

CETAS

Collaborative Environmental and Transportation Agreement for Streamlining

Progress Report - August 2004 to June 2005 and Recommended Work Plan - July 2005 through June 2006

*Approved by the CETAS Management Team
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Oregon Department of Transportation
Technical Services Branch, Geo-Environmental Section

In cooperation with the CETAS Technical Advisory Team

Executive Summary

CETAS Progress Report (08/04 to 06/05) and Recommended Work Plan (07/05 through 06/06)

Introduction

This is the fourth annual progress report presented to the Collaborative Environmental and Transportation Agreement on Streamlining (CETAS) Management Team. The purpose of this document is to highlight CETAS achievements over the previous year as well as to identify future year tasks intended to further the environmental streamlining and stewardship objectives of CETAS.

Challenges and Opportunities

The past year presented challenges as well as opportunities to CETAS member agencies. The workload of the CETAS Technical Team increased, mainly as a result of the OTIA III Bridge Program streamlining initiatives. Several participating agencies faced increased budget and staff constraints which impacted team member participation. These constraints were somewhat offset by ODOT funding of liaison positions.

At the same time, new opportunities for streamlining, collaboration and increased environmental stewardship arose. For example, the Federal Highway Administration (FHWA) has been active in several efforts that are linked to CETAS goals:

- FHWA's new "Vital Few" program encourages various new approaches to environmental streamlining and stewardship, including:
 - Project-level implementation of Context Sensitive Solutions,
 - Integration of multimodal planning, the environmental process, and project development at a systems level,
 - Reduction of National Environmental Policy Act (NEPA) process timeframes, and
 - Conservation of habitat and expanded mitigation opportunities;
- The role of statewide and metropolitan transportation planning as the foundation for highway and transit project decisions is being strengthened with a renewed emphasis on the integration of planning and NEPA processes.

Emerging and Evolving Issues

Recent developments at ODOT and FHWA are resulting in innovations to transportation project development and contracting processes. Principal examples of emergent subject areas that will require extensive interagency collaboration, new approaches to environmental streamlining, and attention to context sensitive and multi-modal solutions include:

- The I-5 Columbia River Crossing (CRC) is a bi-state project to expand highway capacity and provide high capacity transit over the Columbia River between Vancouver, Washington and Portland, Oregon.
- The Oregon Innovative Partnerships Program (OIPP) is emerging to as a new method for developing private/public partnerships for large-scale transportation projects.
- Integration of environmental streamlining and stewardship efficiencies developed by the OTIA III Bridge Program into the Statewide Transportation Improvement Program (STIP) is gaining increased emphasis now that the OTIA III Bridge Program has been more fully developed.

Significant CETAS Accomplishments for August 2004 to June 2005

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| 1. Streamlined permitting efforts for the OTIA III Bridge Replacement Program have included a wide range of programmatic approaches to achieve environmental compliance. Streamlined permitting has also led to the development of several key committees, including the Project Agreement Reporting and Implementation (PARIT) Team, the Mitigation/Conservation Banking Review (MCBRT) team and the Performance Standards Committee. | 6 |
| 2. The Statewide Mitigation and Conservation Agreement was signed by each MCBRT member agency in May, 2005. This is a key milestone that will facilitate development of individual conservation and mitigation bank sites and continued program development. | 7 |
| 3. The use of Environmental Baseline Reports (EBRs) is being instituted for Statewide Transportation Improvement Program (STIP) projects. | 8 |
| 4. An Environmental Management System has been developed for ODOT Maintenance facilities. Over the past year, nine Spill Prevention Containment and Countermeasure Plans were prepared and one was fully implemented. ODOT has also closed underground injection wells at several Maintenance facilities statewide. | 8 |
| 5. Evaluation of Association of Oregon Counties (AOC) CETAS membership and, by extension, refinement of basic criteria for CETAS participation by other entities. | 9 |
| 6. Per the Major Transportation Projects Agreement (MTPA), CETAS tracked and/or received informational updates from 15 transportation projects. | 9 |
| 7. Developed framework for guidance on process improvements based on experience gained from past projects. Developed procedural "next steps" process to continue process improvements related to the CETAS Charter, MTPA, and Standard Operating Procedures (SOPs) | 11 |

Recommended Work Plan for July 2005 through June 2006

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| 1. Continue to develop and implement streamlining initiatives in conjunction with FHWA's "Vital Few" Environmental Stewardship and Streamlining Goal. Integration of context sensitive and sustainable solutions into the transportation project development process. | 12 |
| 2. Develop a framework to better integrate planning and community involvement with CETAS tracking of major transportation projects under the MTPA. | 12 |
| 3. Develop and implement an accounting system for the statewide Mitigation and Conservation Banking Program. | 13 |
| 4. Continue statewide development of a wildlife crossing program to address wildlife conservation as well as traffic safety. | 13 |
| 5. Continue to refine and develop CETAS guidance (e.g., order, number, and timing of MTPA concurrence points; planning/NEPA integration), as appropriate. | 13 |
| 6. Continue to identify and implement promising CETAS process improvements (e.g., use of a neutral facilitator, web site development, cross-training between CETAS Technical Team and ODOT Environmental Project Managers). | 14 |
| 7. Continue CETAS tracking of major transportation projects per the MTPA. | 15 |

CETAS Progress Report - August 2004 to June 2005

Introduction

This annual Progress Report and Recommended Work Plan is presented to the Collaborative Environmental and Transportation Agreement on Streamlining (CETAS) Management Team, whose member agencies include the U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), Federal Highway Administration (FHWA), Oregon Department of State Lands (DSL), Oregon Department of Fish and Wildlife (ODFW), Oregon State Historic Preservation Office (SHPO), Oregon Department of Environmental Quality (DEQ), Oregon Department of Land Conservation and Development (DLCD), and the Oregon Department of Transportation (ODOT). This document was prepared by ODOT, in cooperation with the CETAS Technical Team. The purpose of the Progress Report is to provide information on CETAS activities and progress on initiatives over the past 11 months. The purpose of the Work Plan is to offer recommendations that will further the goals of CETAS. Once adopted by the CETAS Management Team, the Work Plan will provide short- and long-term direction to the CETAS Technical Team.

Challenges and Opportunities

Several issues challenged the CETAS member agencies during 2004. The Oregon Transportation Investment Act III (OTIA III) Bridge Replacement Program brought about both opportunities and workload challenges for increased environmental streamlining efforts concerning bridge repairs and new construction. CETAS originally started work on several broad programmatic and batched permitting agreements with federal and state environmental regulatory agencies in 2002. Although this work will provide greater efficiencies when fully implemented, the development efforts have required extra effort on the part of all agencies. This work has been offset by increased ODOT funding to both federal and state regulatory agencies, enabling liaison staff to meet increased ODOT needs and to develop their own program efficiencies in permit processing. ODOT currently funds 14 regulatory liaison positions as depicted in the following table:

| CETAS Member Agency | Funded Liaison Positions |
|--|---------------------------------|
| U.S. Fish and Wildlife Service (USFWS) | 2 |
| National Marine Fisheries Service (NMFS) | 3 |
| U.S. Army Corps of Engineers (USACE) | 1 |
| Oregon Department of Fish and Wildlife (ODFW) | 3 |
| Oregon Department of State Lands (DSL) | 2 |
| Oregon Department of Environmental Quality (DEQ) | 2 |
| Oregon State Historic Preservation Office (SHPO) | 1 |

The increased CETAS workload has required additional efforts to streamline the CETAS decision-making process, including addressing the umbrella role of NEPA in relation to other regulatory authorities¹ and development of guidance on implementing the Major Transportation Projects Agreement (MTPA) and Standard Operating Procedures (SOPs).

Major initiatives during the past year also provided new opportunities for streamlining, collaboration and environmental stewardship. For example, in November 2004 the Federal Highway Administration (FHWA) identified three "Vital Few Goal" priority areas - transportation safety, congestion mitigation, and environmental stewardship and streamlining. The Environmental Stewardship and Streamlining

¹ Such as the Clean Water Act, Endangered Species Act, National Historic Preservation Act, and many additional federal, state, and local statutes and regulations.

Goal sets expectations, measures, and methods for advancing an improved and efficient environmental review process and for demonstrating environmental stewardship.² The objectives of this goal are:

Objective 1 – To improve the quality of transportation decision making with regard to:

- Environmental issues;
- Integrated approaches to multimodal planning, the environmental process and project development at a systems level;
- Context Sensitive Solutions (CSS) at a project level.

Objective 2 - To improve the timeliness of the environmental review process:

- Establish time frames for EAs and EISs and meet the schedules for 90% of those projects by September 30, 2007;
- Decrease the median time it takes to complete an EIS from 54 months to 36 months by September 30, 2007; and
- Decrease the median time to complete an EA from approximately 18 months to 12 months by September 30, 2007.

Objective 3 - Increase conservation of habitat and ecosystems by implementing a number of initiatives by September 30, 2007. Such initiatives could include development of conservation agreements, establishment or use of wetland banking, special mitigation based on research to assess wildlife movement corridors and habitat connectivity, partnering with local, state, and national conservation organizations to advance common goals, and/or development of ecological and environmental Geographic Information System (GIS) baseline databases for use in project development and mitigation.

CETAS member agencies made important progress toward some of the objectives of the FHWA Environmental Stewardship and Streamlining Goal during the previous year (see pages 6-8; #1, #2, and #3). Additional elements of this Vital Few Goal have been incorporated into the CETAS Work Plan for July 2005 through June 2006 (see page 12, #1).

FHWA also issued new guidance on strengthening the role of statewide and metropolitan transportation planning as the foundation for highway and transit project decisions. Additionally, the public involvement process associated with National Environmental Policy Act (NEPA) project development is receiving national attention as efforts are being developed to increase the effectiveness and reduce redundancies in the process. These efforts offer CETAS additional opportunities to implement environmental streamlining and stewardship initiatives.

Emerging and Evolving Issues

The I-5 Columbia River Crossing (CRC) project will expand highway capacity and provide high capacity transit over the Columbia River between Vancouver, Washington and Portland, Oregon. The Oregon and Washington Departments of Transportation jointly lead the project. The project study area starts at the interchange of I-5 and I-205 in Clark County, and extends south to the interchange of I-5 and I-405 in Portland. This major project has significant environmental implications related to air quality, noise, aesthetics, and environmental justice issues. The Bi-State nature of this project provides an opportunity to develop a clear process for partnering with Washington through their Signatory Agency Committee (SAC), which is roughly analogous to CETAS.

² See <http://environment.fhwa.dot.gov/strmlng/vfovervw.htm>

The Oregon Innovative Partnerships Program (OIPP)³ was enacted by the 2003 Legislature to encourage partnership opportunities for all kinds of transportation projects between the State, private businesses and/or local governments. The OIPP is intended to speed project delivery and encourage innovation by bringing new funding, expertise, entrepreneurship, and technology together to leverage public investment in transportation. This program brings with it new opportunities for CETAS collaboration in that the large-scale nature of the projects may bring about possibilities for broader or basin approaches to resource protection and mitigation.

The OTIA III Bridge Replacement Environmental Stewardship Program has developed several programmatic efficiencies related to permitting, performance standards, and the use of environmental baseline reports (see pages 6-8; #1, #2, and #3). Environmental streamlining successes chartered by the OTIA III Bridge Program are now beginning to be incorporated into the Statewide Transportation Improvement Program (STIP). As new ideas and opportunities evolve, CETAS will continue to seek to apply such environmental stewardship and streamlining initiatives to transportation project development.

A number of CETAS member agencies are experiencing new or pending legislation, regulations, and/or guidance that could affect agency activities and program emphases. CETAS agencies will be tracking these new regulatory and policy developments in order to ensure that emerging environmental streamlining and stewardship directives are appropriately incorporated into the CETAS framework.

³ The enabling legislation for public/private partnerships includes 23 U.S.C. 112(b)(3) and ORS 367.800 – 367.826. See also <http://www.oregon.gov/ODOT/HWY/OIPP/innovative.shtml>.

Significant CETAS Accomplishments - August 2004 to June 2005

Introduction

The CETAS Work Plan for August 2004 to June 2005 included six specific elements for CETAS to address over the coming year. Substantial progress has been made with respect to these Work Plan elements, as summarized in the following table:

| Elements of CETAS Work Plan for 08/04 to 06/05 | Progress on Work Plan Element |
|---|-------------------------------|
| 1. Reevaluate and revise if necessary the CETAS Charter and Six Pillars to accommodate evolving processes and procedures related to major transportation project development issues. | See item #7, below. |
| 2. Complete implementation of the Bridge Replacement Environmental Stewardship Program for OTIA III, including: <ul style="list-style-type: none"> • Finalize permit streamlining initiatives to cover a single, large population of bridge projects • Implement a statewide mitigation and conservation banking strategy that dramatically improves the environmental performance and benefits of mitigation and conservation efforts • Incorporate the information from environmental baseline reports into ODOT's engineering and design activities to reduce or eliminate the cost and delay associated with redesign due to environmental requirements that have traditionally been addressed after significant design has been completed | See item #1, below |
| | See item #2, below |
| | See item #3, below |
| 3. Continue to expand the use of environmental baseline reports to other types of highway construction projects in ODOT's Statewide Transportation Improvement Program (STIP) projects. Include analysis tools and streamlined permitting approaches developed under the OTIA III Bridge Replacement Environmental Stewardship Program. | See item #3, below |
| 4. Identify and initiate new opportunities under Pillar #4, Expanded Programmatic Approvals, for permit streamlining using programmatic approvals. | See items #1, #2, #3, below |
| 5. Evaluate CETAS membership expansion to include Bureau of Land Management and U.S. Forest Service. | See item #5, below |
| 6. Develop and implement a training program on CETAS processes and procedures to CETAS charter member agency personnel, including ODOT. | See item #7, below |

Since its inception in 2001, CETAS continues to progress toward its Charter Agreement goal "to identify and implement collaborative opportunities to help each participating agency realize its mission through sound environmental stewardship, while providing for a safe and efficient transportation system." The principal CETAS accomplishments over the past 11 months include the following seven items:

1. Streamlined Permitting. The OTIA III Bridge Program brought with it the need for new approaches to regulatory permitting. 2003 saw the development of a streamlined environmental permitting approach to bridge replacement and 2004 saw the successful implementation of these efforts. Specifically, the OTIA III Bridge Program benefited from the use of environmental baseline reports, performance standards, batched biological assessments, regional general programmatic permits, a uniform NEPA process for bridge projects on Federal lands, a consolidated cultural resources mitigation approach, and batched exploratory archaeological excavation permits. Efforts are currently underway to develop aesthetic performance standards for projects in the Columbia River Gorge National Scenic Area. The following table is a comprehensive reference of environmental streamlining initiatives undertaken to date by the OTIA III Bridge Program:

| Environmental Statute | Streamlining Vehicle(s) | Participating Agencies |
|--|---|---------------------------------------|
| National Environmental Policy Act | Memorandum of Agreement | FHWA / ODOT / USFS / BLM |
| National Historic Preservation Act | Context Statements / Blanket Excavation Permits | FHWA / ODOT / SHPO / Tribes |
| DOT Act of 1966 § 4(f) | Context Statements | SHPO / FHWA / ODOT |
| Federal Endangered Species Act | Joint BA / BO / Compensatory Mitigation Strategy | USFWS / NMFS / FHWA / ODFW / ODOT |
| Oregon Endangered Species Act | Letter of Support and Agreement with Effects Analysis and Performance Standards | ODFW / ODOT |
| Fish and Wildlife Coordination Act | BA / BO | USFWS / USACE / FHWA / ODOT |
| Migratory Bird Treaty Act | Compensatory Mitigation Strategy / Performance Standards | USFWS / FHWA / ODOT |
| Clean Water Act § 404 | Regional General Permit | USACE / USFWS / FHWA / ODOT |
| Clean Water Act § 404 | 401(b) Certification / Performance Standards | DEQ / USACE / ODOT |
| Bald Eagle Protection Act | BA / BO | USFWS / FHWA / ODOT |
| Coastal Zone Management Act | General Authorization / Regional General Permit | DSL / USACE / DLCD / FHWA / ODOT |
| Oregon Removal / Fill Law | General Authorization | DSL / ODFW / DEQ / DLCD / FHWA / ODOT |
| Marine Mammal Protection Act | BA / BO / Performance Standards | NMFS / FHWA / ODOT |
| Magnuson-Stevens Fishery Conservation and Management Act | BA / BO / Performance Standards | NMFS / FHWA / ODOT |
| Wild and Scenic Rivers Act | Memorandum of Agreement | USFS / BLM / FHWA / ODOT |
| Harbors and Rivers Act § 9 | Regional General Permit | USACE / FHWA / ODOT / USCG |

An important component of the OTIA III Bridge Program environmental streamlining effort has been the development of committees and work groups based on the CETAS organization model. Like CETAS, the protocol for these groups includes three levels of decision making and an elevation process based on those three levels. The Project Agreement Reporting and Implementation Team (PARIT) is similar in structure to the CETAS Team, with a focus on implementation of OTIA III Bridge Program. The Mitigation and Conservation Banking Review Team (MCBRT) and the Performance Measure Committee are also modeled after the CETAS structure. An added benefit to providing the organizational framework for individual committees is the suite of comprehensive decision making opportunities shared by the CETAS regulatory agencies, who also sit on the PARIT, MCBRT and Performance Measure Committees.

2. Establishment of a Statewide Mitigation Banking Program. Traditionally ODOT has sited many of its resource compensation projects within existing ODOT rights-of-way. These limited-scale mitigation efforts have often been difficult to establish and maintain, and less environmentally successful than desired. In partial response to these types of issues, CETAS member agencies recently participated in a process to develop a statewide resource management approach to mitigation that allows for the protection and development of larger and more ecologically viable projects. The resulting comprehensive mitigation and conservation banking strategy provides resource agencies with highly effective tools to assess natural resource impacts and prioritize mitigation and conservation investments. The program also significantly improves the state's ability to focus on regional ecological priorities, improve watershed health, improve habitat connectivity, and make meaningful contributions to the recovery of threatened and endangered species.

The Statewide Mitigation and Conservation Agreement was signed by each Mitigation and Conservation Bank Review Team (MCBRT) member agency (ODFW, DEQ, DSL, USFWS, NMFS, EPA, USACE, FHWA, and ODOT) in May, 2005. This is a key milestone that will facilitate development of individual conservation and mitigation bank sites and continued program development. Three bank sites currently under development include:

- Mirror Lake – Columbia Gorge at Rooster Rock State Park; mitigation bank for wetlands and potential listed species (salmonids)
- Santiam I-5 – I-5 crossing of Santiam River; mitigation bank for wetlands and listed species (Oregon chub)
- Minnow Creek – Highway 58; mitigation bank for wetlands and listed species (Oregon chub)

Legal and operational agreements (such as IGAs, conservation easements, etc.) as well as permits are currently being prepared for these sites. On-site construction preparation activities will begin this summer and credit availability is anticipated by fall of 2005.

Efforts to identify additional mitigation bank sites (estimated at 3-5) are underway, based on anticipated project needs. Development of the overall bank credit and accounting system (mitigation currency) is nearing completion (estimated at 95%). Beta-test training for use of the mitigation bank sites has been performed and contractor training is being coordinated by the OTIA III Bridge Program. Funding needs for mitigation bank sites and program development have been submitted as part of the 08-11 STIP budget proposal (this assumes a total of 6 mitigation bank sites). ODOT anticipates investing nearly 15 million dollars into the development and maintenance of conservation and mitigation bank sites over the next 7 years.

3. Environmental Baseline Reporting. Successful process development and use of environmental baseline reports (EBRs) by the OTIA III Bridge Program has highlighted the need for a more systematic use of this process, where appropriate, in association with ODOT STIP project scoping and development. The EBR is an comprehensive environmental scoping mechanism intended to identify resources and constraints prior to the design process. Over the past 11 months, progress toward instituting use of the EBR process has included:

- An ODOT policy paper was prepared to outline recommendations on how and where to best use baseline reports in ODOT project development.
- Revisions have been made to ODOT Project Delivery Leadership Team (PDLT) Notice – 02 specifically requiring use of the EBR process, as appropriate, during early project development. The revised Notice also addresses staff roles and responsibilities for EBRs. The revision will become official once approved by the ODOT Project Development Leadership Team, which is expected to be imminent.
- Criteria for determining EBR applicability have been drafted and are going through internal ODOT review.
- Specific guidance (content, format, methods, etc.) for the EBR process is being developed for STIP project development. This guidance is based on experience from the OTIA III Bridge Program EBR process, and is being modified to the context of STIP project development.
- Full implementation of the EBR process at the front end of STIP project development will require establishment of a new, earlier funding mechanism.

4. ODOT Maintenance Environmental Management System. Minimizing impacts to water quality and threatened or endangered species on or near ODOT's right of way or easements are continuing challenges to environmental stewardship. Managing solid waste and hazardous materials as well as controlling vegetation and weed pests also require significant effort. In support of these tasks, an Environmental Management System (EMS) has recently been developed for ODOT District maintenance yards. The EMS

provides comprehensive electronic capabilities to assist with the storage, use and handling, and disposal of materials typically associated with the operation and maintenance of transportation facilities. _

In compliance with a May 2003 ODOT/EPA agreement, ODOT is required to prepare and implement Spill Prevention Containment and Countermeasure Plans (SPCCs) plans for 27 ODOT Maintenance facilities statewide. Over the past year, nine SPCC plans were prepared and one was fully implemented. Since May 2003, 100% of the required SPCC plans have been prepared and five have been fully implemented, with the remainder to be implemented by December 2006. SPCC plans provide guidance for Maintenance employees in dealing with spills that may occur during routine activities in the maintenance yard. ODOT Maintenance has also closed several underground injection control systems located at maintenance compounds across the state.

Two additional ODOT initiatives related to environmental compliance and accountability began during the reporting period and are slated for completion in the coming year. These efforts include:

- ODOT is developing statewide Environmental Compliance Incident Notification and Reporting Procedures and an Environmental Compliance Incident Field Guide. The primary purpose of this effort is to define a violation reporting process for ODOT so that key players are informed at the appropriate times for reporting and necessary action.
- ODOT and NMFS are developing process improvements related to ESA mitigation. This effort is aimed at improving site design and construction, identification of mitigation priorities, site monitoring, and annual mitigation reporting.

5. Assessment of Increased CETAS Membership. In 2004 the Association of Oregon Counties (AOC) approached the CETAS Team with a request to evaluate the potential of including county representation as part of CETAS. Analysis of the organizational structure of AOC compared with the structure of CETAS led to the conclusion that full-time membership and financial investment was not in the interest of either entity. This conclusion was reached on the basis that most local projects do not typically require the Environmental Impact Statements (EISs) and Environmental Assessments (EAs) typically tracked by CETAS, and that no one AOC member would be able to represent the interests of local county projects. It was agreed that there may be opportunities to collaborate on specific large-scale transportation projects at which time CETAS may be an appropriate forum.

The AOC assessment is also applicable to future membership by other agencies such as the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). Both agencies are organized into districts where there is no central representation. The CETAS Team is nevertheless interested in working with AOC, BLM and USFS as opportunities arise for joint information sharing and collaboration. An example of this is the collaborative work associated with wildlife corridors on Highway 97, where BLM, the U.S. Forest Service, ODFW, FHWA, Deschutes County, and ODOT are all working together to identify and protect functional east-west migration corridors. (See page 13 of this report identifying the Wildlife Crossing Program as part of the Recommended Work Plan.)

Another recent example of collaboration reaching beyond the boundaries of CETAS comes from the OTIA III Bridge Program NEPA process. ODOT and FHWA worked extensively with the BLM and USFS to develop a comprehensive NEPA strategy that would satisfy the needs of each federal agency. This approach to NEPA compliance was documented through an interagency MOA.

6. Tracking NEPA Project Development. The Major Transportation Projects Agreement (MTPA) provides the framework for early and continuous CETAS participation in the development of major Oregon transportation projects requiring an Environmental Impact Statement (EIS) or Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA). The following table summarizes formal CETAS involvement in major transportation projects since the last annual report.

| Project / Location | MTPA Tracking Status | MTPA Concurrence Points | | | |
|---|---|---------------------------------|------------------------|-----------------------|-----------------------|
| | | Purpose and Need | Criteria for Selection | Range of Alternatives | Preferred Alternative |
| Sunrise Project I-205 to Rock Creek SEIS; Oregon Highways 212/224, SE Portland | New Supplemental EIS | X | | | |
| Highway 62 Corridor EIS; Medford, Jackson County | New EIS | X | | | |
| I-5 Delta Park to Lombard EIS; North Portland | Continuing to track EIS | | | X | |
| Spencer Creek Bridge EIS; U.S. Highway 101, Lincoln County | Completed Final EIS | | | | X |
| Fern Valley Interchange EA; Interstate 5, Phoenix | Triage Decision: Yes New EA | X | X | | |
| Isthmus Slough / Bunker Hill Intersection EA; U.S. Highway 101 / Coos River Highway | Triage Decision: Yes New EA | X | X | | |
| Newberg - Dundee Location EIS; Oregon Highway 99W, Yamhill County | Completed Final Location EIS; continuing to track, but waiting for design-level NEPA process to begin | No activity in reporting period | | | |

NOTE: The shaded “Xs” indicate concurrence point decisions made by the CETAS Technical Team during the past 11 months. Per the MTPA, EISs are automatically tracked through all four concurrence points. All proposed Environmental Assessments must be “triaged” to determine whether the CETAS Technical Team desires to formally track NEPA project development (as indicated in the second column, above). Formal tracking of EAs is typically reserved for those projects with potential for substantial impacts to natural and/or cultural resources, and where multiple permits are required.

*The U.S. Highway 101 Spencer Creek EIS outside of Lincoln City, Oregon is the first design-level transportation project to have completed all four MTPA concurrence points.*⁴ The recommended preferred alternative⁵ was agreed to by the CETAS Technical Team in September, 2004.

When the CETAS Technical Team decides not to formally track MTPA concurrence points for a proposed EA, the team may alternatively choose to participate informally via periodic updates from the project team. In this manner, the CETAS Technical Team can stay abreast of project development should unforeseen environmental issues arise later in the process. During the reporting period, the following

⁴ The Newburg - Dundee Location EIS also completed the four MTPA concurrence points, but a subsequent design-level NEPA process (with MTPA concurrence points) must be completed prior to any project construction.

⁵ For the Spencer Creek project, public process narrowed nine alternatives down to two, F and G, published in the Draft Environmental Impact Statement (DEIS). Alternative “F” continues along the coastline and shifts inland 50’ to the east. The project includes a large 50-55’ high retaining wall and should last 50 years. (CETAS meeting minutes, October 19, 2004)

projects were presented to the CETAS Technical Advisory Team as ongoing informational updates or as triages where CETAS subsequently asked to receive periodic informational updates:

- U.S. 26 Glencoe Road Interchange EA
- U.S. 20 Sisters to Suttle Lake Passing Lanes EA
- I-5 Woodburn Interchange EA
- U.S. 97 Lava Butte to Wickiup Junction Ph. 1 EA
- U.S. 97 at Wickiup Junction EA
- U.S. 20 Pioneer Mountain to Eddyville EIS
- U.S. Highway 199 Safety EA
- U.S. 101 Spencer Creek Bridge EIS

7. Guidance, Training and Process Improvements. CETAS has now had four years of experience implementing the Charter Agreement and the MTPA. This experience has given CETAS representatives deeper insights into the mechanisms needed to balance transportation needs and environment protection. Over the past year, the CETAS Technical Team has worked diligently to refine and improve existing CETAS guidance and processes. Progress made during 2004-2005 included:

- Resolution of the question of whether the Purpose and Need (specific to transportation needs) concurrence point also included consideration of Goals and Objectives (broader environmental and community considerations). CETAS concluded at its September 2004 meeting that Goals and Objectives are considered during concurrence on Purpose and Need. Alternatives must meet the project's Purpose and Need in order to be viable, whereas Goals and Objectives primarily provide for consideration and comparison of non-transportation project elements.
- Lessons learned from the Newburg – Dundee Location EIS process led to CETAS discussions concerning NEPA as a broad regulatory framework vs. the regulatory authority of the myriad of other federal and state environmental statutes. The CETAS Team recognizes that NEPA compliance and CETAS tracking of MTPA concurrence points does not obfuscate the requirement that transportation projects comply with all applicable environmental laws and regulations.

Related issues which have not been fully resolved and are included in next year's Work Plan include:

- Recent FHWA guidance has strengthened the concept of integrating traditional planning steps with the NEPA process; refinement of ODOT policies and MTPA Standard Operating Procedures (SOPs) are needed in order to consistently implement this type of approach for appropriate transportation projects statewide.
- Existing guidance for MTPA concurrence points does not adequately address the appropriate level of detail, quality of information, or the accuracy of data for different NEPA classes of action and project complexities. Revision to the MTPA concurrence point guidance is needed in order to clarify the proper inputs for CETAS decisions covering a wide range of NEPA project scopes and complexities.
- The CETAS "elevation" process is being revised to strengthen attention to agency roles/responsibilities as well as meeting protocol. Substantial progress has been made in the past year, and this effort is slated for completion by the end of calendar year 2005.
- The CETAS Technical Team has expressed interest in receiving training related to transportation project development. ODOT Environmental Project Managers (EPMs) have likewise expressed interest in a more in-depth understanding of CETAS and its member agencies' primary concerns with major transportation projects. There is strong evidence that the success of collaborative groups is in part dependent on the group's commitment to mutual learning about technical, regulatory, and process issues that are common to the mission of the group.⁶ Related CETAS and EPM training needs are addressed as part of the CETAS Work Plan for July 2005 through June 2006.

⁶ See National Cooperative Highway Research Program Report 536, "From Handshake to Compact: Guidance to Foster Collaborative, Multimodal Decision Making" (2005, www.TRB.org)

Recommended CETAS Work Plan - July 2005 through June 2006

1. Continue to develop environmental stewardship and streamlining initiatives. The FHWA “Vital Few” Environmental Stewardship and Streamlining Goal⁷ represents a unique opportunity for ODOT project delivery and the CETAS process. Documenting ODOT project delivery and CETAS review timeframes will give a better understanding of the key time elements in the environmental review process and will assist CETAS in developing performance-based expectations, measures, and methods for advancing an efficient environmental review process and for demonstrating environmental stewardship.

In addition, national attention is currently being given to the NEPA process. Efforts are being made to re-assess the original intent of the NEPA statute with respect to the contemporary practice of NEPA implementation. Douglas MacDonald, secretary of the Washington State DOT, recently told an audience at a Congressional NEPA Task Force field hearing that “problems and tendencies have emerged in the implementation of NEPA that are inconsistent with NEPA’s original vision and detract from its usefulness. In those respects, there are certainly opportunities to make constructive course corrections for NEPA. We think these are opportunities to improve how NEPA is working today, not undercut its valuable role.”⁸

For both the FHWA Vital Few effort and emergent concerns over NEPA implementation, CETAS is in a key position to work with ODOT Environmental Project Managers and the NEPA/CETAS Coordinator to address issues related to NEPA timeframes, documentation, process and communication.

With respect to another aspect of the FHWA “Vital Few” Environmental Stewardship and Streamlining Goal - improving the quality of transportation decision making - the CETAS Team has been a strong proponent of Context Sensitive Solutions, which is a “collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. CSS is an approach that considers the total context within which a transportation improvement project will exist.”⁹

ODOT has expanded the concept of Context Sensitive Solutions by including Sustainability considerations, hence the acronym “CSSS or CS³.” ODOT also recently hired a Sustainability Coordinator who will work with CETAS to advise on sustainability issues and opportunities for coordination and collaboration.

2. Develop a framework to better integrate planning and community involvement in the CETAS process. An emerging national issue is increasing transportation agencies’ role in improving quality of life by involving citizens in transportation decisions. “Roads are not just there to move people, but to build communities,” said AASHTO President Jack Lettiere at the AASHTO 2005 Annual Meeting. The goal of increased community involvement is to *protect and enhance communities as well as the environment.*¹⁰

This goal is well suited to CETAS efforts. Oregon has long been in the national forefront of involving citizens in transportation decision-making. The State’s land use laws, particularly Goal 12 on Transportation that requires development of Transportation System Plans, is unique in coordinating planning and transportation development. The Oregon Department of Land Conservation and Development (DLCD) is an original member of CETAS.

⁷ See <http://environment.fhwa.dot.gov/strmlng/vfovervw.htm>

⁸ See <http://resourcescommittee.house.gov/nepataskforce/archives/douglasmacdonald.htm>

⁹ See <http://www.contextsensitivesolutions.org>

¹⁰ BNA, Inc. Transportation/Environment Alert Volume 7, Issue 34, April 29, 2005.

CETAS has indicated interest in achieving better coordination with local communities and advisory groups such as Citizen Advisory Committees (CACs), as well as earlier opportunities for resource agency inputs (e.g., during transportation planning for major projects). Community involvement efforts are typically associated both with local transportation planning processes as well as with NEPA project development. The assimilation of transportation planning, earlier community and CETAS involvement, and the NEPA process could result in a number of potential benefits. However, this effort will require examination of local jurisdiction and state planning processes alongside the NEPA process, to determine where and how integration can best occur. (Also see #5, third bullet, below.)

3. Develop and Implement an Accounting System for the Statewide Mitigation and Conservation Banking Program. This program has progressed rapidly and will be a monumental achievement for CETAS and its member agencies. However, implementation of a credit and accounting system has not yet been completed. These issues are currently being resolved, and the banking program is expected to be operational by end of calendar year 2005.

4. Assist in the development of a Wildlife Crossing Program. Habitat connectivity and wildlife migration are increasingly important issues for CETAS member agencies. Transportation project development has historically devoted minimal efforts to habitat and migratory considerations for non-T&E species. Most previous efforts to gather meaningful data have been isolated (such as Maintenance road kill counts) and inconsistent. Funding for improvements related to migration and habitat connectivity has tended to be sporadic and difficult to appropriate from strapped project budgets. In recent years, increasing national attention has been paid to habitat fragmentation and reduction of wildlife migration routes, as is the case in Oregon. Some examples of emerging local activities and partnerships intended to improve habitat connectivity and wildlife movement considerations include:

- ODOT, FHWA, BLM, USFS, and Dechutes County are collaborating on research concerning mule deer migration and traffic safety along U.S. Highway 97 in central Oregon. Present work includes a 2- to 4-year movement study that will be initiated this summer. Up to 100 mule deer will be equipped with GPS collars to study their movements. The partners in the research are interested in how these animals respond to vegetative treatments, urban areas, local roads, railroad corridors, and Highway 97. The long-term objective is to identify east-west corridors to protect into the future through right-of-way acquisition and to build crossing structures on the highway that provide connectivity for these east-west corridors.
- In cooperation with the USFWS, a culvert replacement project on Highway 204 near Tolgate (NE Oregon) has been modified to include expanded culvert capacity to accommodate movements of lynx and other wildlife species.
- The Sunrise Corridor (I-5 to Rock Creek) project development process is paying particular attention to wildlife crossing “hotspots” in order to incorporate wildlife movement patterns and habitat connectivity considerations into project design.
- Region 1 Maintenance has recently begun a systematic effort to identify roadkill hotspots across the Region. This data will be useful for the consideration of migration corridors and connectivity during Region 1 project development activities.
- The Pioneer Mountain to Eddyville project (U.S. Highway 20, Lincoln County) recently decided to modify four structures originally planned as culverts. In response to ODFW concerns over wildlife movement and habitat connectivity, these culverts will now be designed as bridges.

In the coming Work Plan year, CETAS member agencies (and others, as appropriate) seek to foster more comprehensive and programmatic approaches to preservation of habitat connectivity as well as consideration of wildlife movement and migration routes.

5. Continue to refine, clarify and, as necessary, develop CETAS guidance. The CETAS Team has garnered a great deal of experience in trying to meld various state and federal regulatory structures. This

process is by nature difficult. What may sometimes appear to be a “failure to communicate” is more likely than not to be a question of how to incorporate increased levels of understanding into a complex regulatory arena. Areas that are ripe for issue resolution include:

- Discussions are needed regarding the order, number, and timing of MTPA concurrence points; existing CETAS guidance may require minor modifications;
- With respect to MTPA concurrence points, concerns have been raised over the sequencing of CETAS Team involvement vs. Project Delivery Team (PDT), Citizen Advisory Committees (CAC), and/or Project Management Team (PMT) involvement; clarification of this sequencing could require amendments to CETAS guidance documents;
- The integration of Planning and NEPA processes is being encouraged nationally in support of FHWA environmental streamlining efforts¹¹; it will be important to ensure joint development of ODOT policies and CETAS guidance so as to enable appropriate Planning/NEPA integration;
- The CETAS elevation process is approximately 80% complete and will be finalized in the coming Work Plan year;
- A key element of the OTIA III Bridge Program has been the use of alternative contract administration tools and programmatic approaches to environmental compliance. On the heels of OTIA III, ODOT has also begun to look for other innovative and efficient approaches to project development and environmental streamlining. Design-build contracting and ODOT partnerships with the private sector will likely be used more frequently in future years. It will be important for the CETAS Technical Team to discuss existing protocols and to ensure that MTPA SOPs and guidance are modified or developed, as needed, to support meritorious streamlining efforts.
- Appropriate levels of detail, quality of information, and accuracy of data at different phases of projects needs discussion and clarifying guidance; CETAS experience has demonstrated that “early” application of NEPA (e.g., Location EISs, integrating Planning/NEPA) may mean that less data is available for concurrence points than envisioned in the MTPA, but that regulatory agencies will get an earlier chance to influence project decisions
- Clarification is needed concerning the relationship between MTPA concurrence points and other regulatory structures such as Section 404 of the Clean Water Act, as focus on the NEPA process may lead to a perception that CETAS concurrence points are only relevant to NEPA decision points.
- Expansion of funding opportunities in the Statewide Transportation Improvement Program (STIP) and other funding programs is needed in order to capture early environmental stewardship opportunities similar to that developed for the Statewide Mitigation Banking Program.

6. Continue the Development of CETAS Process Improvements and Increased Training. The CETAS Team recognizes that continued process improvement and training is vital to continued success. The following priorities will be addressed as part of the Work Plan for July 2005 through June 2006:

- Use of a neutral facilitator at the meetings could be useful, when appropriate, for staff support to assist with CETAS team workload management, meeting preparation, issue identification and presentation management when a change in process is needed or when there is potential conflict;
- Increased training and cross training between CETAS agencies and ODOT staff, including:
 - CETAS member attendance at a customized ODOT Project Leader Academy
 - CETAS Technical Team retreat
 - NEPA process training
 - MTPA process training
- Website development;
- CETAS Manual development;

¹¹ See http://environment.fhwa.dot.gov/strmlng/Planning_NEPALegal.pdf and http://environment.fhwa.dot.gov/strmlng/Planning_NEPAGuidance.pdf

- Increased coordination between ODOT Environmental Project Managers and CETAS, in particular the development of consistent presentations to the CETAS Technical Team with appropriate levels of detail.

7. Continue CETAS Tracking of NEPA Project Development. Participation in the development of EISs and complex EAs is a key function of the CETAS Technical Team. Experience with NEPA tracking has provided a needed avenue for earlier regulatory involvement, substantive agency input, more streamlined permitting, and, ultimately, better projects. This effort will continue into 2006 and beyond.

Conclusion

CETAS members and their respective agencies continue to evolve in experience level, understanding and commitment to streamlining, community involvement and transportation and environmental stewardship. As with any complex organizational structure in the forefront of balancing transportation and environmental issues, there are and will continue to be challenges. However, the benefits of this collaboration greatly outweigh the costs. As other national efforts catch up to progresses already achieved by CETAS, the Team will continue to lead in the development of collaborative tools for interagency environmental stewardship as well as an increasingly seamless transportation decision-making process.