

## Environmental Program Performance Management

### National Marine Fisheries Service (NMFS)/ FDOT Central Environmental Management Office (CEMO) Annual ETDM Program Review Meeting Notes



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<i>Meeting Date and Location</i>	<i>Meeting Attendees</i>
March 17, 2006 10 AM at URS Tampa 7650 W. Courtney Campbell Causeway Tampa Florida, 33607-1462	Buddy Cunill - FDOT Mary Harger - FDOT Miles Croom - NMFS Peggy Solomon- NMFS David Rydene - NMFS Madelyn Martinez - NMFS Pace Wilber - NMFS (Called in to the meeting) Rickey Ruebsamen - NMFS (Called in to the meeting) Roosevelt Petithomme - URS

#### ❑ **Purpose and Overview of the Annual Review Meeting**

The purpose of the meeting was to discuss how the ETDM process has been proceeding and gain an understanding of how the relationship and coordination efforts between the National Marine Fisheries Service (NMFS), Federal Highway Administration (FHWA) and the Florida Department of Transportation (FDOT) have improved from a before and after perspective since implementation of the Efficient Transportation Decision Making (ETDM) process. The NMFS provided a “draft copy” of the agency’s 2006 Annual Report prior to the meeting. The NMFS Annual Report served as a guide for discussion at the meeting. Pace Wilber and Rickey Ruebsamen participated in the meeting via telephone.

#### ❑ **Business Relations and Processes Before ETDM**

The meeting opened with Mr. Cunill summarizing the meeting agenda (see Attached). Mr. Cunill spoke about the purpose of the meeting and its importance to the coordination efforts between FDOT and NMFS. Mr. Croom and Mr. Ruebsamen spoke about the organizational structure of NMFS prior to ETDM. Mr. Ruebsamen stated that there were two divisions within the NMFS Southeast Regional Office (SERO) that reviewed FDOT projects before ETDM, the Protected Resources Division (PRD) and the Habitat Conservation Division (HCD). The HCD consults with Federal action agencies regarding potential adverse effects of their actions on essential fish habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); HCD also comments to the action

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agencies on potential impacts to living marine resources under the Fish and Wildlife Coordination Act. HCD biologists regularly reviewed proposed FDOT projects and provided Federal action agencies, usually the U. S. Army Corps of Engineers (COE), with conservation recommendations to alleviate adverse impacts to EFH or living marine resources that might occur from the proposed projects. Mr. Ruebsamen stated that NMFS responded to Advance Notifications (AN) but that reviews were usually cursory in nature.

The SERO Protected Resource Division (PRD) administers provisions of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). As a result of this organizational arrangement, many FDOT projects were reviewed by two or more NMFS biologists (at least one from HCD and one from PRD), triggering separate consultation letters to Federal action agencies. There was limited to no interaction with FDOT. Typically, the NMFS became involved with FDOT projects late in the process, usually at the permit phase. The agency did not have any involvement with the MPOs. The combination of late involvement and multiple biologists reviewing and responding on the same project was problematic. It is estimated that 4 or 5 staff members spent minimal time on FDOT projects, an estimated 50 days per year.

One consequence of this was that the NMFS and FDOT did not develop a good working relationship principally due to the fact of late involvement and because there was no single point of contact to address issues within NMFS. Mr. Ruebsamen described NMFS' involvement with FDOT projects as ad hoc. NMFS and FDOT typically had a short period of time to address any issues that arose because federal permit agencies usually instigated coordination to help in permit issuance. Additionally, Mr. Croom stated that the reviews were further complicated by a lack of coordination between PRD and HCD staff. Mr. Ruebsamen added that there was a lack of coordination between NMFS and FDOT during the National Environmental Policy Act (NEPA) phase.

Mr. Ruebsamen added that the greatest barrier to coordination with FDOT was staff limitations and late involvement. Mr. Croom asked what involvement PRD had with FDOT projects. Mr. Ruebsamen stated that PRD does not review a project until a Federal action and the agency brings the project to them. It was established by Mr. Croom that ESAs are handled in the same manner. Federal agencies must come to them and request consultation. At the AN phase this is illustrated in that FDOT must request a species list each time. Ms. Martinez asserted that PRD has a checklist for each project but will not send the check list out unless it is requested by an agency. These types of inefficiencies needed to be overcome by FDOT and NMFS.

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#### ❑ **Business Relations and Processes After ETDM**

Mr. Croom led the discussion about NMFS and FDOT relations and process after ETDM. Since signing onto the ETDM Memorandum of Understanding (MOU) and associated agreements, NMFS HCD has hired two full-time employees to exclusively review FDOT projects and serve as NMFS ETAT representatives. The two NMFS biologists are Ms. Madelyn Martinez and Mr. David Rydene. FDOT personnel now deal directly with these two NMFS biologists for technical assistance, advice, and comments on FDOT projects. These two biologists coordinate internally, as needed, with other NMFS personnel to obtain information, guidance or advice needed to complete NMFS review of FDOT projects. In addition, these two biologists now provide consultation under ESA as well as EFH, thereby expediting NMFS permit review under these two authorities. Mr. Croom, stated that having the two biologists provided by ETDM funding is a great benefit to the agency. There have been a number of budget cuts and Mr. Croom has lost 4 staff members due to reorganization.

With the ETDM process NMFS and FDOT are able to communicate and coordinate with FDOT on proposed projects from planning through to the construction phase of a project. The ETDM program also allows NMFS to utilize advance Geographic Information Technology (GIS) to review each project. Mr. Rydene stated that the Environmental Screening Tool (EST) is a great benefit of the EDTM program. He stated that the new version of the EST needs to have a few bugs worked out; however, things are moving along smoothly. Ms. Martinez added that Peter McGilvray is very helpful with any issues that arise with the EST. Mr. Cunill stated that in the near future the EST will become the primary method of project notification for major projects and that the Districts are currently working towards this goal. He added that a "drop dead" date had not been established.

Mr. Cunill emphasized that FDOT is working with all of the ETAT agencies to insure that each agency's resource needs are met and that the ETDM process is moving as smoothly as possible. Ms. Martinez stated that FDOT is very receptive to input. Mr. Croom added that early involvement is a great tool. Ms. Martinez stated that she has been working with District 4 to resolve issues as early as possible. She has requested that any technical reports or mitigation plans needed to move the projects forward be submitted prior to permitting. Ms. Martinez stated that having a project schedule would help to move things ahead. She would like to resolve the major issues upfront prior to permitting. Mr. Rydene stated that Districts 2, 4 and 6 have provided NMFS with a project schedule on a regular basis. He stated that the District ETAT meetings were also helpful for information sharing about projects and meeting other agencies members. The meetings also provide an opportunity to meet Project

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Managers. Both Ms. Martinez and Mr. Rydene stated that they field review all major projects and that consultation with the Districts is continuous

NMFS is realizing the benefits of early involvement. Mr. Rydene and Ms. Martinez cited their involvement in the I-10 Bridge project and the Little Mud Creek project as examples of the benefits of early coordination. Ms. Martinez stated that there were a number of issues related to mangroves and the restoration of smalltooth sawfish habitats and mitigation that needed to be resolved prior to USACOE permitting with the Little Mud Creek project. Both Ms. Martinez and Mr. Rydene indicated that there were not any barriers to coordination with FDOT with the ETDM process. They feel that the process is working well and that the training offered was very helpful. Ms. Martinez stated that the PD&E training was very helpful and allowed the resource agencies to understand the level of involvement and need for coordination that exist on the FDOT side of the project process. She recommended that more ETAT members should take the PD&E training.

#### ❑ **Discussion of Performance Measures in EST**

Mr. Cunill led the discussion on performance measures. Mr. Cunill presented the Performance measures information included in the NMFS review packet. The packet provides a sample of the forms that will be used to evaluate program activities during Phase II of the Performance Management System. Mr. Petithomme stated that the performance measures system will be an on-line system. Currently, NMFS can view their agency's monthly participation rates in the EST.

Ms. Martinez stated that the EST is not a true reflection of the work done by NMFS. There are a number of projects that are reviewed outside of the tool. This is understood and will be picked up as the performance program becomes established.

#### ❑ **Contract Management Discussion**

Ms. Solomon led the contract management discussion. She stated that NMFS has developed a five year budget for the new Funding Agreement and provided a copy for FDOT's use. The new budget has a 5 percent inflation rate built into the calculations. Ms. Solomon expressed concerns about having to increase the budget as a result of the NFMS moving to performance based pay.

Mr. Cunill stated that hopefully the five year budget will cover increased costs, but if it didn't FDOT would write an Exhibit A to document the needed budget changes. Mr. Cunill stated the agencies can work through the issues by early coordination and communication.

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There was a brief discussion on the use and tracking of tangible personal property. Ms. Solomon stated that she has been in communication with Peter McGilvray and that she needs to have a tracking number for a computer purchased using ETDM funds. The remainder of the discussion focused on getting the new Funding Agreement reviewed by NMFS legal staff and getting any outstanding invoices submitted.

Mr. Cunill stated that with the new Funding Agreements there is new language that identified the Funding Agreement as the controlling document with regard to the period of performance. In the event that the Master Agreement or the Agency Operating Agreement expired before the Funding Agreement the Funding Agreement's termination date would extend both agreements. Mr. Croom said he would review this to see if it was okay with the NMFS legal staff. The goal is to complete the five year FA review and have the approval by July 31, 2006. Mr. Croom mentioned that they needed to check to see if the June 2006 extension is sufficient time to complete the agency approval process because the new 5-yr FA will require legal and headquarters review.

Mr. Cunill stated that the current NMFS Funding Agreement was extended to July 31, 2006 in order to complete a Closeout and Certification of Completion and resolve any outstanding invoices. It was also noted that the agencies should invoice regularly and submit the necessary documentation along with invoices. Mr. Cunill noted that invoicing was covered in the ETDM Funded Positions Reference Manual. The manual is updated each year as new lessons are learned and program policy changes are made.

#### ❑ **Benefits of ETDM**

- Early involvement in FDOT projects
- Early coordination in projects
- Continuous Consultation
- Enhanced funding to participate
- Increased communication and coordination with FDOT
- The EST is a very helpful tool
- On going training
- Increased knowledge of FDOT processes and regulations
- Enhanced protection and conservation of fishery habitat through cooperative permit review and design change at an early stage of project development.

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#### ❑ Conclusion

Mr. Croom said overall, NMFS has enjoyed their involvement in the ETDM process and views the process as beneficial to all parties. The NMFS is looking forward to continuing their involvement in the ETDM process. FDOT is pleased with the efforts of NMFS and looks forward to the agency's continuance in the ETDM process. ETDM has significantly increased the level of communication and involvement between the two agencies for the betterment of transportation and resource protection. The meeting adjourned at approximately 12:36 pm.