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**MAINEDOT INTER AGENCY MEMORANDUM**

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**TO:** DAVID GARDINER; INTERAGENCY PARTICIPANTS  
**FROM:** RICHARD BOSTWICK, CHRIS RUSHTON  
**SUBJECT:** SECTION 7 PROCESS  
**DATE:** 09/06/2005  
**CC:** KATHY FULLER

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Chris and I are reviewing our Section 7 process with an eye to making it more streamlined and predictable. The interagency group is a big part of our process so we would like to solicit information at this next Interagency Meeting. These are issues that were identified in house in the rough process that was outlined at the October 2004 interagency in the appended outline at the end of this memo. There were no standard processes or timeframes identified at that time. Our goal is to establish a more definite process with others involved in the process.

ISSUES

- Need to get a better handle on timelines for informal process - is there a way to get agreement on timelines even though the rules don't require them?
  
- How do we make better use of Interagency meeting to begin consulting earlier?
  
- How close to final design do we need to be before consultation can begin in earnest?  
What level of detail is needed on the planviews?
  
- What can we do to improve the package we provide the agencies - i.e. can we better interpret the plans and provide better information about construction techniques that will make it easier for agencies to understand?
  
- How can project scoping be improved to facilitate section 7 process?
  
- What additional project description information can we agree to up front that will guide the designer toward a more readily approvable design while minimizing impacts on budget?
  
- Can we fund either a position with the agencies to assist with Section 7 backlog or can we hire a consultant that is a Section 7 expert to help get project answers sooner?
  
- Are certain locations and certain types of projects so lo-impact that a quick agreement is adequate (i.e. the culvert between 2 dams example)...is it possible to move toward a programmatic agreement?

**Process flow chart skeleton:**

FEDERAL FUNDS

1. Project is identified as being within a salmon watershed or adjacent to other mapped habitat
2. Project is identified as having the potential to affect fish, notably salmon OR project is known to be in close proximity to a federally listed endangered species
3. ENV Permit and Cultural Resource Unit solicits information from resource agencies. This will indicate work windows from agencies
4. Agency is contacted; usually a phone call (Wende Mahaney for Atlantic salmon in Freshwater habitat, Mark McCullough for other Listed terrestrial species, Jeff Murphy Atlantic salmon in Coastal habitats, Sara McNulty for other listed marine species).
5. ENV Field Studies gets information from the design team concerning design, construction sequencing and timeframe.
6. Information, maps, and photos are compiled in a letter, email, or posted on the FTP site. FHWA is copied on these
7. Agencies will let MaineDOT know if
  - a. the information is sufficient to make a determination of informal and will send sign off letter or
  - b. if more information is needed and the nature of that information or
  - c. if Formal consultation is needed
8. If informal, a letter is sent by the agency but no time line is given
9. If Formal, FHWA is consulted for compiling and completing information to initiate the formal consultation process and a 135 day deadline is initiated when the package is determined to be complete.

NON FHWA PROJECTS THAT NEED A CORPS PERMIT

1. MaineDOT projects where no FHWA or other federal funds are involved
2. Usually only federal is ACOE permit
3. No consultation authority delegated to MaineDOT
  - a. SNS, Marine Atlantic salmon, other marine species = NOAA-NMFS
  - b. Inland Atlantic Salmon, Lynx, eagles, Furbish Lousewort = USFWS
4. All projected with T&E need to be screened
5. ACOE will be provided screening packages by Permit and Cultural Unit
6. ACOE to consult with agencies
7. Further info to be provided by MaineDOT if needed

Consultation complete

**For future training on Section 7:**

We are attempting to schedule in-house training by FHWA in late November. We would hope that agencies would be willing and able to attend and expect to cover some of these questions at that time.

**This is the information distributed and discussed at the OCT 7, 2004 INTERAGECNY  
Section 7**

- FHWA funded Projects:
  - Letter from FHWA to agencies delegating authority
  - Bostwick to write initial contact letter
    - SNS, Marine Atlantic salmon, other marine species = NOAA-NMFS
    - Inland Atlantic Salmon, Lynx, eagles, Furbish Lousewort = USFWS
  - Consultation level decided by agencies
  - Consultation completed by agencies and MDOT (Bostwick and Environmental Coordinators)
  
- USFWS- MDOT administered BIG projects
  - Initial consultation for T&E by MDOT for USFWS CE
  - MDOT is not delegated authority by USFWS
  - Towns to deal directly with same resource agencies
    - SNS, Marine Atlantic salmon, other marine species = NOAA-NMFS
    - Inland Atlantic Salmon, Lynx, eagles, Furbish Lousewort = USFWS
  
- MDOT projects where no FHWA or other federal funds are involved
  - No consultation if no federal action
  - Usually only federal is ACOE permit
  - No consultation authority delegated to MDOT
    - SNS, Marine Atlantic salmon, other marine species = NOAA-NMFS
    - Inland Atlantic Salmon, Lynx, eagles, Furbish Lousewort = USFWS
  - All projected with T&E need to be screened
  - ACOE will provide screening packages by Permit and Cultural Unit
  - ACOE to consult with agencies
  - Further info to be provided by MDOT if needed
  - Consultation complete.