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Next Steps

This fifth and final chapter presents the next steps should the state of Vermont decide to pursue the relocation of the Burlington and/or Rutland railyard. Given the range of potential costs identified in Chapter 4, it is likely that federal funding will be pursued as part of the overall project funding plan. All major capital investment projects that utilize any federal funds are subject to a project development process. This process must be followed to be eligible for federal funds. The specifics of the process vary depending on the lead federal agency. The five major steps of the process leading from project conception to construction are:

- Systems planning
- Alternatives analysis/draft environmental impact statement
- Preliminary engineering
- Final design
- Construction

Each of these steps is eligible for federal funding participation. Prior to initiating the federal process however, the state may want to further explore the funding options. It is often appropriate to develop a financial feasibility or funding options study that explores federal, state, local, and private options. The purpose of such a study is to examine potential funding scenarios. These scenarios help to establish the basic funding strategies or parameters of the project. This step is particularly important given the limited availability of federal funds for freight projects. Even with the flexible provisions included as part of the Transportation Efficiency Act for the 21st Century (TEA-21), few programs with limited dollars exist to fund freight initiatives. The majority of the funding is targeted for highway and transit development.

This study document represents the initial step in the project development process. It identifies the need for the action, defines the issues, presents an initial list of potentially feasible sites, and presents a range of conceptual level cost estimates. Once the state evaluates the funding options and makes a decision to pursue a project, then the alternatives analysis efforts can commence. These efforts will involve

completion of a draft environmental impact statement under the National Environmental Policy Act (NEPA) guidelines that will result in the identification of a locally preferred alternative (LPA). The step concludes with the development of a specific financial plan to fund the LPA. It is recommended that the effort be split into two separate projects: the relocation of the Burlington railyard and the relocation of the Rutland City railyard. Splitting the relocation of the railyards into two separate projects allows the State flexibility in pursuing funding strategies that may be better suited to the conditions of one railyard.

The following paragraphs provide a brief summary of the next steps included in the systems planning and AA/DEIS process. Appendix G contains a more detailed description of the environmental review process.

Financial Feasibility

Critical to the state's decision regarding the pursuit to one or both of the proposed railyard relocations is the availability of funding. It is often appropriate to develop a financial feasibility or funding options study that explores federal, state, local, and private options. This study is general done as part of the Alternatives Analysis. Given the uncertainty regarding funding for freight related projects, it is appropriate to consider this as a necessary step before the state commits to one or both of the proposed relocation projects. If the state elects to undertake the financial feasibility study prior to initiating the federal project development process, it will need to be completed with state funds. Also, some of the technical work may need to be re-done once the project enters the federal process.

The purpose of such a study is to examine potential funding scenarios. These scenarios help to establish the basic funding strategies or parameters of the project. Using the conceptual level cost estimates summarized in Chapter 4 an analysis of reasonably viable funding options can be developed. These options can be used to develop a general funding strategy for each of the sites under consideration. This step is particularly important given the limited availability of federal funds for freight projects. Appendix H provides some initial information related to potential funding strategies based on the findings contained in this report.

The results of the financial feasibility analysis will be the identification of potential funding sources and strategies. It is important to note that the study does not represent a commitment of specific funds but rather

identifies the potential availability and how it may become part of an overall strategy. Part of this step will be to identify funding sources for the project development process. A final decision on a specific funding plan can not be made until a locally preferred alternative is identified as part of the AA/Draft EIS step. With limited federal funds available, this will be a critical step for the state to undertake. The financial feasibility analysis will likely need to fully explore innovative funding mechanisms as a key component of the funding strategies.

System Planning

The System Planning step is focused on establishing the need for a project and defining the transportation (and other) issues that could potentially be addressed through a major capital improvement. The basic methods to conduct the study are identified as part of this step. The elements of this step are typically focused on highway and transit related project development. It has only been over the past nine years since the passage of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) that more attention has been paid to the movement of goods. The guidelines for this planning process continue to evolve to be more encompassing of all transportation modes including the movement and handling of freight. Nonetheless, the project will be subject to some form of overall System Planning. The degree of analysis required will be subject to the lead federal agency identified.

As noted previously, this study document has identified many of the issues typically associated with the System Planning process. Some additional input from the metropolitan planning organizations may be required to fit the proposed project into the overall context of the regions. Given the economic and development impacts in the two communities currently hosting the railyards, additional local input may also be necessary to fully define the proposed action. With this data and information, the project should be able to advance to the next step or phase of the project development process.

Alternatives Analysis/Draft EIS

The purpose of the Alternatives Analysis/Draft EIS process is to determine the locally preferred alternative (LPA). In order to identify the LPA, a set of alternatives must be developed that includes:

™ the necessary baseline options

- ™ all reasonable sites but only those determined to meet the goals and objectives of the project
- ™ all options that have a reasonable chance of becoming the locally preferred alternative

The AA/Draft EIS process is typically divided into six major steps. These steps, which vary depending on the lead federal agency, include:

- Initiation of the alternatives analysis step
- The scoping process
- Development of alternatives and analysis methodology
- Analysis and refinement of the alternatives
- Preparation of a draft environmental impact statement
- Selection of the locally preferred alternative

These steps are typically sequentially with the results of each step serving as input to following step. The following paragraphs summarize these steps. A general discussion of the NEPA process follows.

The entire process is initiated with the identification of a lead federal agency and the consent of that agency to develop the alternatives analysis. The lead federal agency is typically the agency through which the federal funding will be directed. The efforts completed by the state prior to this formal initiation step (this current study and the financial feasibility analysis) may be used as a starting point at the discretion of the lead agency.

The second step involves the scoping of the alternatives analysis. At this time, the roles of the various agencies involved in the decision making process are identified and a public involvement program is formalized. The basic need for the project and key issues to be addressed by the analysis are identified. This step typically results in a detailed work plan, a conceptual definition of the alternatives, and a first draft of the Purpose and Need for the proposed project.

Once the project scoping is complete, the next step involves further defining the alternatives and analysis methods. This is a critical step towards achieving general consensus from the project participants on the alternatives being considered and methods of evaluation.

The fourth step of the process is the heart of the technical effort. As part of this step, conceptual level (10 %) design plans are developed to aid in the assessment of infrastructure requirements and environmental impacts. Capital and operating costs are developed and refined at a conceptual level to help identify the economic impacts of the alternatives.

Once the technical analysis is complete of the alternatives, the draft environmental impact is prepared under NEPA guidelines. These guidelines are discussed in more detail in the following section. The process concludes with the selection of the LPA.

National Environmental Policy Act (NEPA)

If the railyard relocations are funded, even in part, with federal funds, the project will be subject to NEPA. One of the first steps to advance the railyard relocations will be for VTrans to initiate the NEPA review process in conjunction with the appropriate federal (USDOT) agency. The USDOT's regulations implementing NEPA indicate that railyard relocations are a "Major Action". The process of considering the environmental impacts of a proposed major action begins at the earliest practical time in the planning process for the proposed action preferably when technical and economic studies are being conducted. To the fullest extent possible, steps to comply with all environmental review laws and regulations (*e.g.*, Act 250, Section 106, and Section 404) are undertaken concurrently.

In the process of considering impacts to environmental resources, all reasonable alternatives to the proposed action are identified, including the "no action" alternative. The goal is to select a preferred alternative that best balances the benefits of the project against its social and environmental impacts. Consultation with appropriate federal, state, and local authorities, and to the extent necessary, with the public, is initiated at the earliest practicable time.

The proposed relocation projects will be documented in either an Environmental Assessment or Environmental Impact Statement document. Based on the level of evaluation completed in this study, it is likely that an EA will be sufficient. The environmental review process must be started no later than when an application is made to the lead USDOT agency for funding. The lead USDOT agency will not approve funding requests until the NEPA process is completed.

Based upon the information presented in the EA, the lead federal agency will determine whether the proposed action (*i.e.*, relocation of the railyard) will have a significant impact on the quality of the human environment. If not, a "Finding of No Significant Impact" (FONSI) will be drafted for the lead federal agency to approval. Among the information a FONSI must include is a list of the alternatives considered, the expected environmental effects of the preferred alternative, and a discussion of the mitigation measures that will be taken. Importantly, if the proposed

relocation will require wetland filling, the FONSI must make a determination that there is no practicable alternative to the location that would not require wetland filling and that the proposed action includes all practicable measures to minimize harm to wetlands.

Other Environmental Requirements

As previously discussed, the relocation of the Burlington and Rutland railyards by VTrans is subject to the federal environmental review process. In addition to the federal NEPA process described in the previous section of this chapter, the project may be subject to other federal agency and state environmental reviews. The state review is governed by the Vermont Act 250 guidelines. In addition, if any wetlands must be filled to accommodate the new railyards, a Section 404 Permit from the U.S. Army Corps of Engineers and a Wetlands Conditional Use Determination (CUD) from Vermont Agency of Natural Resources (ANR) will be required. These processes are discussed briefly in the following paragraphs.

Section 404

Section 404 of the Clean Water Act is administered by the U.S. Army Corps of Engineers (ACOE). Section 404 regulates the discharge of fill material into waters of the United States, which includes wetlands. The New England Division of the ACOE has developed a joint NEPA/404 review process designed to expedite review of projects and lead to better decision making. Consultation with the ACOE should be initiated at the same time as the NEPA process. The Section 404 review process is based on three-step methodology of avoidance, minimization, and mitigation.

Because of the regulatory protection provided wetlands, avoidance of wetlands is a key factor in the site selection alternatives analysis performed under NEPA, and wetland avoidance typically drives the NEPA/404 review process.² ACOE regulations allow it to only permit the "Least Environmentally Damaging Practicable Alternative" (LEDPA). Therefore, the potential railyard sites must be analyzed carefully to determine what the likely wetland impact at each site would be. Sites that would have a significant negative impact on wetlands should be dropped from further consideration.

² Avoidance of Section 4(f) properties, historic properties protected under Section 106, and endangered species, are also key environmental factors in the alternatives analysis.

Once a site (or sites) has been selected based on the alternatives analysis, measures to minimize wetland impacts will need to be designed and incorporated into the site planning. After impacts are minimized, appropriate mitigation can be designed to offset unavoidable losses.

Act 250

Act 250 is Vermont's primary means of reviewing large developments. For state-sponsored projects, Act 250 applies to those sites greater than ten acres. Since the railyards will require an area greater than 10 acres, they will require Act 250 review.

Many of the Act 250 review criteria are similar to the issues examined during the NEPA review. And, although, the Act 250 process is subsequent to the NEPA process, the Act 250 criteria should be kept in mind during the alternatives selection process to ensure that the preferred alternative is permissible.