

..... *Environmental Streamlining Panel Discussion*

ENVIRONMENTAL STREAMLINING PANEL DISCUSSION (SESSION SUMMARY)

Panelists:

Paul Garrett, Federal Highway Administration Headquarters (moderator)
 Megan Stanley, U.S. Senate Committee on Environment and Public Works
 Sam Morigeau, USDA Forest Service Headquarters
 Benjamin Tuggle, U.S. Fish and Wildlife Service Headquarters
 Leroy Irwin, Florida Department of Transportation
 Lyle Renz, Skillings-Connolly Consulting Engineers
 Patricia White, Defenders of Wildlife

Summary

The purpose of this panel discussion was to review agency progress on the environmental streamlining provisions of the Transportation Equity Act for the 21st Century (TEA-21).

Megan Stanley, U.S. Senate Committee on Environment and Public Works

Megan Stanley, aide to Senator Bob Smith (R-RI) who chairs the Senate Committee, reviewed the Committee's legislative responsibilities, the Congressional intent for environmental streamlining, and the proposals for improved implementation of ES over the next two years.

Stanley noted that the Committee has jurisdiction over the Federal Highway Administration (FHWA) and the environmental laws and agencies that administer them, including the Federal Emergency Management Administration (FEMA). The Committee's focus is on surface transportation (highways and rail), which Stanley said would likely be the subject of significant attention over the next several years while the airline industry works to recover from the aftermath of the September 11 terrorist attacks. It is anticipated that reduced flight schedules will result in potential increases in travel by highway and rail, which are already plagued by severe congestion. Security will be a predominant concern for the long term.

Senator Smith's guiding principle for environmental streamlining is the "need for a more holistic approach to environmental problems and infrastructure needs," said Stanley, "an approach that is based on cooperation, not confrontation . . . an approach that focuses on results, not command-and-control regulations."

The environmental streamlining provisions of TEA-21 grew out of a frustration with unnecessary project delays due to lack of coordination. Thus Congress is relying on the following three provisions to help resolve project delays:

1. Agencies will engage in a "coordinated environmental review process" that occurs concurrently, not sequentially, and that encompass time periods by which environmental reviews for a project, or class of projects, will occur.
2. Resource agencies that designate staff to facilitate a coordinated review process may have those staff salaries paid for by transportation agencies.
3. A dispute resolution process should be utilized to break down barriers in the coordinated review or permitting process.

Stanley said that while it has taken longer than expected for environmental streamlining to become institutionalized within the agencies, Congress will continue to address streamlining in the next legislation and create opportunities to move forward. These include expanding educational activities, examining a stronger role for FHWA to lead inter-agency coordination efforts, and promoting the development of programmatic agreements for classes of projects.

Sam Morigeau, USDA Forest Service Headquarters

Representing the Forest Service, Sam Morigeau reviewed FS initiatives and collaborative efforts related to environmental streamlining. Morigeau said that the Service's charge is unique: "we recognize highway improvements are very important and they should occur; on the other hand, we have our use of national forest lands that have strong public and Congressional support; therein lies an elevated conflict."

Morigeau emphasized the Service's commitment to environmental streamlining has been longstanding. He noted that over the years the FS has entered into numerous memoranda of understanding (MOUs), FOAs, and cooperative agreements with the states. Since TEA-21, the FS has been encouraged to "dust them off and emphasize streamlining."

In addition, the FS has designated lead coordinators in its regions and headquarters and has been active in many environmental streamlining meetings at the regional and national levels.

Morigeau said the agency sees several important challenges ahead that need to be addressed in order for environmental streamlining to work: addressing habitat linkages and land purchases/exchanges; effectively sharing the many information-rich databases that exist; devising mutually agreed upon best management practices (BMPs) for standards and guides; conducting cross training of agency staff; effectively utilizing context-sensitive design principles; and identify new research and development needs.

Benjamin Tuggle, USDI Fish and Wildlife Service

Like Morigeau, Benjamin Tuggle echoed the FWS' commitment to an expedited process. "It isn't a question of whether we do it or not," said Tuggle. "Of course we do it; it's a question of why we do it." Tuggle said that the "why" of environmental streamlining is to achieve a balance between the public's needs for transportation services and the needs of the environment.

In recent years, FWS has facilitated environmental streamlining in several ways, specifically by appointing regional coordinators for transportation needs, participating in the 1999 inter-agency memorandum of understanding, and an ongoing commitment to working with the state DOTs.

Early involvement in the process is essential, said Tuggle. It allows for the early discussion and institution of appropriate mitigation efforts. Equally important, he noted, is doing effective monitoring for the ecological mitigation implemented.

Leroy Irwin, Florida Department of Transportation

Leroy Irwin, manager of Florida DOT's environmental office, said "We're missing the boat when we talk only about shortening timeframes. Our focus should be on how we make decisions about transportation."

Irwin has led a new effort in Florida to develop an Efficient Transportation Decision Making Process (ETDM), the backbone of which is an extensive, information-rich geographic information system (GIS) database. The initiative was launched at a February 2000 summit meeting. From that meeting, a 40-member task force was organized to "blow up" the existing transportation planning process and design a new process developed by all the agencies that streamlines decision making and specifies clearly agency roles and responsibilities. "The ETDM process looks at planning from a systems level," said Irwin, and "melds federal and state planning processes with input from metropolitan planning organizations (MPOs) and local land use plans."

The rewards of the new process, which is currently being implemented, will include improved access to information, better identification of habitat linkages, a refocusing on the principles of NEPA, and a more efficient permitting process.

Lyle Lentz, Skillings-Connelly

Lyle Lentz introduced a project in Montana, which involves the re-evaluation of the human and natural environmental characteristics of a 56-mile stretch of the I-93 corridor through the Flathead Indian Reservation. (Please refer to page 244 of this proceedings for specific information about the "Preserving the Spirit of Place" project.)

While highway improvements along the corridor were needed, the tribes did not want the widening project to occur because of their concern for the secondary development that would likely result, destroying the cultural and ecological significance of the land. To forge a resolution, Montana Department of Transportation, FHWA, and the team of consultants for this project met with the tribes and agencies on a monthly basis to better understand the relationship between the land and the tribes, to establish landscape districts, and to restore the fragmented habitat.

"This project is about forging partnerships," said. Lentz. "The 'Spirit of Place' illustrates what defines the value of a place to those who occupy it, whereby the road is a 'visitor'." The context-sensitive process used to facilitate environmental streamlining in this project has become a model for transportation planning in the state.

Patricia White, Defenders of Wildlife

Trisha White, transportation associate for Defenders of Wildlife, stated that the goal of streamlining should be to identify and meaningfully address conflicts at the beginning of the planning process, not at the eleventh hour through litigation. The keys to better up-front planning include earlier involvement by stakeholders and natural resource agencies, more resources to facilitate that involvement, and a better information base to facilitate meaningful input by participants.

Defenders fully supports the objectives of streamlining to the extent that they lead to better, more wildlife-friendly decision making, and the organization encourages:

- **Early, continued and substantive involvement.** Many projects are delayed because they are planned and designed before regulatory agencies are ever consulted. If they are involved from the beginning, they can steer DOTs clear of problems early.
- **Focus on comprehensive planning.** Regional and state transportation plans that consider needs and requirements of other sectors are less likely to be delayed.
- **An integrated process, with public participation.** Projects conceived and designed in the mind and spirit of NEPA will meet the needs of the American people, hence are less likely to be delayed.

Defenders strongly objects to any measure that would weaken the nation's environmental protections – regulations that receive widespread public support and that are largely responsible for the quality of life Americans enjoy today. While these regulations are strong in principle, in practice, they rarely do more than temporarily delay even the most harmful projects. Defenders contends that these regulations better serve us all if they are legitimately used to filter out and correct problems rather than regarding them as little more than expensive bureaucratic hurdles.

Defenders is encouraging states to do transportation planning with conservation in mind, and advocates greater public participation. Defenders also encourages state DOTs to involve permitting agencies like the Fish and Wildlife Service in their plan and design as early as possible. Defenders intends to remain involved in the streamlining discussion and advancing constructive, proactive policies now and in TEA-3.