

Environmental Considerations

## Environmental Considerations

### National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969, as amended, requires that projects involving federal actions, whether it be federal funding or a federal permit, analyze potential impacts to the human and physical environment as a result of the project. It also requires the analysis of reasonable alternatives. The purpose is to facilitate informed decision making in project development.

If future improvements along the Washington Street Corridor involve a federal action, compliance with NEPA is required. Three different levels of NEPA exist; these levels are the documentation and process for complying with NEPA. These levels are referred to as Class of Action:

- Categorical Exclusion (CATEX)—Categories of actions that do not have a significant impact on the environment.
- Environmental Assessment (EA)—Categories of actions which may or may not have a significant impact on the environment.
- Environmental Impact Statement (EIS)—Categories of actions which do have a significant effect on the environment.

NEPA requires the analysis of social, environmental and economic impacts of each proposed alternative. TABLE 5.1 shows each environmental impact category that may need to be analyzed in the future for the Washington Street Corridor.

TABLE 5.1 – Environmental Impact Categories

| Environmental Impact Categories  |   |
|----------------------------------|---|
| Air Quality                      | Joint Development                           |
| Bicycle and Pedestrian           | Irreversible/Irretrievable Use of Resources |
| Economic                         | Floodplain                                  |
| Farmland                         | Cultural Resources                          |
| Hazardous Waste                  | Threatened and Endangered Species           |
| Land Use                         | Visual                                      |
| Noise                            | Secondary                                   |
| Relocation                       | Environmental Justice                       |
| Social                           | Energy                                      |
| Water Quality                    | Cumulative                                  |
| Wetlands                         | Wild and Scenic Rivers                      |
| Wildlife, Habitat and Ecosystems | Section 4(f)/Section 6(f) Properties        |

NEPA acts as an umbrella for other environmental laws and regulations which may apply, such as, but not limited to:

- Americans with Disabilities Act
- Bald & Golden Eagle Protection Act
- Clean Air Act
- Clean Water Act
- Endangered Species Act
- Executive Order 11988 (Floodplains)
- Executive Order 11990 (Protection of Wetlands)
- Executive Order 12898 (Environmental Justice)

- Farmland Protection Policy Act
- Migratory Bird Treaty Act
- Noise Control Act/FHWA Highway Traffic Noise Analysis & Abatement Policy and Guidance
- Resource Conservation Recovery Act
- Section 4(f) of the US Department of Transportation Act
- Section 6(f) of the Land and Water Conservation Fund Act
- Uniform Relocation Assistance and Real Property Acquisition Policies Act

Once NEPA is initiated and a Class of Action is determined, a full analysis with the proper documentation and public involvement will be conducted so decision-makers can make the best selection of an alternative that will balance the transportation needs with the social, economic and natural environment impacts.

Detailed below is a cursory review of some of the environmental impacts that may require further field investigation, data collection or may be areas of particular interest for future planning purposes in the Washington Street Corridor.

## Cultural Resources

If future improvements to the corridor would include federal involvement, compliance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), as amended, would be required. Section 106 requires federally funded projects be evaluated for effects on historic and cultural properties included in, or eligible for listing on, the National Register of Historic Places (NRHP). Federal involvement would also require compliance with the Archaeological and Historical Preservation Act (AHPA) of 1974 (16 U.S.C. 461 et seq., and 23 U.S.C. 305) which provides survey, recovery and preservation of significant scientific, prehistoric, archaeological or paleontological data when such data may be destroyed or irreparably lost to federally licensed or federally funded project.

Section 4(f) of the US Department of Transportation Act of 1966, as codified in the 49 U.S.C. § 303, specifies the Secretary shall not approve any program or project that requires the use of publicly owned land from a public park, recreation area, wildlife or waterfowl refuge of national, state or local significance, or land of historic site of national, state or local significance, as determined by the officials having jurisdiction thereof, unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program or project include all possible planning to minimize harm resulting from the use.

According to the Grand Forks Historic Preservation Commission; historic signage including the Highlander and the Lucky Inn signs should be protected and preserved in place. Additionally, the commission also noted that the BNSF bridge structure and the former City Detention Hospital may be eligible for the National Register of Historic Places. Finally, most of the building along the study corridor date to the 1950s and 1960s with at least two houses dating to circa 1900. Some buildings may be eligible for the National Register of Historic Places. A historic properties survey was outside the scope of the Washington Street Corridor Study. However, alternatives were developed with consideration of avoiding potentially historic properties.

## Environmental Justice

Per Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, measures must be taken to avoid disproportionately high adverse impacts on minority or low-income communities. A low-income population is defined as a group with income levels below the national poverty level. In the spirit of this Executive Order, a preliminary analysis of minority and low-income populations was conducted within the study area.

Based upon the current GF-EGF MPO's Environmental Justice Procedural Manual, there are no meaningful greater overrepresented areas of low-income and minority population within the study limits. MPO standards required that any area with populations three (3) times the average minority and poverty levels within the metropolitan area of Grand Forks and East Grand Forks requires special environmental justice considerations. Currently, the only location within the metropolitan area that meets this requirement is adjacent to the University of North Dakota campus.

## Water Quality/Hazardous Waste

The study area is predominantly commercial but does include the railroad yard north of DeMers Avenue. It is recommended that a Phase I Environmental Site Assessment be conducted to identify if potential hazards exist prior to acquisition of railroad ROW and platting of land for future improvements. Railroad ROW acquisition may result in water quality issues due to waste of chemical materials entering the soil and leeching into groundwater or through runoff into surface waters.

## Noise

FHWA developed noise regulations as required by the Federal-Aid Highway Act of 1970 (Public Law 91-605, 84 Stat. 1713). The regulation, 23 CFR 772 Procedures for Abatement of Highway Traffic Noise and Construction Noise, applies to highway construction projects where a state department of transportation has requested federal funding for participation in the project. The regulation requires the highway agency to investigate traffic noise impacts in areas adjacent to federally-aided highways for proposed construction of a highway on a new location or the reconstruction of an existing highway to either significantly change the horizontal or vertical alignment or increase the number of through-traffic lanes. If the highway agency identifies impacts, it must consider abatement. The highway agency must incorporate all feasible and reasonable noise abatement into the project design. Additionally, the NDDOT has a Noise Policy and Guidance that describes how the NDDOT requires the implementation of the 23 CFR 772. In the future, it is possible the proposed project may require a noise study, modeling and/or abatement.