: \$89 million
- January 2002: letters from LaPlante to Director Uphoff re: reinforcement & structural issues at south facility
  - Lower found non-structural issues in corridors 165, 183 and cell H-130
  - LaPlante concerned about slab curl in gym (where floor is bonded to grade beam at south end), Lower diagnoses as “differential curing strain,”
  - No major issues found with rebar/ reinforcement testing
- August 2002: certificate of occupancy issued for CPF
- August 2002: CPF opened, north facility kitchen/ laundry vacated
- January 2003: Governor Freudenthal sworn in (replaces Gov. Geringer)





- December 2003 (approximate): GSG contracted for K Unit design services
- February/ March 2004 (approximate): WSP bonds paid off by State
  - State had \$1.2 billion surplus in mineral tax funds at this time
- Early 2004 (approximate): design phase for K Unit begins
- May 2004: WBC registered as “inactive” with Secretary of State
- 2003 or 2004 (approximate): some windows began cracking
  - Floor slabs heaving, but superstructure not moving
- May 2008: south facility architect’s professional liability insurance expires
  - i.e. end of claim deadline under extended discovery period
  - DPIC policy no. PPL878581
- 2010 (approximate): cracks observed on exterior stucco (EFIS)
- December 2011: Gym wall stress fractures noted by WSP staff to WDOC central office and A&I
- December 2011: structural engineer (Lower, P.C.) contacted to visit the site & evaluate the situation
- December 2011: Lower, P.C. engineer submits site observation report to DOC
- July 2012: Lower, PC. engineer visits WSP for an additional observation of continued cracking
- August 2012: Lower, P.C. engineer consults with Terracon engineer regarding movement in the Gym
- August 2012: Discussions with Terracon regarding soil borings within the building in the area of the cracking
- October 2012: Soil borings initiated inside the building
- January 2013: Terracon recommends a baseline survey for the facility to monitor movement over time
- January 2013: Terracon Geo-tech report on October 2012 borings submitted
- January 2013: Cracking observed in the K unit (constructed in 2005-06), GSG Architecture contacted by WSP, who then contacted the structural engineer on that project, S.A. Miro.
- March 2013: S.A. Miro responds with findings
- May 2013: Terracon site visit to observe further cracking issues
- July 2013: Building survey plan developed
- August 2013: N.T.P. issued 8-16-13 to Coffey Engineering for WSP surveying
- September 2013: Discussion with Terracon regarding groundwater monitoring wells
- October 2013: Terracon drilled and completed three monitoring wells at WSP
- October 2013: Design contract for drainage correction project
- December 2013: Terracon Groundwater study submitted to WDOC
- January 2014: Lower Co. submits cost estimate for drainage correction work



- February 2014: Bid advertisement for WSP drainage correction work
- February 2014: Cracking observed in the “A” Unit area
- February 2014: Terracon/lower Co. forwarded photos of cracking in area “A”
- February 2014: Lower Co. scheduled for site observation of “A” unit cracking
- March 2014: Coffey Engineering contract amended to continue site survey at WSP
- March 2014: certain sewer lines videotaped for breaks
- March 2014: Began discussion/ investigation of soil stabilization potential at WSP
- March 2014: Bid results in for drainage correction work, only 1 bid
- April 2014: Conference call with CST to discuss potential soil stabilization techniques at WSP
- August 2014: A Pleasant under contract for drainage correction work at WSP
- August to November 2014: A Pleasant construction work proceeds on certain courtyards/ side of facility
- November 2014: Work shutdown due to winter conditions
- December 2014: Wall/beam support issue identified in certain corridor
- December 2014: Lower Co. site inspection of certain corridor wall/beam support issue
- December 2014: Lower Co. observation report of certain corridor issue
- December 2014: Contact made with Martin/Martin Wyoming for possibility of third party validation of what A&I/ DOC were finding at WSP
- December 2014: Received design recommendations from Lower Co. regarding the certain corridor issue
- January 2015: Meeting with Martin/Martin to discuss their proposal for structural investigation of the South Facility
- January 2015: Martin/Martin engineers visited the facility for a tour of the affected areas
- February 2015: A&I requests assistance from AG representatives
- February 2015: Discussion begins about destructive testing in certain areas of WSP to determine the cause(s) of the damage
- March 2015: Terracon engineers at WSP for site observations
- March 2015: Martin/Martin continue to review WSP reports and documentation
- April 2015: Destructive testing starts at WSP
- May 2015: Discussions regarding destructive testing at WSP to include: additional areas and selected pier testing
- June 2015: Additional destructive testing at WSP
- July 2015: Door & Window issues become a growing issue at the facility
- July 2015: Concerns with certain control room voiced to structural engineer by J. Heier



- July to August 2015: Discussions begin with a detention contractor regarding potential repairs to security doors and windows
- August 2015: Discussions with DOC regarding repairs to other systems, fireproofing, etc. caused by the continued movement
- August 2015: Proposal received for door and window repair from detention contractor. Being reviewed by DOC, A&I and State Fire Marshal's office.
- September 2015: Additional soil samples taken from inside the facility to determine the swell potential of the soils under the affected areas
- September 2015: Discussion and contract negotiations begin with UL regarding door & window design & repair at WSP
- October 2015: A&I contracts with CTL Thompson for soils testing
- November 2015: Roof repairs made over the certain control room to insure roof membrane integrity over the winter.
- November 2015: Cost Estimator engaged by Martin/Martin to establish preliminary repair estimate for the facility
- December 2015: Martin/Martin WSP Structural report received
- December 2015: full review of 80-100 archived "bankers' boxes (original WSP construction/ project documents) begins
- December 2015 through January 2016: review of report by DOC and A&I.
- January 2016: Report findings to SBC. Presentation to SBC by John Lund, Martin/Martin
- March 2016: Senate File 0091/ SEA0054 enacted (state penal facilities review)
  - Creates temporary task force to analyze/ recommend overall solutions for WSP structural problems and related inmate housing issues.
- March 2016: Structural engineer site visits to view new areas of DOC concern
- March 2016: Discussion regarding placement of permanent survey benchmarks at the WSP site to insure accurate survey data for ongoing monitoring of movement
- March 2016: AG's office contracts with Martin/ Martin for non-testimonial consulting services
- Apr. 2016: Water monitoring wells measured