

Appendix - B

Report

of the

Secretary of Transportation

to the

UNITED STATES CONGRESS

on

Preservation of Transportation Corridors

(Text Only, Appendix Information Omitted)

Issued pursuant to Section 1017(c), Public Law 102-240

Submitted

November 3, 1994

INTRODUCTION

Section 1017(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), P.L. 102-240, December 18, 1991, provided:

(c) Preservation of Transportation Corridors Report. - The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act, a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

The Federal Highway Administration (FHWA) was asked to coordinate and assemble the needed information to prepare the report.

Existing FHWA programs providing for protective buying of real property under regulations contained in 23 CFR 712, and early acquisition of rights-of-way using the revolving fund authorized by 23 U.S.C. 108 were based on preservation concepts. Both these programs have been in place for more than 25 years.

During the past few years the concept of preserving lands needed for transportation improvements has received increased attention. The *Report of the AASHTO Task Force on Corridor Preservation*, published in July 1990 by the American Association of State Highway and Transportation Officials (AASHTO) was the first comprehensive report on the subject. The report contains a definition of corridor preservation and numerous recommendations for implementing a preservation program without compromising environmental requirements.

In 1991 and 1992, FHWA initiated three research contracts that related to corridor preservation. One research project developed a 2-day training course on techniques that can be used to successfully preserve corridors. The other two research contracts, which are to be completed in 1994, are developing two separate reports on issues relevant to the use and implementation of preservation strategies to protect proposed and existing corridors.

The AASHTO report, findings from FHWA's research efforts, input obtained for this report, and the number of requests for training, indicate a broad based interest in preservation exists within the transportation community. This report briefly describes the study approach used by FHWA, summarizes the corridor data received, discusses preservation methods available to state and local governments, outlines a Federal strategy, and comments on the desirability of establishing a transportation right-of-way land bank.

Study Approach

FHWA considered findings from agency research, the AASHTO report, and provisions of ISTEA to establish the scope of this study. For the purpose of this study, a transportation corridor was identified as all lands needed to accommodate highway, passenger rail transit, bikeway, or pedestrian trail facilities. Preservation was considered applicable to both existing and proposed corridors.

Within existing corridors, where right-of-way for a transportation facility already had been acquired, preservation can be applied in the following three basic situations:

1. maintaining or preserving design year utility,
2. retaining options for future enhancements or expansion of capacity,
3. conversion of existing rights-of-way, whether public or private, to other transportation or public purpose use.

For proposed transportation corridors, where right-of-way has not been acquired, preservation measures can be used to coordinate the land development process during the extended environmental studies required under the National Environmental Policy Act (NEPA). The purpose of such early action would be to assure that land development will not adversely restrict the public options available within the alignment alternatives being considered for a needed transportation facility. Early scoping of environmentally sensitive areas and close coordination with the private sector are important to successful preservation activities within proposed corridors.

In December 1992, standard data forms to gather background information and specific corridor information on existing and proposed transportation corridors were distributed to all FHWA division offices, one of which is located in each state. Division staff obtained information from the state and the metropolitan planning organizations (MPO's) identifying the corridors where preservation measures would be appropriate. Appendices A and B summarize the corridor data received.

Background information on legal capabilities and experiences relating to the use of preservation methods within each state, and within some MPO's, was also received. To supplement the background information from the state and local governments, FHWA published a notice and request for comments in the *Federal Register* on April 8, 1993. This notice solicited input from parties affected by preservation actions taken by governmental agencies and from others interested in the subject. Appendix C contains a copy of the notice and a commentary on the 38 responses received in the docket.

The state and MPO submissions were prepared during the first half of calendar year 1993. Submissions were received from all 50 states, Puerto Rico, and the District of Columbia. Background information on capabilities and experience was provided by 46 states and Puerto Rico, and 151 local governments (located in 24 states). Separate data on corridors identified as needing preservation action were received

from 43 states and Puerto Rico. State submissions included the corridors that had been identified by local governments and MPO's. Of the 1,561 corridors submitted, state transportation agency submissions identified 685 corridors, with local governments or MPO's submitting the remaining 876 corridors.

It should be noted that the corridors submitted were not based on an identification process conducted under fully implemented Sections 134 and 135 of Title 23, U.S.C., as indicated by the congressional request. Final regulations implementing these sections, which relate to metropolitan (Section 134) and statewide (Section 135) planning procedures were not published in the Federal Register until October 28, 1993. Study guidelines issued with the data forms and interim guidance on the new planning requirements were available, but states and MPO's had to rely solely on existing information regarding planned transportation corridor needs. Public involvement and early environmental scoping, essential to effective preservation considerations, were not in place during the study period. The data received reflect this problem in that not only were a wide range of corridors submitted, many lacked requested length or cost information. Many states reported a preservation cost equal to the projected cost to acquire the full right-of-way. For this reason we included in the corridor listing whichever cost information was available, either a preservation cost estimate or a cost to acquire the full right-of-way.

CORRIDORS

The volume of submissions received from the states and local governments shows a widespread interest in preserving transportation corridors. This study, however, came at a time when many changes were taking place in transportation planning. States generally lacked the long-range transportation planning outlined in ISTEA. Many MPO long-range plans were not up to date. Based on the changes initiated by provisions in ISTEA, the agencies affected by this study already had an extensive work program to address. Of the 1,561 corridors identified and submitted, roughly 60 percent were submitted without complete information on the length of the corridor or the anticipated cost to preserve it. A summary of the corridor submissions received from 43 states and Puerto Rico is provided in Appendix A. Appendix B contains the list of existing and proposed corridors identified within each reporting state and Puerto Rico, including the length and estimated cost. Corridors involving the use of railroad right-of-way are marked and a subtotal included for each state.

Corridors totalling more than 18,000 miles were identified as being appropriate for use of preservation measures. Nearly 80 percent of this mileage related to existing corridors. Corridors involving railroad right-of-way accounted for about 4,400 miles of the total.

Existing Corridors

Of the total corridors identified and submitted, 975 corridors were related to existing transportation facilities. Table 1 summarizes the mileage and cost information received on existing corridor submissions from the state and local governments.

A wide range of planned improvements was identified within these corridors. Improvements to highways accounted for 67 percent (656) of the submitted corridors. An additional 84 corridors involved coordinated improvements of highways and other transportation facilities, such as passenger rail or bicycle/pedestrian trails. Recreational trails were identified as the planned use in 102 corridors, while light-rail transit facilities were planned in 103 corridors. The remaining 24 corridors involved varied transportation or transportation-related improvements, such as airport runway expansion programs, land banking activities, and enhancement activities, or were unspecified.

From the information received, it was difficult to determine how many highway corridors needed preservation action solely to maintain the design life of the existing facility. For most highway corridors, the information indicated preservation was related to a planned widening or expansion of the existing facility. The number of submissions received dealing with expansion projects indicates that such improvements are considered important by transportation planning agencies. The corridors planned for development of transit lines or bicycle/pedestrian trails primarily were related to reuse opportunities presented by railroad rights-of-way that are, or are planned to be, abandoned.

TABLE 1 - EXISTING CORRIDORS

		CORRIDORS	MILEAGE	COST (Millions)
LOCAL	RR	100	1,496	383
	Other	397	3,146	665
	Total	497	4,642	1,048
STATE	RR	110	2,889	144
	Other	368	6,921	1,780
	Total	478	9,810	1,924
Existing Total		975	14,452	2,972

NOTE: Costs are based on 635 (roughly 65 percent) of existing corridors submitted.

Proposed Corridors

The proposed corridor list is shorter than the one for existing corridors. The list of proposed improvements includes 586 corridors. Table 2 summarizes the mileage and estimated cost based on origin of submissions.

TABLE 2 - PROPOSED CORRIDORS

	CORRIDORS	MILEAGE	COST (Millions)
LOCAL	379	1,892	845
STATE	207	1,951	1,086
TOTAL	586	3,843	1,931

NOTE: Costs are based on 341 (almost 60 percent) of proposed corridors submitted.

Highway projects account for about 85 percent (494) of the proposed corridor list. Joint development or multimodal projects incorporating a mix of highway, transit, or trail facilities account for an additional 5 percent (32) of the planned uses for the proposed corridors. In addition, corridors for planned bicycle and/or pedestrian trails (32) or rail transit lines (14) were included. The remaining 14 corridors were for other transportation-related uses, such as park-and-ride lots, or were unspecified.

METHODS

Interest in corridor preservation prompted informal FHWA studies related to the subject in early 1988. For the past 2 years, FHWA research programs have studied preservation techniques used by state and local governments. This research has identified numerous tools or strategies that are available for preserving corridors. Case studies indicated that successful preservation efforts relied on successfully combining the tools available to localities and states. It also was noted that with rare exceptions, preservation actions require extensive coordination between state and local governments. Such coordination is vital to ensure that transportation needs are related to land-use and land development decisions. These decisions are normally controlled by local governments. An exception would be those states that have implemented growth management programs.

The tools that are available to preserve critical corridors include land-use police power controls and the acquisition of real property rights. Existing FHWA procedures relating to protective buying have been employed for years to protect a preferred alignment where specific right-of-way needs were known. In most cases, this procedure has been used when

development threatened a selected and defined alignment before full acquisition funding is available or while environmental studies are being completed.

In many ways, the use of police power to control land-use has distinct advantages over real property acquisition. One advantage is not having to divert current funds for a long-term investment. The purchase of real property also reduces the tax base within the local jurisdiction and adds a land-management burden to the acquiring agency.

For local governments, the use of police power controls has been the preferred method to preserve corridors. Local agencies have used setback ordinances and exactions of various types for many years. When used, these two forms of land-use regulation have been tied to subdivision and building permit requests. Exactions from land developers, providing for dedication of needed rights-of-way for required streets and transportation improvements has been the norm in many areas of the country. Several other forms of exactions have been used, such as in-kind contributions, in lieu payments, or impact fees.

Other police power measures that have been employed in preserving corridors include access control programs, growth management, official mapping or maps of reservation, and specific preservation ordinances. These types of coordinated programs are less numerous since they usually evolve at the local level from statewide statutes. The development of comprehensive programs that coordinate land-use development with needs for transportation has been limited at the state level. This is primarily the result of a general lack at the state level of systems planning and land-use or growth management programs. With certain exceptions, such as Florida, Oregon, Washington, and a few others, there has not been a consistent or widespread effort to develop policy and procedural systems that support land-use controls for preserving land for transportation uses.

Statewide statutes dealing with preservation have become increasingly popular. State statutes usually address the need to develop coordination between land-use and transportation planning agencies. Many incorporate some form of mapping provision to permit identification of land resources needed, or being considered, for planned transportation facilities. Statutes provide for development restrictions or establish a notification procedure whereby transportation officials are advised by local officials of pending land-use changes or development plans. Although the process varies by state, the agency upon receiving notice of a land-use change is provided the opportunity, within a specified time, to take action to provide protection for any planned development that may affect the corridor. Actions taken based on such programs can range all the way from inaction, through active coordination with the developers, to acquisition of real property.

Based on FHWA's research, acquisition is a last resort to ensure that lands needed for transportation improvements will remain available. Still, at the state level, acquisition remains the method most frequently used when corridors are threatened and preservation measures need to be taken. When specific land requirements for a proposed facility can be identified, most states are able to acquire the needed lands using the power of eminent domain. In many states, however, if the project development process has not progressed sufficiently to allow identification of specific project needs, an amicable and totally voluntary settlement with the land developer would be the only acquisition option available.

Acquisition, when initiated, will normally be very selective, especially early in the planning process when specific needs are undefined. If acquisition is used it is usually in response to a specific opportunity, such as the availability of a railroad corridor, or threat, such as a major development proposal that would encroach upon a corridor. During the early stages of corridor development, before project development processes are initiated, acquisition will usually be limited to identified "key parcels." Under ISTEA, such parcels could be identified as part of the systems planning process. A parcel becomes "key" when its loss to any imminent development would adversely affect the range of environmentally acceptable alignment alternatives that could be considered during normal project development.

As project development activity commences, identification of "key" parcels will be made with more specificity. Once a preferred alignment is selected and project design is nearing completion, the potential exists to clearly define potential project needs even though the full NEPA process has not been concluded. At any stage of development, the major problem will be the lack of funding. The purchase decision will also be tempered by the long-term management responsibilities that come with ownership and the related loss in local real estate tax base.

The problems associated with the acquisition of needed property have resulted in many agencies acquiring less than the fee simple interest traditionally used to acquire right-of-way. Land purchase options, long used by developers during assemblage periods, could be employed to buy time for agencies to complete needed studies and define actual needs. The acquisition of development easements limiting or restricting improvements within defined limits is another acquisition tool. While not precisely an acquisition tool, the transfer of development rights, or density transfer, is a negotiated process that is available to keep land undeveloped and available for proposed transportation facilities. The use of any of these approaches eliminates the detriment of removing land from the local tax base, but does not provide much relief from finding the necessary funding resources.

Several of the states have established, either through regulation or practice, good coordination between the railroad industry and transportation agencies. Such coordination is a critical factor in addressing appropriate reuse of abandoned transportation facilities, and assessing potential reuse options. The other critical factor deals with funding resources to handle the acquisition and development of the alternative transportation facility. The ability to arrange

for funding in a timely manner when the opportunity is presented by an abandonment action is critical to effective preservation of these corridors and often is the major problem.

A similar land resource is available through public disposal procedures. The military base closure program is an example of such a resource.

STRATEGIES

Interest in the use of preservation methods to ensure that needed transportation facilities can be adequately maintained, improved, or constructed can be expected to increase as the supply of useable land resources declines. State and local governments will seek new ways to better coordinate land development and transportation requirements. Research by states to develop model preservation statutes and ordinances, and provide for training of public officials is expected to increase. A more active use of available police powers to effect coordinated development within existing and proposed transportation corridors will become more prevalent as local and state agencies develop required long range plans. When coordination proves insufficient, acquisition will remain an effective means to secure land resources for current and future transportation needs. Innovations in funding, such as state or local revolving funds for preservation, are anticipated to complement the financially constrained improvement programs required by ISTEA.

In adopting any form of preservation, the objective must be to balance or coordinate the use of land and ensure that public needs and private development opportunities are both served. The tension that exists between corridor preservation and the development of adjacent property cannot be ignored without serious detriment to either, or both, interests. A sound preservation program can directly benefit the developer by providing greater assurance that proposed transportation facilities will be built. On the other hand, it must be recognized that preservation does not need to be applied universally. Because of the degree of coordination required to be effective, preservation action should be limited to those situations where cost savings or other public benefits clearly dictate its use.

Provisions in ISTEA require that preservation be considered during development of transportation plans and programs under the metropolitan and statewide planning processes. These plans and programs are to be developed with public participation. As such, the public will have input regarding the use and scope of preservation actions that would be appropriate to the transportation improvements planned for an area.

Based on current practice, preservation measures placing restrictions on property development to accommodate long range systems planning needs are expected to rely on the use of police power controls. Local governments will have to develop better coordination among transportation, land-use, and development groups and seek the support of the state to provide statutes that promote preservation goals and objectives.

The consideration of corridor preservation required under Sections 134 and 135 of Title 23, U.S.C., should define the necessity for implementing a preservation program within the term of the long-range systems plan. Identification of critical corridors and an assessment of most appropriate methods available to provide for preservation should be a policy issue included in the process. Further, if acquisition is to be a part of the preservation strategy adopted, funding sources will have to be identified during development of the transportation improvement programs.

Within existing corridors where capacity protection is the desired objective, development of an access management program is advantageous. Only a few states have such a program, but the concept is receiving increased attention based on successes in Colorado, Oregon, and New Jersey, where statewide programs have been established. Success with an access management program depends on building relationships between local land-use planning authorities and state transportation officials. Proper coordination will assist in using a reasonable method to handle driveway permits, spacing of signals, intersections, and other potential traffic conflicts based on the traffic requirements of the roadway.

When the potential exists for expanding capacity on an existing facility, the same basic coordination is required. Currently, Delaware has a demonstration project underway where land-use controls and active coordination with land developers and local officials have been employed to ensure that current and proposed transportation needs are not adversely affected by land development.

When private railroad right-of-way is available for purchase, the opportunity to acquire it may precede any determination, through the planning process, of a public transportation use to which the property could be applied. In these cases the ability to acquire in a timely fashion is critical if the right-of-way is to remain intact. In addition, acquisition alone may not be sufficient. Depending on the type of title held, a continued transportation use may be required within the right-of-way to avoid reversion of title to the original land owners. To fully use abandoned rail rights-of-way and implement alternative transportation uses, planning organizations must develop inventories of potential resources. Some commenters indicated that inventories would be appropriate databases in support of either the intermodal or public transit management system required by Section 1034 of ISTEA. It would be appropriate for such inventories to be available if they are to be considered by the public during the transportation planning process and especially if resources needed for acquisition are to be defined during development of the transportation improvement program.

Coordination between local land-use and state transportation officials is essential for corridor preservation activities along existing alignments, but is even more important when preservation is to be applied to proposed corridors. The coordination can be formally required by state statute, such as mapping laws that set notification requirements based on filed maps, or developed as necessity demands. It is likely that the coordinated planning process required by ISTEA will result in better dialogue between local governments, regional planning authorities, and state transportation agencies.

Prudent public policy for preservation should attempt to keep costs and acquisition to a minimum until project needs are clearly defined. This indicates the use of police power controls and forms of negotiated acquisition agreements with land developers are appropriate for preservation during early systems planning stages. Since land-use, and many of the police power controls that affect it, are implemented by local officials, successful preservation requires coordination. Such coordination is a central theme in the "Corridor Preservation" course being presented by FHWA to state and local officials.

Acquisition of land prior to determining project need can be expected to be limited. This is not to say that justification for acquisition could not be based on broad systems needs. It is simply recognizing that early acquisition, with the attendant consequence of an early commitment of public funds and long term public management of the property will be less popular with state and local officials than using other available preservation strategies. Certainly, early action could be justified using the key parcel concept, where a prime land area is considered critical to any eventual development within a corridor. Acquisition could involve limited, or temporary, land restrictions until an alignment is selected and project needs defined. Early acquisitions, based solely on a transportation systems plan, are a possibility that has been used by a limited number of states. Key parcel acquisition can ensure that NEPA study options are maintained. It can also directly contribute to development of transportation facilities that have minimum impacts on environmentally sensitive areas.

Funding for early acquisition is a concern for most state and local governments. At present, FHWA's protective buying program is used to protect identified right-of-way needs that are threatened by potential development, or in the revolving fund program, where an opportunity exists to advance acquisition and preserve a selected transportation alignment. Generally, funding approvals on projects using the protective buying program are initiated during the later stages of the NEPA evaluation process. Revolving fund use is administratively limited to projects that have, or are close to receiving, NEPA clearance. Both of these programs require FHWA review and approval prior to initiating acquisition. An obligation for Federal reimbursement is established before a property is acquired.

In Section 1017(b), ISTEA made available retroactive reimbursement as an option for states that want to use early acquisition of right-of-way procedures. Other funding resources have been specifically addressed by some states and local governments that have provided revolving funds dedicated to funding preservation activities. An example of state/local funding is the Right-of-Way Acquisition Loan Fund (RALF) created in 1989 by the State of Minnesota. This noninterest loan fund allows the Minneapolis-St. Paul MPO to grant loans to local governments for early acquisition of land when development or costs can be minimized within planned corridors. Repayment of the loan is deferred until the lands are incorporated into the planned project or the project is dropped. All rents received on the property and the proceeds of any sale are returned to the fund by the local government. Where acquisition options are appropriate and existing resources insufficient, states and even local governments will need to use funding innovations, such as the RALF program, to secure needed funding resources.

Any preservation initiative, either by police power or acquisition, must supplement or enhance the options available for providing an environmentally benign transportation facility. Early intervention to control land-use should be concentrated in areas where growth rates or development can be predicted to adversely affect transportation development opportunities. The methods to be used and the types of corridors or rights-of-way to be protected should be selected based on criteria developed within local and state planning deliberations. Funding commitments for early acquisition should also flow from the coordinated efforts made during development of statewide plans, metropolitan long range plans, and local and state transportation improvement programs.

A FEDERAL STRATEGY

The foregoing addresses the range of corridors where preservation can be applied and the methods available to state and local governments for protecting transportation resources. What is apparent to FHWA is that successful corridor preservation efforts have not been a result of structured or consistent policy or practice. An institutional commitment to preservation as a policy or process is not thoroughly understood throughout government. The coordination between and within governments, and between land-development, transportation, and environmental interests has not been fully developed.

Metropolitan and statewide planning under Sections 134 and 135 of Title 23, U.S.C., provides a structure within which preservation opportunities can be considered and evaluated. The prospect also exists, while developing required management systems, to provide inventories of resources and identify potential opportunities. Once fully operational, the process can enhance public involvement early in the systems planning process. By encouraging interagency coordination and consideration of land-use and environmental concerns, the early identification of land critical to transportation objectives will be possible. As indicated by the results of our inquiry of the states and local governments, the opportunities for a preservation program are numerous, but the need to implement such a program must provide for a balance between the commitment of current resources and the importance of the corridor being preserved. Decisions will be tempered by the actual rate of development, and the extent of environmental constraints imposed by the local area.

As states and local governments develop their management systems, long range transportation plans, and improvement programs, what will be needed is an increased awareness by state and local officials of preservation strategies that can be employed. FHWA's current efforts in training, while limited, seek to address this need. The related research program is designed to identify successful preservation strategies, isolate those institutional and legal barriers that impede preservation efforts, and point to ways for such barriers to be overcome. Publication of the research findings will further assist state and local governments to select the best possible solutions regarding corridor preservation that could be applied within their

jurisdiction. Additional efforts will likely be required using new technology, when practicable, to accelerate and expand the reach of the training process and research efforts. Support for state and local initiatives in development of model statutes that specifically address improvements possible within the regulatory process will need to be considered.

The knowledge of "how to" will then have to be refined so that, as transportation plans and improvement programs are developed and implemented through the years, an understanding emerges of "when to" make a commitment of staff and resources for an ongoing preservation effort. Not every area or project is a candidate for such a program. Effort will have to be made to ensure that NEPA concerns are appropriately addressed during the systems planning effort, and maintained throughout the alignment selection process. Greater coordination with the public, the development community, and the environmental interest groups will be encouraged. Protection of environmentally sensitive resources will be maintained.

When police power controls are inappropriate or insufficient to provide adequate protection, a funding resource must be in place to support selective acquisition of real property interests for preservation to be effective. FHWA will study all existing funding options available to determine if current resources are sufficient. The results of the funding study will be used to determine what changes may be required to allow states and local governments sufficient flexibility for properly funding a preservation program. The goal will be to encourage a prudent use of acquisition when needed to preserve "vital" corridors. Finding ways to reach this objective within existing funding capabilities is considered in the best public interest.

Based on its analysis to date, FHWA considers that ISTEA provides opportunities for addressing most corridor preservation issues relating to highway, transit, and other projects eligible for Title 23 funds that are included in approved transportation plans. Questions remain regarding appropriate treatment of rail lines where continued freight service is desired, and in providing for acquisitions that are unrelated to those specific projects currently included in a long-range transportation plan.

Existing initiatives using research findings to provide training opportunities and resource materials for state and local officials that will define the concepts and potential for preservation will be continued. Opportunities to promote preservation during development of state and metropolitan planning processes, as required by Sections 134 and 135 of Title 23, U.S.C., will be maintained. Support will be provided for state research into development of model preservation programs that emphasize coordination of land-use and development. States will be encouraged to develop comprehensive and coordinated land-use, environment, and transportation planning processes.

Existing funding resources under the protective buying and revolving fund programs will be reviewed and modified, if necessary, to better coordinate and support preservation needs identified in state and MPO transportation improvement programs. Flexibility in use of existing Federal program funds will be encouraged when such use contributes to preservation

programs adopted by state and local governments. State and local government will be encouraged to develop funding resources that can be used for early acquisition. The potential for retroactive funding in 23 U.S.C. 108, as added by Section 1017(b) of ISTEA will be promoted and broadly interpreted to allow states greater flexibility in establishing early acquisition programs for preservation or land banking consistent with their statewide planning process. Initially, the potential use of retroactive reimbursement may be limited since the pre-acquisition conditions necessary to qualify a state to use these provisions may be difficult for most states to meet without changes to state law. Further, the risks associated with obtaining DOT and EPA concurrence that prior state action did not influence the environmental assessment or the decisions on the need, location and design of the project may make some states reluctant to use the early acquisition provisions.

A TRANSPORTATION LAND BANK STRATEGY

The above strategy, from the Federal perspective, provides information, assistance, and use of existing programs and funds to support most situations where corridor preservation is expected to be necessary. The new and restructured planning processes for state and metropolitan areas, supported by an array of management systems to drive and monitor the transportation development process, do not indicate a general need at this time for creation of a land bank program.

However, land banking may be needed where an opportunity exists to preserve an existing rail transportation corridor that may otherwise be abandoned. In these situations, the timing of the actions needed to take advantage of the railroad acquisition opportunity may not coincide directly with existing plans and improvement programs. However, this would not necessarily mean that the resource could not be used to enhance and improve transportation objectives if sufficient time were available to consider how the right-of-way could be incorporated within plans for the area. To maximize potential benefits from railroad abandonments, transportation agencies may need the latitude to routinely acquire available land and create state land banks as a resource for future transportation plans or for use in meeting land-based environmental mitigation requirements. Full use of the provisions for retroactive reimbursement, notwithstanding the previously discussed difficulty states may have in meeting the pre-acquisition conditions, could provide a way for states to accomplish preservation using state funds and make establishment of a new, special purpose program less important.