

issue. We solicit the views of all interested parties, not just individuals and businesses in the affected area.

15 U.S.C. 261 states that the standard for making this decision is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce." In order to determine what decision would support "the convenience of commerce," the Department looks at a wide variety of factors about how the potential change would affect the community and surrounding areas.

Time zone boundaries were originally set up in the late 1800s. Although they were based on geographic considerations (*i.e.*, the sun should be more or less overhead at noon), the exact boundary was set largely based on the convenience of commerce and the needs of the railroads. In addition, geographic boundaries, such as mountains and rivers, also play a role. Therefore, it is reasonable to expect variation in the time zone boundary alignment. In North Dakota, the western time zone boundary between central and mountain time extends to the North Dakota-Montana border in the north of the State near Williston and has largely followed natural boundaries such as Lake Sakakawea and the Missouri River. In recent years, however, there have been a number of requests by counties west of the river to change to central time. DOT changed Oliver County in 1992, and is currently considering requests from Sioux and Mercer Counties to move their time zone boundaries.

Currently, Morton County is one of the few counties in the United States split by a time zone boundary. The eastern portion of the county, which includes the county seat and largest city in the county (Mandan) is on central time. The western portion of the county, which is more rural, is on mountain time. The counties bordering Morton County are split between central and mountain time observance. Oliver County, Burleigh County (which includes the major city in the area, Bismarck), Emmons County, portions of Sioux County, and the Standing Rock Sioux Reservation all observe central time. Grant County, Hettinger County, Stark County, and Mercer County observe mountain time.

#### *History of This Proceeding*

In a petition dated April 9, 2001, the Chairman of the Board of County Commissioners for Morton County asked the Department of Transportation to move the western portion of Morton County, North Dakota, from the

mountain time zone to the central time zone. In support of the petition, the Chairman noted the following factors:

"The City of Mandan is the largest city in Morton County (with over 66% of the county's population according to the 2000 Census) and operates on Central Time. Virtually all the supplies for the balance of the county come out of Mandan or Bismarck, North Dakota, which is in the central time zone.

Virtually all county residents travel to Mandan or Bismarck for medical services, shopping, entertainment, or to do business with county or state government.

Commercial airline services are based in Bismarck, North Dakota and require county residents to travel there to catch flights to other parts of the United States.

Most all television and radio stations broadcast from Mandan or Bismarck and the only daily newspaper in the area is published in Bismarck, North Dakota which is just across the Missouri River from Mandan.

The County Commissioners put the time issue to a straw vote in the June 13, 2000 Primary Election. Only the five (5) precincts that operated on mountain time voted on the time issue, Yes 625, No 572. There are twelve precincts in the county on central time. The commission held a meeting on the time issue in July 2000 and only one (1) person showed up to request the balance of the county in Mountain Time Zone. March 6, 2001 the commission held another meeting on the time issue based on the people wanting the commission to request the time change for the balance of the county. 46 persons attended the meeting with 28 expressing their opinion favoring to change the entire county to the Central Time Zone and 18 expressing their opinion that they wished to keep the balance of the county in the Mountain Time Zone. Most all the people that attended the meeting were from the precincts voting in the June 13, 2000 Primary Election.

Geographically, Morton County is well suited to be in the Central Time Zone. Oliver County directly north of us operates in Central Time Zone and Mercer County north and west of us is considering changing to Central Time zone."

On August 3, 2001, the Department published a notice of proposed rulemaking (66 FR 40666) announcing the proposed change and inviting public comment. A DOT representative conducted a hearing in New Salem, ND, on August 28, 2001. The hearing was attended by over 100 people and lasted several hours. The DOT representative tried to gauge the position of the attendees by an informal show of hands during the hearing. By show of hands, sixty were in favor of central time and fifty-four people were in favor of mountain time.

The NPRM also invited the public to submit written comments to the docket. There were over seventy submissions to the docket. The submissions included detailed letters, one form letter

submitted by twelve people, and short messages expressing a preference for either the central or mountain time zone. We appreciate the time and effort of the people who expressed their opinion at the public meeting and through written comments, and who provided the factual basis upon which to make a decision.

#### *Comments*

Those in favor of mountain time noted that, based on the sun, Morton County is appropriately in the mountain time zone. These commenters observed that if the change were made, there would be very late sunrises and sunsets, and that the sun would not be overhead at noon. Several ranchers and farmers stated their belief that mountain time made it easier to do their chores and outdoor activities.

Others stated that they were not confused or inconvenienced by the present observance and had never missed an appointment in their impressively long lives. Some said, "if it ain't broke, don't fix it." A number of people that live in the far west and south of the county noted that they were more tied to neighboring counties on mountain time than areas to the east. Others noted that a change would simply shift the inconvenience of living on a time zone boundary to their neighbors to the west.

A number of parents and grandparents noted the danger of sending children to school on icy or snowy, rural schools before sunrise, and before adequate plowing or road treatment. A few anticipated that later sunsets would interfere with serving dinner and getting young children to sleep.

A number of people expected adverse impacts on education and schools, if the change were made. For example, several discussed local schools' reliance on interactive instructional television and voiced their concern that a change would adversely impact class scheduling. Others discussed school sports events and the potential difficulties in scheduling both students and parents.

Several commenters noted that they use the current time boundary to their advantage. For example, one can schedule early medical appointments in Bismarck and get home before school starts. Others are able to participate in more community or school activities because they work in central time and get home an hour earlier than they would if they also lived in central time. A number of commenters expressed a strong personal preference for mountain