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**ICRRP**  
REPORT 6

NATIONAL  
COOPERATIVE  
RAIL  
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PROGRAM

Sponsored by  
the Federal  
Railroad  
Administration

**Guidebook for Intercity  
Passenger Rail Service  
and Development**

# *“Keeping the FRA Happy” Environmental Permitting on Intercity Passenger Rail Corridor Projects*

Kevin Keller – HDR, Inc.

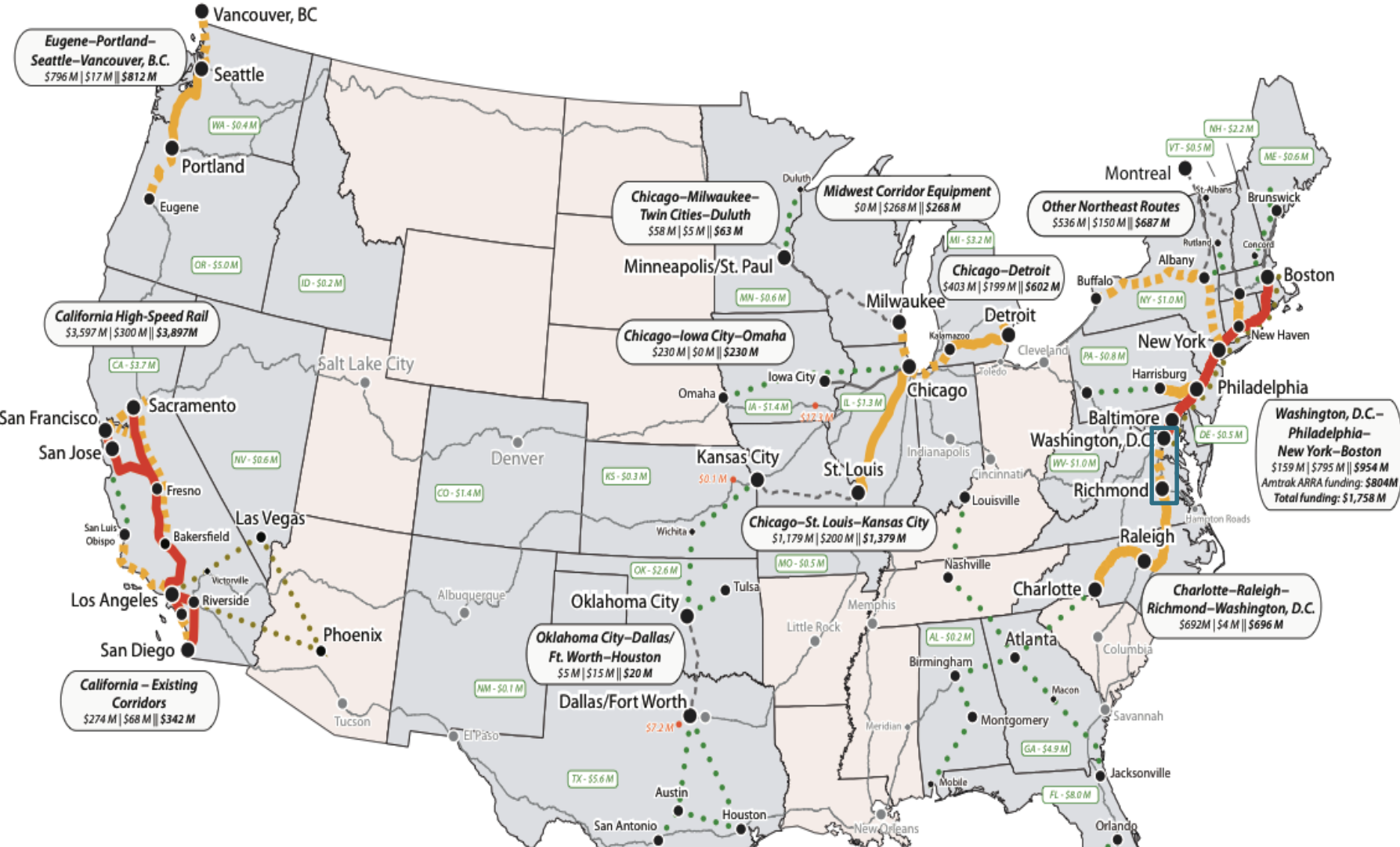
Emily Stock - VDRPT



# Producing Solid Environmental Documents

- Bottom Line:
  - Better Analysis = Better Project
  - Know what you want to do before doing it
  - Use your FRA Resources





**LEGEND**

- |   |   |
|---|---|
| <b>Corridor Name</b><br>Previous   Current    Total | <b>Summary of Corridor Investments</b><br>(Includes corridor development programs and individual projects. Due to rounding, "previous" and "current" values may not add to the summed total.) |
|   | <b>Core Express (125-250+mph)</b>   |
|   | <b>Regional (90-125mph)</b>   |
|   | <b>Emerging (Up to 90mph)</b>   |
|   | <b>Existing Intercity Rail Routes</b>   |

- |  |   |
|--|---|
|  | <b>Corridor Planning Studies</b><br>(several alignments under study)  |
|  | <b>DOT-led Planning Studies</b><br>(Funded through FY10 multi-state planning set-aside; several alignments under study) |
|  | <b>Summary of Planning Investments</b><br>(by state; total excludes DOT-led planning studies)                           |
|  | <b>States Receiving HSIPR Grants</b>  |
|  | <b>Amtrak Long-Distance Service Improvements</b>  |

Solid lines indicate corridor programs; dashed lines indicate individual projects.



# DC2RVA Corridor

- Approximately 123-mile segment generally parallel to the I-95 corridor
- Northern Terminus – Long Bridge, Arlington, VA (Potomac River)
- Southern Terminus – Centralia in Chesterfield County, VA
- Shared freight rail and passenger rail corridor
- Amtrak provides intercity passenger rail service
- Virginia Railway Express (VRE) provides commuter rail service
- CSX owns the track and provides freight service
- Part of the larger 500-mile SEHSR project.



# FRA-Led EIS

- Two-tiered federal environmental review process
- Preferred alternative identified in the 2002 Record of Decision
- Tier I EIS established the general corridor for improved service
- The actual route will be designed as part of the Tier II EIS process
- The Tier II EIS has four basic goals:
  - Update and confirm the purpose and need as established in the Tier I EIS for the Washington, DC to Richmond, VA portion of the SEHSR corridor
  - Develop site-specific rail alternatives for placement of a third track and other improvements
  - **Conduct a detailed evaluation of environmental impacts for the alternatives**
    - **Includes ID of all required permitting actions**
  - Select a preferred alternative

# Potentially Related Laws/Actions

- Clean Water Act Section 401/404– wetlands & water quality
- Clean Water Act Section 408 – flood control
- Rivers and Harbors Act Section 10 – navigation
- US Coast Guard Section 404 – navigable waterways
- Migratory Bird Treaty Act
- Section 6(f) Land Conservation Act
- Section 4(f) of Department of Transportation Act
- National Historic Preservation Act Section 106 – historic properties
- Endangered Species Act – threatened and endangered species

# Look for Efficiencies

1. Make environmental documents and permit apps concise and straightforward.
2. Integrate permitting into early project planning efforts.
3. Conduct early and well-defined scoping.
4. Improve inter-governmental coordination with state, local and tribal environmental reviews.
5. Coordinate NEPA with reviews, documents and permit apps required under other applicable laws.
6. Adopt other agencies' environmental requirements and documents.
7. Use of incorporation by reference.
8. Expedite responses to comments.
9. Establish clear timelines for reviews.





# Early Permit Application Integration

- Integrated into overall project planning and management to the fullest extent possible.
- Prepared in time to inform both the public and the decision maker.
- NOT after-the-fact process to justify decisions already made.
- Develop a pre-application process for applicants.



# Scoping

- Determine the issues that the environmental document will address and identify the significant impacts related to the proposed action.
- Identify critical permit actions.
- Identify significant permit issues and deemphasize insignificant issues.
- Solicit Agency cooperation early.
- Identify agency conflicts over use of resources.
- Identify potential mitigations.
- Identify opportunities to coordinate reviews and related surveys and studies required by other laws.
- Invite affected agencies (Federal, State, and local), Indian tribal representatives, the proponent, and other interested persons.
- Plan collaboration, assign responsibilities, and develop a schedule.



# Inter-governmental Collaboration

- Are there relevant State, tribal, and local environmental reviews?
- Collaborate with State, tribal, and local governments to the fullest extent possible to reduce duplication.
- Integrate environmental impact analysis and documentation requirements.
- Address consistency with approved State or local plans and laws.



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# Effective Use of Programmatic Reviews

## Efficiency

- New guidance provides an opportunity for State and Federal agencies to use programmatic analyses to provide for greater efficiency in their work to comply with NEPA and other environmental requirements.
- The guidance reflects the need to integrate environmental reviews into the decision making process, coordinate multi-agency or multi-governmental reviews and approvals, and ensure meaningful public engagement in the decision making process.

## Transparency

- Programmatic reviews should result in clearer and more transparent decision making.
- The guidance is designed to help agencies inform and meet public expectations for programmatic reviews that will enhance the utility of public review and comment.

# Actions to Modernize Infrastructure Permitting

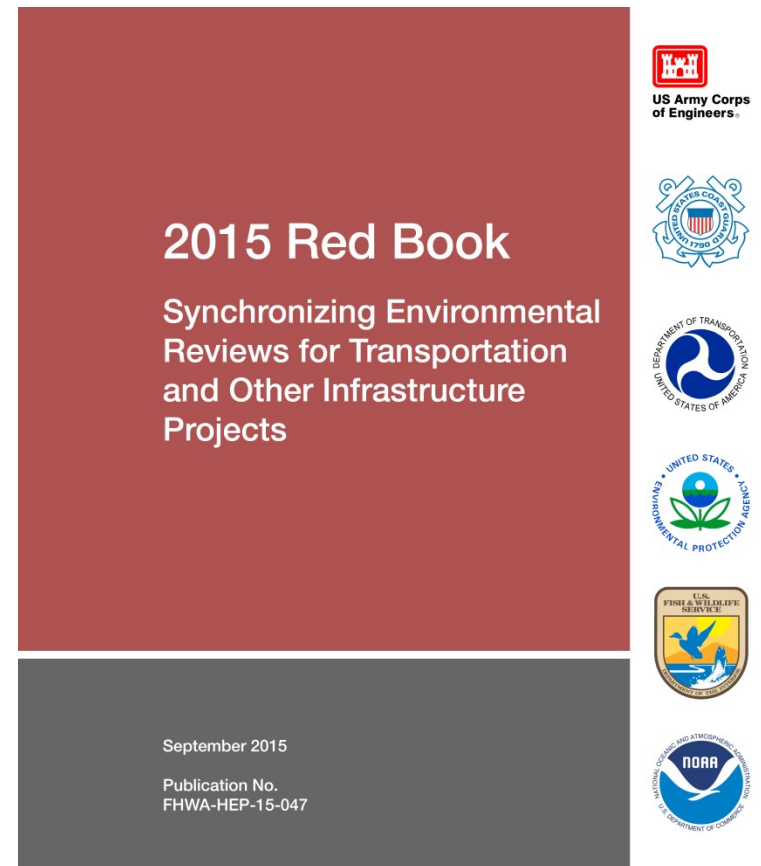
- Key Benefits of "Dashboard Expansion" and "Red Book":
  - **Improve interagency coordination** through development of coordinated project schedules and synchronized reviews, with the proven potential to cut timelines by months and sometimes years while still protecting communities and the environment.
  - **Increase transparency** for project applicants so they can plan more efficiently.
  - **Better explain** review processes to Congress and other stakeholders, including clarifying the many sources of delay outside Federal control.
  - Report on the **improved outcomes** for communities and the environment to bolster support for reviews.

# Dashboard Guidance

- The Dashboard is intended to facilitate enhanced interagency coordination and provide transparency for a set of projects that might experience lengthy Federal permitting and review given their size, complexity, and significance.
- There is a public-facing side of the Dashboard, where users can obtain project information, and an agency-only facing side for entering in project schedule, milestones and other details.
- Any project must be posted if it meets the criteria in one or more of the following categories: **complex projects, Environmental Impact Statement or by agency discretion.**
- The guidance takes effect for any new project which begins on or after October 12.
- Within 30 days of the guidance's release, agencies must **designate and identify to OMB a Senior Accountable Official** for the purposes of overseeing implementation.

# The Updated Red Book

- The original Red Book focused was published in September 1988.
- This update provides a “how-to” for field staff of Federal agencies that review permit applications, and Federal, State, and local agencies that fund or develop major infrastructure projects, on synchronizing NEPA and other regulatory reviews.
- Developed by a Synchronization Workgroup that was formed in 2013, and met regularly since January 2014



# When – How to Approach Permitting

- **Proportionality**

- Rely on agency experience and expertise to determine whether a permit application early in the project would be useful to the decision maker and the public.
- Apply the “rule of reason” to ensure that the type and level of analysis in the permit application is commensurate with the anticipated environmental effects of the project, and that these effects are deserving of study.

- **Scoping**

- Use the traditional scoping process to ascertain whether consideration of potential project impacts are relevant to the proposed permitting action and the extent of analysis required.

- **Agency Decision Tools**

- Develop agency practices and guidance based on proportionality and the rule of reason that frame the process by which the appropriate type, level, and extent of a permit action is determined.
- Provide the rationale for analyzing/not analyzing project impacts in the environmental documentation.





# Effects

- Direct – Indirect

- Assess effects caused by the proposed action that occur at the same time and place (“direct”) in addition to those that occur later in time but are reasonably foreseeable (“indirect”).
- Choose reasonable temporal and spatial parameters for the analysis of potential effects that would best inform the decision-making process and the public.
- Consider project impacts from activities that have a reasonably close causal relationship to the proposed action, such as those that may occur as a predicate for the proposed action (“upstream”) and those that may occur as a consequence of the proposed action (“downstream”).



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Questions?