

Environmental streamlining: states must take initiative

Even as the green movement expands its war against fossil fuels, it's losing ground in its ability to use federal legislation to strangle new highways and capacity improvements in the cradle.

Since 2005, serious reforms in federal surface transportation legislation like today's MAP-21 and its predecessor, SAFETEA-LU, have allowed states to shorten the time it takes for bridge, road and capacity improvements to go from conception to completion. But the reforms haven't been widely implemented.

SAFETEA-LU specifically initiated a new environmental review that would allow state agencies to assume the U.S. DOT's environmental review responsibilities and, significantly, liabilities under the controlling National Environmental Policy

Act (NEPA).

But with only two states – California and Texas – taking full advantage of the environmental review delegation of authority, it's clear more can be done. “There's not been a wholesale reduction in the environmental review process,” says Nick Goldstein, vice president, Environmental & Regulatory Affairs, American Road & Transportation Builders Association. “We think there's a long way to go in project delivery.

“California was one of the five states that had the option under SAFETEA-LU, and the only one that went ahead with it,” Goldstein tells Equipment World. “MAP-21 opens it up to every state. Texas looked to California for its own application, and we have hope that more states will take advantage of that process. With California and Texas being on



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opposite ends of the spectrum, if it works in both places – which we're assuming it will – maybe other states will decide it can work for them.”

But there's a catch: the state assumes the liability for lawsuits that the federal government was accepting under the existing process. “States waive their sovereign immunity, and that's been a barrier,” Goldstein says.



Delivery of highway construction projects has been enhanced by environmental streamlining provisions of MAP-21 and its predecessor, SAFETEA-LU.

Categorical Exclusions

Categorical exclusions are the easiest route to environmental streamlining, but only if the project fits. MAP-21 expanded the definitions of types of projects that can be considered CEs.

For example, the emergency categorical exclusion was used recently to speed reconstruction on an I-5 bridge project in Washington State. On May 23, 2013, a portion

of the I-5 bridge collapsed into the Skagit River near Mount Vernon after being struck by an oversize load. Crews installed two temporary spans and the bridge was reopened June 19, less than four weeks later. Work immediately began on a permanent span, which was moved into place Sept 14, 2013, and the bridge reopened to highway-speed traffic the next day.

“[The categorical exclusion]

was very helpful there; instead of waiting months to get in to repair a bridge, they were able to get in within weeks,” Goldstein says. “Emergency situations represent a new class of categorical exclusions created by MAP-21. It enables the state to go in and fix an emergency situation without triggering a more burdensome environmental impact statement.”

“The streamlining provisions

Capacity improvements in environmentally sensitive areas are subject to stringent environmental reviews under the National Environmental Policy Act, which has been used to delay such improvements.



Photo Credit: Tom Kuennen

in MAP-21 are among the most important – and potentially most impactful – in the new law,” said a October 2013 report of a joint committee of the American Association of State Highway & Transportation Officials, Associated General Contractors and American Road & Transportation Builders Association (ARTBA). “There is potential for significant improvements in transportation project delivery if all parties use these provisions to their maximum effect.”

Texas Takes Control

The initial two-year MAP-21 expired Sept. 30, but was extended six months through May 2015, with some stop-gap funding added to supplement the ongoing Highway Trust Fund deficit.

ARTBA president and CEO Pete Ruane has cited two points that

would enhance environmental streamlining under MAP-21: a focus on flexibility, and creation of an information clearinghouse.

“The process should allow states to assume certain parts of the review process, while leaving others to the federal government, depending on what is in the best interest of advancing the project,” Ruane said in November. He added there should be a centralized information clearinghouse created to allow states to see what works, and what does not.

Under MAP-21 reforms, Texas will assume federal responsibility for environmental reviews, rather than provide information to federal agencies on a case-by-case basis, which will telescope the amount of time involved in review and approval.

“Streamlining opportunities, even

small ones, can have far-reaching benefits to TxDOT,” said Carlos Swonke, director, Environmental Affairs Division, Texas DOT, at a House subcommittee hearing in September.

In 2013, TxDOT projects went through 1,796 environmental approvals. Of the TxDOT environmental approvals, 98 percent were categorical exclusions used for minor, routine projects, such as repaving or a bridge replacement,

TxDOT is also making use of the categorical exclusion for projects within operational right-of-way, using it on 627 project approvals. “It has been a time saver and a money saver,” Swonke said.

For example, the environmental approval for widening a four-lane highway to six lanes in Houston took three years and \$100,000, even though no additional right-of-way

was needed and there was no public opposition.

"Today that project could be approved with a categorical exclusion in a fraction of that time and at a fraction of that cost," Swonke said.

The Road Ahead

Even as today's roadbuilders benefit from MAP-21, lawmakers inside the Beltway are looking ahead to reauthorization, and improving environmental streamlining is in the mix.

"The environmental review and permitting processes are major components of project delivery," said House Subcommittee on Highways and Transit chairman Tom Petri (R-Wis.) at a hearing in September.

"[MAP-21 reforms] maintained our strong environmental protections while improving the efficiency and effectiveness of the process," Petri said. The complexity of the issue, however, merits continued examination of the process. "We want to consider how the process is working well and what ways it can work better."

Utah DOT continues to expedite projects in the permitting process, said Carlos M. Bracerias, P.E., executive director, Utah DOT at the hearing. "As part of our effort to speed project delivery, UDOT secured delegation of categorical exclusion projects, streamlining the process to as little as 10 days for simple projects, and up to six months for complex projects," Bracerias told Congress.

In addition to expediting environmental review, Utah employs innovative contracting methods to deliver contracts in record time, such as the recent I-15 reconstruction project in Utah County completed in an unprecedented 35 months, making it the fastest billion-dollar project ever built in the United States.

That project moved forward in 2008, when FHWA gave final clear-



Photo Credit: CM/Terex Corp.

Use of environmental and social justice complaints against urban expressways began as interstates penetrated cities in the 1960s and early 1970s.

ance of the project's exhaustive environmental review, allowing the state to begin right-of-way acquisition, design and construction.

Provo River Constructors (PRC), a Fluor Corporation-led joint venture, designed and reconstructed the 24-mile-long stretch of I-15 south of Salt Lake City. The design phase of the \$1.1 billion project laid out an ambitious agenda for such a short time period: More than 200 lane-miles of general purpose lanes; 42.5

lane-miles of new express lanes; seven new interchanges; four modified interchanges; ramp modifications; new auxiliary lanes; and new concrete pavement along the entire corridor (except the last two-mile transition on the south end) that will last 40 years. In addition, 63 bridges along the corridor were restored or replaced.

Famously, PRC also used Accelerated Bridge Construction techniques to expedite the schedule. Under



Photo Credit: Tom Kuennen

Megaprojects like the new Bay Bridge in San Francisco Bay underwent exhaustive environmental impact reviews.

Expedited I-15 CORE project interchange under construction in suburban Salt Lake City

Photo Credit: Fluor



ABC, four bridges were constructed on the side of I-15. These bridges are as heavy as 3.8 million tons, and as long as a football field, including end zones. With the use of a remote-controlled, self-

propelled modular transporter, the bridges were be moved into place overnight, allowing for full freeway closure without impacting the safety or travel times of motorists using the interstate.

Expediting Tollway Construction

Toll authorities have also weighed in on the future of environmental streamlining in highway legislation. Michael Kraman, acting CEO, Transportation Corridor Agencies, Irvine, Calif., which is responsible for a network of congestion-reducing toll highways in Orange County, gave Congress several recommendations for future legislation, including these:

- Allow projects in states with stringent environmental review laws, such as California, to meet federal environmental review requirements through compliance with state laws. While this provision was in the House bill in 2009, it was relegated to a study in MAP-21.
- Require that all federal agen-

cies responsible for funding, permitting or approving a project collaborate on, use and adopt a single National Environmental Policy Act (NEPA) document for that project.

- Impose limitations on scope of resource agency review. Legislation could limit resource agency comments to issues within the jurisdiction and expertise of the resource agency, and could require resource agencies to accept the evaluation of the Federal Highway Administration on traffic, engineering and cost issues instead of disputing them.
- Speed up deadlines. Speed up deadlines for the NEPA review process and add

requirements to render timely decisions including technical studies, environmental impact statements and permits.

- Combat bogus challenges and delaying tactics. Environmental opponents want to be able to indefinitely stall projects subject to NEPA reviews and federal permits. NEPA should be amended to require challengers to prove an agency did not use the best available information and science; require that opponents exhaust their administrative remedies; and require new rules for standing and impose a 180-day statute of limitations. **EW**

Provo River Constructors constructed or restored 63 bridges in Utah's I-15 CORE project

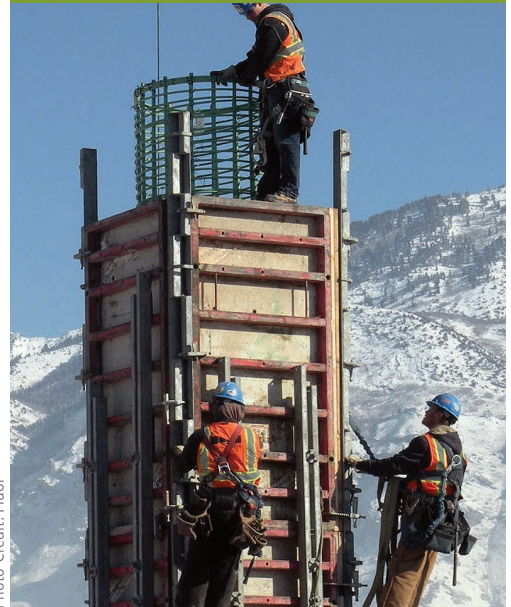


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