
Appendix VI

Letter from GBNEP to SPOC

DRAFT

Mr. Tom Adams
Director of Intergovernmental Coordination
Office of State-Federal Relations
P.O. Box 13005
Austin, TX 78711

Re: COORDINATION OF THE TRACS AND GBNEP FEDERAL CONSISTENCY
REVIEW PROCESS

Dear Mr. Adams:

As you are well aware, the Galveston Bay National Estuary Program (GBNEP) is developing a federal consistency review process as required by Section 320 of The Clean Water Act. Through several meetings with you and the federal consistency subcommittee, several issues have been identified and resolved concerning the coordination of the GBNEP consistency review process with TRACS. The purpose of this letter is to verify the agreement between you, as State SPOC, and the Galveston Bay Program (GBP) that the following will be accomplished:

- Amendment of the list of federal activities to be reviewed by TRACS for federal consistency to include those selected for the GBNEP Inventory.
- Coordination of the TRACS and GBNEP review processes.
 - the mechanism by which GBNEP will be receiving the federal applications and notices of intent, and
 - the agreed upon process and paper flow.
- Coordination of state process recommendations (SPR)
 - the mechanism for assuring that GBP comments are adequately included in the official SPR.

List of Federal Activities to be Reviewed

Attached to this letter is a list of the federal programs and projects which the GBNEP has selected to review for federal consistency (Table IA & IB). As we have discussed, the list of federal programs and projects subject to TRACS will be amended to include those programs and projects that GBNEP has selected to review which are subject to E0 12372 not already subject to TRACS.

The TRACS system does not have authority to review and comment on some federal programs which GBNEP does have authority to review and has selected to do so. These activities are listed in Table II. Once the Comprehensive Conservation and Management Plan (CCMP) has been approved by EPA, the federal programs in Table II will be informed of the GBNEP federal consistency review process and requested to send application for their programs to you, the state SPOC.

Only activities within the geographic area presented in Figure 2 will be reviewed by the GBP.

The Review Process

After the CCMP is approved, the Director of the GBP will receive from TRACS notice of all applications and notices of intent submitted to TRACS for any program or project listed in Table IA or IB. The GBP will receive these notices within five days of TRACS receiving the application. If it is a statewide or Houston-Galveston Area Council (H-GAC) application, the GBP will review it and send comments back to TRACS within 53 days of the date TRACS received it. If it is a local application, the GBP will coordinate its comments with H-GAC unless a request for accommodation is submitted. Any request for accommodation will be submitted to TRACS within 53 days from the date the application was received by TRACS. This review and comment process is presented in Figures 3 and 4, attached.

State Response

It is important to ensure that the GBP's recommendations on federal actions are adequately represented in the SPR. Subchapter B of the Texas Administrative Code (TAC) provides much of that assurance. According to 1 TAC Section 5.251:

at the written request of the governing body of a regional review agency (in this case H-GAC), the state SPOC shall, in writing, inform the federal agency proposing direct federal development or from which financial assistance is requested that the State of Texas or its political subdivisions have serious objections with regard to the

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proposal for which funding is sought. This determination can be made irrespective of whether the program or activity was selected for coverage under the Texas Review and Comment System (TRACS). Objections must be based on law, fact, or regulation and may address any aspect of a project or proposal, including environmental concerns, that makes it unacceptable to the jurisdiction(s) in the project area.

This will ensure that all GBP recommendations which are coordinated with and are in concurrence with H-GAC comments are adequately represented.

You have further assured us that any request for accommodation submitted to the SPOC by the GBP in the absence of H-GAC comments or concurrence (in accordance with 1 TAC Section 5.253) will be transmitted to the federal agency. According to Section 5.253:

any political subdivision of the state (in this case GBP) which can demonstrate a probable adverse impact on its jurisdiction from a proposed project may, when the regional review agency gives the project a favorable review, request that the review, with dissents, be transmitted to the funding agency by the state SPOC, thereby initiating the federal accommodation process as described in Section 5.251.

The GBP appreciates the efforts which you have made to help coordinate the TRACS and GBNEP federal consistency review processes. This coordination effort has helped to enhance the states comment and review system without causing time delays in the process.

Sincerely,

Frank S. Shipley
Director

Attachments