Chairman’s Message

Spring Renewal and Parallels in Research

By Mark Kross, ADC10 Chair

As the dogwood, redbud, serviceberry, and other blooming trees and shrubs within the Missouri hills begin their beautiful blossom displays during this spring’s renewal, I am struck by the effect this year’s regular and heavy spring showers here have had on the fullness and beauty of the blooms. Blooming perennials have benefited from this precipitation. The absence of late frost also has helped to keep the blossoms rich and heavy. Those of us who annually plant gardens and agricultural crops hope that what we are seeing in the flowering perennials will reflect the production of those annuals we shall plant. Only time, the weather, and labor will tell.

Transportation environmental research parallels the situation above. Research ideas, funding levels, and accomplishments vary through the years. Some years, such as those when Environmental Research Needs conferences have been held (i.e., 1991, 1996, and 2002), have a plethora of ideas. Unfortunately, there was no coordinated, comprehensive way to maintain and track those ideas or the research conducted throughout a host of research venues (other than, for example, TRB’s Research in Progress (RIP) and the Transportation Research Information Service (TRIS)). Each year, we would be asked for research ideas, synthesis proposals, or other input. Some submitted ideas would be ones already in the pool of ideas or even already researched, unbeknownst to the proponents. Put in the floral perspective, it was an annual process with little or no comprehensive perennial carry-over. The annual research solicitation process recurred, and the harvest was generally spotty.

However, we now have new tools to cultivate transportation environmental research this year. These were developed on two fronts: through TRB and through the AASHTO Standing Committee on the Environment (SCOE). TRB asked each of its standing committees to contribute research ideas to a newly-created TRB database of research ideas. The ADC10 Research Topics Subcommittee worked on collecting ideas and rating those through the efforts of Subcommittee Chair Joe Shalkowski with special assistance from Joe Crossett (who also was working with SCOE’s effort) and the subcommittee. Concurrently, SCOE developed TERI (Transportation and Environmental Research Ideas), a database of ideas that SCOE’s subcommittees will regularly rate, gauging each idea’s merit for practitioners. SCOE will consider promoting those with promise in the NCHRP 25-25 and 8-36 research programs.

To nurture this, we need a continuing, coordinated approach involving the TRB environmental committees and AASHTO’s SCOE. Upkeep and maintenance of these databases, with recurring input and updated modifications, will help us achieve greater and more effective transportation environmental research yields. With a more-established root system, we should see a better foundation for both future research and improved transportation environmental processes and practices. The research process will benefit in the shift from an annual process to one that is perennial. I encourage each of you to become more actively involved with it.
Announcements

Upcoming ADC10 Summer Meetings

By Martin Palmer, Washington Department of Transportation

2008 Summer Meeting

Planning is well underway for the upcoming Environmental Analysis in Transportation (ADC10) summer meeting in Denver. We will hold the meeting on Monday, July 28 through Thursday, July 31, 2008 and it will be hosted by the Colorado Department of Transportation. This will be a joint meeting with two other TRB Committees--Transportation Needs of National Parks and Public Lands (ADA40) and Ecology and Transportation (ADC30). The summer workshop will be held at the Comfort Inn Denver and the historic Brown Palace Hotel in Downtown Denver. The preliminary agenda is below and registration information is available at www.regonline.com/denverTRB2008. We are in the process of selecting session moderators and presentation speakers for each of the topics in the preliminary agenda. For more information, please contact either Martin Palmer at palmema@wsdot.wa.gov or Rebecca Sturgeon at rebecca.sturgeon@dot.state.co.us.

2009 Summer Meeting

Planning has already started on the 2009 Summer Meeting. The meeting will be in Shepherdstown, West Virginia and will be at the National Conservation Training Center (NCTC). Our host will be the Conservation Leadership Center. Dates for this summer meeting are set for Sunday, July 13 through Wednesday, July 16, 2009.

The NCTC accommodations include 226 onsite lodging rooms, three computer labs, two science labs, a 250-seat auditorium, ten 8-seat breakout rooms, three 14-seat conference rooms, and 12 classrooms of various sizes (24-60 seats), all on a single campus. NCTC is on 500 acres with five miles of paved walking paths, a mile of which borders the Potomac River. The center also offers a fitness center, full-sized basketball court, a bar, and library. Moreover, NCTC is a world-class premier training center having served as hosts to Mid-East Peace talks, and other important events. Each meeting room contains the most up-to-date technology on audio-visual equipment; buildings are built of red oak, and quarry contain floor to ceiling windows.

We have yet to work out further details of this meeting, but if you would like to take a sneak peek at the meeting facility, you may do so at http://training.fws.gov/. For more information, please contact either Martin Palmer at palmema@wsdot.wa.gov or Kris Hoellen at khoellen@conservationfund.org.

2010 and Beyond

Planning efforts are underway for a section meeting in the summer of 2010. Current efforts are focused on securing a host state. More to come on this summer meeting in the near future.
# Into the Rockies: Environmental Sensitivity in Transportation

*Sponsored by TRB Committees on*
Transportation Needs for Parks and Public Lands (ADA40)  
Environmental Analysis in Transportation (ADC10)  
Ecology and Transportation (ADC30)

**Denver, Colorado**  
**July 28-31, 2008**

## Preliminary Schedule of Events

*(Subject to Change)*

**Monday, July 28, 2008**

<table>
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<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>10:00am - 5:00pm</td>
<td>Registration – Brown Palace, 1st Floor Meetings Rooms</td>
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<tr>
<td>1:00pm - 5:00pm</td>
<td>Committee Business Meetings (ADA40), (ADC10), (ADC30)</td>
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<tr>
<td>6:30pm - 8:30pm</td>
<td>Welcome Reception</td>
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**Tuesday, July 29, 2008**

<table>
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<tr>
<th>Time</th>
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<tr>
<td>7:30am - 5:00pm</td>
<td>Registration – Comfort Inn, 2nd Floor Conference Center</td>
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<tr>
<td>7:00am - 5:00pm</td>
<td>Sponsor Exhibits</td>
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<tr>
<td>8:30am - 9:45am</td>
<td>Welcoming Session</td>
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<tr>
<td>9:45am - 10:00am</td>
<td>Break</td>
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<tr>
<td>10:00am - 11:30am</td>
<td>Session 1 – Relevance of Climate Change to Transportation</td>
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<td>Session 1.1 Changes in Distribution of Wildlife and Plant Communities</td>
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<td>Session 1.2 Considerations for Changes to the Transportation Infrastructure</td>
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<td>Session 1.3 Changes in Environmental Assessments and Related Studies</td>
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<tr>
<td>11:30am - 1:00pm</td>
<td>Lunch Provided – Comfort Inn</td>
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<tr>
<td>1:00pm - 2:15pm</td>
<td>Session 2 – Sustainability in Parks</td>
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<td>Session 2.1 Alternative Transportation for Parks and Public Lands Program</td>
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<td></td>
<td>Session 2.2 Transportation Initiatives at Rocky Mountain National Park</td>
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<td>Session 2.3 Grand Canyon Transportation Plan Environmental Assessment</td>
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<td>2:15pm - 2:30pm</td>
<td>Break</td>
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<tr>
<td>2:30pm - 3:45pm</td>
<td>Session 3 – People and Environment</td>
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<td>Session 3.1 Techniques to Assess Visitor Experience</td>
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<td></td>
<td>Session 3.2 Establishing User Capacity Thresholds for National Park Service Recreational Travel in Demand Models</td>
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<td></td>
<td>Session 3.3 Effects of Economic Development on Mountain Park Resources</td>
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<tr>
<td>3:45pm - 4:00pm</td>
<td>Break</td>
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</tbody>
</table>
Noon - 5:00pm Transportation Tour Option 2 (Half Day) – Castlewood Canyon Ecological Restoration Tour

Tour includes a box lunch. The Castlewood Canyon Project replaced an historical bridge over Cherry Creek in Castlewood Canyon State Park. Cherry Creek is occupied by the Preble's meadow and provides habitat for a wide range of species including the jumping mouse. For this portion of the work, project designers and engineers devised and implemented innovative methods to prevent birds from attempting to nest on the bridge until project completion, and to prevent waste material from falling into the canyon below.

East Plum Creek through Castle Rock was downcutting due to excess flow from upstream development. This left its riparian vegetation above the water table and dying. In addition, a sewer line that had once been buried by several feet of sediment became perched well above the water line. CDOT stopped the downcutting. These efforts restored the groundwater and, subsequently, the riparian vegetation and Preble's mouse habitat.

4:00pm - 5:15pm Session 4 – Road Ecology

Session 4.1 Highway Eco-Systems, How Wildlife Adapts to Use Highways

Session 4.2 Issues in Wildlife Connectivity and Collisions

Session 4.3 Effects of Air Quality Degradation in Mountain Areas

5:15pm - 7:00pm Dinner (on your own)

7:00pm - 8:30pm Special Evening Workshop – Research Needs and Prioritization by the Three Committees

Wednesday, July 30, 2008

7:30am - 5:00pm Registration – Comfort Inn, 2nd Floor Conference Center

7:00am - 5:00pm Sponsor Exhibits

7:00am - 5:30pm Transportation Tour Option 1 (All Day) – Rocky Mountain National Park

Space on this tour is limited. Tour includes a box lunch. Rocky Mountain National Park is a living showcase of the grandeur of the Rocky Mountains, with elevations ranging from 8,000 feet in the wet, grassy valleys to 14,259 feet at the weather-ravaged top of Longs Peak. The park provides visitors with opportunities for countless breathtaking experiences and adventures. On this tour, you will explore the park shuttle system, see the results of a major road reconstruction project, and learn about the many transportation challenges the park faces to meet the NPS dual mission of protecting resources while allowing for visitor enjoyment.

8:30am - 10:00am Session 5 – Sustainability

Session 5.1 Corps Proposed Rule and Watershed Approach

Session 5.2 Transportation and Environmental Planning—Measuring Performance

Session 5.3 Cumulative Effects, Reaching a Critical Threshold

10:00am - 10:15am Break

10:15am - 11:30am Session 6 – Colorado-It’s all Downhill from Here!

Session 6.1 Castlewood Canyon

Session 6.2 Plum Creek Habitat Conservation Bank

Session 6.3 Environmental Sensitivity in CDOT Projects

Noon - 5:00pm Transportation Tour Option 2 (Half Day) – Castlewood Canyon Ecological Restoration Tour

Tour includes a box lunch. The Castlewood Canyon Project replaced an historical bridge over Cherry Creek in Castlewood Canyon State Park. Cherry Creek is occupied by the Preble's meadow and provides habitat for a wide range of species including the jumping mouse. For this portion of the work, project designers and engineers devised and implemented innovative methods to prevent birds from attempting to nest on the bridge until project completion, and to prevent waste material from falling into the canyon below.

East Plum Creek through Castle Rock was downcutting due to excess flow from upstream development. This left its riparian vegetation above the water table and dying. In addition, a sewer line that had once been buried by several feet of sediment became perched well above the water line. CDOT stopped the downcutting. These efforts restored the groundwater and, subsequently, the riparian vegetation and Preble's mouse habitat.
6:30pm - 10:00pm Conference Banquet and Festivities – The Denver Museum of Nature & Science
A “strolling” reception with full meal, on two levels of the museum overlooking City Park and the Rocky Mountains. We will have private, after-hours access to many of the museum exhibit areas. Cash bar and access to outside veranda with views.

Thursday, July 31, 2008

7:00am - 12:00pm Sponsor Exhibits

8:00am - 10:15am Session 7 – New Research Assessment Techniques and Tools
Session 7.1 STEP UP (Strategic Transportation, Environmental and Planning Process for Urbanizing Places)-The Next Step
Session 7.2 Landscape Level Assessments-What's Worked, What Hasn’t
Session 7.3 A Case Study of North Shore Road (Great Smoky Mountain National Park)
Session 7.4 New Thoughts on Linkages between Transportation and the Environment
Session 7.5 How to Develop and Fund Research Efforts

10:15am - 10:30am Break

10:30am - 12:00pm Session 8 – Workshop Wrap Up

12:00pm Joint Summer Meeting Adjourns

Call for Papers 88th TRB Annual Meeting, January 11-15, 2009, Washington DC

The Transportation Research Board (TRB) Committee on Environmental Analysis in Transportation, ADC10, invites the submission of papers for presentation at TRB’s Annual Meeting on a broad number of transportation environmental topics including the links between transportation planning and the environment. As the spotlight theme for the 2009 annual meeting is Transportation, Energy, and Climate Change; the Environmental Analysis in Transportation Committee and its Subcommittees are interested in both research and case studies that address all aspects of climate change and the related topic of sustainability as manifested in transportation environmental analysis for project planning, development, enhancements, stewardship, mitigation and performance evaluation. Among the topics of specific interest are:

- Sustainable Roads;
- Public Private Partnerships and Environmental Review Process;
- Mitigation Planning and Joint Funding Initiatives;
- Environmental Management Systems and Lessons Learned; and

Please indicate ADC10 on the Submission Review form to indicate that the paper is being submitted in response to this Call for Papers. Papers for the 2008 Annual Meeting may be submitted now, but no later than August 1, 2008. Papers cannot be accepted after August 1, 2008 because of the time required for peer review and program development. Paper submission information is posted on the TRB website http://www.trb.org/meeting. This site is updated periodically; authors should review all information on this site before submitting papers.
In addition, **authors who have submitted papers in response to this call** are requested to send the paper number and title by August 4th to jbach@louisberger.com.

If you have any questions related to this call for papers, please contact Jim Bach at jbach@louisberger.com or 973-678-1960 extension 531.

**CTE Plans for ICOET 2009 in Minnesota**

Initial planning is underway for the 2009 International Conference on Ecology and Transportation (ICOET), tentatively scheduled for September 13-18, 2009, in Duluth, Minnesota. Sponsored principally by the Federal Highway Administration (FHWA), ICOET 2009 is being hosted by the Minnesota Department of Transportation. The Center for Transportation and the Environment (CTE) at North Carolina State University will again serve as co-sponsor and lead organizer for the conference.

Conducted biennially, ICOET is a multi-disciplinary, interagency conference that addresses the broad range of ecological issues related to transportation planning and project development. The conference features technical sessions, poster presentations, and field trips that highlight quality research applications and best management practices for wildlife, habitat, and ecosystem issues related to the delivery of surface transportation systems. The conference also publishes its proceedings of the technical papers and posters presented at the event.

In May 2007, over 350 worldwide experts in ecology and transportation gathered in Little Rock, Arkansas, to attend ICOET 2007, a well received conference featuring more than 120 papers and poster presentations. Attendees and technical presenters representing more than a dozen countries including the U.S., Australia, Canada, France, Hungary, India, Portugal, Spain, South Korea, and The Netherlands came to discuss solutions to ecological issues related to transportation.

The 2007 conference also served, for the first time, as co-host of the FHWA Environmental Excellence Awards ceremony. FHWA Administrator Rick Capka and other agency leaders were in attendance to recognize the biennial award winners in twelve environmental categories. The Environmental Excellence Awards ceremony proved to be an ideal fit for ICOET and FHWA, and the collaboration is expected to continue at future conferences.

The ICOET 2009 call for abstracts is scheduled to be announced this coming July with submissions accepted until November. The call for abstracts will seek to generate technical papers and poster presentations that build upon the subject tracks featured at the 2007 conference, as well as to address new topic areas, such as global climate change, that deserve special emphasis due to current research needs.

To learn more about ICOET, and to view proceedings and videos of past conferences, visit the conference website at [www.icoet.net](http://www.icoet.net). Specific information on the ICOET 2009 call for abstracts, conference facilities and sponsorship will be posted during the coming months as details are confirmed. For more information, contact James Martin, CTE associate director, at (919) 515-8620 or jbm@ncsu.edu.
Feature Articles

Green TEA: Climate Change Emerges as a Key Issue in the Reauthorization of SAFETEA-LU

By Bill Malley, Perkins Coie LLP

This article first ran in Volume 15, Number 3 of AL050’s newsletter The Natural Lawyer (April 2008).

Climate change has emerged as a major issue – potentially one of the pivotal issues – in the upcoming reauthorization of the federal highway and transit programs. Led by the Center for Clean Air Policy, a number of environmental groups are advocating a major overhaul of federal transportation programs. They are urging Congress to focus the next reauthorization bill on reducing greenhouse gas (GHG) emissions from road transportation. And they have come up with a catchy name for their proposals: Green TEA.

The federal highway and transit programs were last reauthorized in August 2005, when Congress enacted the legislation known as SAFETEA-LU. As the name suggests, that legislation focused heavily on promoting highway safety. It also included significant changes to the planning and environmental review requirements for highway and transit projects. And, of course, it authorized substantial funding for the surface transportation programs. But the issue of climate change played little, if any, role in the debates leading up to SAFETEA-LU, and the statute did not address that issue.

Much has changed in the short period since SAFETEA-LU was enacted. Climate change has moved quickly to center stage at the federal, State, and local levels. Elected officials in both parties are proposing, and in many cases adopting, extremely aggressive targets for cutting GHG emissions. For example, a number of States have recently adopted goals of cutting their total GHG emissions by 75 to 80 percent from current levels (or in some cases from 1990 levels) by 2050. While no specific reduction targets have yet been established at the federal level, Congress is actively considering several legislative proposals that would mandate similarly dramatic reductions in GHG emissions nationally.

The emergence of climate change as a major political issue has dramatically altered the political landscape for the next reauthorization of the highway and transit programs, which is due in 2009. It is highly likely that Congress will be considering major climate change legislation in 2009, at the very same time it is considering reauthorization of the highway and transit programs. In fact, the same committee in the United States Senate – the Committee on Environment and Public Works – will have jurisdiction over substantial aspects of both the climate change legislation and the transportation legislation. The convergence of these issues makes it virtually inevitable that climate change concerns will be prominent when Congress considers reauthorizing the highway and transit programs.

In this context, a number of environmental organizations, such as the Center for Clean Air Policy, Environmental Defense, and the Surface Transportation Policy Project, have been developing a set of reauthorization proposals, known as Green TEA, that focus on cutting GHG emissions from road transportation by pursuing three chief goals: (1) improving vehicle fuel economy; (2) expanding the use of renewable (lower-carbon) fuels, such as ethanol; and (3) reducing the growth in vehicle miles traveled (VMT). The Green TEA proposals particularly emphasize reducing VMT growth.

The premise for the Green TEA proposals is that current federal policy, as embodied in SAFETEA-LU, is fundamentally in conflict with the goal of reducing GHG emissions. As the Center for Clean Air Policy has stated, “SAFETEA-LU rewards increased vehicle miles traveled (VMT) and associated greenhouse gas (GHG) emissions.” They claim that current law encourages VMT growth because funding formulas are based on VMT, fuel use, and lane miles, and because (in their view) highway projects receive more favorable funding treatment than transit projects under current federal law.

The Green TEA proposals seek to promote reductions in VMT growth by altering the funding formulas and other core provisions in SAFETEA-LU. According to a summary prepared by the Center for Clean Air Policy, Green TEA legislation would discourage VMT growth and encourage GHG emission reductions by:
Establishing GHG emissions reductions and energy conservation as goals of the federal transportation program.

Linking a portion of federal transportation funding to a State’s progress in achieving the goals of energy conservation and GHG emissions reduction.

Providing more funding for transit, and less for new road construction.

Increasing support for regional transportation and land use planning and scenario analyses.

Requiring MPOs to consider alternative land use and transportation scenarios as part of their development of long-range plans and TIPs.

Requiring MPOs to develop plans for reducing GHG emissions and petroleum usage, and requiring them to establish GHG reduction, petroleum reduction, and mode-split goals as part of their long-range plans.

Adding GHGs to conformity requirements under the Clean Air Act.

Providing incentives for smart growth and transit-oriented development (for example, mileage-based insurance and congestion pricing).

Improving VMT data collection, by requiring development of new tools and methodologies to calculate the “VMT-generating consequences of transportation plans, programs and projects (including induced demand).”

Eliminating the “blanket eligibility of traffic flow improvement projects” under the CMAQ program.

There is not yet agreement, even within the environmental community, on all of these goals. In particular, there remains debate among environmental groups about whether Clean Air Act conformity requirements should be extended to include GHGs. But at this stage, the specifics are less important than the overall thrust of the policy proposals. The central theme clearly is that federal policy should promote GHG emissions reductions by discouraging growth in VMT.

While climate change is likely to be a major issue in the next reauthorization, it will be competing with several other major concerns. One key topic will be the need to provide a robust source of revenue both in the short term (to avoid a deficit in the highway trust fund) and in the longer term (to supplement or replace the gas tax, which is becoming a less effective funding tool as vehicles become more fuel efficient). Other major issues will include the need to address growing roadway congestion, both in major metropolitan areas and in major freight corridors, and the desire to achieve greater accountability in the transportation program through greater reliance on performance measures. All these goals were reflected in the recent report by the National Surface Transportation Policy and Revenue Study Commission, which was created in SAFETEA-LU.

The confluence of climate change and these other major issues suggests that the next reauthorization process will involve a fundamental debate about the direction and role of the federal transportation program, not just the traditional jousting over funding levels and allocations. The outcome is far from clear, but it seems likely that climate change concerns will play a much greater role in the next reauthorization than they did in SAFETEA-LU. For more on Green TEA proposals, see the Center for Clean Air Policy’s web site (http://www.ccap.org/transportation/smart.htm).

**FHWA and FTA Issue Final Section 4(f) Regulations Implementing SAFETEA-LU Changes**

By Bill Malley, Perkins Coie LLP

This article first ran in Volume 15, Number 3 of AL050’s newsletter The Natural Lawyer (April 2008).

On March 12, 2008, FHWA and FTA jointly issued final Section 4(f) regulations, completing the first comprehensive update of the regulations since 1987 (see 73 Fed. Reg. 13,368). The rulemaking was initiated in July 2006 in response to a mandate in SAFETEA-LU. The new regulations fulfill the requirements of SAFETEA-LU and make many other important changes. The final rule is available at http://environment.fhwa.dot.gov/projdev/pdf5sec4f.asp.

The new Section 4(f) regulations became effective on April 11, 2008. All NEPA documents issued by FHWA or FTA after that date must comply with the new regulations. Documents that were already in progress will need to be reviewed to ensure compliance with the new regulations, if they involve the potential use of Section 4(f) resources.
Important changes in the new regulations include:

- Re-Organization and Codification in Part 774
- Procedures for Making *De Minimis* Impact Findings
- Criteria for Making “Feasible and Prudent” Determinations
- Criteria for Selecting Alternatives if Avoidance is Not Feasible and Prudent (Including New Definition of “All Possible Planning” to Minimize Harm)
- Ability to Presume Lack of Objection if USDOI Comments Are Not Received
- Deference to SHPO on Determining Applicability of 4(f) to Archeological Sites
- Clarification of Section 4(f) Requirements for Tiered EISs
- Recognition of SAFETEA-LU Exemption for Elements of Interstate System
- Clarifications Regarding Applicability of 4(f) to Wild and Scenic Rivers
- Clarifications Regarding Findings of No Constructive Use

**Re-Organization and Codification in Part 774**

The Section 4(f) regulations have been comprehensively re-organized and moved to a new 23 CFR Part 774. Previously, they were included as part of FHWA and FTA’s NEPA regulations in 23 CFR 771.135. The preamble to the new regulations includes a table that correlates the relevant sub-sections in the old and new regulations (see 73 Fed. Reg. 13,369). The regulations also include new sub-headings that make it easier to locate relevant provisions, as well as a new definitions section.

**De Minimis Impact Findings**

Section 6009(a) of SAFETEA-LU amended Section 4(f) to allow findings of “*de minimis* impact” to satisfy Section 4(f) requirements. FHWA and FTA initially implemented the *de minimis* impact provisions of Section 609 by issuing guidance in December 2005. The new regulations incorporate the recommendations contained in that guidance. Practitioners who are familiar with the December 2005 guidance will find that the new regulations largely conform to the existing, established methods for making findings of *de minimis* impact. The December 2005 guidance remains in effect.

One important change is that it will now be necessary to reference the relevant provisions of Part 774, not just the guidance, when making findings of *de minimis* impact. Key provisions include: Section 774.3(b), which is the main provision authorizing *de minimis* findings and Section 774.17, which includes a new definition of “*de minimis* impact.” Several other provisions address the documentation, coordination procedures, and timing of *de minimis* impact findings.

The final rule confirms FHWA and FTA’s position on one important issue that was raised by several environmental groups in comments on the proposed regulations. The groups argued that, for parks, recreation areas, and refuges, a separate finding of “all possible planning to minimize harm” is required, even after making a finding of *de minimis* impact. FHWA and FTA disagreed with this comment. Therefore, under the rule, a finding of *de minimis* impact fully satisfies Section 4(f) for parks, recreation areas, and refuges, as well as for historic sites.

**“Feasible and Prudent” Alternative Determinations**

Section 6009(b) of SAFETEA-LU directed USDOT to promulgate regulations clarifying the “factors to be considered and standards to be applied when determining the prudence and feasibility of alternatives” under Section 4(f). The statute also stated that the regulations “shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case” and “may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.”

The new regulations fulfill this requirement by establishing a new definition of the term “feasible and prudent avoidance alternative.” This definition, contained in Section 774.17, is one of the most important elements of the new regulation. There are three key points to understand in reviewing this definition:

- The new regulations only apply the “feasible and prudent” test to alternatives that avoid Section 4(f) resources altogether. Therefore, the definition refers specifically to a “feasible and prudent avoidance alternative.” If there are no feasible and prudent avoidance alternatives, the next step is minimizing harm. The feasibility and prudence tests are not applied when evaluating alternatives to minimize harm.
The new regulations articulate a “severe problems” standard for finding an alternative imprudent. The previous regulations required supporting documentation demonstrating “unique problems,” “unusual factors,” or cost or impacts of “extraordinary magnitude” as a basis for finding an alternative imprudent. The new regulations allow an alternative to be found imprudent if it involves “severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property.” The regulation lists a series of factors that can be considered, individually or cumulatively, in determining whether this standard has been met. The preamble notes that this standard is intended to continue providing “stringent protection” for Section 4(f) resources.

The new regulations allow the value of the Section 4(f) resource to be considered when determining whether an avoidance alternative is prudent. As explained in the proposed regulations, the regulations are intended to establish a sliding scale. An avoidance alternative that is prudent in one context may not be prudent in another. Impacts that would constitute “severe problems” in one context, and thus would justify rejecting an alternative as imprudent, may be considered acceptable in another context. The differentiator is the value of the Section 4(f) resource. If a Section 4(f) resource is highly significant, more severe problems would need to exist to justify rejecting an avoidance alternative as imprudent; conversely, if the Section 4(f) resource is less significant or is likely to be torn down in the near future by a private owner, less severe problems could be used as the basis for rejecting an avoidance alternative as imprudent.

Several commenters on the proposed rule objected to this change in the definition of the feasible and prudent standard. FHWA and FTA considered those comments and addressed them in the preamble to the final regulation. In essence, FHWA and FTA concluded that these modifications to the feasible/prudent test are consistent with the Supreme Court’s decision in *Overton Park* and also are consistent with the intent of Congress in SAFETEA-LU.

Alternatives Selection Where Prudent and Feasible Avoidance Alternatives Are Not Available

The new regulations also contain important new provisions that govern the choice among alternatives when there is no prudent and feasible alternative that entirely avoids Section 4(f) resources. These changes were not specifically required by SAFETEA-LU; but were included in the rulemaking to clarify the standards for choosing among alternatives that all use some Section 4(f) resources.

The previous regulations did not specifically address the issue of how to choose among alternatives that all use some Section 4(f) resources. This issue was primarily addressed through the Section 4(f) Policy Paper. The basic concept, as expressed in the guidance, was that Section 4(f) required the selection of the prudent and feasible alternative that caused the least harm to Section 4(f) resources. However, interpretations of this requirement varied, in part because of the lack of clarity in the guidance.

The new regulations should be easier to apply and, ultimately, may provide somewhat greater flexibility to take into account non-Section 4(f) impacts and concerns when choosing among alternatives that all involve some Section 4(f) resources. The new approach includes the following key elements:

- **The alternative that causes the “least overall harm” must be selected.** Section 774(c) states the basic rule to be applied when there are no prudent and feasible avoidance alternatives. The rule requires selection of “the alternative that … causes the least overall harm in light of the statute’s preservation purpose.” This section lists a series of factors that must be considered in determining “overall harm.” This determination is not based solely on harm to Section 4(f) resources. It also includes consideration of ability to meet purpose and need; degree of impact to non-Section 4(f) resources; and any “substantial differences in cost” among the alternatives.

- **The selected alternative must include “all possible planning” to minimize harm.** Section 774.3(a)(2) requires a finding that the selected alternative includes “all possible planning to minimize harm to the property resulting from such use.” This finding must be based on the new definition of “all possible planning” in Section 774.17, which defines this term to mean that “all reasonable measures to minimize harm or mitigate impacts” have been incorporated into the project. In other words, “all possible” is defined to mean “all reasonable.” The definition lists criteria to consider in determining the reasonableness of potential minimization and mitigation measures.
Several commenter’s on the proposed regulations objected to these changes, arguing that they were inconsistent with the Overton Park decision as well as subsequent federal court decisions. FHWA and FTA considered and addressed those arguments in the final rule.

**Ability to Presume Lack of Objection by USDOI**

The new regulations retain the requirement for a 45-day review period by the U.S. Department of the Interior (USDOI) on all Section 4(f) evaluations. FHWA and FTA rejected comments that recommended reducing this 45-day period or eliminating it altogether. However, the new regulations do include one important change: if comments are not received within 15 days after the comment deadline, FHWA and FTA “may assume a lack of objection and proceed with the action.” This is an important change because it is likely to encourage more timely comments on Section 4(f) evaluations, and it also provides clear authority to move forward if comments are not received within a short period after the comment deadline.

While this exemption is retained, there is one significant change. Under the old regulation, the FHWA or FTA was responsible for deciding whether the archeological resource was valuable for preservation in place, and this only required consultation with the State Historic Preservation Officer (SHPO) or, if applicable, the Tribal Historic Preservation Officer (THPO). Under the new regulations, FHWA or FTA may make this determination only if the “officials with jurisdiction”, typically the SHPO or THPO, have been consulted and “have not objected” to the proposed finding. This is effectively a concurrence requirement, although the concurrence can be expressed through a lack of objection.

One important point to remember is that the requirement for a 45-day comment period applies only to a “Section 4(f) Evaluation,” which is defined in Section 774.17 as documentation prepared to support approval of a Section 4(f) resource based on a finding of no prudent and feasible avoidance alternative. The requirement for a 45-day review does not apply to *de minimis* impact determinations, which have separate coordination and concurrence requirements, nor does it apply to determinations made under any of the five existing nationwide programmatic Section 4(f) evaluations. Any new programmatic Section 4(f) evaluations will be developed in coordination with USDOI and other appropriate agencies, and will be published in the *Federal Register* before being adopted, but are not subject to the 45-day comment requirement as such.

**SHPO Role in Determining Applicability of Section 4(f) to Archeological Sites**

The new regulations retain the existing exemption for archeological resources that are determined to be valuable “chiefly because of what can be learned by data recovery and has minimal value for preservation in place.” This provision was included in 23 CFR 771.135(g)(2). The new regulations include this exemption in 23 CFR 774.

**Section 4(f) Requirements for Tiered EISs**

The new regulations modify the regulations governing Section 4(f) compliance for tiered EISs. This issue was addressed in the previous regulations at 23 CFR 771.135(o). The new regulations address the issue in somewhat more detail in 23 CFR 774.7(e).

The new regulations clarify that, if a preliminary Section 4(f) approval is made in the Tier 1 study, the Section 4(f) approval will be finalized in the Tier 2 study. The previous regulations simply said that the approval should be finalized “when additional design details are available.”

The new regulations also clarify the circumstances under which a Tier 1 Section 4(f) evaluation would need to be reevaluated – in effect, re-opened – as part of a Tier 2 study. The basic rule is that a preliminary approval from Tier 1 can be finalized in Tier 2 (without being reevaluated) if no new use, other than a *de minimis* use, is identified in the Tier 2 study. If a new use is identified in Tier 2, and is not found to be *de minimis*, then the Section 4(f) evaluation from the Tier 1 study would have to be reevaluated. The scope and extent of such a reevaluation are not addressed in the regulation and, presumably, would be determined on a case-by-case basis.

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1 The regulations also require a Section 4(f) evaluation to be circulated for 45 days to the officials with jurisdiction over the Section 4(f) resources. The term “officials with jurisdiction” is defined in Section 774.17 of the regulations. In rare instances, a Section 4(f) Evaluation also must be circulated for a 45-day period to the U.S. Department of Agriculture and U.S. Department of Housing and Urban Development.
Section 4(f) Exemption for Elements of the Interstate System

Section 6007 of SAFETEA-LU established an exemption from Section 4(f) for the Interstate System, except for those specific elements that USDOT identified as having “national or exceptional historic significance.” In December 2006, FHWA issued a list of 132 specific features of the Interstate System that met this standard and, therefore, must be treated as historic resources for purposes of Section 4(f). A similar exemption, with the same exceptions, has been established administratively by the Advisory Council on Historic Preservation for purposes of Section 106 of the National Historic Preservation Act.

The Section 4(f) exemption for the Interstate System became effective upon enactment of SAFETEA-LU; new regulations were not required for the exemption to take effect. The new Section 4(f) regulations simply acknowledge the statutory exemption as one requirement that must be considered in determining the applicability of Section 4(f) (see 23 CFR 774.13(e)(2)).

The statutory exemption for the Interstate System simply means that exempt elements of the System are not considered historic resources for purposes of Section 4(f) and Section 106. The exemption does not relieve FHWA and FTA of their obligation to comply with Section 4(f) and Section 106 when a project on the Interstate System has impacts on other Section 4(f) resources (e.g., an adjacent historic farm).

Applicability of Section 4(f) to Wild and Scenic Rivers

The new regulations include a new provision – Section 774.11(g) – which addresses the applicability of Section 4(f) to Wild and Scenic Rivers. The new provision clarifies that designation of a river under the Wild and Scenic Rivers Act does not automatically confer Section 4(f) status on the entire river. Section 4(f) applies only to portions of the river that (1) are eligible as historic sites or (b) are publicly owned and are designated or function as parks, recreation areas, or wildlife refuges. This interpretation was previously included in the Section 4(f) Policy Paper and has now been incorporated into the regulations.

Constructive Use Findings

The new regulations largely retain the previous regulation’s provisions regarding findings of no constructive use. As FHWA and FTA noted in the preamble to the final rule, the constructive use provisions were adopted in 1991 and are considered to be successful in providing clear guidance. The intent of the new regulation is to maintain those standards, with only minor clarifications.

One potentially significant clarification concerns findings of constructive use for vibration impacts. Section 771.135(p)(4)(iv) in the previous rule stated that a constructive use occurs when vibration substantially impairs a historic resource, and gave as an example vibration from a “rail transit” project that is great enough to affect the “structural integrity” of a historic building. Section 774.15(e)(4) in the new regulation eliminates the reference to “rail transit” and “structural integrity.” The new rule states more generally that a constructive use occurs when vibration levels are “great enough to physically damage a historic building or substantially diminish the utility of the building, unless the damage is repaired and fully restored consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.”

Other Changes in the Regulation

In addition to the changes noted above, the new Section 4(f) regulations also:

- Provides clear authority for issuance of programmatic Section 4(f) approvals, such as those that have been previously issued by FHWA and FTA;
- Clarifies that a State that has assumed FHWA or FTA's authorities pursuant to a statutory authorization (e.g., as authorized under SAFETEA-LU) can act as “the Administration” for purposes of the Section 4(f) regulations;
- Includes a comprehensive list (in the preamble to the final rule at 73 Fed. Reg. 13,393) of all the provisions in the rule that require coordination with and/or concurrence of “officials with jurisdiction” over Section 4(f) properties.

The final rule also contains other changes, both organizational and substantive, in addition to those discussed in this article. To assist practitioners in complying with the new rule, FHWA will be updating its Section 4(f) Policy Paper and its Technical Advisory on the environmental review process for highway projects. FHWA and FTA will also be conducting outreach and training activities. For further information, see the FHWA website: http://environment.fhwa.dot.gov/projdev/pd5sec4f.asp.
**PAFBE Streamlines ESA Section 7 Cooperation**

**By Karen Clary, Texas Department of Transportation**


An effort by TXDOT, Federal Highway Administration (FHWA) and U.S. Fish and Wildlife Service (USFWS) to streamline Endangered Species Act (ESA) Section 7 interagency cooperation resulted in the creation of a Programmatic Agreement for Biological Evaluations (PAFBE). The PAFBE, signed in 2005, clarified the roles and responsibilities of FHWA, USFWS, and TXDOT for ESA Section 7 interagency cooperation and consultation.

The PAFBE makes it easier for TxDOT, FHWA, and USFWS staff to work together more effectively and reduces the time needed to perform tasks required by the consultation process. Products of the PAFBE include a draft Biological Assessment (BA) Biological Opinion (BO) template modeled after the Bedell Avenue Bridge Replacement Project in Del Rio; the sharing of a Texas Parks and Wildlife Department (TPWD) Geographical Information Systems (GIS) database that contains records of rare Texas species; and timeline/feedback loop for continuous improvement between TxDOT, FHWA, and USFWS.

Such efforts streamline the overall ESA review processes between the three agencies, reduce redundancy, create standards for best available scientific technical information in documentation, and appreciably shorten consultation time overall. Future goals include the development of standard biological evaluation formats for use by TxDOT staff, the identification of key biological/ESA information needed for NEPA documents, and an effort to identify, assess, adopt, and apply standard best management practices (BMPs) to mitigate adverse impacts on transportation projects.

The staff on the interagency team is working on a single programmatic consultation template that could be used for future consultations. The team decided to change the focus of the programmatic from a project-by-project basis to an ecological model based on species distributions. In so doing, the programmatic would apply to a species across its range of distribution rather than across an artificial boundary, such as a district or project boundary. In time, this should lead to more comprehensive, fiscally beneficial, cross-district conservation and recovery goals that would meet the stated goals of the ESA, which, in a nutshell, is the recovery of species from the threat of extinction.

The draft BA to BO template reduced the 135-day process to just 45 days for the Bedell Avenue Bridge pilot project and was also used by the Waco District for its Tank Destroyer Boulevard project, gaining approval in 44 days. While the two projects show the possibilities, the template is currently not available for use. TxDOT and USFWS may pursue an agreement in the future to make regular use of the BA/BO template possible.

**NEPA Scoping Methods and Outcomes in State Departments of Transportation**

**By Carissa Schively Slotterback, PhD, AICP, University of Minnesota**

The Center for Transportation Studies at the University of Minnesota funded a recent study that highlights the state of the practice in National Environmental Policy Act (NEPA) scoping carried out by State Departments of Transportation (DOTs) across the United States. The study was conducted in 2006 and 2007 by the Humphrey Institute of Public Affairs. The study focused specifically on scoping conducted as part of the implementation of NEPA for various types of transportation projects. The intent was to identify variation in approaches to scoping and to identify the outcomes of scoping on later steps in the environmental review process.

Generally, scoping in the NEPA process has received increased attention in recent years for its role in setting the stage for later steps in the NEPA process, providing an initial opportunity to gather information, and engaging stakeholders in the preliminary identification of impacts and alternatives to be considered in an Environmental Impact Statement (EIS). Both the Council on Environmental Quality (CEQ) and the
Federal Highway Administration (FHWA) have provided guidance about scoping. In addition, the current transportation bill, SAFETEA-LU, includes specific provisions about engaging and designating “participating agencies” and requires the development of a plan to coordinate agency and public involvement, which influence scoping practices at DOTs. Further, individual states have been working to develop their own guidance on scoping processes.

In light of the growing focus on scoping processes, the study examines several key issues:

1. Approaches to engaging stakeholders, such as the public and other agencies, in scoping processes;
2. Challenges in administering scoping; and
3. The effects of scoping on the overall NEPA process.

Using an online survey, the researchers received responses from 46 of the 50 DOTs, mostly from state environmental review coordinators. The survey asked DOT staff to describe and evaluate the approaches that their agencies used to conduct required scoping efforts. The key findings are summarized below.

Despite general guidelines for scoping and public involvement provided by CEQ and FHWA, there is significant variation in the approaches that DOTs use to engage stakeholders. In addition, there are a small number of states that do not engage the public or agencies in scoping processes. Commonly used participation techniques for engaging other agencies include meetings with agency staff and sharing data. Public involvement techniques include open houses, advisory committees, and websites. Generally, DOTs evaluate their stakeholder involvement efforts as being quite effective, although public opposition to proposed projects and getting public and agency stakeholders to participate has been challenging.

Other challenges in administering scoping processes include the availability of data at the scoping stage and the amount of DOT staff and time available to conduct scoping efforts. The availability of funding and expertise and commitment to scoping efforts among DOT staff and management appear less challenging among the 46 states that responded to the survey.

The DOTs identified early engagement of stakeholders in scoping as having numerous effects on later steps in the NEPA process. Agency stakeholders influence the selection of alternatives for evaluation, identification of impacts, and data to be developed during the NEPA process. Public stakeholders also influence the selection of alternatives and can be very influential in identifying additional stakeholders to engage in the process.

Generally, states agree that scoping influences the content of EISs. In addition, scoping has an effect on the identification and mitigation of environmental impacts of transportation projects. However, numerous DOTs noted that scoping efforts did not reduce the amount of time and resources needed to complete the NEPA process.

For additional information and a copy of the full study report, please use the following contact information:

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A portion of the study findings will also be available in a forthcoming article in the *Journal of Environmental Planning and Management*.
Launched in mid-2006, the online Transportation and Environmental Research Ideas (TERI) database (http://environment.transportation.org/teri_database/) is run by the AASHTO Center for Environmental Excellence (http://environment.transportation.org) as a simple way for keeping good environmental research ideas from falling through the cracks. TERI has become a helpful complement to other research databases, such as the online Transportation Research Information Service (http://ntlsearch.bts.gov/tris/index.do), which is a compendium of completed research maintained by U.S. Department of Transportation and the Transportation Research Board (TRB), and the Research in Progress database (http://rip.trb.org/) operated by the TRB. Practitioners submit ideas to TERI continually, either as part of the Center's formal annual call for TERI ideas or as a result of other activities. These ideas are reviewed by the Center and added to the 22 sub-categories within TERI.

Staff and consultants at the Center keep TERI's content from growing stale by holding a widely distributed annual request for new ideas and by conducting a periodic “spring clean” review of all ideas listed in the database. The first annual call for new TERI research ideas was held in mid-2007. It generated about 50 suggestions from a mix of non-profit, local, state, and federal agencies and the private sector. Each idea was carefully reviewed before being posted online. As part of the spring clean in March 2008, about 70 ideas were archived from the database because they were identified as either out-of-date or already addressed by existing research.

As of April 2008, TERI holds 168 practitioner-generated environmental research ideas. The most popular transportation and environmental research needs, based on the number of entries by category, are in the areas of “water quality and wetlands” and “construction and maintenance practices.”

The best measure of TERI's success, however, may be the number of research ideas that it has helped move from concept to reality. Twenty-nine research ideas originally listed in TERI as “unmet” are now underway and 18 research ideas originally listed as unmet have been completed. The area of greatest synergy has been between the National Cooperative Highway Research Program and TERI. Almost $1.5 million in NCHRP research funds has been directed towards meeting needs listed in the database. Among the 29 ideas where research is underway are seven NEPA process-related projects and four water quality and wetlands-related projects. Examples of the kinds of research projects recently funded by NCHRP using TERI ideas include:

- Effective Organizational Structures and Management Practices for Achieving Environmental Stewardship in Transportation Agencies (Funded as NCHRP Project 25-25, 37)
- Hydraulic Modifications to Existing Drainage Infrastructure in Ultra-Urban Areas to Achieve Watershed Total Maximum Daily Loads (Funded as NCHRP Project 25-31)

The Center has plans to further improve the linkage between tracking of research ideas and funding of research. This summer, Center staff will be working with AASHTO’s Standing Committee on Environment to develop the best TERI research ideas into full research statements for submittal to NCHRP and other research opportunities.

The Center for Environmental Excellence (Center) by AASHTO is your resource for technical assistance, training, information exchange, partnership-building opportunities, and quick and easy access to environmental tools. To view the 2007/2008 Center work plan please visit http://environment.transportation.org/center/about/workplan_0807.aspx.
As the Center strives to continuously improve its services and products, it must have a fresh understanding of its customers’ interests/needs and tailor its services to meet them. Therefore, in January 2008, the Center created an online survey to gage practitioner’s awareness of the Center’s services and products, identify current and future information sharing, technical assistance, and training interests/needs and tailor its services to meet them. The Center is using the results of the survey to draft its 2008/2009 work plan. The work plan will be effective July 1, 2008 and will be posted on the Center website.

**New Center Products, Programs and Initiatives**

**Broadcast Emails**

Transportation and environmental professionals are now able to receive up-to-date information about the Center products, programs, initiatives, activities, and work plan through the newly launched broadcast email mechanism. Practitioners can receive regular email updates by subscribing at [http://environment.transportation.org/broadcast/](http://environment.transportation.org/broadcast/).

**Website**


**Case Law Database**

The Center will debut a new case law database this spring. The database will be a storehouse for tracking and sharing case law updates on the environment and will provide a timely, organized, and comprehensive list of case law summaries for practitioners. The database will be searchable by date, state, court, statute, and environmental topic.

**Practitioner’s Handbooks**

The Center develops Practitioner’s Handbooks to provide practical advice on a range on environmental issues that arise during the planning, development, and operation of transportation projects. The Handbooks are primarily intended for use by project managers and others who are responsible for coordinating compliance with a wide range of regulatory requirements. Two handbooks have recently been published:

- *Using the SAFETEA-LU Environmental Review Process* (23 U.S.C § 139)
- *Using the Transportation Planning Process to Support the NEPA Process*.

Handbooks may be downloaded from the Center for Environmental Excellence web site by visiting [http://environment.transportation.org/center/products_programs/practitioners_handbooks.aspx](http://environment.transportation.org/center/products_programs/practitioners_handbooks.aspx).

**Center Technical Assistance Program**

The Center Technical Assistance Program (CTAP) offers a team of highly qualified and experienced experts on call and ready to assist transportation and environmental agency officials in improving environmental performance and program delivery. The Center has approximately 40 experts covering a variety of environmental topics and recently hired additional experts in the following four areas:

- Climate Change,
- Sustainability,
- GIS, and
- Environmental Information Management.
Each expert's biography is listed on the Center's webpage along with his/her specific area of expertise. For more information on this program, visit the Center web site at: http://environment.transportation.org/center/tech_experts/.

Environmental Management Technical Assistance Program

The Environmental Management Technical Assistance Program (EMSTAP) is designed to assist State DOTs in developing and implementing an Environmental Management System (EMS) for managing the environmental aspects of transportation planning, project development, construction, maintenance, and operations. Through this program, the Center offers State DOTs a variety of EMS technical assistance options, such as EMS Orientation Sessions, EMS Work Plan Development, EMS Training, and/or EMS Development and Implementation Mentoring.

Above and Beyond: The Environmental and Social Contributions of America's Highway Programs

The Center published the Above and Beyond, The Environmental and Social Contributions of America's Highway Programs Report in January 2008. The update provides the most recent data and information regarding contributions of highway programs. The report documents how transportation projects balance mobility goals while protecting and enhancing the nation's natural and cultural resources, revitalizing communities, and improving the quality of life. In the words of Executive Director John Horsley, "Today, more than ever, transportation agencies are going "above and beyond" toward sustainable transportation."

Context Sensitive Solutions

The Center will conduct two CSS Peer-to-Peer Workshops this spring. The workshops will be held in Indianapolis and Reno and approximately seven states will participate in each workshop. The workshops will be interactive and will include facilitated discussion and presentations from the various states. Participants will share successful practices as well as concepts for enhancing the state of the practice.

Webcast

The Center is producing a Webcast to be presented this fall to promote the integration of the transportation environmental and planning processes. The Webcast will be structured to help educate transportation planners about the NEPA process and NEPA practitioners about the transportation planning process, such that all practitioners will gain a mutual understanding of the detailed processes involved and of some practical approaches to better integrating these processes. The program will start with brief background information on systems-level planning and a brief background on NEPA, followed by more in-depth discussion of how products from planning can be used in NEPA and what level of effort and detail of documentation are needed for planning products to be useful in the NEPA process. Additionally, case studies will be included to provide examples of successful integration. Please visit the Center website in the near future for additional details about registration.

SAFETEA-LU Case Studies

The Center is seeking case studies on State DOT implementation of the environmental provisions of SAFETEA-LU. If your agency has developed successful implementation strategies, manuals, model documents, or other processes for implementing the environmental provisions of SAFETEA-LU that you wish to share with others, please provide the information online at http://environment.transportation.org/environmental_issues/safetea_lu/submission.aspx.

Submissions are being accepted for the following SAFETEA-LU provisions:

- Section 6001: Statewide Transportation Planning; Metropolitan Transportation Planning
- Section 6002: Efficient Environmental Reviews for Project Decision Making
- Section 6004: State Assumption of Responsibilities for Categorical Exclusions (CE)
- Section 6005: Surface Transportation Project Delivery Pilot Program (Assumption of NEPA Responsibility)
• Section 6006: Environmental Restoration and Pollution Abatement; Control of Noxious Weeds and Aquatic Noxious Weeds and Establishment of Native Species
• Section 6007: Exemption of Interstate System
• Section 6009: Section 4(f) Provisions - Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites

Hard copies of all documents and reports can be purchased by visiting the AASHTO Bookstore at https://bookstore.transportation.org/.

CTE Active in NCHRP Research

The Center for Transportation and the Environment (CTE) is a national university transportation center at the Institute for Transportation Research and Education at North Carolina State University. CTE is funded, in part, by the U.S. Department of Transportation and the North Carolina Department of Transportation. CTE staff researchers have been actively involved in three recent projects for the National Cooperative Highway Research Program (NCHRP).

Measuring Transportation Impacts on Social Wellbeing

CTE senior research associate, Leigh Lane, and research associate, Ann Hartell, led the center’s work on NCHRP Project 8-36, Task 66, Improved Methods for Assessing Social, Cultural and Economic Effects of Transportation Projects. Working in partnership with Cambridge Systematics, CTE conducted research to identify and describe social (human) indicators that reflect quality-of-life considerations during the transportation decision-making process. The research builds upon State DOT and Metropolitan Planning Organization best practices to incorporate social considerations into the transportation planning process, indicating how current and often qualitative approaches can be extended to be more quantitative.

CTE performed the lead research, leveraging its extensive base of both completed and ongoing community impact assessment, context sensitive solutions, and socioeconomic research. Cambridge Systematics provided staff input on demographics, geographic information systems, quantitative methods, and statewide and metropolitan area transportation planning.

Research for this project was conducted in spring-fall 2007, and a draft report submitted to NCHRP in January 2008. Publication of the final report is expected this spring. A poster presentation highlighting Lane’s and Hartell’s research findings also was accepted by the Transportation Research Board (TRB) and presented at its 2008 annual meeting in Washington, D.C. For more information about the project, contact Ann Hartell, CTE research associate at (919) 515-9351 or amhartel@ncsu.edu.

Use of Multi-Disciplinary Teams in CSS

In February 2008, NCHRP released a CTE-authored report describing the current practice of State Departments of Transportation in using multi-disciplinary teams to develop context sensitive solutions (CSS). The report for NCHRP Project 20-5, Synthesis of Information Related to Highway Problems, cites a nationwide survey of State DOTs that indicates that most are using multi-disciplinary teams in some form resulting in tangible benefits, such as reduced costs and quicker project delivery. The report also provides case studies, suggested practices, and future study topics.

The synthesis contains information gathered from 32 states responding to the survey. Four case studies showcase three projects and one programmatic approach that used multi-disciplinary teams representing a wide range of stakeholders. The case studies provide valuable lessons learned through notable practices that can be transferred to project development processes of the other State DOTs.

The synthesis will be of interest to State DOT personnel and others in community and environmental stakeholder groups who work with them in the area of CSS. The underlying theme is one of developing transportation solutions that improve the quality of life for the communities being served by transportation...
agencies. Guidelines are provided from these examples to specify areas where practices can be revised to make multi-disciplinary teams an even more effective part of achieving CSS. For more information, link to NCHRP Synthesis 373: Multi-Disciplinary Teams in Context-Sensitive Solutions (http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_373.pdf).

**Temporary Bridging and Wetlands Impact Mitigation**

CTE is working in cooperation with Mulkey Engineering and Consultants, Inc. to develop a guidebook as part of NCHRP Project 25-30, The Use of Temporary Bridging to Avoid and Minimize Impacts to Waters and Wetlands during Highway Construction.

The NCHRP research project examines state practices in the use of temporary bridging, such as floating or prefabricated bridging, as an alternative to current construction methods. If the use of temporary bridging is practicable in avoiding or minimizing impacts, there is an opportunity to protect the environment and to reduce costs. The study includes the results of Web-based and phone surveys of over 100 potential respondents. The results of the study are discussed in detail in the project final report.

As a companion to the final report, the guidebook incorporates key information culled from the survey results to present a straightforward set of criteria to assist decision-making on the selection and use of temporary bridging for traffic detours or construction access, with the objective being to avoid or minimize the environmental impacts of roadway construction over or adjacent to rivers, wetlands, and other waters.

The guidebook provides an overview of the main types of temporary bridging, factors that influence their selection, a decision matrix for determining the applicability of temporary bridging types to various conditions, state examples of lessons learned, and recommendations for the future. A list of resources and contacts for more information is provided for additional reference at the end of the guidebook.

A draft of the guidebook was recently submitted to NCHRP. Following the project panel’s review and comment, the completed publication is expected later this year. For more information, contact James Martin, CTE associate director at (919) 515-8620 or jbm@ncsu.edu.

**Meeting the Challenges of Stormwater Management along our Public Highways**

By G. Scott McGowen, P.E. California Department of Transportation and Anna Lantin, P.E., RBF Consulting

This article first ran in the February 2008 issue of Water World/Urban Water Management.

In the realm of stormwater quality, our public highway systems are one of the most difficult aspects of our urban environment to manage. The linear nature of our nationwide highway systems and their intense public use make pollution prevention a challenge for each of our states.

On the west coast, the California Department of Transportation (Caltrans) manages about 50,000 miles of highway and freeway lanes serving 30 million residents across a state that spans approximately 158,300 square miles. Meeting the challenges of stormwater management for this transportation network and winning the 2007 Clean Water Act National Outstanding Stormwater Management Award has taken years of study, collaboration, partnerships, and action. Caltrans has challenges unlike most agencies, primarily because the property maintained is linear and widespread, and has multiple cross flows requiring flexibility in accommodating Best Management Practices (BMPs). No other permit holders within the State of California, and few within the nation, have a jurisdiction of this size and complexity. Strategies to control pollutants of concern vary because of the diversity of geographic, geologic, climatic, population, and regulatory conditions throughout the 770-mile length of the state.
Compliance with Regulations

As federal environmental regulations, based on the Clean Water Act, have evolved to require control of pollutants from our Municipal Separate Storm Sewer Systems (MS4s), discharges brought under the NPDES permit process have resulted in a need to find solutions to constant challenges. In California, the EPA has delegated administration of the federal NPDES program to the State Water Resources Control Board and potential location-specific activities from the nine Regional Water Quality Control Boards (RWQCBs).

The Statewide Stormwater Management Plan (SWMP) is a requirement of the Permit, which Caltrans has developed into the greatest benefit and guiding force of the program. The plan addresses stormwater and authorized non-stormwater discharges to waters of the United States as defined by EPA and waters of the State of California as defined by the Porter-Cologne Act.

The Statewide Stormwater Management Plan

Caltrans, through this detailed Statewide Stormwater Management Plan and associated innovative technologies, is emerging as a recognized leader in the field, while continually seeking ways of meeting these challenges with solutions that can be applied nationwide. As the key to the program’s progress and success, the Statewide Stormwater Management Plan addresses the programmatic approach for achieving compliance with state and federal requirements for the protection of water quality.

The first statewide SWMP was developed and implemented over ten years ago, in March 1997, with the current plan originally developed and submitted on January 15, 2004 to renew the Caltrans statewide NPDES permit. A revised, updated SWMP was submitted in June 2007.

The SWMP addresses discharges from stormwater originating from precipitation and snowmelt and non-stormwater discharges including illicit and authorized discharges and emergency response activities. The California Streets and Highway Code defines “highway” to include bridges, culverts, curbs, drains and all works incidental to highway construction, improvement, and maintenance. Contribution of pollutants from all these areas is under the authority of Caltrans.

The Caltrans Stormwater Program has taken the approach of examining the full spectrum of activities, including planning, design, construction, maintenance, and operation of roadways and facilities. The Stormwater Management Plan addresses responsibilities of Caltrans for implementing stormwater management procedures and practices including training, public education, monitoring, program evaluation, BMP development, and reporting activities statewide.
Important aspects of the program include its management and delegation of responsibility. Stewardship and management of the program begins with the six divisions dedicating staff to address stormwater issues (Environmental Engineering, Design, Construction, Maintenance, Right-of-Way and Traffic Operations/Encroachment Permits) led by the Headquarters Division of Environmental Analysis in Sacramento. Each division is responsible for tasks related to the Division’s core activities, such as developing tools, guidance and manuals, training, and administration of a Stormwater Advisory Team (SWAT). The state is divided into twelve Caltrans districts, each of which has the primary responsibility for day-to-day project-based implementation of the Plan.

Stormwater Advisory Teams

Each division SWAT is comprised of representatives from the twelve districts statewide, who gather for review of proposed and existing Best Management Practices (BMPs) and process and implementation of the SWMP to gain a statewide perspective. This allows each division to evaluate the applicability and workability of the Best Management Practices to develop practical solutions to stormwater issues. Each division develops training for its unique area. The Stormwater Advisory Teams meet independently and then come together annually in a large “Super SWAT” to discuss the issues across the state. This results in an integrated approach to accomplishing the goals of the statewide stormwater management program and a team synergy among the functional areas and geographic regions that results in better communication, improved design and quality control through an informed approach on the part of all Stormwater Advisory Team Members.

Additional Key Program Components

Important components of the stormwater program also include the new BMPs and the Monitoring and Discharge Characterization Program, which addresses storm drain system inventories and discharge characterization studies; BMP Development, addressing the prioritization, evaluation, adoption, and integrated approved design BMPs; Facilities Operations; Public Education and Participation, which includes use of outreach, mass media including the “Don’t Trash California” campaign and public participation programs; Location-Specific Activities and the Program Evaluation which highlights field activities compliance evaluation and project design compliance evaluation; and Measurable Objectives, a performance-based approach and comprehensive list measuring achievement of the program activities, tasks, and schedule for the program development. Studies and BMP development information is made available to everyone within the departments through the Stormwater website to keep new information available to all members of the program.

Throughout the program, Caltrans has created new and improved program components, designed technologies and approved new BMP devices for implementation, conducted a variety of research studies on highway runoff, executed a multi-million dollar public education campaign, trained statewide personnel, garnered partnerships with other stakeholders, and participated in implementing programs with a watershed emphasis.
Nationwide Recognition and Applicability

Developing a high-level program and participating with local and state agencies on a watershed basis has resulted in a cost-effective and well-rounded program in California to meet the challenges of stormwater management along our public highways. Caltrans has implemented and continues to enhance this unique and advanced program of stormwater quality and management that transportation agencies nationwide can use as a valuable resource.

How Do Airports Stack Up? Measuring Environmental Performance

By Carol Lurie, Vanasse Hangen Brustlin, Inc. and Sarah Townsend, Vanasse Hangen Brustlin, Inc.

This article first ran in the Winter 2007/2008 issue of the Airport Consultants Council's publication titled Airport Consulting.

Environmental sustainability is one of the most critical new airport challenges. Influenced by the growing concern over global warming and greenhouse gases, airport operators are beginning to evaluate the role of airports in climate change. Consultants need to be aware that airport efforts to improve their environmental performance will permeate virtually all airport development-related projects, activities, and operations.

Most airports are committed to responsible airport development and management, and recognize their local communities and the airport's importance in a regional context. But how do airports stack up when it comes to actual environmental performance?

An environmental benchmarking study of seven major United States and international airports was undertaken in 2006 with the goal of identifying favorable sustainability practices. These airports were the Portland International Airport, Boston Logan International Airport, Seattle-Tacoma International Airport, Oakland International Airport, Austin-Bergstrom International Airport, Sydney Airport in Australia, and Zurich Airport in Switzerland.

The study found that airports are focusing on a broad range of environmental issues and employing many different methods to achieve sustainability and environmental excellence. They are also using varied methods to track progress. The results of the study may help other airports and their consultants to establish methods to measure their own progress.

Background

Several parameters were used in the study to comparatively assess each airport's environmental achievements:

- Environmental Stewardship/Sustainability
- Measurement and Reporting
- Noise
- Air Quality
- Waste Management, Recycling, and Reuse
- Energy Use
- Water Use and Water Quality
- Ground Transportation/Airport Access
- Community Relations

Below are specific examples of programs and efforts that have been implemented relating to these parameters.
Environmental Stewardship/Sustainability

Each of the airports mentioned above conducts employee training on sustainability goals. Portland, Oakland, Zurich, and Sydney Airports have an Environmental Management System (EMS) with policies and procedures for environmental management. Zurich Airport’s EMS is ISO 14001 certified. Seattle-Tacoma International Airport and Logan Airport have buildings certified to Leadership in Energy and Environmental Design (LEED™) standards. The Seattle Terminal Radar Approach Control facility (TRACON) was the first Federal Aviation Administration (FAA) project to be awarded GOLD LEED™ certification.

The newly constructed Terminal A at Logan Airport was constructed to LEED™ standards. Delta Air Lines and Massport secured LEED™ certification for Terminal A in March 2006. In addition, Terminal A’s master concessionaire achieved LEED™ certification in the newly developed area of commercial interiors. Many airports use LEED™ or similar standards when constructing new buildings or renovating buildings.

Measurement and Reporting

Several airports, such as Boston-Logan, Oakland, Zurich, and Sydney Airports, prepare annual reports that document environmental conditions in several ways. Logan Airport’s annual environmental report card documents the airport’s environmental goals and achievements, and measures progress against environmental goals. Some airports regularly conduct environmental internal audits/inspections.

Noise

Limiting the impact of aircraft noise on communities surrounding an airport is one of the most challenging aspects for airports to manage. One tool being used is a noise monitoring system and a process that enables the public to register noise complaints.

Sound insulation programs also have long been in place and are effective. At Logan Airport, sound insulation has been installed in a total of 4,191 residences (including 8,615 dwelling units) and 36 schools.

All the airports use operational controls to minimize noise (i.e., ground run-up restrictions or enclosures, noise abatement flight procedures, and flight restrictions during evening hours).

Air Quality

The role of greenhouse gases in the changing global environmental has led to a renewed focus on air quality emission reduction. Logan and Zurich Airports operate air quality monitoring systems. Sydney Airport has operated an air quality monitoring station since 1994; however, it was recently closed, with the approval from environmental regulators, because air quality samples have consistently met air quality regulations. Many airports implement measures to improve indoor air quality. Logan, Portland, and Austin-Bergstrom have extensive programs to create a healthy indoor environment.

Waste Management, Recycling, and Reuse

Airports are also working to reduce waste, even though a formal waste generation strategy may not be in place. Oakland has the highest level (30 to 40 percent) of waste reduction. Zurich Airport reported the highest rate of recycling, with 40 percent of waste generated in 2006 being recycled.

Austin-Bergstrom has placed great importance on using recycled materials. The airport used recycled materials for construction projects, involving the primary structural framing, concrete reinforcing steel, steel studs, and concrete.

Energy Use

Investing in building efficiency can also yield significant savings in operations costs. Seattle-Tacoma, Oakland, and Zurich Airports track energy usage per passenger. Energy usage ranged from a low of 1.27 kilowatts per hour (kWh) per passenger at Oakland International Airport to 16.02 kWh per passenger at Zurich Airport (process heat, cooling, and electricity). Denver, Seattle-Tacoma, and Austin-Bergstrom International Airports reported an energy usage of 5.26, 5.03, and 2.5 kWh per passenger, respectively.
Seattle-Tacoma, Austin-Bergstrom, Zurich, and Sydney Airports have energy consumption reduction goals and are taking measures to reduce energy consumption. Although Portland and Logan Airports have not yet developed energy consumption reduction goals, they are implementing measures to reduce energy consumption.

A few airports purchase a portion of their electricity from renewable sources, such as wind generation at Portland, renewable sources at Oakland, solar and geothermal at Zurich, and solar at Austin-Bergstrom.

Water Use and Water Quality

Sydney Airport has the highest rate of water use at 20 gallons per passenger, but is enacting water saving measures. The other airports reported much lower rates of water use, attributed to the use of water-saving measures, such as low-flow fixtures, the use of rainwater, drip irrigation, and suitable landscaping vegetation for the climate.

All the airports have a surface water quality management plan and/or monitoring program in place, have water quality control measures, and report a good rate of compliance with water quality permit limits/allowable levels.

Ground Transportation/Airport Access

Individual automobile use has several environmental impacts from both the vehicles themselves and to the infrastructure that supports them. Most of the airports in the study provide incentives for the use of HOV/alternative modes of transportation. Seattle-Tacoma International, Oakland International, and Zurich Airports all subsidize the cost of passes on local public transportation systems. Other means to promote the use of HOV include raising employee parking fees by 20 percent at Zurich Airport and a vanpool/carpool purchase plan at Oakland International Airport. Many airports are accessible by modes of transportation other than private vehicle. Logan is accessible using rail, bus, water transportation, car/vanpool, bike, and foot. Use of alternative modes of transportation by airport employees ranges from 41 percent of employees at Seattle-Tacoma to 12.7 percent at Sydney.

Community Relations

Some airports obtain goods and services from the local area. All the airports are involved in educational initiatives. Portland International and Zurich Airports conduct tours to educate the public on the environmental activities that occur at the airports. Seattle-Tacoma International Airport has a scholarship fund for a local school. Staff from Oakland Airport teach a civil/transportation engineering lab class at the University of California, Berkeley on how to prepare an airport master plan. Staff at Austin-Bergstrom mentor children at a local school. Sydney Airport sponsors school-based initiatives, has a school grant program, and provides tours of airport operations.

Community participation in airport planning varies. Logan, Portland, Oakland, and Austin-Bergstrom all have community advisory committees who are involved in airport development.
Airports across the country and around the world are adopting similar activities and programs that were highlighted in the study with the goal of improving their environmental performance. But how should airports and their consultants track their progress?

**What is Environmental Benchmarking?**

Environmental benchmarking is an important tool to measure environmental performance and to assure that an airport is on track when it comes to environmental excellence. The results can provide environmental managers the unique opportunity of sharing successes and lessons learned on integrating environmental programs into airport operations and can allow airports to continue to improve environmental compliance.

To determine present levels of environmental performance at airports, measures must be identified. The performance measures consist of two types. The first includes those that describe the environmental performance or the state of the environment. Indicators of environmental performance can include the number of noise complaints per year, gallons of water consumed per passenger, or percentage of employees using HOV modes for accessing the airport. An air emission inventory that models VOCs, NOx, or particulate matter from airport operations is an example of the state of the airport environment. The second type of performance measures are those that describe the management measures that contribute to environmental performance.

An airport should first develop a baseline understanding of its environmental status. Noise and air quality are the typical types of environmental data that are collected, but water quality, natural resources, hazardous materials, and ground access characteristics are as important. The public wants to know the impact of the airport on the community. While identifying a baseline is critical for airport managers to know the role an airport plays in its context, it is not enough. Checking an airport’s progress annually or regularly is what counts.

For the past 20 years, Logan Airport has prepared an annual environmental report card that is the basis for the Airport’s planning and development policy. This approach can help airport clients keep apprised of changing federal and state environmental requirements, can provide valuable information to the public, and can ultimately assist project approvals at the airport. The sustainability lingo of “plan, do, check, act” is a good strategy that ensures continual improvement for airports.

**What Does This Mean for the Airport Industry?**

Since the study was completed in 2006, many airports have initiated airport sustainability programs. Most are focused on environmental issues, but several, such as Los Angeles World Airport, are developing programs that include social responsibility and economic development.

The greening of airports is good business and environmental practice. During the next decade, environmental sustainability and stewardship will become the norm at airports the world over.

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**Results of the 2008 ADC10 Newsletter Survey**

*By Frank Bracaglia, Vanasse Hangen Brustlin, Inc.*

One of the objectives of the Newsletter Subcommittee is to evaluate the newsletter every three years through a reader survey. As far as I could determine, the last survey was performed before 1998, so this survey was long overdue. As a result, in an effort to obtain input that would improve the ADC10 Newsletter, I developed a survey of eight questions and posted it at [http://www.surveymonkey.com/s.aspx?sm=2lZPq49wqWxAUUhnJx7gg_3d_3d](http://www.surveymonkey.com/s.aspx?sm=2lZPq49wqWxAUUhnJx7gg_3d_3d). For those of you who may not be familiar with Survey Monkey, it is an easy-to-use online tool that is used to create and publish custom surveys. It then allows you to view results graphically and in real time.

On February 24, 2008, I sent an e-mail to friends and members of the ADC10 informing them of the survey that was posted and I requested their participation in the survey. After a two-week period (i.e., on March 9, 2008), the survey was closed. The results of the survey follow:
1. What is your opinion about the number of issues per year?

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3. What is your opinion about the timeliness of the articles?

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6. What is your opinion about the timeliness of the articles?

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Questions 7 and 8 were more open-ended. Question 7 was: Do you have any suggestions for future articles?

These suggestions included:

- The upcoming transportation reauthorization bill
- Addressing climate change, sustainability, and globalization
- Expanding the scale of environmental analysis
- Integrating environmental considerations into transportation planning, design, construction, maintenance, and operations
- Environmental compliance during design, construction, and maintenance
- Update on State DOT research
• Update on Federal research (i.e., SHRP 2, STEP, NCHRP, and TCRP research products)
• Highlights of the AASHTO TERI database
• A rotating article written by subcommittee chairs about what its subcommittee does and its upcoming goals

Question 8 was: If you have any other suggestions about how we can improve the newsletter, please enter them in the box below.

• Consider placing feature articles upfront, followed by information about meetings.
• Consider a “Guest Column”. This would be an invited writer from a regulatory or resource agency to highlight their needs/issues with respect to highway projects (a different writer for each newsletter issue).
• Consider a spotlight interview in each issue with a DOT Senior Manager involved in NEPA to discuss issues important in their state or projects that are changing their standards or ways they do business.
• Consider including photographs of committee activities and history. Perhaps the History Subcommittee could have a sidebar on A1F02/ADC10 history each issue (e.g., photographs, and interviews).

I also would like to thank those who participated in the newsletter survey. The responses were gratifying and the suggestions were very helpful. Over the next several months, the Newsletter Committee will be working to implement some of these suggestions.

Subcommittee Reports

Steering Subcommittee Report

By Kim Gambrill, Steering Subcommittee Chairperson

Activities and Accomplishments: July 2007 – January 2008

• Completed revisions to the Newsletter Subcommittee Goals, Objectives and Procedures (adopted July 8, 2007).
• Assisted Pat Trombly in preparing the first draft of the History Subcommittee Goals and Implementation Strategies (for review and discussion at the January business meeting).
• Prepared an article on ADC10 Membership Opportunities for the November ADC10 Newsletter.
• Provided assistance to the Colorado DOT in selecting the hotel for the 2008 Mid-Year Meeting in Denver (July 28 – 31).


• Assist the Committee Chair in the preparation of the 2004 – 2006 Triennial Strategic Plan (TSP).
• Work with Pat Trombly and Mark Kross to finalize the History Subcommittee Goals and Implementation Strategies (planned adoption in spring 2008 by electronic ballot).
• Work with Joe Shalkowski to update the Research Topics Subcommittee Goals.
• Work with Chris Gesing to update the Website Subcommittee Goals.
• Provide further assistance to the Colorado DOT in preparing for the 2008 Mid-Year Meeting.

Research Topics Subcommittee Report

By Joe Shalkowski, PBS&J

Mission

The mission of the Research Topics Subcommittee is to 1) identify environmental transportation research needs and contribute research ideas as opportunities arise through TRB, AASHTO, and other organizations;
2) support and track what happens to research ideas generated in the environmental transportation profession through monitoring of the TRB Research Needs Database, TERI, RIP, TRISOnline, STEP, and other associated research data sources; 3) identify which research ideas may be “hot” topics for ADC10 calls for papers or calls for presentations through coordination with AASHTO, TRB, FHWA, State DOTs, and institutions of higher learning partners; 4) track what happens to the research that is funded so that appropriate links to the research results are available and arrangements are made to present the results at TRB, if appropriate, during a presentation/poster/or paper session; and 5) support any future research needs conference. Ultimately, the subcommittee is to promote and facilitate inter-organizational coordination and communication on completed, ongoing, and needed research.

The subcommittee recognizes that the partnerships between TRB, AASHTO, FHWA, the State DOTs, institutions of higher learning, and other public and private sector organizations are essential to effectively identify, track, fund, monitor, and report on important research within the environmental transportation field. A priority of the subcommittee is to build relationships and maintain membership that includes representation from these organizations as part of a proactive effort to understand and identify research needs, priorities, and results.

Membership

Chair: Joe Shalkowski, PBS&J
Members: Joe Crossett, TransTech Management
         H. Oliver Gao, Cornell University
         Jeff Heilman, Parametrix, Inc.
         "Jane" Jie Lin, PhD, University of Illinois at Chicago
         Lynn Malbrough, Arkansas Highway and Transportation Department
         John Page, PB Americas, Inc.
         Teresa Townsend, Planning Communities
         Marie Venner, ICF International
         Lisa Zeimer, PB Americas, Inc.

Activities

- Subcommittee conference calls were held on November 12 and December 13, 2007.

- Joe Shalkowski and Joe Crossett participated in a conference call organized by Shari Schafflein on August 22, 2007 to discuss how the administration of STEP and the TERI and TRB Research Needs databases can be better coordinated. Joe C. also indicated that he has been involved in discussions with officials representing SCOE, FHWA, and TRB regarding the coordination of their research agendas and priorities. Joe C. mentioned that the ADC10 Committee may be able to assist in this coordination effort.

- Through these conference calls and other subcommittee coordination, the Research Topics Subcommittee is in the process of accomplishing the following for 2008:
  - Finalize and circulate the research ideas request form that was drafted by Joe Crossett and others on the subcommittee. The form would be circulated to members and friends of ADC10. The intent is to generate new research ideas for submission to the TRB Research Needs and TERI databases. The research ideas that are generated would be screened by the subcommittee and submitted to the ADC10 members for approval, similar to the approach used to screen and approve submissions to the databases in 2007.
  - Have the subcommittee and ADC10 members review and prioritize research ideas in the TERI and TRB databases. The committee could then advocate that these ideas be advanced for consideration as future research projects and/or be used as a basis for soliciting papers and organizing presentation sessions at future meetings.
Initiate a dialog with the TRB officials administering the TRB Research Needs Database to explore the concept of implementing a formalized research needs statement vetting process where individual TRB committees review and prioritize research needs statements in the database that are under their technical purview, similar to how the SCOE subcommittees rank and advance the ideas in TERI. Low rated statements could be purged, while highly rated statements could be advanced for consideration as future research projects through further coordination with research organizations which have available funding.

Support Shari Schaftlein in her administration of STEP by keeping her informed of ADC10’s research priorities, including newly generated research ideas, and providing input, as appropriate, on areas of research identified in STEP.

Website Subcommittee Report

By Christopher G Gesing, P.E., Michael Baker Jr., Inc.

The following are the activities since the Summer 2007 Business Meeting in Chicago, Illinois:


2. Added the 2007 Summer Workshop session and tour presentations to the “Conferences” page. Special thanks to the session and tour moderators for their help in collecting the presentations for the website.

3. Added the 2008 TRB Annual Meeting notice and the ADC10 Call for Papers to the website.


5. Posted the November 2007 Newsletter.

6. Updated the website for changes in Member’s contact information.

7. Continued updating the Home Page with announcements, registrations, and preliminary program information for TRB Annual Meeting and ADC10 Summer Workshop. Special thanks to Carol Zarker at CTE for promptly posting the website updates. Carol has left CTE. Good luck to her in her future endeavors.

8. Commenced work on updating the ADC10 Directory of State Transportation Agency and FHWA Environmental Officials.

9. Updated the Committee poster for the TRB Annual Meeting Environmental and Energy Poster Session.

Future Efforts

- Keep the website updated with current events/news
- Maintain the listserv
- Continue posting ADC10 business meeting minutes as they are approved
- Continue collecting session and presentation materials at the TRB Annual Meetings and ADC10 Summer Workshops and making the information available from the “Conferences” web page.
- Continue posting Subcommittee Goals and Objectives as they are reviewed and approved
- Continue working with the Newsletter Subcommittee (Frank Bracaglia, Chair), Members, and Friends to update and post the ADC10 Directory of State Transportation Agency and FHWA Environmental Officials
- Post links and information of interest to the Committee (e.g., AASHTO research) on the website
Add a new “History” page to the website and post information as it becomes available from the History Subcommittee (Pat Trombly, Chair), Members, and Friends.

Please submit any suggestions for improving the website to cgesing@mbakercorp.com.

Newsletter Subcommittee Report

By Frank Bracaglia, Vanasse Hangen Brustlin, Inc.

Accomplishments

Since the Mid-Year Meeting in Chicago in July 2007, the Newsletter Subcommittee has the following accomplishments to its credit.

1. In July 2007, at the Mid-Year Meeting, the Subcommittee’s Goals, Objectives, and Procedures were discussed and approved.

2. On December 14, 2007, the November 2007 Newsletter was distributed to Members and Friends of the ADC10 Committee. The newsletter has been posted to the ADC10 Web site.

   If you have not received the newsletter by e-mail, it is either because I do not have your e-mail address at all, or I have an outdated e-mail address for you, or because your organizations prohibits mass mailings via a filter. In the meantime, you can view the November newsletter on the web site and, if you wish to receive the November newsletter directly, please send your e-mail address to Chris Gesing at cgesing@mbakercorp.com.

3. An ad hoc group consisting of Chris Gesing, the chair of the Web Site Subcommittee; Craign Casper, the ADC10 member who produced the last Directory in 2004; Dave Grachen from FHWA; and myself has been established to update the Directory of State Transportation Agency and Federal Highway Administration Environmental Officials. Thus far, this group has been performing preliminary work on this effort.

Next Steps

1. In Mid-February 2008, I intend to send out All Points Bulletin (APB) that requests subcommittee chairs, members, friends of the committee, and others to step forward and volunteer to submit announcements, subcommittee reports, research news, requests for information, or feature articles for the May 2008 newsletter. The deadline for articles for this issue will be Mid-April 2008. I also intend to send a follow up APB before the newsletter deadline sometime toward the end of March.

2. One of the objectives of the Newsletter Subcommittee is to evaluate the newsletter every three years through a reader survey. As far as I could determine, the last survey was performed before 1998. So, this survey is long overdue. In coordination with the Subcommittee members, I will be developing this survey and sending it out in the next few weeks.
What were our major accomplishments in 2007?

- Held the 2007 mid-year meeting as part of the large TRB summer conference in Chicago. About 90 people from ADC10 participated in the meeting.
- We proposed the location for the 2008 meeting. The proposal was approved by our committee and the committee chairs. The 2008 Mid-Year Workshop will be a joint meeting with TRB Committees ADA40, Transportation Needs of National Parks and Public Lands and ADC30, Ecology and Transportation. The meeting will be in Denver, Colorado.
- Approached several state DOTs to host us for our 2009 mid-year meeting. West Virginia and Florida have offered to host us. Information regarding the potential venues was sent out to the committee members on January 3, 2008. We will make the final decision on the location of our 2009 meeting during the January business meeting.
- We have been working with Kate Quinn (Section Chair) regarding setting a meeting for all the ADC (Environment and Energy) committees. The section meeting is proposed for 2010. Virginia DOT is a potential host.
- We completed the ADC10 Mid-Year Workshop Guidebook. The Guidebook is a 50+ page document to assist hosts in delivering the mid-year meeting in the most efficient and effective manner. The guidebook will be used for the 2008 Mid-Year Meeting in Denver, Colorado and will be updated following that meeting.

Where were our meetings and where will we meet in the future?

The map below indicates graphically where we have held our workshops and where we may potentially have mid-year workshops in the future. Most meetings have occurred in the Northeast, South and West Coast of the country. The subcommittee will seek willing hosts who have substantial transportation environmental issues, where we can better promote the work of the committee, and gain greater exposure of the committee work. Note that a majority (three of five) of the potential future meeting locations are in states where we have never met.
The table below gives specific information as to when certain states may be willing to host us. Other states have expressed an interest but could not commit one way or the other at this time. We potentially have a joint meeting with ADC30 on even numbered years.

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<td>Proposal for meeting at the NCTC*. CLN* would be the host.</td>
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Able=Have a firm commitment; Set=Committee approved meeting location. *NCTC=National Conservation Training Center; CLN=Conservation Leadership Network.
The subcommittee goals and objectives stipulate that we should try as much as possible to meet in a different region of the country to promote the work of the committee, gain greater exposure of the committee’s work, and have different states showcase their environmental work. The meeting distribution indicates that we are even (through 2008) in meetings east and west of the Mississippi River. In the coming years, we will continue to balance our meetings east and west of the Mississippi River.

What are we doing next?

- Will decide on the 2009 meeting location at the annual meeting in January 2008.
- We are in the midst of developing the preliminary agenda, setting the registration fees and fee structure, and preliminary tour options with Colorado DOT and the Committees ADA40 and ADC30. Should be complete with this part of the effort by early February. Meeting dates for the 2008 summer workshop set for Monday July 28th through Thursday (midday) July 31st.
- Look into additional potential hosts for 2011 and 2012. Determine the potential hosts and have committee approval on these venues in the late-2008 to early 2009 timeframe.
- Revise the ADC10 Mid-Year Meeting Guidebook following the 2008 mid-year planning in the fall of 2008.
- Succession planning within the subcommittee through open invitations and active involvement. Involvement, commitment, and achievement will determine succession in the subcommittee.
- Looking into the potential to videotape a portion of the 2008 mid-year workshop. We would then place the video on the website in addition to the standard agenda and visual presentations.
- Will work with the Website Subcommittee to place the Mid-Year Workshop Guidebook on the website.

We Want Your Questions and Comments!

Please contact me with your questions and comments at:

Martin Palmer  
Phone: (206) 440-4773  
FAX: (206) 440-4806  
Cell: (206) 437-9509  
Email: palmema@wsdot.wa.gov
The year 2007 (January 2008 Annual Meeting) brought a total of 10 papers assigned to the ADC10 Committee for review. Again, our faithful reviewers, 48 strong, donned their glasses and went to work reviewing, offering their comments to authors, and then re-reviewing. Yes, a busy time for all!

A Call for Papers is being issued this year that seeks papers and posters on the topic of climate change and sustainability in line with our Denver Summer Program.

Three papers were recommended for presentation at the Annual Meeting in January 2008 with two additional papers suggested for a Poster Session.

Presentations

Planning and Environment Linkages (PEL): Using the PEL Umbrella to Streamline Transportation Decisionmaking (08-1721)
- Gina Barberio, US DOT/Volpe National Transportation Systems Center
- Rachael Barolsky, US DOT/Volpe Transportation Systems Center
- Michael Culp, Federal Highway Administration
- Robert Ritter, Federal Highway Administration

- Nancy T. Skinner, AICP, PB Americas, Inc.
- Douglas J. Delaney, Tennessee Department of Transportation

Green Roads: A Sustainability Rating System for Roadways (08-0803)
- Martina Soderlund, Stantec, Inc.
- Stephen T. Muench, University of Washington
- Kim Willoughby, Washington State Department of Transportation
- Jeff Uhlmeyer, Washington State Department of Transportation
- Jim Weston, Washington State Department of Transportation

Both the Planning and Environment Linkages (PEL) paper and Tennessee's 2007 Environmental Procedures Manual have been accepted for publication by TRB. Poster Session.

Poster Session

Monitoring Environmental Performance of Transport Policies in Spain (08-0523)
- Angel Aparicio, CEDEX, Ministry of Transportation, Spain

A Study of the Modification and Amendments of Environmental Permits for Design-Build Projects (08-0422)
- Kenneth J. Hess, AICP, The Louis Berger Group, Inc.
- Catherine P. LaFata, AICP, The Louis Berger Group, Inc.
- Laura L. Sliker, The Louis Berger Group, Inc.
Several topics of note were discussed at the Environmental Issues in Transportation Law Committee (AL050) held in January 2008.

Upcoming Meetings

The Legal Resource Group serves as an umbrella for the seven TRB technical activities committees that deal with legal issues in transportation. The Environmental Issues in Transportation Law Committee (AL050) is one of these seven committees. The mid-year meeting for the Legal Resource Group will be in San Diego on July 6 through July 9, 2008.

Based on work over the past year, the Committee on Environmental Issues in Transportation Law has proposed the following sessions for the mid-year meeting:

1. **What Transportation Lawyers Need to Know about Climate Change**

   This session will address the basic state of climate change in relation to transportation issues, including very basic science, role of the transportation sector in greenhouse gas emissions, current state of domestic law (with passing explanation of international law), and current climate change "hot spot" legal issues. The session is intended to serve as general background, so that other panels (e.g., Prospects for Offset Credits or Climate Change Cases, Regulations, and NEPA) can present more focused panels. Also, this session would allow those not interested in the detailed panels to get a better understanding of the general field.

2. **Rules, Fuels, and Writing Fools: Climate Change Cases, Regulations, and NEPA**

   This session will address key cases, such as NTSA CAFE standards court reversal for insufficient consideration of greenhouse gases; address status of implementation of EPA rulemakings concerning greenhouse gases, including the endangerment finding commanded by Supreme Court in Massachusetts v. EPA, possible rules regarding vehicle emissions, and implementation of greenhouse gas reductions commanded by 2007 Energy Act. More details on addressing greenhouse gases in NEPA project documents based on cases and agency policy.

3. **SAFETEA-LU Regulations, Still New, Still Coming** (Possible joint session with Public Transportation Planning and Development (AP025))

   This session will address the new FTA/FHWA Joint Section 4(f) regulation; address the 2007 new planning regulations, particularly the relationship between planning and NEPA; and address updates on implementation of SAFETEA-LU regulations issued since 2005.

The spotlight theme for next year’s TRB Annual Meeting will be Climate Change. There was no space for a “Legal Issues and Climate Change” session.

The Environmental Issues in Transportation Law Committee is planning to attend the 2010 mid-year joint meeting of all of TRB’s Environmental Committees. This meeting will occur in Williamsburg, Virginia. AL050 may be a co-sponsor and help with the planning of this meeting.

Special Task Force on Energy and Climate Change

TRB has established a Special Task Force on Energy and Climate Change that will have a duration of three years. The first Task Force meeting was on January 14 2008.
The Environmental Issues in Transportation Law Committee indicated to the Special Task Force that it is interested in trends in impact assessment of GHG emissions for transportation projects and in determining how transportation professionals, consultants, and lawyers could exchange examples of "state-of-the-art" discussions in various EAs and EISs. The implications of GHG emissions as they relate to public health impacts and other general impacts analyses could also be an important topic. The Committee urged the Special Task Force to consider the land use planning implications of transportation projects as it pertains to potential reductions in GHG emissions.

**Natural Lawyer**

The electronic publication titled, *The Natural Resource Lawyer*, published by the Committee, is now being issued quarterly. The newsletter includes articles on rules, cases, and successful experiences. The next issue was scheduled to be published in April 2008.

**AASHTO**

In 2008, the AASHTO Center for Environmental Excellence will have environmental legal case studies in a database format.

**Hot Topics**

In no special order, the Committee considers the following as issues also worthy of presentation or as possible research topics.

- Mobile Source Air Toxics (The U.S. 95 Case in Nevada and how it affects reviews.)
- Relevance of Climate Change to Planning- and Project-Level Decisions
- Joint Planning and Section 4(f)
- Traffic Modeling (The I-93 Case in New Hampshire)
- Effluent Limitation Guidelines for Deicing Operations at Airports (May have implications on snow and ice control operations on highways)
- Environmental Streamlining
- NEPA and Congestion Relief (Planning level analyses)
- NEPA Documentation Improvements
- Project Review Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Compliance with spirit or intent)
- Upcoming Environmental Issues for the Transportation Reauthorization Bill (How will climate change affect the bill? Will VMT growth and the highway versus transit be raised as issues again?)
- Public-Private Partnerships and Environmental Issues
- Recent Cases on Tiering (I-69 in Indiana and Eastern Corridor)
- When do you conduct Tiering versus conducting a Corridor Planning Study?
Recently Completed Research or Reports/Topics of Interest

The following are recently completed research reports or reports/topics of interest to the ADC10 Committee.

- Links to Presentations at the 2007 International Conference on Ecology & Transportation (ICOET)
  http://www.icoet.net/ICOET_2007/07finalAgenda.asp#TechSession
- Links to Presentations at the 2008 TRB Annual Meeting
  http://www.trb.org/conferences/e-session/2008am.htm#EE
- A Citizen's Guide to the NEPA: Having Your Voice Heard
- Collaboration in NEPA: A Handbook for NEPA Practitioners
  http://environment.transportation.org/center/products_programs/practitioners_handbooks.aspx#ph09
- NCHRP Report 25-25 (Task 22) Forecasting Indirect Land Use Effects of Transportation Projects
  http://www.trb.org/NotesDocs/25-25(22)_FR.pdf
- NCHRP Report 25-25 (Task 33) National Register Of Historic Places Eligibility
  http://www.trb.org/NotesDocs/25-25(33)_FR.pdf
- Design for Fish Passage at Roadway-Stream Crossings: Synthesis Report
- NCHRP Synthesis 373 Multi-Disciplinary Teams in Context-Sensitive Solutions
- NCHRP Report 25-27 Evaluation of the Use and Effectiveness Of Wildlife Crossings
- Practitioner’s Handbook #10: Using the Transportation Planning Process to Support the NEPA Process
- Section 4(f) Final Rule
  http://frwebgate6.access.gpo.gov/cgi-bin/Waisgate.cgi?WAISdocID=409247441123+2+0+0&WAISaction=retrieve
- Compensatory Mitigation for Losses of Aquatic Resources Final Rule
Members List

For the readers' benefit, here is a list of current (2008) members of TRB Committee ADC10.

ADC10 Officers

- Mark S. Kross, Chairman,
- Christine Gerencher, TRB Staff Representative

ADC10 Subcommittee Chairs

- James (Jim) J. Bednar, CH2M Hill, Liaison
- Frank Bracaglia, Vanasse Hangen Brustlin, Inc., Newsletter
- Martin Palmer, Washington State Department of Transportation, Mid-Year Workshop
- Andras (Andy) Fekete, The RBA Group, Environmental Stewardship
- Kenneth (Kim) M. Gambrill, Steering
- Christopher (Chris) G. Gesing, Michael Baker Jr., Inc., Website
- Joseph (Joe) S. Shalkowski, PBS&J Transportation and I-69/TTC, Research Topics
- Patricia (Pat) Trombly, Massachusetts Highway Department, History

ADC10 Members

- Kathleen (Kathy) Ames, Illinois Department of Transportation
- Marcia Bowen, Normandeau Associates
- Craig Casper, Pikes Peak Area COG
- Joe Crossett, High Street Consulting Group
- David Grachen, Federal Highway Administration Resource Center
- Jeff Heilman, Parametrix, Inc.
- Kris Hoellen, The Conservation Fund
- Mary Ivey, New York State Department of Transportation
- Susan Killen, Parsons Brinckerhoff, Secretary
- Parviz A. Koushki, Kuwait University
- Dominique Lueckenhoff, U.S. Environmental Protection Agency
- Lynn Malbrough, Arkansas Highway and Transportation Department
- James B. Martin, North Carolina State University
- Byron (Barney) O’Quinn, ARCADIS
- Shari Schafflein, Federal Highway Administration
- Charles (Muggs) Stoll, San Diego Association of Governments

Young Members

- Lisa Landers, Federal Highway Administration
- Christopher (Chris) Van Wyk, Federal Transit Administration

Emeritus Members

- Ron DeNadai
- Robert L. Jacobsen, Robert Jake Jacobsen
- Wayne W. Kober, Wayne W Kober, Inc.
- Douglas L. Smith
- Thomas (Tom) L. Weck

Others can become "friends of the committee" by contacting Mark Kross at 573-751-4606. His e-mail address is mark.kross@embarqmail.com.
You talked, we listened! As you can see in this issue, we have already begun to implement some of the suggestions that came out of the Newsletter Survey. We moved the feature articles further upfront in the document and shifted the subcommittee reports and liaison reports further to the back. As suggested, we have included articles on FHWA's Final Section 4(f) rule, climate change issues in the upcoming transportation reauthorization bill, and TERI. Over the next several months, the Newsletter Committee will be working to implement more changes. If you have not already, please see the article titled Results of the 2008 ADC10 Newsletter Survey for additional information.

Thanks to those of you who wrote the featured articles. Thanks also to Chris Gesing of Michael Baker Jr., Inc. for his help in designing and formatting the electronic newsletter, and in posting it on the ADC10 Committee Web site.

Thanks in advance to the subcommittee chairs, members, friends of the committee and others who step forward and volunteer to submit announcements, subcommittee reports, research news, requests for information, or features for the next newsletter. The date for publication of the next newsletter is November 2008.

Remember, this is your newsletter and it is only as good as you make it.

- Frank

Newsletter Guidelines

Major Headings:

Chairman's Message
Announcements
Feature Articles
Research News

Submittals are to be formatted to an 8½ x 11-inch size, typewritten in caps and lower-case, single spaced, flush left margin. The subject and author should be provided as part of the text. Articles may be submitted by e-mail to:

Christopher G. Gesing, P.E.
Senior Project Manager
Michael Baker Jr., Inc.
Airside Business Park
100 Airside Drive
Moon Township, PA 15108
E-Mail: cgesing@mbakercorp.com

Subcommittee chairs are expected to submit reports on committee activities. Announcements, Research News, Features and Requests for Information may be submitted by anyone.

The TRB ADC10 Newsletter is published twice a year by Michael Baker, Jr., Inc., 100 Airside Drive, Moon Township, PA 15108. The ADC10 Committee truly appreciates that firm’s assistance. We appreciate the assistance of the Center for Transportation and the Environment (CTE) at North Carolina State University for hosting the electronic newsletter on the ADC10 web site at http://www.itre.ncsu.edu/ADC10/default.htm.
Electronic Newsletter

This newsletter is not being printed and mailed. It is being e-mailed to members, friends of the committee and others who have provided us an e-mail address. Newsletters are available only by e-mail and on the ADC10 web site. Please submit your e-mail address to Chris Gesing at cgesing@mbakercorp.com to get on the e-mail list for future newsletters. The newsletter also is available at the ADC10 committee's web site at http://www.ite.ncsu.edu/ADC10/default.htm hosted by the Center for Transportation and the Environment (CTE).