

Nomination Received by Council on Environmental Quality, Executive Office of the President
For the CEQ NEPA Pilot Project Program
<http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project-nominations>

PART I. NOMINATOR

First Name:	Darryl
Last Name:	Farber
Organization:	Member of the Public
Project Title:	[None Submitted]
Submitted by:	Member of the Public
Date Received:	06/16/2011

PART II. SHORT ANSWERS

I. What Federal agency or agencies will be involved in this pilot project?

DOT--Surface Transportation Board and The Federal Highway Administration.

II. What is the Federal action to which this NEPA pilot project applies?

Reactivating a rail line from rails to trails for access to a proposed landfill.

III. How will this pilot project reduce the costs and time needed to complete the NEPA process?

In this case, two access routes were proposed, a highway interchange and a rail line. In the case of the interchange a NEPA process would be triggered, but because FHWA first determined as a stage/gate or screen that the proposal was inconsistent with local land-use and transportation planning, FHWA decided against going forward thereby saving the cost of NEPA. STB, also within DOT, however did not have this preliminary screen and determined to begin the NEPA process.

Since the proposed project is inconsistent with local land-use and transportation planning, if an agency first determined whether a project was consistent as a stage/gate before even considering NEPA that could save money.

In this case if STB first determined consistency with local land use and transportation planning, then it would have determined like FHWA not to go forward with NEPA activities until the project was considered consistent.

IV. How will this pilot project ensure rigorous environmental protection?

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If project is consistent with local land use and transportation, then NEPA goes forward as required by law.

V. How will this pilot project improve the quality and transparency of agency decisionmaking?

Agencies will need to consider consistency with local land-use and transportation planning.

VI. Will this pilot project develop best practices that can be replicated by other agencies or applied to other Federal actions or programs? Please describe?

Agencies need a consistent screen to determine whether to trigger NEPA, local land-use and transportation planning is one.

PART III. PROJECT DESCRIPTION

(See attachment on following page.)

Surface Transportation Board—R. J. Corman Rail Company

This project deals with the reactivation of a rail line that is currently rails to trails and is located in Centre County, Pennsylvania. The owners claim the rail line will serve a landfill, resource recovery facility, and other industries some associated with the natural gas industry. There are three aspects of this situation that merit attention from CEQ. The first is the inconsistency local land-use and transportation planning is considered as preliminary criteria for determining whether a NEPA process is triggered. The second is how an agency determines the scope of an action. The third is how an agency determines the credibility of the information used in making a NEPA resource expenditure decision.

First, a preliminary screen of determining whether the proposed project was consistent with local land-use and transportation planning would have gone a long way in saving the public and private sector time and money before triggering NEPA.

Second, the incentive for the proposed project, the rail line, is to service a landfill. Permitting the landfill will require the cooperation of other federal agencies, such as the Army Corp. Although STB has no jurisdiction over landfills, the federal government is involved, so that the proposed project is intrinsically connected to federal oversight. In this case, STB performing an EIS for the rail line and Army Corp assessing wetlands issues separately from the rail line misses the intent of protecting the environment as a whole and presumably the intent of CEQ scope guidance considering actions connected even though different parts of the federal government are involved.

Third, the STB has also performed a supplemental draft EIS on new information provided by the project proposer. The project proposer has stated that the rail line will carry ethanol from a proposed ethanol plant supposedly derived from the municipal solid waste that will be shipped to the landfill. Before doing a supplemental draft EIS, it does not appear that STB determined whether such an ethanol plant was economically feasible yet expended the resources for performing a SDEIS assuming the building of an ethanol plant.

In sum, preliminary screening of whether projects are consistent with local land use and transportation planning, which would also show how the parts of a project are connected, would help an agency determine early in the process whether performing an EA or EIS is based on realistic assumptions of a project and therefore merit expenditure of NEPA resources. The resource needed to implement is a CEQ rule to establish preliminary screening criteria consistent with local land-use and transportation planning.