



No-Cost Project Acceleration
using a Planning and Environment Linkages
(PEL) Approach

2023 Iowa Transportation Conference
September 19, 2023

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Principal, Infrastructure Sector Lead US East




Introduction


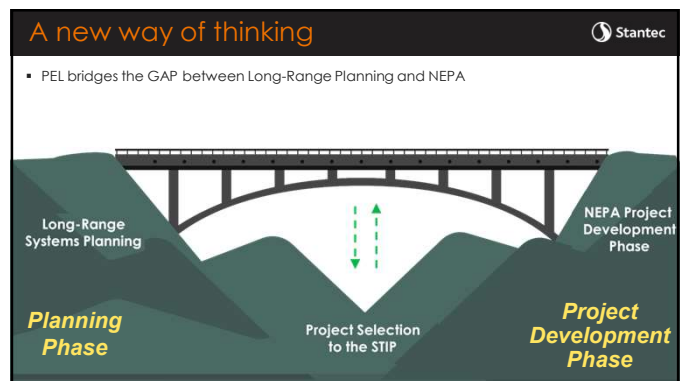
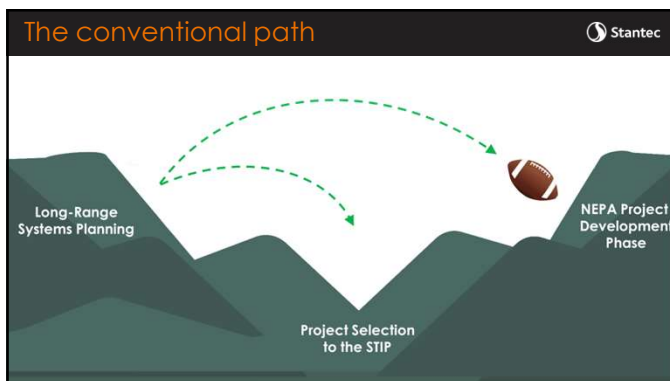


Agenda

- What is PEL?
- How does PEL work?
- PEL Benefits
- PEL Products, Decisions, and Analyses
- Product Life Spans & Timelines
- Foundational Primer
- PEL Approach Framework
- Project Example
- Discussion



What is PEL?

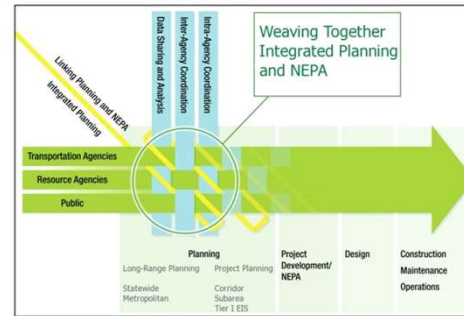
What is PEL?



- A collaborative and integrated approach to transportation decision-making
- Uses the information, analysis, and products developed during planning to inform the environmental review process
- Considers environmental, community, and economic goals early in the transportation planning process
- Can be applied to more specific multimodal selection, corridor, or subarea planning studies
- Accelerator, programming tool, and risk management tool
- Can be customized for individual project needs

PEL incorporates environmental considerations into the planning process to reduce duplication of effort and make more informed project-level decisions.

What is PEL?



PEL is NOT...



- A requirement
- An alternative to NEPA or Planning laws or regulations, or an Executive Order
- A single, strictly-defined process or specific product to meet PEL requirements

PEL Empowerment # 1



- Incorporate planning products into the environmental review process

The 2015 Fixing America's Surface Transportation (FAST) Act:

- Clearly and legally establishes that "Planning Products" from the Transportation Planning Process are legitimate and should rightfully be incorporated into the environmental review process conducted under the National Environmental Policy Act of 1969.
- Provides a process by which the Lead Federal Agency and certain other "Relevant" Agencies may adopt or incorporate by reference planning product decisions to use during the environmental review process, to the maximum extent practicable and appropriate.

23 USC 168

PEL Empowerment #2



The lead agency shall reduce duplication, to the maximum extent practicable, between:

- Evaluation of alternatives under NEPA, and
- Evaluation of alternatives in the MPO transportation planning process or State environmental review process

23 USC 139 (f)(4)(E)(i)

PEL Empowerment #2 (cont.)



The lead agency may eliminate an alternative if:

- Considered in a MPO or a State environmental review process
- Lead agency provided guidance on the alternatives, including guidance on NEPA requirements and other Federal laws;
- Alternative was rejected after considering public comments
- The Federal lead agency reviewed the alternative evaluation and determined, in consultation with appropriate Federal agencies, that:
 - The alternative to be eliminated is not necessary for NEPA compliance
 - The alternative to be eliminated is not necessary for any permit or approval under any other Federal law

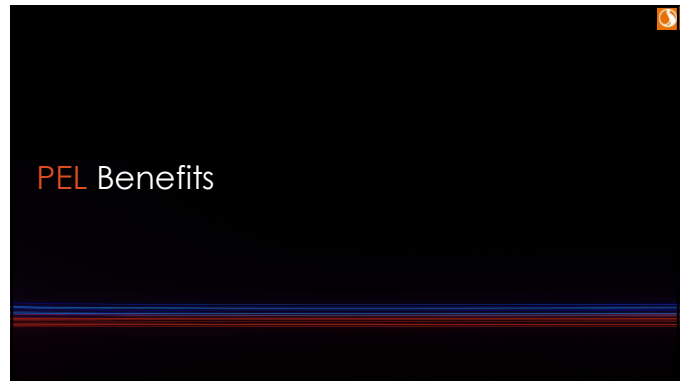
23 USC 139 (f)(4)(E)(ii)

PEL Empowerment #3



- Activities eligible for funding:
 - Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, activities directly related to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

23 USC 139 (j)(2)



Benefits of a PEL approach

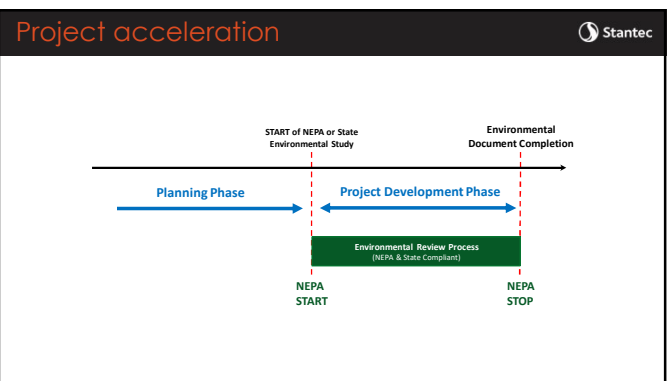
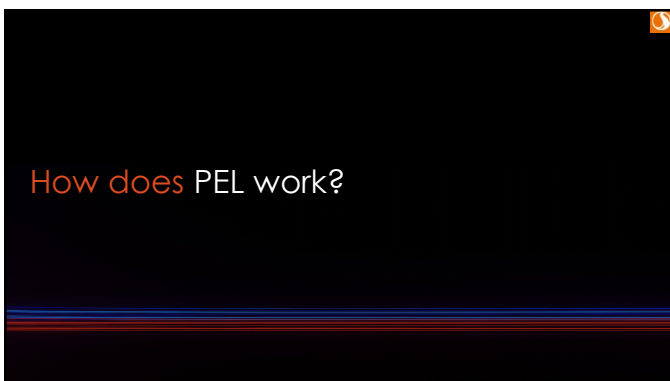


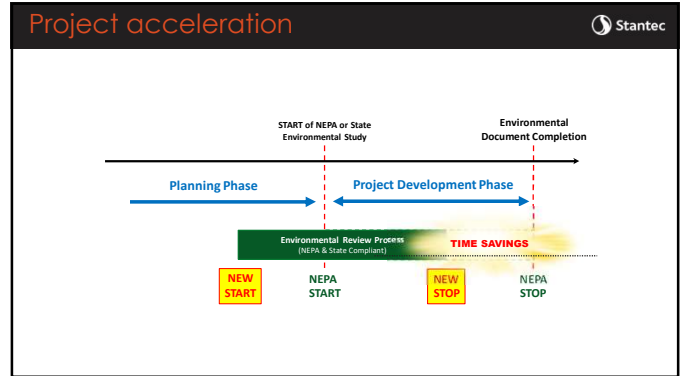
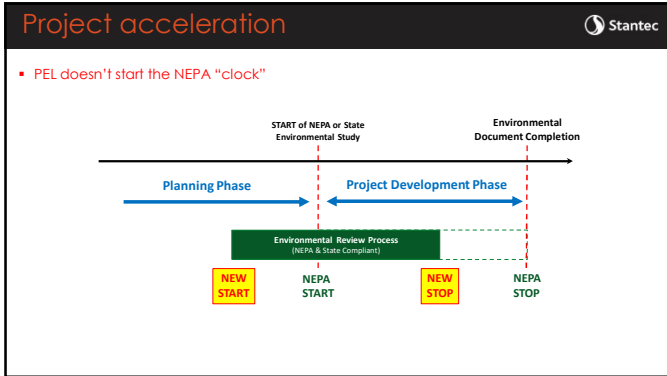
- Improved sharing of information
- Improved communication, increased trust, and stronger relationships
 - Upfront alignment for project goals, facility type, and location
 - Provides a vehicle to maintain transparency and conduct inclusive engagement
 - Early consultation/collaboration on potential impacts and next steps
- Elimination of duplicative efforts in planning and NEPA processes
- More representative construction cost estimates
- Better environmental outcomes
- Timely permit decisions
- Accelerated project delivery by reducing phase durations

Benefits of a PEL approach



- PEL efforts can benefit STIP development
 - Project Screening
 - Reliable cost estimates
 - Improved discovery of project challenges & constraints
 - Better-informed project selections and a more stable STIP





- ### What projects make "good" candidates?
- Stantec
- Projects needing further analysis to help refine justification, scope, cost, and schedule
 - Larger, more complex projects
 - High-visibility projects requiring fast delivery
 - Alternative corridor evaluations
 - Projects requiring upfront alignment of the DOT, local governments, citizens, and stakeholders
 - Feasibility Studies that support STIP Programming needs
 - Related projects in need of prioritization (i.e., adjacent bridge replacement projects)
 - Federal grant candidates (and/or the Planning study itself)

- ### What projects make "bad" candidates?
- Stantec
- Small scope and impact projects
 - Long and Mid-Range Planning Studies with a long gap between Planning and Project Development phases
-

PEL Products, Decisions, and Analyses

What is a planning product?

Stantec

A decision analysis study, or other documented information that is the result of an evaluation or decision-making process carried out by a metropolitan planning organization or a State, as appropriate, during metropolitan or statewide transportation planning under Section 134 or 135, respectively.

23 USC 168(a)(3)

Planning Decisions - examples



- Establish a project vision
- Purpose and the need for the proposed action
- Consensus on logical termini, analyses methodologies, etc.
- Range of alternatives
- Alternative screening / impact assessment
- Programmatic-level mitigation for potential impacts of a project
- Modal choices and project elements (i.e., Complete Streets)
- Grant strategies / funding decisions
- Schedules

Typical Analyses - examples



- Traffic
 - Network / Travel Demand Models
 - Crash / Safety Evaluations
 - Capacity Analysis
 - Conceptual solutions
- Roadway design
 - Procure DTM mapping and aeriels
 - Condition/geometry assessments
 - Conceptual solutions
- Structures
 - Infrastructure assessments
 - Conceptual solutions
- Hydraulics/drainage
- Utilities discovery
- GIS analyses
 - Project study area identification
 - Desktop analysis of notable features
 - Identify legal/regulatory issues & project challenges
- Natural resources / biological
 - Site visits / GIS validation
 - T&E species screening
 - Mitigation planning

Related Coordination & Engagement



- Planning and project development (i.e., NEPA) staff
- Jurisdictional agencies
- Tribes
- Local government & MPOs
- Public
- Stakeholders

Take-aways

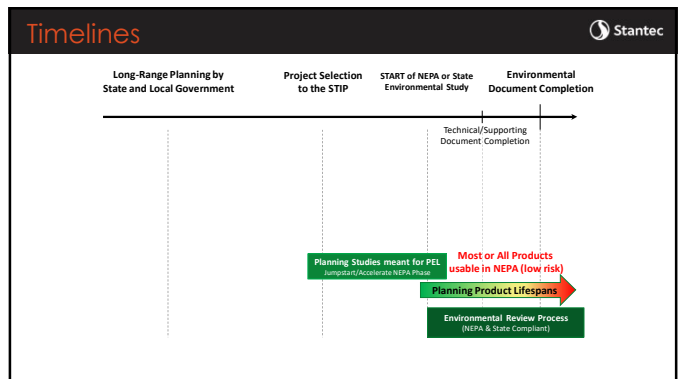
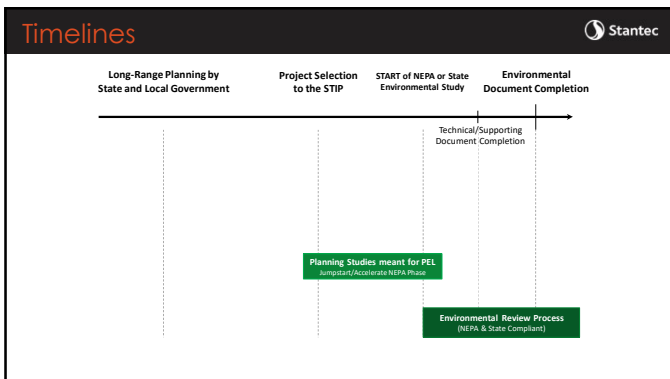
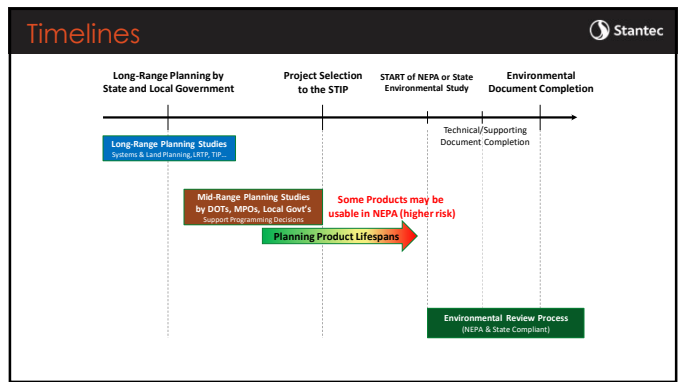
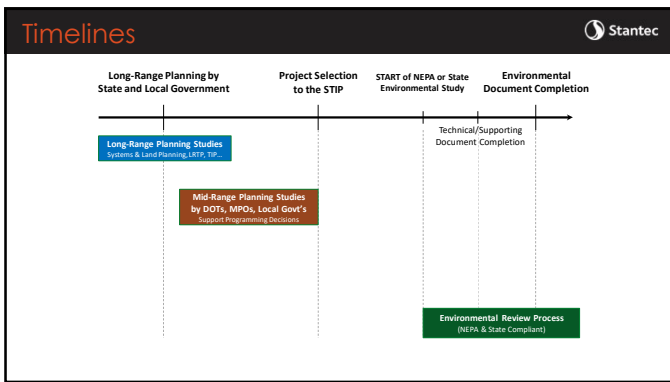
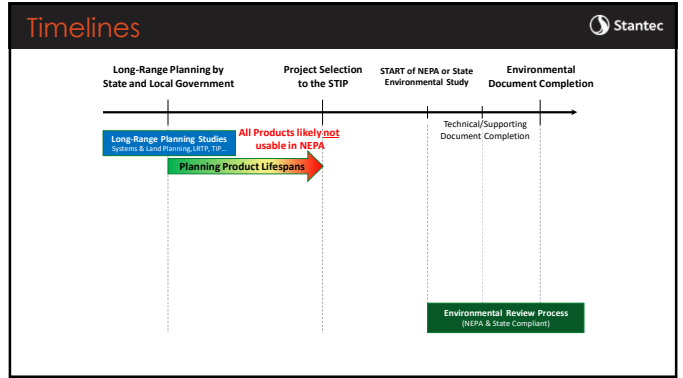
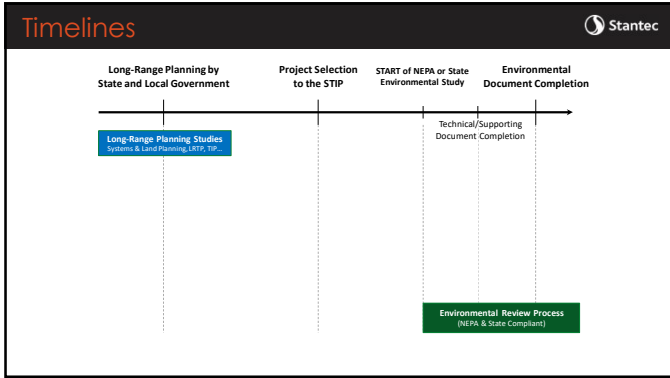
- PEL is a new form of project acceleration – without added cost
- "Planning Products" can be carried forward into Project Development
- DOTs can "shift" federal funds from Project Development to Planning
- MPO, local and State projects can also benefit from PEL
- Some projects are better PEL candidates than others
- Certain activities are required to eliminate alternatives "pre-NEPA"

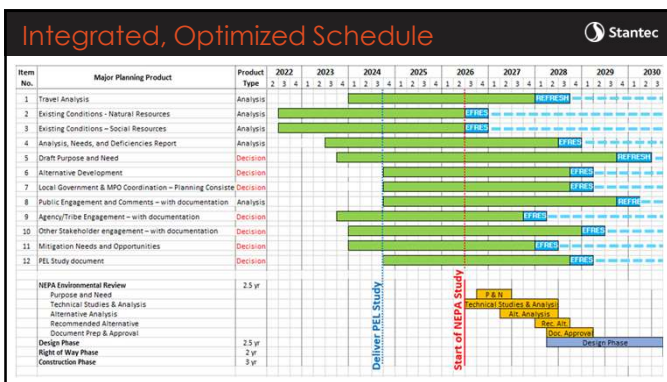
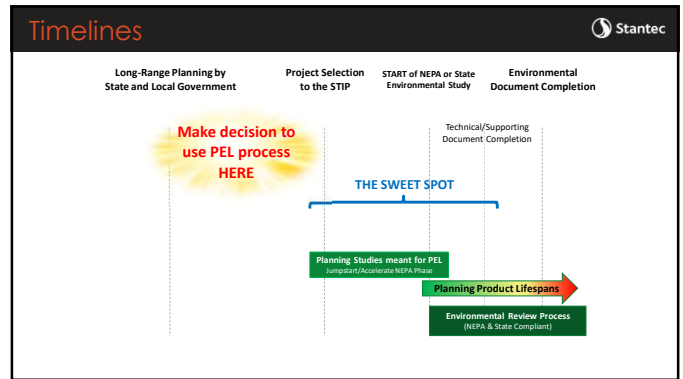
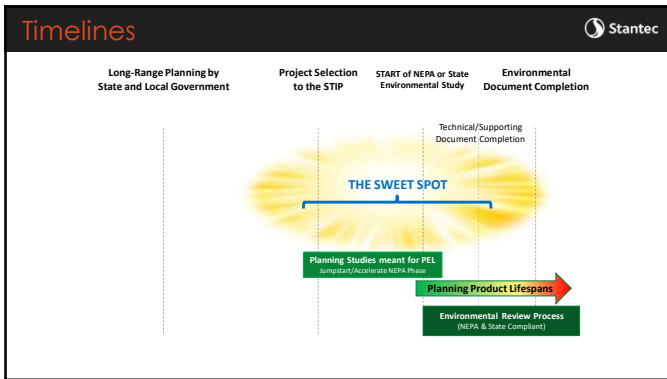
Planning Product Life Spans & Timelines

Planning Product Lifespans



- Certain planning products can have a longer lifespan than others, in terms of:
 - Continued validity / credibility
 - Future ability to "refresh" the product with the same general result
 - Probability of adoption/incorporation into the environmental review process
- Risks:
 - Certain topics subject to higher scrutiny at the NEPA timeframe
 - Changing agency staff, personalities & respect for earlier commitments
 - Changing agency regulations
 - New environmental laws





Take-aways

- Subsequent decisions rely on planning product credibility
- Be strategic in your approach
- Identify lifespans of individual Planning Products when setting project timelines
- Consider phased decisions: determine what "decisions" to make (if any) in Planning in consideration of agency coordination and public engagement requirements

PEL Foundational Primer

The Challenge

PEL is a simple and well-intentioned concept, yet:

- Planning Products may need to meet certain regulatory and procedural requirements while they are being produced, to ensure that study analyses and decisions can actually be used in the NEPA study
- Meticulous attention should be rendered when scoping and scheduling Planning, Feasibility, or Corridor Evaluation studies

23 USC 168: Planning Product Conditions

PEL conditions of the FAST Act (summarized):

- Agency, tribal, and local government engagement
- Issuance of a Public Notice and inclusive, meaningful engagement in decision-making process
- Broad multidisciplinary considerations of transportation needs and effects on the human and natural environment
- Credible, NEPA-compatible methodologies and documentation in sufficient detail
- Rational basis for analyses and decisions, based on reasonably current data
- Product updated within 5 years of issue

Other Exec Orders and Regulations Apply

- Statewide Planning Regulations (23 CFR 450.210 and .316)
- Multimodal, systems-level corridor or subarea planning studies (23 CFR 450.212 and .318)
- Interested Parties, Participation, and Consultation (23 CFR 450.316)
- State Statutes - County Transportation Plans and Comprehensive Plans
- NEPA and associated regulations and requirements

Should these requirements scare us off?

- No way!
- Planning Staff don't need to learn NEPA
- Partner with Project Development (NEPA pros) to screen projects and co-develop PEL preparation scope(s)
- Project Development staff can potentially manage specific tasks – or even the Planning or Feasibility (PEL) Study

Legal challenges

- Courts have thus far upheld PEL-related challenges (4)*
- Looking for evidence of:
 - Public Notice with meaningful participation on decision-making process
 - Study is credible or compliant, in terms of:
 - “Broad multidisciplinary consideration”
 - “Sufficient detail”
 - “Appropriate for adoption”
 - “Rational basis, data, or methodology”
 - Public review and comment at key decision points
 - Five year window for product lifespan

* As of August 2021

PEL Approach Frameworks

Customize your approach

- Certain PEL-associated laws and regulations apply IF a project team pursues decisions that activate certain requirements
 - Alternative elimination
 - Jurisdictional agency coordination
 - Engagement
 - Other content and level of detail
- Can stop PEL process at development of Planning Products

* As of August 2021

PEL: Varying Levels of Effort



- Federal PEL provisions are written to handle larger studies
 - Optimize the “best fit” level of effort to match your project needs
 - In many cases – lighter is better
- Various PEL approach options are available
 - Do Nothing
 - **Big Lift** – a sizeable Planning or Feasibility Study (PEL Study)
 - **Light Lift** – minor products & preparation
 - **Medium Lift (Hybrid)** – anything in between

Big Lift PEL Activities



- Analyses:
 - Existing conditions analyses and technical studies
 - Conceptual and (sometimes) advanced design
 - Impact assessment
- Decisions:
 - Draft Purpose and Need Statement
 - Range of alternatives development
 - Alternative analysis
 - Elimination of alternatives
- High amount of coordination and engagement

Light Lift PEL Activities



- Analyses:
 - Define project termini, study area, proposed scope
 - Traffic counts, no-build capacity analysis
 - Crash analysis / safety analysis
 - Purpose and need components
 - Constraints mapping ****including utilities**
 - Environmental screening
 - Prioritization strategies
- Federal NEXUS evaluation (funding)
- Coordinate with local governments for consistency/alignment
- *No decisions*

Medium Lift (Hybrid) PEL Activities



- Analyses:
 - Existing conditions analyses
 - Alternatives analysis (high-level: corridor, concept design)
 - Mitigation strategies
 - Cost estimation
- Decisions:
 - Draft Purpose and Need Statement
 - Range of alternatives development

Medium Lift (Hybrid) PEL Activities

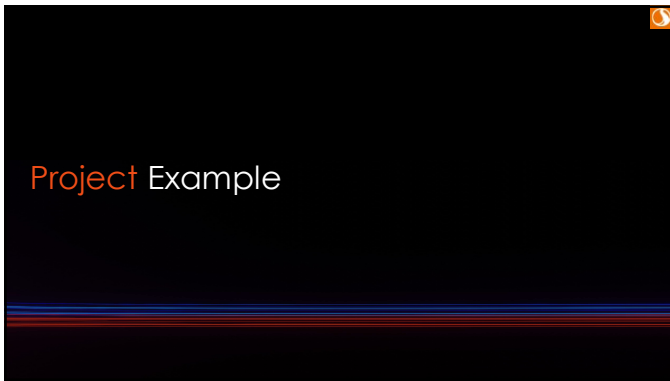


- Analyses:
 - Existing conditions analyses
 - Alternatives analysis (high-level: corridor, concept design)
 - Mitigation strategies
 - Cost estimation
- Decisions:
 - Draft Purpose and Need Statement
 - Range of alternatives development

Why not just start the NEPA Phase earlier?



- You can. Sometimes it's the most viable option!
- Many other considerations at play
 - PEL is more flexible than NEPA. You can choose how far to go.
 - PEL work often improves Planning involvement – at DOT and local level
- Good for Planning intent and consistency. And for relationships.
 - Feasibility Studies still provide a valuable service to STIP programming – so why not use that effort to also benefit NEPA?
 - PEL allows a DOT to phase-divide work. Cash flow may be an issue.
- Metrics - PEL doesn't start "The Clock"
- Workload Balancing. "Everything can't be a priority"



Appalachian Development Highway System Corridor K

- Graham and Cherokee Counties, NC
- Created under the Appalachian Regional Development Act of 1965 (amended 1975)
- Act created to promote economic growth in the Appalachian Region

2

Project Setting

- Extreme terrain
- High unemployment/poverty
- Appalachian Trail
- Trail of Tears
- Archaeological resources
- Nantahala National Forest
- Pristine headwater systems
- Two-lane roads, narrow lanes
- Sharp curves, steep grades
- Landslides, fog, washouts

Ancient History

- 1965 Appalachian Regional Development Act
- 1978 Draft Environmental Impact Statement
- 1984 Final Environmental Impact Statement
- 2008 Draft Supp. Final Environmental Impact Statement
- 2011 U.S. Institute for Environmental Conflict Resolution Report
- Regional economic study initiated
- NEPA studies put on pause
- 2015 Regional economic study
- County transportation plan (CTP)

Recent History

- September 2017 Design ("PEL") Study initiated
Associated agency, stakeholder, and public engagement initiated and project "re-imagined"
- April 2019 Design Study finalized
- August 2020 Environmental Assessment
- March 2021 Finding of No Significant Impact
- October 2022 Groundbreaking

Key Project Elements

"Patience and perseverance have a magical effect before which difficulties disappear and obstacles vanish."
John Quincy Adams

- Integrated long-range transportation planning and NEPA process
- Online 3D GIS mapping to foster interagency collaboration
- Natural resource surveys and impact assessment
- Early, continuous interagency coordination
- Meaningful public engagement
- Emphasis on coordination with local government representatives
- Tribal coordination and sensitive ecological resources → Sec. 106 Programmatic Agreement

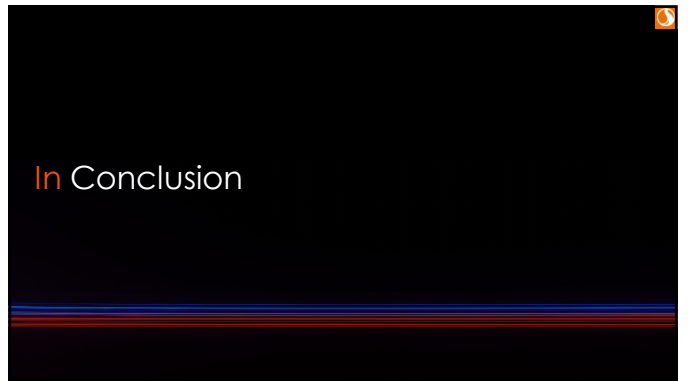
Celebrating success

Corridor K should be a model for future

Citizen Times
Corridor K is back and looking (a lot) better than ever
By Matt McClain
September 29, 2019

SOUTHERN ENVIRONMENTAL LAW CENTER
Win-win solution for N.C. mountain highway
September 29, 2019

NATIONAL ASSOCIATION OF ENVIRONMENTAL PROFESSIONALS
2021 NATIONAL ENVIRONMENTAL EXCELLENCE AWARD
Presented to:
Environmental Management, Stewardship, Conservation and/or Protection
North Carolina Department of Transportation
Corridor K Improvements



PEL works. SPREAD THE WORD!

Stantec

- PEL is very flexible
 - You can go as "Far Down the Road" as you like...
- Certain rules do apply – get to know them
- Easy for DOTs, MPOs, and Local Governments to engage
 - More \$\$ available
 - New partnerships
 - Planning, Traffic & NEPA pros, plus other disciplines as needed
- You already know how to perform these tasks
 - Nothing you don't do already
 - Just a different pathway

Take-aways

- Better-defined project scopes
- Better relationships
- Schedule adherence through improved discovery of project challenges/constraints and early mitigation strategies
- Cost management through more efficient collaboration, planning product usefulness and less re-do's
- Effective risk management and programming tool
- Improved efficiency and project acceleration

Discussion

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