ICE Analysis Training Program

Module 7:
Mitigation Considerations

Mitigation

(FHWA Questions and Answers Regarding the Consideration of Indirect and Cumulative Impacts in the NEPA Process)

- **NEPA does not specifically require substantive mitigation for project impacts; direct, indirect, or cumulative [Robertston v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989)]. However, the CEQ regulations require that the environmental impact statement include consideration and discussion of possible mitigation for project impacts (40 CFR §§ 1502.14 ((f), 1502.16 (e-h), 1502.2 (c), 1508.25(b)(3)).**

Mitigation
(FHWA Questions and Answers Regarding the Consideration of Indirect and Cumulative Impacts in the NEPA Process) **(Continued)**

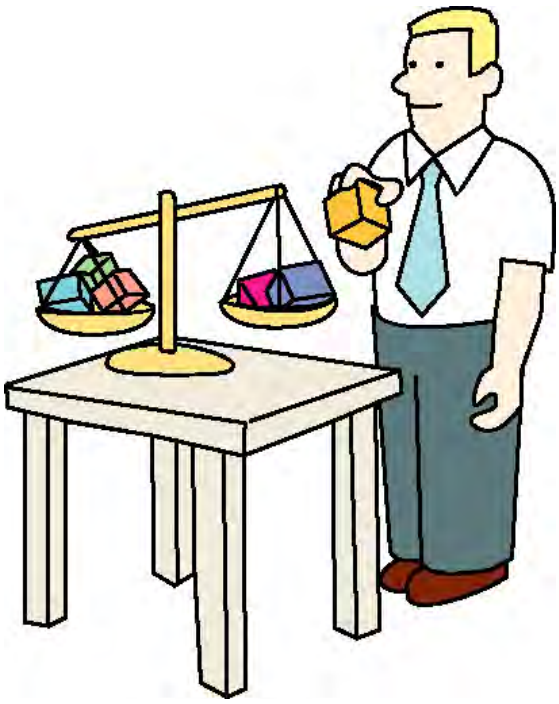
- **Provisions regarding FHWA's legal responsibility and authority from mitigating project impacts are found in FHWA's Environmental regulations Section 771.105(d):**
- **"Measures necessary to mitigate adverse impacts will be incorporated into the action and are eligible for Federal funding when the Administration determines that:**
  1) **The impacts from which the mitigation is proposed actually result for the Administration action; and**
  2) **The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. In making this determination, the Administration will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute, Executive Order, or Administration regulation or policy"**

FHWA'S Perspective (Delmar Division) on Mitigation for Indirect and Cumulative Effects

- Generally beyond the jurisdiction of the Federal Government
- Land use is the responsibility of the Local Planning Officials
- Any effects should be clearly communicated to local jurisdictions so they can plan accordingly
- Environmental effects should be considered in the beginning of the transportation planning process to lessen the impact (SAFETEA-LU)
- Transportation Agencies can partner with local jurisdictions to develop access controls consistent with land use plans/goals.

POTENTIAL SHA ICE Analysis MITIGATION

If there are significant indirect and/or cumulative effects, it is important to balance impacts to resources through consideration of mitigation efforts.



Coordinate with Local Resource Agencies

SHA will recommend mitigation for direct impacts. If potential indirect and cumulative effects are identified, then possible mitigation strategies that could be considered by the party(ies) responsible for these impacts (or others) are noted.

Identification/development of potential mitigation measures for indirect/cumulative effects will result from consultation with appropriate resource agencies and local governments. When mitigation is warranted, the measures listed below are examples of resource mitigation measures that may be considered:

- **Work with local/county government or resource agencies to develop/implement resource preservation plans**
- **Implement access controls that may minimize resource impacts.**

Although mitigation is generally not included in the ICE Analysis, per se, it should be noted that a project's avoidance, minimization and mitigation features may be providing a larger resource benefit beyond the area of direct impacts.

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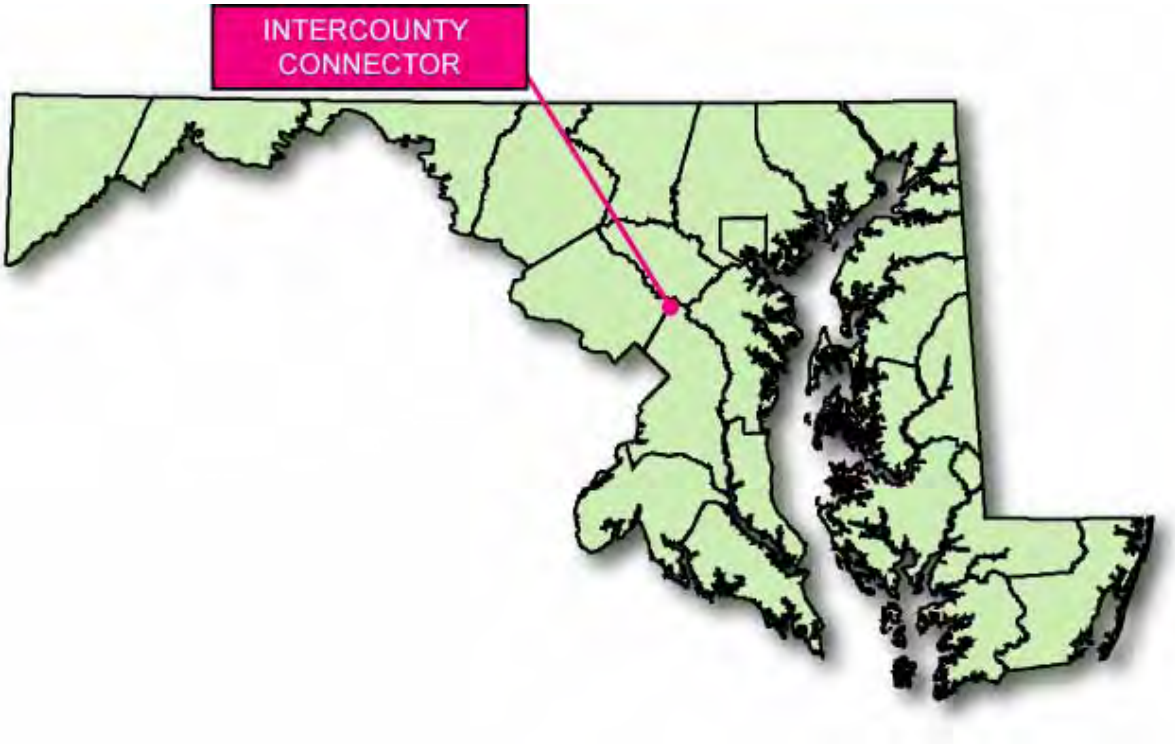
Case Studies

- **Intercounty Connector (FEIS)**
- **Lackawanna Industrial Highway**

Intercounty Connector (ICC)



ENVIRONMENTAL STEWARDSHIP

- **An element of the ICC Project Purpose and Need was Environmental Stewardship. Although environmental stewardship was not intended as mitigation for indirect and cumulative effects of the ICC, it is an example of project environmental improvements beyond compensatory mitigation for project mitigation by other major actions.**

Intercounty Connector (ICC)

MASTER PLAN CONSISTENCY – MANAGED GROWTH

The Preferred Alternative is most consistent with master plans both at the study area level and the local level.

- **Local master plans have long assumed that the ICC would be constructed along Corridor 1 (Selected Alternative), and many of the study area's communities have developed accordingly.**
- **As a result, the Selected Alternative would provide support that is consistent with local plans and supportive of both existing and planned land use.**
- **The Preferred Alternative would respond to the need for improved intra-regional connectivity and accessibility so that planned growth can be maintained and concentrated in designated areas such as the I-270 Technology Corridor and I-95 employment corridor.**

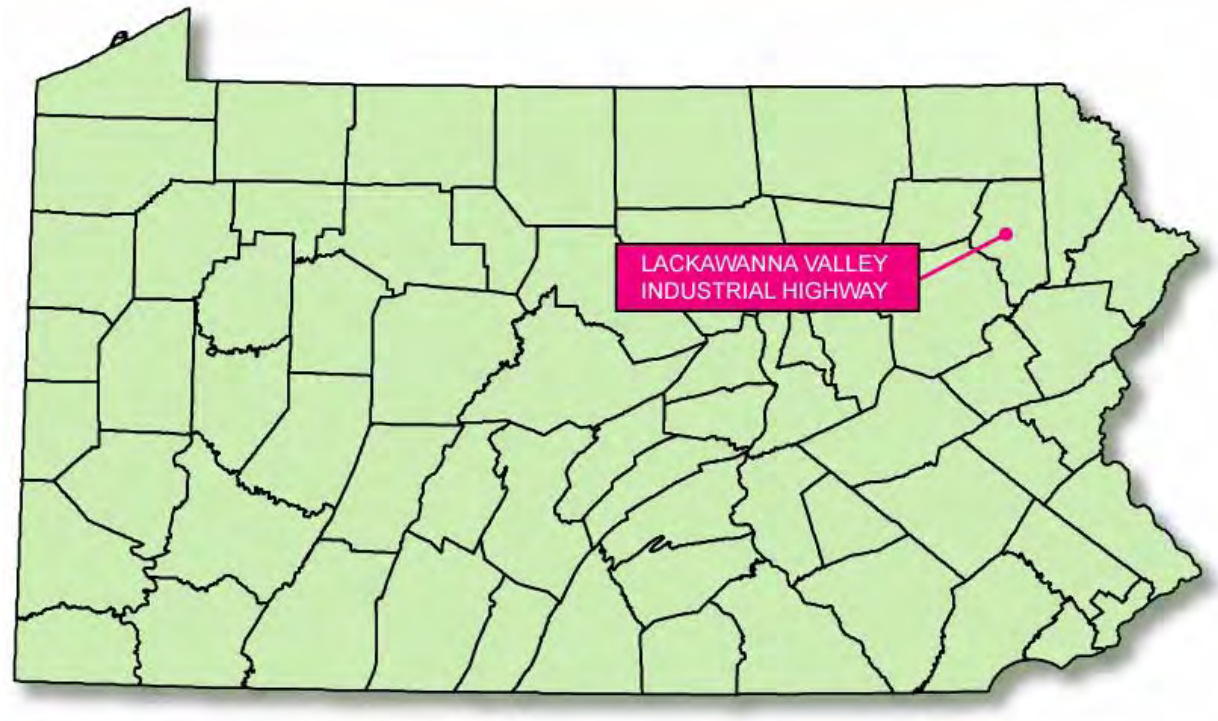
Intercounty Connector (ICC)

INCORPORATING MITIGATION MEASURES FOR INDIRECT EFFECTS

Wherever possible, preliminary roadway designs have incorporated the following avoidance and minimization measures in order to reduce indirect effects to stream channels:

- **Reconfiguring the layout of culverts, bridge piers and abutments so that they are in line with the existing alignment of the streams**
- **Staging and stockpiling construction materials outside of floodplains**
- **SWM Best Management Practices (BMPs) in accordance with MDE guidelines as the primary avoidance and minimization measure to reduce the indirect effects of increased imperviousness.**

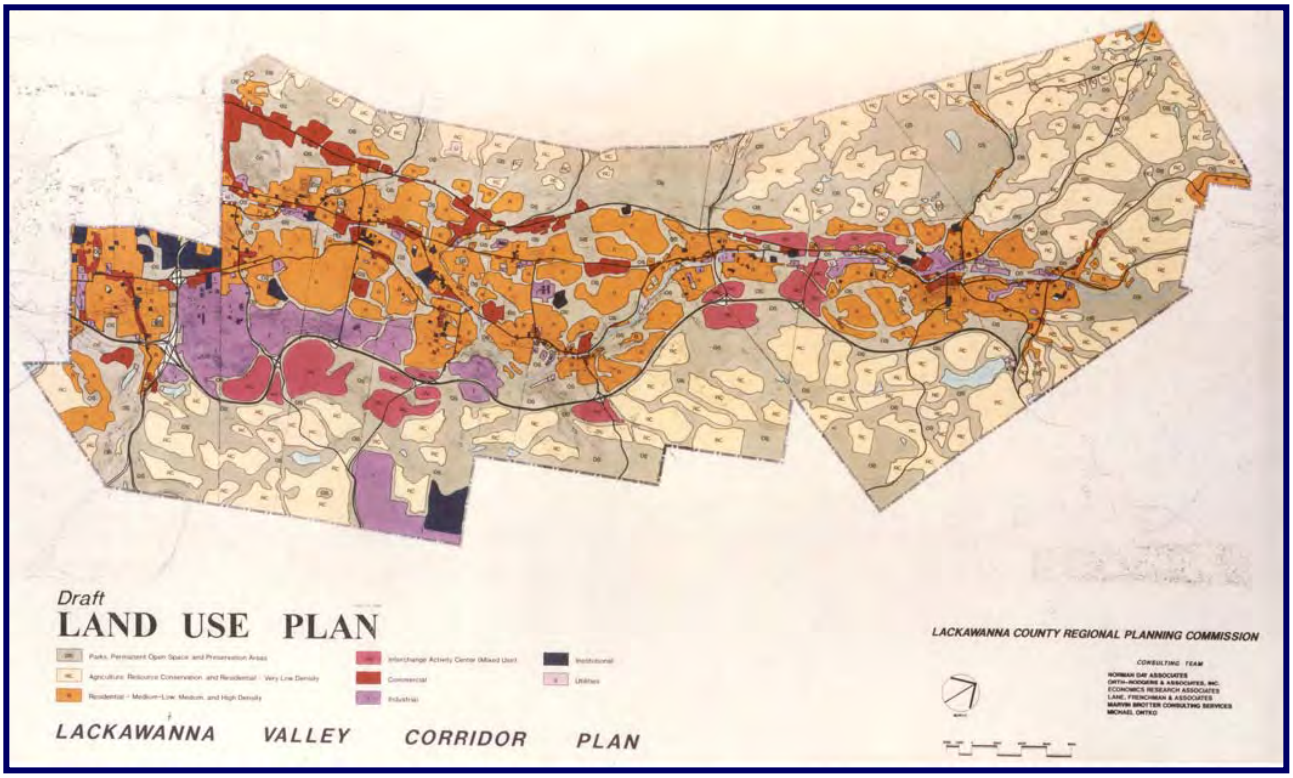
Lackawanna Valley Industrial Highway (LVIH) EIS



Lackawanna Valley Industrial Highway (LVIH) EIS

PROJECT PURPOSE AND NEED:

- **The purpose and need of the LVIH included the facilitation of economic development.**



Lackawanna Valley Industrial Highway (LVIH) EIS

RELEVANCE TO ICE:

The FEIS included a financial mitigation commitment towards the development of a Corridor Management Plan (at the request of the resource agencies) to assure that the economic development component of the project purpose and need was developed in an orderly fashion to minimize the potential resource impacts associated with the potential indirect effects from future development.

Lackawanna Valley Industrial Highway (LVIH) EIS

ELEMENTS OF THE CORRIDOR PLAN:

- Assessment of the overall impacts of future development.
- Analyze traffic impacts and how to reduce traffic congestion along the corridor by promoting cluster development and sound land use principles.
- Determine potential mitigation for future development impacts.
- Develop an implementation strategy with model ordinances that was later adopted by the municipalities.

MANAGEMENT STRUCTURE:

- The comprehensive planning work was funded by PENN DOT.
- The project was managed by the Lackawana County Planning Department
- A steering committee was convened that was made up of the environmental resource agencies.

Lackawanna Valley Industrial Highway (LVIH) EIS

RESULTS OF THE CORRIDOR MANAGEMENT PLAN:

- **The corridor included 13 municipalities in Lackawana County, Pennsylvania. Twelve of the 13 municipalities eventually adopted the proposed ordinances contained in the corridor management plan.**
- **As a result of the LVIH, Valley residents should see increased mobility and economic opportunities, while preserving the natural beauty and historic character of the Valley setting.**