

etdm

**Efficient
Transportation
Decision
Making**

...While Protecting Florida's Environment

*dispute
resolution*



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dispute resolution

Overview of Dispute Resolution

On December 14, 2001 the Efficient Transportation Decision Making (ETDM) Memorandum of Understanding (MOU) was signed by 23 agencies. The agencies agreed to establish an effective dispute resolution process as part of the ETDM Process.

Goals of ETDM Dispute Resolution Process:

- Identify and begin to address disputes at the earliest possible phase of project planning – "Planning Screen Phase"
- Initiate dispute resolution on a project at the "Programming Screen" to resolve significant issues before advancing a project into the Five-Year Work Program beyond technical studies
- Resolve conflicts locally at agency staff level

Dispute Resolution Process involves two steps:

- Step One at Planning Phase – Identification of potential disputes and consultation among District and MPO ETDM Coordinators and ETAT to begin resolving disputes
- Step Two at Programming Phase – Informal and/or formal Dispute Resolution Process is initiated before project advances to Project Development Phase

Initiating Dispute Resolution

The Process begins with the District and MPO ETDM Coordinators, who are responsible for working with the appropriate ETAT representatives to address known conflicts or issues locally at the agency staff level.

The following is a list of issues that would require dispute resolution:

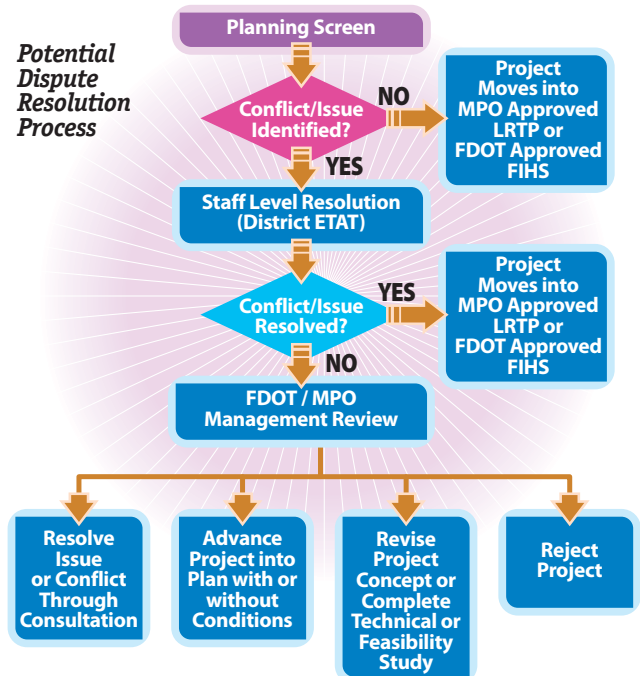
- Project cannot be permitted
- Project is contrary to a state or federal resource agency's program, plan or initiative
- Project has significant environmental cost
- Project purpose and need is disputable

Planning Phase (Step One)

Planning Phase Potential Dispute Resolution Process

- District and MPO ETDM Coordinators review the potential dispute issues and associated comments provided in the Environmental Screening Tool (EST)
- District and MPO ETDM Coordinators set up a meeting/teleconference with involved parties to discuss the potential dispute issue and a possible course of action to resolve the conflict or issue
- If the potential dispute is not resolved, FDOT or MPO upper management will decide a course of action to address the identified conflicts and issues, which may include any of the following:
 - Resolve the conflict or issue through consultation and document the resolution
 - Advance project into the Long Range Transportation Plan (LRTP) with or without conditions
 - Complete feasibility or technical study – for decision making purpose
 - Revise project concept
 - Reject project

All potential dispute resolution activities will be documented in the EST. An unresolved dispute during the Planning Phase does not prohibit a project from being included in the LRTP and advancing to the Programming Screen.



Programming Phase (Step Two)

Programming Phase Potential Dispute Resolution Process

Informal Dispute Resolution Process

- Involves subteam or subunit of ETAT responsible for reviewing dispute issues
- Subteam members consist of agencies identifying issues of concern for a project, plus one or more neutral ETAT representatives to mediate the dispute within the ETAT
- Subteam is led by FDOT, with participation at discretion of each agency, depending on level of interest or concern
- ETAT subteam to address identified conflicts and issues

Three possible courses of action to address identified conflicts and issues:

- 1) Resolve the issue or conflict
- 2) Complete a feasibility or technical study
- 3) Advance project with "flags" and/or recommendation to be addressed in the project development phase

If a conflict remains unresolved after Informal Dispute Resolution Process, the ETDM Coordinator initiates the Formal Dispute Resolution Process.

Formal Dispute Resolution Process

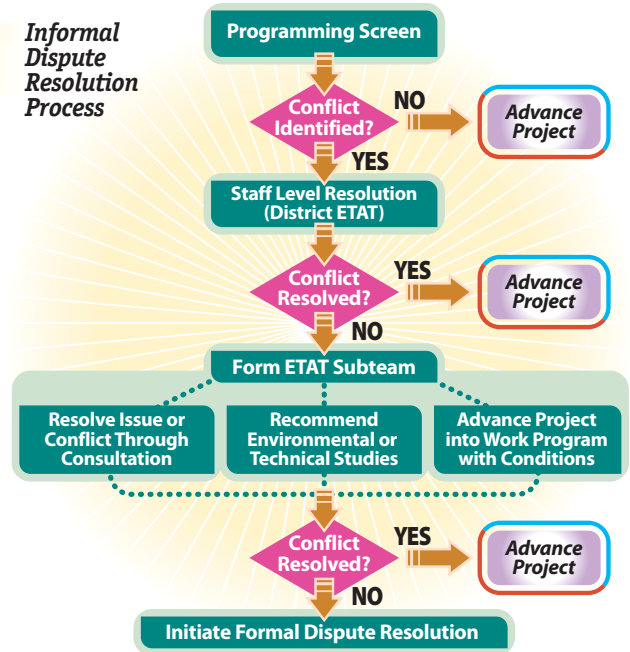
- "Issue Paper/Position Paper" prepared by FDOT District Office and agency that raised issue or dispute
- Paper reviewed by responsible ETAT member agency head and FDOT District Secretary
- Agency heads are asked to resolve issue, if possible
- If issue is still unresolved, dispute moves to statewide or regional heads
- Statewide or regional heads review all project information and determine course of action

Three possible courses of action in Formal Dispute Resolution Process:

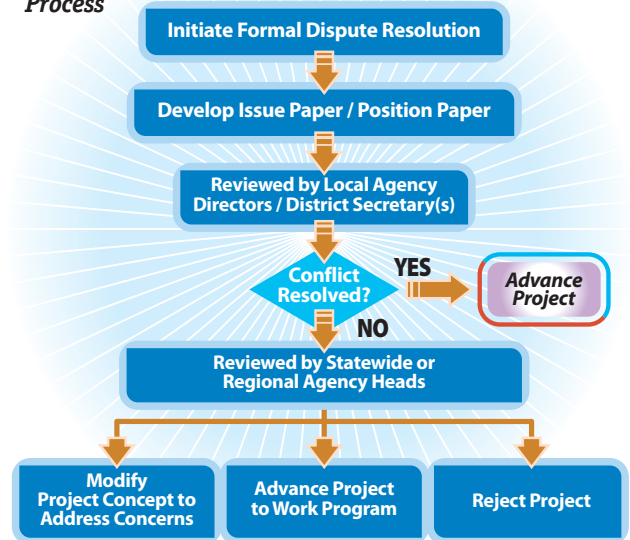
- 1) Modify project concept
- 2) Advance project to next phase with or without conditions
- 3) Deny project

Projects that have unresolved conflicts at completion of the Programming Screen will not be advanced in the FDOT Five-Year Work Program for any purpose other than technical studies and preliminary design to resolve the conflicts.

Informal Dispute Resolution Process



Formal Dispute Resolution Process



The Memo of Understanding

Federal and State resource and regulatory agencies agreed to support FDOT and FHWA in developing a process that results in improvements to:

- Transportation decisions
- Protection of the natural and human environment
- Efficiency and cost savings
- Early input by agencies in the transportation planning process

Agencies also agreed to:

- Collaborate in process development
- Achieve timely decisions
- Consider community goals, land use plans, ecosystem management plans and mobility plans
- Utilize information technology
- **Develop dispute resolution process that is mutually agreeable**
- Include active public involvement
- Integrate agency programs and reduce duplication



Keys to Success:

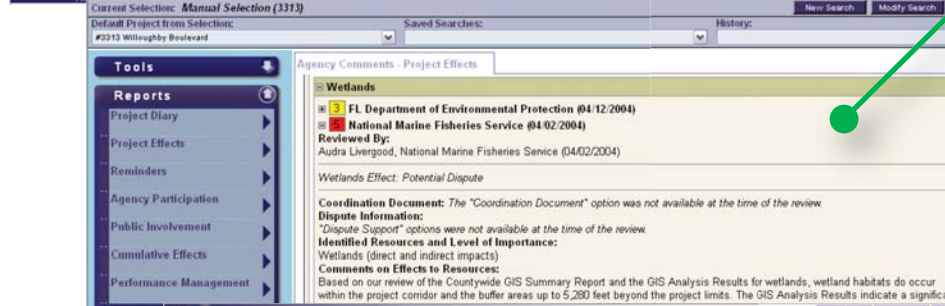
- Identify leaders who will champion the Dispute Resolution Process
- Provide continuous training and education
- Develop policies and procedures that support the program
- Maintain lines of communication
- Recognize successes



This brochure was produced by the FDOT Environmental Management Office in association with URS Corporation.



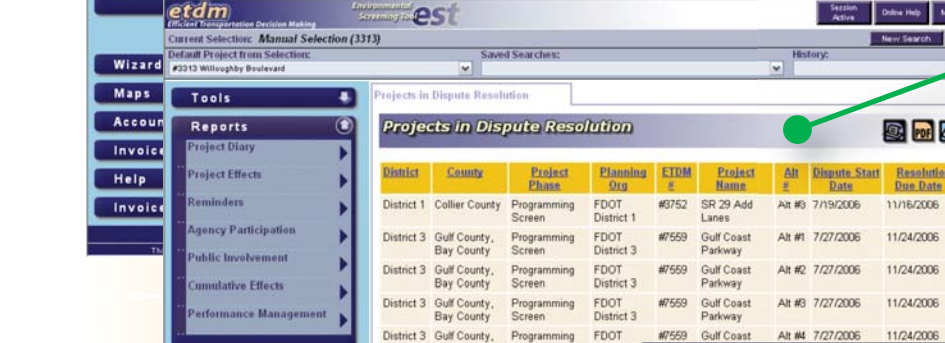
Summary Report



Agency Comments

Summary Report Screen and Agency Comment

The ETDM Coordinator can create Planning Screen and Programming Screen Summary Reports using the Summary Report screens. The rows represent project alternatives, and the columns on the right represent the environmental Resource Issue. The intersection of a project row and issue column is a cell that represents the Summary Degree of Effect for a particular project and issue. The Summary Degree of Effect is noted using a number and color code. Agencies provide their commentary on why a specific issue (e.g., Wetlands, Section 4(f) Potential, Wildlife and Habitat) is a dispute or potential dispute.



Projects Requiring Dispute Resolution

Projects Requiring Dispute Resolution

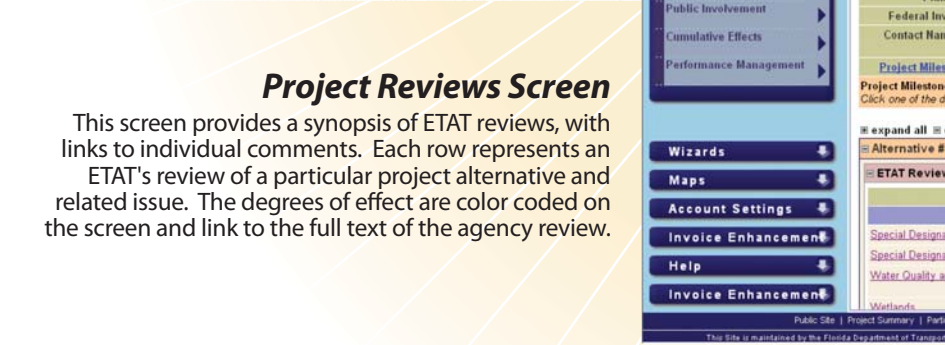
A list is generated by District of projects with the status "ETAT Review Complete," and with at least one review organization that has indicated a "Potential Dispute" or "Dispute Resolution Required" for the agency involvement option.



Project Reviews Screen

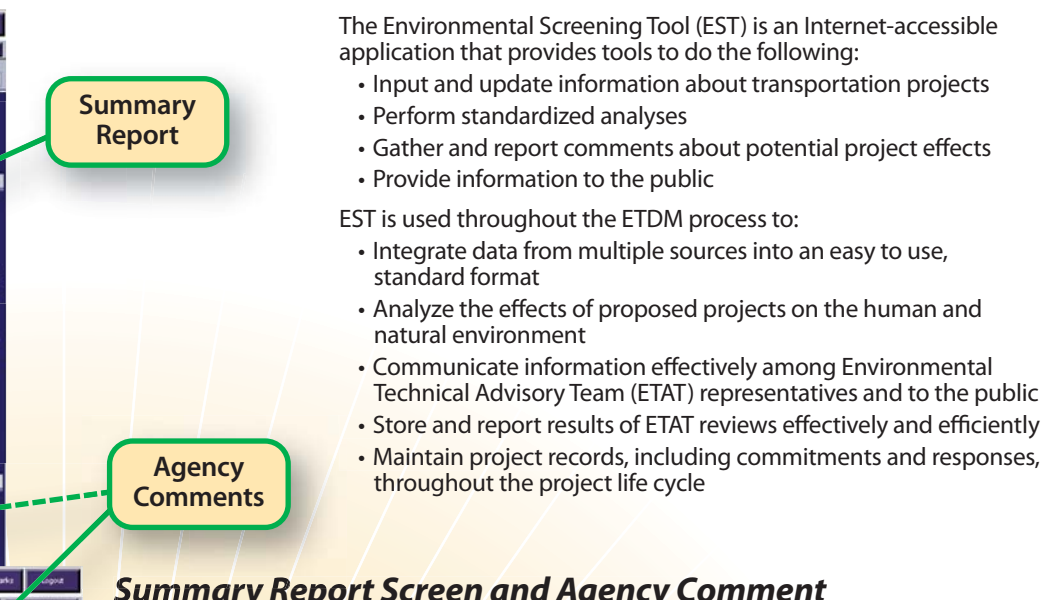
Project Reviews Screen

This screen provides a synopsis of ETAT reviews, with links to individual comments. Each row represents an ETAT's review of a particular project alternative and related issue. The degrees of effect are color coded on the screen and link to the full text of the agency review.

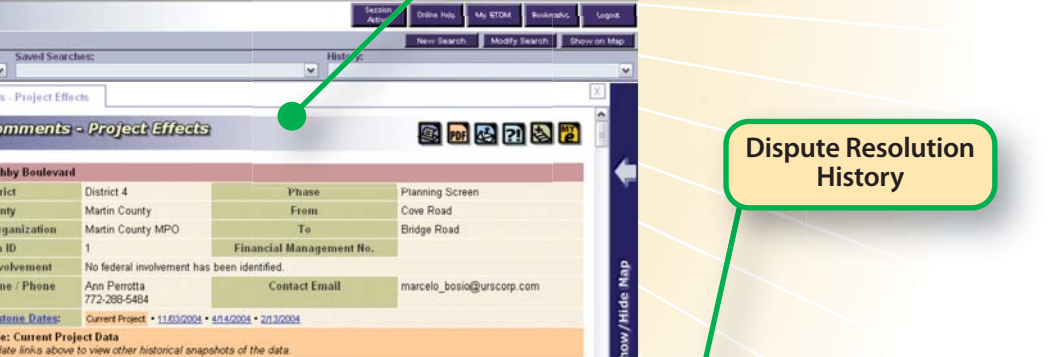


Dispute Resolution History

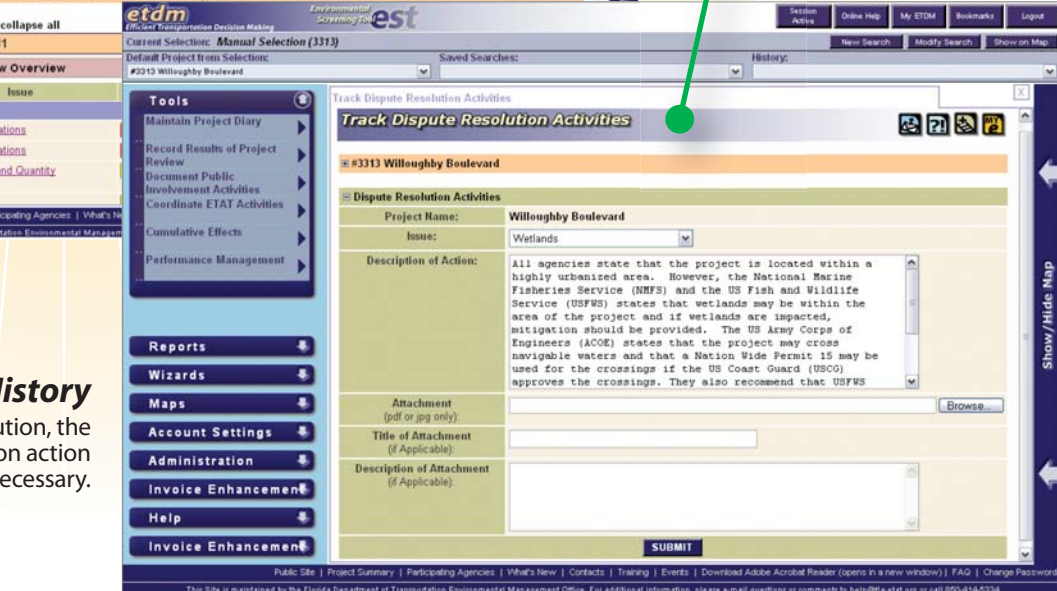
When a project enters into dispute resolution, the ETDM Coordinator records the dispute resolution action and attaches reports, e-mail, maps, etc., as necessary.



Dispute Resolution History



Agency Comments - Project Effects



Planning Screen Potential Disputes

- ETAT representatives indicate during Planning Screen that a project may have potential for creating a dispute
- Red flag during Planning Phase initiates Potential Dispute Resolution process

Programming Screen Dispute Resolution

- Dispute resolution required when significant unresolved issues remain following ETAT review and completion of Preliminary Programming Summary Report
- Dispute resolution may be accomplished prior to project advancing within FDOT's Five Year Work Program beyond Project Development Phase; however, projects may advance for agreed-upon technical studies
- District ETDM Coordinator responsible for initiating process - SHOULD first use Informal Dispute Resolution Process

Florida ETDM Process Summary Degree of Effect	Definition: ETAT
NA/No Involvement	Resource not present or not relevant in relationship to the project.
Enhanced	Project has positive effect on resource.
None	No adverse effect on resource.
Minimum	Project has little adverse effect on ETAT resources. Low cost options available to address concerns.
Moderate	Agency resources affected by proposed project, avoidance and minimization are possible and can be addressed during Project Development.
Substantial	Project has substantial adverse effects, will seek avoidance and minimization or mitigation during Project Development.
Dispute	Project not conforming to agency statutory requirements and will not be permitted.

Definition: Public Involvement
Resource not present or not relevant in relationship to the project.
Affected community supports project. Positive effect.
No community opposition to project. No adverse effect on the community.
Minimum community opposition to planned project. Minimum adverse effect on community.
Project has adverse effect on elements of the affected community. Public participation needed to seek alternatives.
Project has substantial adverse effects on the community and faces community opposition.
Community opposes project.