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INTERAGENCY COORDINATION

Lack of coordination among federal, state and local agencies can delay transportation projects and cause unnecessary loss or degradation of wildlife habitat. Indeed, the transportation, natural resource and cultural resource agencies that work on transportation projects often seem to be working at cross-purposes, rather than in collaboration. A recent study by the Federal Highway Administration found that only eight percent of delayed transportation projects were delayed by resource agency review.¹ Nevertheless, these delays can be reduced by coordinated planning between transportation and resource agencies.

Typically, these delays occur because transportation agencies are late to consult resource agencies about the environmental impact of a proposed project. Congress, in the most recent federal surface transportation funding bill (TEA-21), required improved coordination among agencies. Guidelines issued by the FHWA state:

“Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) calls for a coordinated environmental review process to expedite Federal highway and transit projects. Accomplishing this requires better and earlier coordination among Federal, state, and local agencies. To avoid delays and costly duplication of effort in reviewing and approving transportation projects, agencies must:

“Establish an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible;

“Integrate the National Environmental Policy Act (NEPA) process and other environmental review and approvals as early as possible in the scoping and transportation planning processes;

“Encourage full and early participation by all Federal, state, and local agencies that must review a transportation construction project or issue a permit, license, approval, or opinion relating to the project; and

“Establish a dispute resolution mechanism to address unresolved issues.”²

In response to these guidelines, several state departments of transportation have initiated formal or informal partnerships with resource agencies. The following case studies look at how the Oregon Department of Transportation and the California Department of Transportation have sought to improve project delivery and environmental protection through better coordination.

Oregon’s Collaborative Environmental and Transportation Agreement for Streamlining (CETAS) Program

In response to directives in TEA-21, the Oregon Department of Transportation (ODOT)

has implemented a coordinated review process for highway construction projects. The process, the Collaborative Environmental and Transportation Agreement on Streamlining (CETAS), establishes a working relationship between ODOT and ten state and federal transportation, natural resource, cultural resource, and land-use planning agencies. The agencies include Oregon’s Department of Land Conservation and Development (DLCD), EPA, FHWA, National Marine Fisheries Service (NMFS), Oregon Department of Environmental Quality (ODEQ), Oregon Department of Fish and Wildlife (ODFW), Oregon State Historic Preservation Office, Oregon Division of State Lands (ODSL), Army Corps of Engineers, and U.S. Fish and Wildlife Service (USFWS). ODOT intends to use the CETAS process for all environmental impact statements and environmental assessments that are prepared for projects that impact natural resources.³ The ultimate goal of CETAS, according to ODOT Environmental Services Manager Lori Sundstrom, is to “produce transportation projects that are as environmentally benign as possible.”

CETAS identifies six “pillars” that support efficient project delivery without sacrificing environmental quality:

1. Environmental Management System (EMS). Not yet established within ODOT, EMS is intended to address the life cycle impacts of ODOT’s activities, products, and services on the environment. In addition to ensuring that ODOT meets its environ-

mental stewardship obligations in the most efficient manner possible an EMS would provide ODOT with routine feedback on its environmental performance.

2. Habitat Mitigation Program. This program, initiated by ODOT but open to participation by other state, regional, and local governments, was established to purchase or create wildlife habitat in anticipation of impacts from future transportation projects. ODOT plans to develop its own wetland mitigation bank under the initiative.

3. Natural and Cultural Resource Mapping Program. Once fully implemented, this program will use a geographic information system (GIS) to map sensitive natural and cultural resources. It will also gather data from a variety of agencies and relate it to the state highway system. This will provide comprehensive views of resources in or near planned project areas, and support collective decision making regarding the actions necessary to sustain and improve critical habitat. The goal is to develop future transportation projects in such a way that whenever possible they *avoid* impacts to critical natural and cultural resources.

4. Expanded Programmatic Approvals. This element seeks to increase the kinds of construction and maintenance activi-

ties covered by programmatic agreements or permits and includes joint or parallel programmatic biological opinions from National Marine Fisheries Services/NOAA Fisheries and the U.S. Fish and Wildlife Service, developing regional general permits with the U.S. Army Corps of Engineers as well as maximizing use of Nationwide Permits, and highway-specific General Authorization permit from the Oregon Division of State Lands. ODOT and its CETAS partners are exploring a permitting approach founded on desired environmental outcomes that consider the temporary disruption from construction as well as the on-going impacts of the finished project.

5. Seamless Performance by Local

Governments and Contractors. Under this element, ODOT will improve its training of consultants, contractors and the local governments that receive federal funds that pass through ODOT to ensure the quality of their environmental management practices.

6. Expanding CETAS Partnerships. The final pillar involves extending an invitation to federal land managers, such as the U.S. Forest Service and the Bureau of Land Management, and other local, regional, state or federal governments or agencies to join CETAS on either a permanent or ad hoc basis.⁴

Before ODOT established CETAS, the first opportunity for natural and cultural resource agencies to provide input on an ODOT project was during the project development and final design stage. Such a process, common to most states, means that critical input from resource agencies is unavailable at key decision points in the project development and design process. This often leads to conflicts between resource and transportation agencies and to delays during environmental review while resource agency concerns are addressed and the project is potentially redesigned. Worse, by not providing opportunity for involvement early in the design process, transportation agencies may lose the opportunity to avoid environmental impacts, and instead may be forced to undertake costly and less environmentally beneficial mitigation measures.

Under CETAS, resource agencies are involved in the early planning stage of major projects, and that involvement continues throughout project development. ODOT seeks concurrence from the agencies at four key decision points in project development: purpose and need, range of alternatives to be studied, criteria for selection of a preferred alternative, and selection of the preferred alternative. Concurrence does not replace or supplant official agency actions or approvals required by law, but it is intended to represent a good faith indication of each agency's acceptance of the project at those points in time. CETAS meets monthly to accomplish project reviews and to work on the various improvement initiatives described

above. This also serves to keep all parties informed of potential future conflicts. By tapping into the expertise of natural and cultural resource agencies, ODOT is better able to avoid environmental impacts, assess how to minimize those impacts, and receive valuable advice on selecting optimal mitigation strategies. CETAS members believe that because potential environmental or cultural impacts should be kept to a minimum, the environmental review process, while still exhaustive, should be less controversial, less costly, and less time consuming, and therefore proceed more quickly.

To further improve the environmental review process, ODOT is funding several positions at resource agencies. Using federally-reimbursable funds, ODOT is funding one position at the U.S. Fish and Wildlife Service (FWS), two positions at the Oregon Division of State Lands (ODSL), and three positions at the Oregon Fish and Wildlife Department. ODOT has detailed three ODOT biologists to NMFS/NOAA Fisheries to supplement their staff because of a staffing cap at that agency. ODOT is also evaluating the benefits of funding one position at the State Historic Preservation Office (SHPO). These employees work exclusively to evaluate the environmental impact of ODOT projects, and provide technical assistance to ODOT staff, and so are not forced to choose between their regular work obligations and requests for assistance with environment reviews.⁶

While it's still too early to formally evaluate CETAS's effectiveness, (ODOT has begun, but not yet completed, a thorough review process),

participants in the program are optimistic about its potential to simultaneously expedite project delivery and improve environmental protection.⁷ An early review of the first three major transportation projects to utilize the CETAS process found concurrence on each aspect of the projects for all participating resource agencies.⁸ (See Appendix D for the CETAS memorandum of understanding.)

California's Tri-Agency Partnership Agreement

In February 2001, California's three major transportation and resource agencies — the California Environmental Protection Agency (Cal/EPA), the Resources Agency (RA), and the Business, Transportation and Housing Agency (BT&H) — established a Tri-Agency Partnership to speed transportation planning without compromising on environmental protection. The partnership was born out of the recognition that transportation projects, especially those that promote environmental objectives, need to be delivered in a timely fashion, and that improved collaboration among the three agencies was central to achieving that goal.¹⁰

The agreement identifies two purposes for the partnership. The first is to encourage its three member agencies to work collaboratively and cooperatively. The second is to ensure the timely planning and implementation of transportation projects that protect or restore the state's environment.¹¹ Among such projects would be those that promote walkable, livable communities,

environmental justice, regional planning, and cultural and environmental conservation.¹²

The partnership agreement further establishes nine goals for the future. At the most basic level, the three member agencies will identify and share information on transportation and environmental priorities and develop transportation and environmental performance criteria by which the agencies can evaluate and improve transportation projects.

Perhaps most important, the Tri-Agency Partnership encourages the “early and continuous participation of affected state, federal and local agencies, public interest groups, and the public” throughout the planning and approval process. The partnership also establishes as a goal that member agencies work together to determine the nature and scope of environmental studies, and to develop baseline environmental resource information.¹³

The partnership will also look for ways to conduct concurrent environmental and permitting processes, and to develop a process for interagency issue resolution with appropriate timelines for completion.¹⁴

Since its establishment, the Tri-Agency Partnership has formed three sub-teams to work on the various goals. The first sub-team will focus on encouraging collaborative planning early in the project development process. The sub-team sponsored a workshop in November, 2002, with the University of California at Davis to identify regions where conflicts are developing between growth and environmental concerns and initiate efforts to resolve them. The

sub-team is working with regional agencies to coordinate habitat conservation planning with long-range transportation and land-use plans (as has been done in Riverside and Merced Counties, California), in an attempt to avoid or mitigate environmental impacts.¹⁵

The second sub-team is examining opportunities to align data and information requirements of federal and state permits in an effort to lessen environmental review burdens. The third sub-team is evaluating information tools such as Geographic Information Systems (GIS) that might help improve decision-making, and in particular, identify opportunities to avoid sensitive habitat or other natural resources.¹⁶

The Tri-Agency Partnership is less formal than ODOT’s CETAS program. However, the two approaches share a common goal — early and continuous collaboration between transportation and resource agencies. The Tri-Agency Partnership has helped instill in all the departments under the three agencies a much greater awareness of opportunities to incorporate environmental enhancements in transportation projects. While administrators of the partnership have yet to complete a formal review of its effectiveness, there continues to be a strong commitment from high-level officials, and participants are optimistic about the partnership’s potential.¹⁷

Some results from the Tri-Agency Partnership include:

- A revived effort between the state Department of Fish and Game and CALTRANS to align various state and federal

requirements related to the aquatic environment, endangered species, and streambed alteration. (CALTRANS is the California Department of Transportation, a constituent agency of BT&H).

- A project in which CALTRANS and the California Department of Parks and Recreation worked together to connect two important habitat areas in Orange and Riverside counties by removing highway off ramps that were no longer needed and in their place created a wildlife underpass in Coal Canyon.

CONCLUSION

Though an FHWA study found that the most significant sources of transportation project delay were lack of funding, low priority, local controversy, or the inherent complexity of the project, resource agency review may in some cases slow project delivery. Recognizing this, TEA-21 establishes “full and early participation by all relevant agencies...”¹⁸ as a key objective of environmental streamlining efforts. Further, Section 1309 permits state DOTs to provide Title I (highway program) funding to natural resource agencies to help expedite the review process while ensuring that environmental concerns are fully considered.

To date, however, few states have embraced the idea of interagency coordination. The two exceptions profiled above provide strong evidence of the merits of involving all relevant agencies early and substan-

tively. Early involvement of natural resource agencies helps transportation project planners develop projects with minimal environmental impact.

Early involvement gives resource agencies an opportunity to work with transportation planners to identify potential conflicts between road projects and environmental and cultural resources and make appropriate adjustments. In some cases, the process is so successful that the transportation agencies are able to avoid a full Environmental Impact Statement review. Regardless of the level of project review that is required, the early involvement of resource agencies ensures that there won't be any surprises when the agency is asked to comment on the environmental or cultural impacts of a proposed project. This alone has the potential to greatly expedite project delivery, and make for better projects.

RECOMMENDATIONS

- Fund full-time employees at relevant agencies to work exclusively on environmental and cultural resource reviews for transportation projects.
- Establish Environmental Review Committees composed of high-level representatives from each of the relevant federal and state agencies.
- Hold regular meetings of the Environmental Review Committees to discuss upcoming projects and identify potential conflicts and impacts.

RESOURCES

FHWA Streamlining Initiatives <http://www.fhwa.dot.gov/environment/strmlng/prodlist.htm>

CalTrans Tri-Agency Partnership http://www.dot.ca.gov/hq/transprog/ctcbooks/1201/4_9.pdf

INTERAGENCY COORDINATION AND TEA-21

In an effort to improve project delivery, TEA-21 required improved coordination among all involved agencies. Section 1309 calls for a coordinated environmental review process to expedite Federal highway and transit projects. Accomplishing this requires better and earlier coordination among Federal, state and local agencies. To avoid delays and costly duplication of effort in reviewing and approving transportation projects, agencies must:

- Establish an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible;
- Integrate the National Environmental Policy Act (NEPA) process and other environmental review and approvals as early as possible in transportation planning;
- Encourage full and early participation by all Federal, state, and local agencies that must review a transportation construction project or issue a permit, license, approval, or opinion relating to the project; and
- Establish a dispute resolution mechanism to address unresolved issues.

OPPORTUNITIES FOR REAUTHORIZATION

- Retain Section 1309 and allow states to continue making progress in improving project delivery through interagency coordination.
- Provide financial incentives for states to adopt coordination agreements with participating agencies.
- Reward states that show progress in project delivery by working in coordination with participating agencies and the public.
- Allow resource agencies to apply directly to DOT for eligible reimbursement funding.

1. FHWA. Reasons for EIS Project Delays. September 2000.
2. FHWA. Interagency Guidance: Transportation Funding for Federal Agency Coordination Associated with Environmental Streamlining Activities. 2002.
3. Oregon Dept. of Transportation. CETAS: A Vision for Joint Environmental and Transportation System Stewardship in Oregon.
4. Oregon Dept. of Transportation. CETAS: A Vision for Joint Environmental and Transportation System Stewardship in Oregon.
5. Northwest Environmental Streamlining and Transportation Forum. Meeting Minutes. May 10, 2001.
6. Personal communication. Lori Sundstrom, Environmental Services Manager, ODOT, December 16, 2002.
7. Personal communication. Lori Sundstrom, Environmental Services Manager, ODOT, December 16, 2002.
8. Oregon Dept. of Transportation. CETAS: A Vision for Joint Environmental and Transportation System Stewardship in Oregon.
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10. Partnership Agreement Among Resources Agency, California Environmental Protection Agency, and Business, Transportation and Housing Agency. February 21, 2001. California Transportation Commission. Executive Guide: Issues for 2002. From 2001 Annual Report to the California Legislature. Adopted December 13, 2001.
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14. Partnership Agreement Among Resources Agency, California Environmental Protection Agency, and Business, Transportation and Housing Agency. February 21, 2001.
15. Personal communication — Denise O'Connor, Caltrans. December 16, 2002.
16. Personal communication — Denise O'Connor, Caltrans. December 16, 2002.
17. Personal communication — Denise O'Connor, Caltrans. December 16, 2002.
18. FHWA. "Environmental Streamlining Overview." <<http://www.fhwa.dot.gov/environment/strmlng/overview.htm>>



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