

## **PLENARY SESSION—Panel Discussion: Policy Issues Relating to MIS**

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### **Is MIS in the Spirit of ISTEA?**

*Larry D. Dahms, Metropolitan Transportation  
Commission*

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The major investment study first has to be in context. The question has been raised whether MIS is in the proper spirit of ISTEA. What is the proper spirit of ISTEA? That is not an easy question to answer because ISTEA has, in effect, been a transitional piece of legislation. ISTEA is stimulating new ideas and new processes. It also funds the remaining commitments of the interstate era and continues the New Starts Program. We are still in a transition period and still building some very large, very expensive projects.

While there is an admonishment in ISTEA to have budget-constrained plans and TIPS, the ISTEA authorization is at one level while the appropriation has been at a much lower level. In anticipation and consistent with the idea of budget constraints, the emphasis is on management system integration. The ITS technology is there to help us do that, and there is much more flexibility in ISTEA than we had before.

It seems to me the MIS is first of all an answer to alternatives analysis on the transit side. It was intended to bring the discipline of alternatives analysis to a larger range of our decisions and yet be somewhat less than the prescriptiveness of the alternatives analysis.

It is interesting to me that one of the questions is, "Is it too prescriptive?" In the field, it may seem to be too prescriptive. In our case, we do not view it as having been too prescriptive. It is in fact the lack of prescriptiveness that has been the problem here.

We are one of the participants as an MPO. The MIS feeds into the regional transportation plan, which is our responsibility. In this region, immediately after the passage of ISTEA, we created the so-called Bay Area partnership. Some 30 public agencies at the Federal, State, regional, and local levels undertook to write our own guidance about what an MIS should be, because we had that TIP full of projects.

One of the questions was how many of those projects already in the TIP needed to be subject to this new

guidance. We were going to have to answer those questions to our partners right away. When we got through that process and answered the questions to almost everyone's satisfaction, we decided we need to add a little guidance. We saw that the compelling questions were, "When are you ever finished?" and "When do you get approval for the MIS?" FTA and FHWA were not forthcoming about saying we can sign off the MIS as approved. We needed to have some answer; therefore, we actually changed our own writeup. Now the State, the MPO, FTA, and FHWA will jointly sign and say your MIS is complete and satisfies the process.

### **Relationship between MIS and NEPA**

The crux of the problem is the relationship between NEPA and MIS. The problems come up when the MIS is done prior to entering into a formal NEPA process. One implied benefit of the MIS is that you can narrow all the alternatives without all the hassles of an Environmental Impact Statement. However, the subsequent scoping that has to be done as part of the EIS process could very well reintroduce alternatives that were previously discarded by the MIS. Thus, there is some debate as to whether an MIS achieves anything. Perhaps doing a MIS as part of the EIS is the only way to go. That is the central question that still needs to be answered at the Federal level.

### **MIS and alternatives analysis**

The MIS seems to be an improvement over the alternatives analysis. But we have not yet resolved exactly how it fits and when you can get a sign-off on the full environmental analysis. Irrespective of what might be said in the field offices, as long as the court is there, those who do not feel satisfied will resort to NEPA litigation. The MIS is not going to be a substitute—at least I don't know if anyone has had a court test yet—but until we have had court tests no one at FTA or FHWA can answer the question. So if there is a weak link in the chain, that is it.

### **The impacts of MIS**

Has the MIS process had a major impact in our own region? Yes and no. Yes, in the sense that it has ratified the importance of our partnership and we are able to

work through the MIS process. We have two projects underway that are subject to MIS. So in that sense, it has been important and had an impact. In terms of how it has influenced our decisions so far, however, it has not had much impact. It is one more attempt to get people back to good planning principles. If good planning principles are already being used, then MIS is not necessarily going to have a lot more impact.

You have to view it in context. Are you looking at decisions between some large highway project and some other large highway project; or between some large highway project and some transit project? Are you looking at a situation where you are still trying to fund the old commitments and are not building any new ones anyway? Then you should not expect a whole lot of impact from MIS in this time frame.

### Are MIS goals being achieved?

What has been accomplished, and what are we trying to achieve? We have moved away from the practice of subjecting only transit projects to the onerous FTA alternatives analysis, while highway projects had a quicker and less costly NEPA process. This reinforced the perception of policy bias towards a highway solution. The MIS is supportive in helping to level the playing field between transit and highways. The criticism now is that both modes are being subjected to the old FTA process. That has not quite been the case since the process, to date, has not been as onerous as alternatives analysis.

The MIS process has not been too prescriptive. But to a degree, there's the rub. Since no one can say absolutely when an MIS is done, everyone is paranoid that FHWA and FTA have created this open-ended process, giving project opponents another avenue to delay or stop a project.

In our region, while the partnership has worked up to a point, FTA and FHWA have not necessarily been fully on board with the collaborative process. For several major investment studies, FTA and FHWA have been unwilling to act as full partners to make the decisions. On several occasions, FTA asked us to make an

independent determination that the MIS was done correctly and stated that it would not make a determination until after we had done so. The acceptance of MIS guidance by the partnership has slowly brought FHWA and FTA around. So those problems appear to have been transitional.

The sign-off problem is still somewhat problematic. We have attempted to solve it by having the MPO, State, FHWA, and FTA sign off under the partnership agreement. Whether this accomplishes the desired objective is still to be determined.

Is the process consistent with the intent of ISTEA? Largely yes, but not just in the sense of a transit versus highway project choice. In our case, we have one major MIS currently underway and have just started another one. The one currently underway is an I-80 corridor analysis from the Bay Bridge on the East Bay side running up towards Sacramento. It focuses on a number of both operational and institutional strategies. The corridor happens to be where the last of our interstate money is being spent. We are developing an HOV lane that is going to provide a queue bypass across the bridge. It will be one of the best HOV corridors in the country. It will be for both car pools and buses. Unfortunately, we probably will not have the money to buy the buses or operate the buses that would run in the corridor.

We have had four years of experience with ISTEA. In 1997, Congress must decide whether to reauthorize it.

Just as ISTEA is in a transitional stage, we are all learning how to be partners, and the Federal modal administrations are learning to be partners with us. Just as ISTEA is formative and transitional, so MIS is formative and transitional. We should not expect too much of it yet. We need to have confidence that if we stick with it and move ahead, the process has great promise.

The fact is that, just as ISTEA has flexibility, so there is flexibility in the MIS process. That is demonstrated by the fact that people tell you it is too prescriptive, and I tell you that it is *not* too prescriptive. We were able to do with it what we wanted to do with it. It was the lack of prescriptiveness related to NEPA that is the missing link. There we need some prescriptiveness, and we need it in law because, if we do not get it into a law, we are

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going to be subject to lawsuits that may undermine the so-called benefits of MIS.

## **The Adventure of MIS**

*William W. Millar, Port Authority of Allegheny County, Pennsylvania*

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I am going to try to show why major investment studies are a dashing and bold adventure. I will talk about our experience with MIS, which comes out of the transit experience, the alternatives analysis experience. We are now leading one MIS and participating in a second.

### **MIS in Allegheny County**

We are trying to get transportation improvements done but also to carry out national policy, as identified by ISTEA, that says, "The National Intermodal Surface Transportation System shall consist of all forms of transportation in a unified, interconnected manner to reduce energy consumption and air pollution while promoting economic development." That is our national policy. I am just foolish enough to believe that if Congress said it and the President signed it, that is indeed what we ought to do. In Southwestern Pennsylvania, we take seriously our obligation to meet that national policy. Of course, we emphasize the words "economic development." That is a big issue in our community, where we had the dubious distinction of losing the largest number of jobs and the greatest amount of population of any major metropolitan area in the country between 1980 and 1990. So economic development is a big issue, and there are many people in our community who view MIS as an impediment to building transportation projects; i.e., road projects that will bring jobs to our community.

I do not agree with that position. I think the MIS process ultimately will help bring us the economic development and jobs our community desperately needs.

One observation some of you have heard me make about America is that we love to judge everything much too soon. Here we are more than two years since the Federal government issued MIS regulations, and what do we have? A conference to say how well MIS is working. Like any new process, we are not very good at it yet—at least we are not in Pittsburgh—but we are getting better at it.

## **The MIS debate**

In considering MIS, we have to be honest about what the debate is. Is it about MIS or is it about changing ISTEA? Do we believe in the national policy goals stated in ISTEA, or don't we? If we do, then major investment studies are a natural flow and a logical progression from those national policy goals. If we do not, then there is no way to convince you that MIS is worthwhile.

Fundamentally, MIS is like everything else: It is what you make of it. If we use it as a valuable thing, it will be a valuable thing. If we see it as yet another impediment to getting things done, it will be another impediment to getting things done.

A major investment study really is a means of reaching consensus on cost-effective transportation improvements that meet a region's goals and objectives. It is a process. To that degree, calling it a major investment study misleads, because what is important is the process we go through and its ability to bring people together. The ability to form consensus on what the problems are, find solutions, and then ultimately select the way we go forward is really the value of the MIS. The ability to bring people together is the key. It is important because, under ISTEA for the first time, we are required to make trade-offs. We want to be in a position to say that within the corridor the issue is not just a highway improvement but both a transportation and economic development problem, so we want to look at different ways of designing solutions to meet those needs. You simply cannot do that if the traditional highway people are doing their project development process, and the traditional transit people are doing their aid process and other processes that led to transit projects.

The public says, "We want transportation investments, but we want them done in an environmentally safe and cost-effective way." In public life, cost-effectiveness is in the eye of the beholder. It is clear that MIS provides us an opportunity to involve the public, learn from its ideas, incorporate them into our plans, and get the community's buy-in very early in the planning process.

These are the things that MIS is all about. It is the importance of MIS, and it is fundamentally rooted. You either believe in ISTEA, or you do not. There is no gray area. If you do believe in it, then ISTEA, what the MIS process represents, is the logical outcome.