AASHTO Workshop: Managing the NEPA Process for Complex Projects

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Welcome

- Role of the AASHTO Center
- Purpose of this Workshop
- Presentation Format
- Introductions
- Agenda
Agenda

- Welcome
- Overview Presentation
- Roundtable Discussions
  - # 1 Preparing for NEPA
  - # 2 Agency Coordination
  - **BREAK**
  - # 3 NEPA Document Quality
  - # 4 Public Involvement
Managing the NEPA Process for Complex Projects

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Today’s Focus

- Focus on the NEPA process for complex projects from the project manager’s perspective:
  - Real-world issues and concerns
  - What works and what doesn’t
The Complex Project

To begin, what *is* a “complex project”?
The Complex Project

In general, it is a project that has . . .

- Long history
- High priority
- Large-scale impacts and benefits
- Well-organized support and opposition
- Extensive media coverage
- High potential for litigation
The Complex Project

- If you’re the head of the State DOT, this project will . . .
  - Tend to dominate all other issues
  - Consume disproportionate resources
  - Require your direct personal involvement
  - Define you and your agency in the media and the public eye
The Complex Project

- If you’re the project manager, this project means . . .
  - Frequent contact with DOT leadership
  - Non-stop meetings
  - Schedule and budget pressures
  - High public profile
  - 24/7 demands
The Complex Project

What is distinctive about the NEPA process for a complex project?
The Complex Project

- Consider five aspects:
  - Project Team
  - Technical Tools
  - Process and Schedule
  - Agency Relationships
  - Stakeholders
The project team will actually be a "team of teams."

What this means:
- Meetings “crowd out” time for other work
- Multiple reviews of every document
- Potential for miscommunication
- Potential loss of accountability
The Complex Project

Technical Tools

- **Analysis of benefits and impacts will be heavily reliant on technical tools.**

- **What this means:**
  - Greater role for specialized experts
  - Potential for delay – e.g., to re-run model
  - Highly technical issues to explain in EIS
  - Potential for undiscovered flaws, glitches
  - Target for litigation challenges
The Complex Project

Process and Schedule

- The process will involve multiple proceedings on parallel tracks: NEPA, Sec. 106, Sec. 7, Sec. 404, etc.

- What this means . . .
  - Integration of parallel tracks is critical
  - Difficulties in one area have ripple effect
  - Schedule is “fragile”
  - Multiple targets for litigation
The Complex Project

Agency Relationships

- Agencies will likely have divergent views on fundamental project issues.

- What this means . . .
  - Even strong relationships will be tested
  - Process issues take on broader significance
  - Potential for impasse at key milestones
  - Likelihood of negative comments on DEIS
  - Potential difficulty obtaining permits
Stakeholders will include active, well-organized groups (for and against).

What this means:
- High level of project knowledge
- Detailed, in-depth comments
- Willingness to devote substantial time
- Capacity to retain own experts
- Requests for access to underlying data
The Complex Project

What is “Success”?

Given all of these challenges, what is a realistic definition of success in the NEPA process for a complex project?
The Complex Project

What is “Success”?

If all goes reasonably well.

- NEPA completed in 3 to 4 years
- Resource agencies generally satisfied, if not enthusiastic
- Base of public support remains intact
- Costs have increased, but not extremely
- Administrative record “good enough”
The Complex Project

What is “Success”?

- If it *doesn’t* go so well . . .
- Any or all of the following:
  - 5+ years to finish NEPA
  - Delays cause data to become stale
  - Resource agencies strongly opposed
  - Political/public support weakens
  - Costs skyrocket
  - Administrative record “complicated”
What can a project manager do to keep the project on track toward a successful outcome?
The Complex Project

Discussion Issues

- Consider four areas:
  - # 1 Preparing for NEPA
  - # 2 Agency Coordination
  - # 3 NEPA Document Quality
  - # 4 Public Involvement
Discussion Issue # 1

Preparing for NEPA

- **What steps should be taken before the NEPA process even begins?**
  - Legislative/policy support
  - Planning studies
  - Agreements on process and methodology
  - Data gathering
  - Model development
Discussion Issue # 2
Agency Coordination

- What is the most effective framework for agency coordination?
  - Frequency of meetings
  - Format of meetings
  - Expectations at key milestones
    - Agency “concurrence” vs. “comments”
  - Use of neutral facilitators
  - Funding arrangements
Discussion Issue # 3

NEPA Document Quality

- What can be done to improve readability while ensuring legal sufficiency?
  - Document structure
  - Document layout
  - Graphics
  - Use of technical editors and writers
  - Availability of supporting data
Discussion Issue # 4

Public Involvement

- What public involvement tools are most effective when views are sharply divided?
  - Field offices
  - Community Advisory Committees (CACs)
  - Alternative dispute resolution (ADR)
  - Neutral facilitators
  - Workshop format for public hearings
  - Meeting ground-rules/free speech issues