

APPENDIX 9: 2020 CHAMPLAIN PARKWAY NEPA REEVALUATION



State of Vermont
Agency of Transportation
Environmental Section
One National Life Drive
Montpelier, VT 05633

Matthew Hake, Division Administrator
Federal Highway Administration
87 State Street, Montpelier, Vermont 05602

January 10, 2020

Attn: Kenneth R. Sikora, Environmental Program Manager
Re: Burlington MEGC M5000 (1), Southern Connector/Champlain Parkway
Reevaluation of the 2009 FSEIS.

Dear Mr. Hake:

The Burlington MEGC M5000 (1), Southern Connector/Champlain Parkway project, is located in the city of Burlington, Vermont. The project is a proposed transportation link located in the southwestern quadrant of the city of Burlington, Chittenden County, Vermont providing access between Interstate 189, U.S. Route 7 (Shelburne Street), and the City Center District (CCD).

A Record of Decision (ROD) was issued on January 13, 2010 based on a 2009 Final Supplemental Environmental Impact Statement (FSEIS). The FSEIS included a Section 106 determination of No Adverse Effect and a de minimis use of Section 4(f) resources. Since the completion of the FSEIS and the issuance of the ROD, there have been some minor revisions to the project. A Section 106 Amendment/ No Adverse Effect was issued on April 6, 2017 and an additional Section 4(f) De Minimis Determination was issued on May 5, 2017. The project is scheduled to be advertised for bids in 2020.

The 2010 Record of Decision was rescinded on October 11, 2019 in order to reevaluate the environmental justice impacts of the project. In accordance with 23 CFR 771.129(c) a re-evaluation of the FSEIS was prepared for the project. The analysis included in the Reevaluation was prepared in conformance with the EO 12898, new FHWA Order 6640.23A effective June 14, 2012 (canceling FHWA Order 6640.23 FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations dated December 2, 1998) and the FHWA Guidance memorandum on Environmental Justice and NEPA dated December 16, 2011.

An Environmental Justice (EJ) screening was completed within the study area. Although it was determined that none of the study area census tracts meet the criteria for low-income populations, Census Tract 10 was identified as a minority population given the substantially higher percentage of minority residents than the City or county. The residential portion of this census tract that is within the study area comprises much of the Maple and King Street neighborhood.

The City, FHWA, and VTrans have assessed whether all the Project's environmental impacts were adequately considered and if any of the impacts may rise to the level of significance. Based on this assessment, it has been determined that all other environmental resource impacts summarized in the 2009 FSEIS have been reassessed in the May 2017 Reevaluation associated with the rail crossings and the May 2019 Reevaluation of the overall Parkway project and the conclusions included in each of those Reevaluations remain valid.

However, because a new standard of practice related to EJ analysis exists today that wasn't applicable at the time the 2009 FSEIS was prepared, and because of the demographic changes in portions of the project study area, VTrans recommends that the preparation of a limited scope Supplemental EIS focused on EJ considerations in the Maple and King Street neighborhood.

The environmental justice considerations will include assessments of traffic impacts, work zone /construction impacts and any impacts on the safety performance of the roadway segments and intersections in the Maple and King Street neighborhood. If any disproportionately high and adverse effects on environmental justice communities are identified, FHWA may require the local project sponsor to implement additional environmental mitigation measures to avoid, minimize and mitigate the impacts as a condition of the project's NEPA approval. At the FHWA's discretion, VTrans and the local public agency may also be able to proceed with the proposed project even when there are remaining disproportionately high and adverse effects after taking the project benefits and mitigation into account, subject to the transportation decisionmaking protocol and the required FHWA determinations outlined in [the December 16, 2011 Guidance on Environmental Justice and NEPA](#).

Please find attached a copy of the referenced Re-evaluation of the 2009 FSEIS for project Burlington MEGC M5000 (1), Southern Connector/Champlain Parkway. Please contact Jeff Ramsey at (802) 917-4467 or jeff.ramsey@vermont.gov if you have any questions or are in need of additional information.

Respectfully,

Andrea Wright Digitally signed by Andrea Wright
Date: 2020.01.10 13:02:42 -05'00'

Andrea Wright, P.E.
VTrans ROW and Environmental Program Manager

Endorsement to the Vermont Agency of Transportation

KENNETH R SIKORA

Digitally signed by KENNETH R SIKORA
Date: 2020.01.13 06:38:37 -05'00'

Concur

Kenneth R. Sikora Jr. FHWA Environmental Project Manager

[Date]

Attachments

cc: Wayne Davis, Project Manager
Project File

**SOUTHERN CONNECTOR/CHAMPLAIN PARKWAY
PROJECT MEGC-M5000(1)
BURLINGTON, VERMONT**

**REEVALUATION OF
2009 FINAL SUPPLEMENTAL ENVIRONMENTAL
IMPACT STATEMENT**

JANUARY 2020

PREPARED FOR:

FEDERAL HIGHWAY ADMINISTRATION
VERMONT AGENCY OF TRANSPORTATION
CITY OF BURLINGTON

PREPARED BY:

CLOUGH HARBOUR & ASSOCIATES,
LLP IN ASSOCIATION WITH
STANTEC CONSULTING SERVICES, INC.

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A. INTRODUCTION

The Southern Connector/Champlain Parkway project is being developed by the City of Burlington (City) in cooperation with the Federal Highway Administration (FHWA) and the Vermont Agency of Transportation (VTrans).

Although the 2005 DSEIS and the 2009 FSEIS each considered disproportionately high and adverse impacts on minority and low-income populations in accordance with Executive Order (EO) 12898, public outreach for that analysis was limited to the general public involvement associated with the NEPA process.

Since the 2009 FSEIS was approved, the FHWA memorandum *Guidance on Environmental Justice and NEPA (Guidance)* dated December 16, 2011 has been issued which advises on the process to address Environmental Justice (EJ) during the NEPA review including documentation requirements. As described in greater detail below, this analysis has been prepared to meet the Federal requirements defined by Executive Order 12898 – *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, dated February 11, 1994, as well as FHWA Order 6640.23A, effective June 14, 2012. This document also references the analysis and conclusions contained in the *Final Supplemental Environmental Impact Statement – Southern Connector/Champlain Parkway*, dated September 2009.

The City, FHWA and VTrans updated the demographic information using the U.S. Census Bureau’s American Community Survey (ACS) 2013-2017 5-Year Estimates and based on FHWA’s *Guidance* memorandum. The City, FHWA and VTrans performed targeted public outreach to minority and low-income populations in the Project study area in order to determine whether the conclusions reached in the 2009 FSEIS remain valid. The City, FHWA and VTrans determined that the EJ analysis and conclusions in the NEPA review needed to be reassessed.

The purpose of this Reevaluation is to assess if, how and to what extent additional environmental analyses need to be conducted to analyze any disproportionate impacts of the project on environmental justice communities.

All project design elements, the traffic forecasts and projected operations of the roadway, and resulting environmental resource impacts summarized in the 2009 FSEIS were reassessed in the May 2017 Reevaluation associated with the two post-2009 FSEIS rail crossings and the May 2019 Reevaluation of the overall Parkway project. The validity of that review and its conclusions are also assessed in this Reevaluation.

This Reevaluation is being conducted in accordance with 23 CFR Section 771.129.

B. REGULATORY CONTEXT

This EJ analysis follows the procedures recommended in the FHWA *Guidance* memorandum as summarized below.

Executive Order 12898

Executive Order 12898 - *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* – directs Federal agencies to “achieve environmental

justice by identifying and addressing disproportionately high and adverse human health and environmental effects including the interrelated social and economic effects of their programs, policies, and activities on minority populations and low-income populations in the United States.”

FHWA Order 6640.23A

FHWA Order 6640.23A effective June 14, 2012 cancels FHWA Order 6640.23 FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations dated December 2, 1998. FHWA Order 6640.23A specifically details the FHWA’s responsibilities in complying with the Executive Order as well as Title VI of the Civil Rights Act of 1964 (Title VI). Under Title VI, FHWA managers and staff must administer programs in a manner to ensure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination under any program or activity of FHWA because of race, color, or national origin. Under EO 12898, FHWA must administer their programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of FHWA programs, policies, and activities on minority populations and low-income populations. When determining whether an action will have a disproportionately high and adverse effect, FHWA will consider mitigation and enhancement measures and potential offsetting benefits to the affected minority and/or low-income population. In determining whether a mitigation measure or alternative is “practicable”, the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be considered.

FHWA Guidance on Environmental Justice and NEPA

The information contained in FHWA memorandum *Guidance on Environmental Justice and NEPA (Guidance)* dated December 16, 2011 advises on the process to address EJ during the NEPA review, including documentation requirements. The *Guidance* defines the process for identifying minority populations and low-income populations, documenting public participation, and identifying disproportionately high and adverse effects. For the purposes of EJ analyses, the FHWA defines minority populations as: Black, African-American or of African descent, of Hispanic or Latino origin, Asian-American, American Indian, Alaskan Native, Native Hawaiian or Pacific Islander. The FHWA uses the Department of Health and Human Services (HHS) poverty guidelines to define low-income populations. The *Guidance* directs the agency to use localized census tract data and other relevant information sources to list any readily identifiable groups or clusters of minority or low-income persons in the EJ study area. Small clusters or dispersed populations should not be overlooked. The *Guidance* also directs FHWA to include a discussion of major proactive efforts to ensure public participation, the views of the affected population(s), and steps being taken to resolve any controversy that exists. Lastly, the *Guidance* provides a step-by-step procedure for summarizing beneficial and adverse effects, comparing impacts on the minority and non-minority population, and consideration of mitigation measures if necessary.

C. METHODOLOGY

In conformance with the EO 12898, new FHWA Order 6640.23A and the new FHWA *Guidance* memorandum, the 2009 analysis was reviewed and compared to more recent data from the 2013-2017 ACS data to determine if there are any readily identifiable groups of minority and/or low-income persons who live in the Project study area. The assessment involved four basic steps:

1. Identify the study area to be considered for EJ screening;
2. Compile race and ethnicity and poverty status data for the study area and identify minority and low-income communities;
3. Evaluate if potential benefit and/or adverse effects on minority and low-income population exist as a result of the Project; and
4. Identify and address if potentially disproportionately high and adverse effects on minority and low-income populations exist after mitigation of adverse effects. This includes comparing high and adverse effects on the minority and low-income population with the non-minority population within the study area to determine if there is a disproportionately high and adverse effect.

2009 FSEIS Identification of the Old North End Enterprise Community (Including a Portion Maple and King Street Neighborhood)

The 2009 FSEIS identified the greater Old North End Enterprise Community as an area characterized by “pervasive poverty, high unemployment, and general distress”. The Empowerment Zone Program consists of three U.S. congressional designations – Renewal Communities, Empowerment Zones and Enterprise Communities. This program allows businesses operating within economically distressed communities to receive tax incentives and grants from the federal government. It should be noted that the 2009 FSEIS misidentified the Old North End as an Enterprise Community. The Old North End was re-designated as a Renewal Community in 2002. More accurately, Census Tracts 3, 4, 5 and 10 in Chittenden County are currently designated as a Renewal Community by the U.S. Department of Housing and Urban Development (HUD). A portion of the Maple and King Street neighborhood is in the Old North End Renewal Community.

2019 Identification of Minority and Low-Income Populations

For this analysis, the latest (2010) census data, supplemented with the ACS 2013-2017 5-Year Estimates, was used to identify potential areas of minority populations. The ACS 5-Year Estimates for household income were compared to the HHS guidelines to identify low-income populations.

As the demographics of Burlington have been changing and the data from the latest Census (2010) is nine years old, the ACS provides the most recent and reliable data. Since Burlington’s population is relatively small, the data is only available at the census tract level. Census tracts generally have a population size between 1,200 and 8,000 people, with an optimum size of 4,000 people. As seen on Figure 2: Study Area Census Tracts (See Appendix A Champlain Parkway Environmental Justice Analysis Progress Memo dated December 16, 2019), eight census tracts are fully or partially within the study area: Census Tract 5, Census Tract 6, Census Tract 8, Census Tract 9, Census Tract 10, Census Tract 11, Census Tract 33.04, and Census Tract 39. The majority of the study area is within Census Tracts 8, 9, 10, and 11.

Minority Populations

For the purposes of EJ analyses, new FHWA Order 6640.23A defines minority populations as: Black, African-American or of African descent, of Hispanic or Latino origin, Asian-American, American Indian, Alaskan Native, Native Hawaiian, or Pacific Islander. The percentage of minority communities in the Burlington City area and in study area census tracts is shown on Figure 3: Minority Population (See Appendix A Champlain Parkway Environmental Justice Analysis Progress Memo dated December 16, 2019).

The Council on Environmental Quality's (CEQ) 1997 *Environmental Justice Guidance Under the National Environmental Policy Act* provides annotated guidance for complying with EO 12898. The CEQ Guidance states that a minority population should be identified where either: (a) the minority population of the affected area exceeded 50 percent or (b) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis.

Census Tract 10, comprising much of the Maple and King Street neighborhood, identified as an EJ community in the 2009 FSEIS, has a notably higher percentage of minority residents than the City average, the community of comparison for the purposes of this analysis. As shown in Figure 3: Minority Population (See Appendix A Champlain Parkway Environmental Justice Analysis Progress Memo dated December 16, 2019), Census Tract 10 has a 24.9% minority population compared to the 15.1% citywide average. Considering the relatively small population in Burlington and the demographics of Chittenden County, this is considered a meaningfully greater minority population. Therefore, the Maple and King Street neighborhood is considered an EJ community based on the percentage of minority residents.

Each census tract within the study area has at least one minority population that exceeds the City average for that population as shown on Table 1: Race and Ethnicity (See Appendix A Champlain Parkway Environmental Justice Analysis Progress Memo dated December 16, 2019). Census Tract 10 has a substantially higher minority population. The residential portion of this census tract that is within the study area is part of the Maple and King neighborhood. Four census tracts have minority populations that exceed the total citywide percentage of minority residents (Census Tracts 6, 8, 10, and 11). Three of the four tracts (Census Tracts 6, 8, and 11) are within one percent of Burlington's overall minority population. Therefore, for this analysis none are considered meaningfully greater than the minority population for the City of Burlington as a whole.

In 2018 U.S. Census data made available in December 2019, the percentage of minority residents in the Maple and King Street neighborhood is only marginally higher than the citywide average. However, given the meaningfully greater percentage of minority residents there in prior, yet still recent, census data, it has been determined that the Maple and King Street neighborhood will be considered to be a minority population for the purposes of the project's EJ analysis.

Low-Income Populations

To identify low-income populations, FHWA uses the HHS poverty guidelines. Based on these guidelines, none of the study area census tracts meet the criteria for low-income populations.

None of the census tracts in the study area meet the HHS poverty guidelines on Table 3: Median Household Income by Household Size (See Appendix A Champlain Parkway Environmental

Justice Analysis Progress Memo dated December 16, 2019). Therefore, they are not considered low-income communities for FHWA EJ analyses.

D. PUBLIC PARTICIPATION

EO 12898 requires Federal agencies to work to ensure greater public participation in the decision-making process. Furthermore, the new FHWA Order 6640.23A directs FHWA to identify and avoid discrimination and disproportionately high adverse impacts to minority and low-income populations by providing targeted public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority populations and low-income populations in considering alternatives during the planning and development of alternatives and decisions.

Environmental Justice Outreach

The public involvement activities for the present EJ analysis have been guided by EO 12898, new FHWA Order 6640.23A and the FHWA *Guidance* memorandum. The primary goal of the targeted public outreach activities described below was to inform the affected community about the Project and seek input on related transportation and environmental issues. As the above analysis concludes, the Maple and King Street neighborhood, located in Census Tract 10, is the only EJ population within the study area.

The City, FHWA, and VTrans conducted a targeted public outreach meeting on September 26, 2019. To ensure equal engagement of the minority community, the meeting announcement was translated into Bhutanese-Nepali, Swahili, Somali (Mai-Mai), Burmese, and French. Fliers were mailed directly to residents and City staff went door-to-door distributing fliers. The targeted public outreach meeting was hosted at City Hall, a well-known public landmark that is American Disability Act (ADA) accessible and within walking distance (i.e. two blocks or approximately 0.3 mile) of the Maple and King Street neighborhood. In addition to providing the meeting announcement in multiple languages, interpreter services were made available at the targeted public outreach meeting in the languages identified as being predominant in the minority community. The targeted public outreach meeting allowed the attendees to review displays depicting the proposed Project, view a Project overview presentation provided by the City's design consultant, and submit verbal or written comments. Written comments were also accepted via mail and a specific project email address until October 10, 2019. The Project team including the City's, FHWA's and VTrans' staff were available at the informational open houses before and after the presentation to discuss the Project with attendees.

Please refer to Appendix B for the September 26, 2019 public outreach meeting materials and presentation.

E. THE NEED FOR ADDITIONAL ENVIRONMENTAL ANALYSIS OF DISPROPORTIONATE IMPACTS ON MINORITY AND LOW-INCOME POPULATIONS

The new FHWA Order 6640.23A defines a disproportionately high and adverse effect on minority and low- income populations as an adverse effect that:

1. Is predominantly borne by a minority population and/or a low-income population; or
2. Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Because a new standard of practice related to EJ analysis exists today that wasn't applicable at the time the 2009 FSEIS was prepared, and because of the demographic changes in the study area subsequent to the 2009 FSEIS, it has been determined that a limited scope Supplemental EIS focused on EJ aspects would be appropriate in order to advance the Project.

While the Southern Connector/Champlain Parkway project is expected to have limited footprint impacts in the Maple and King Street neighborhood, the project will increase traffic volumes on Pine Street north of Lakeside Avenue, including the Maple and King Street neighborhoods, when compared with the no-build alternative.

Increased traffic can affect mobility, vehicular and pedestrian/bicyclist safety, noise levels, and air quality. These traffic impacts, and the mitigation that has been proposed, and any impacts on the safety performance of the intersections and the roadway segments that go through the environmental justice community will be analyzed during the supplemental NEPA review. Temporary construction impacts in the Maple and King Street neighborhood will also be considered.

The supplemental NEPA review will take place between January and April 2020, and there will be additional opportunities for public involvement.

F. REEVALUATION OF OTHER RESOURCE IMPACTS IDENTIFIED IN 2009

All other project design elements and resulting environmental resource impacts summarized in the 2009 FSEIS were reassessed in the May 2017 Reevaluation associated with the two post 2009 FSEIS rail crossings (See Appendix D May 2017 Rail-crossings Reevaluation) and the May 2019 Reevaluation of the overall Parkway project (See Appendix C May 2019 Reevaluation).

No further project changes occurred. The conclusions from the 2009 FSEIS remain valid.

G. CONCLUSION

The analysis included in this Reevaluation was prepared in conformance with the EO 12898, new FHWA Order 6640.23A effective June 14, 2012 (canceling FHWA Order 6640.23 FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations dated December 2, 1998) and the FHWA Guidance memorandum on Environmental Justice and NEPA dated December 16, 2011.

An EJ screening was completed within the study area. Although it was determined that none of the study area census tracts meet the criteria for low-income populations, Census Tract 10 was identified as a minority population given the substantially higher percentage of minority residents than the City or county. The residential portion of this census tract that is within the study area comprises much of the Maple and King Street neighborhood.

The City, FHWA and VTrans have assessed whether all the Project's environmental impacts were adequately considered and if any of the impacts may rise to the level of significance. Based on this assessment, it has been determined that all other environmental resource impacts summarized in the 2009 FSEIS have been reassessed in the May 2017 Reevaluation associated with the rail crossings and the May 2019 Reevaluation of the overall Parkway project and the conclusions included in each of those Reevaluations remain valid.

Because a new standard of practice related to EJ analysis exists today that wasn't applicable at the time the 2009 FSEIS was prepared, and because of the demographic changes in the study area subsequent to the 2009 FSEIS, it has been determined that a limited scope Supplemental EIS focused on EJ aspects would be appropriate in order to advance the Project.