

May 11, 2005

Route to a Cooperative Goal:
Improving the Mid-Atlantic Rail Corridor



Acknowledgements

The research team would like to thank:

Steve Eisenach, Director, Public Partnerships, Norfolk Southern

Mike Kirkpatrick, Planner III, Delaware DOT

Dave Ganovski, Director, Office of Freight Logistics, Maryland DOT

The research team appreciates contributions from the following:

George Mason University Libraries Interlibrary Loan Service

PUBP 722 Section 2– Practicum, Spring 2005

Research Team:

Frank Bessenyei

Steve Brown

Lorraine Davis

Paul DeMaio

Karl Eckhart

Karen Evans

Michael Gray

April Maguigad

Thomas Miller

Sharon Morales

Advisor:

Danilo Pelletiere, PhD, Senior Fellow, School of Public Policy, George Mason University and Research Director, National Low Income Housing Coalition.

Disclaimer:

The contents of this report reflect the views of the authors and do not necessarily represent those of George Mason University, Norfolk Southern, other sponsors, or the organizations with whom the authors are employed.

EXECUTIVE SUMMARY

Our purpose is to recommend a process whereby several Mid-Atlantic states, the railroads, and other entities can implement an interdependent, multi-jurisdictional program of railroad improvement projects.

We draw on interviews, case studies, and funding research to develop the following evaluation criteria:

- Robustness – the process should promote cooperation, have consistent funding, and be legally binding.
- Effectiveness – the process should promote a modal shift to rail, be marketable to the public, and encourage cooperation between parties.
- Equity – the process should allow stakeholders to obtain a return on their investment, be it cash or social goods.
- Efficiency – the process should be flexible and should facilitate multiple funding sources.

We suggest a spectrum of alternatives wherein some or all of the suggestions may be implemented as conditions allow. The spectrum begins with the status quo, continues to a formalized, independent task force, and culminates in a compact among Virginia, Maryland, Delaware, Pennsylvania, and New Jersey that will allow these states to levy funds for rail improvements on a regional level. Convening a multi-state rail task force with the widest possible participation by stakeholders to discuss a compact is an important first step in negotiation, but also an effective measure for building legitimacy and guiding the development of pending federal and state legislation.

Norfolk Southern suggested this graduate research project for the Transportation Policy Operations and Logistics Program of the School of Public Policy at George Mason University. Norfolk Southern is participating in the I-95 Corridor Coalition's Mid-Atlantic Rail Operations Study (MAROPS).

Table of Contents

1	INTRODUCTION.....	5
2	METHODOLOGY	5
3	FINDINGS.....	6
3.1	PERSPECTIVES OF STATES AND RAILROADS.....	6
3.2	INTERSTATE COMPACTS.....	7
3.3	EXISTING MULTI-JURISDICTIONAL RAIL IMPROVEMENT PROJECTS	8
4	EVALUATION CRITERIA	10
4.1	ROBUSTNESS.....	10
4.1.1	<i>Optimize Cooperation.....</i>	<i>10</i>
4.1.2	<i>Require Commitment</i>	<i>10</i>
4.1.3	<i>Provide Consistent Funding</i>	<i>10</i>
4.1.4	<i>Convey Legitimacy.....</i>	<i>10</i>
4.2	EFFECTIVENESS.....	11
4.2.1	<i>Allow Shift of Traffic to Rail.....</i>	<i>11</i>
4.2.2	<i>Promote Branding and Name Recognition.....</i>	<i>11</i>
4.2.3	<i>Enable Parties to Work Together</i>	<i>11</i>
4.3	EQUITY	11
4.3.1	<i>Provide Return on Investment.....</i>	<i>11</i>
4.3.2	<i>Balance Costs and Benefits.....</i>	<i>11</i>
4.4	EFFICIENCY	12
4.4.1	<i>Flexible</i>	<i>12</i>
4.4.2	<i>Timing</i>	<i>12</i>
4.4.3	<i>Flexible Financing.....</i>	<i>12</i>
5	ALTERNATIVES.....	12
5.1	STATUS QUO.....	12
5.2	MID-ATLANTIC RAIL TASK FORCE	13
5.3	MID-ATLANTIC RAIL COMPACT	13
6	ANALYSIS	15
7	RECOMMENDATION.....	16
8	APPENDICES.....	18
8.1	APPENDIX A INTERVIEW QUESTIONS	18
8.2	APPENDIX B EXISTING RAIL IMPROVEMENT PROJECT CASE STUDIES.....	19
8.3	APPENDIX C STEPS TO CREATE A COMPACT	21
8.4	APPENDIX D SAMPLE LANGUAGE FOR INTERSTATE COMPACT	22
8.5	APPENDIX E SAMPLE LETTER TO COUNCIL OF STATE GOVERNMENTS.....	25

1 INTRODUCTION

Many states recognize the need for increased mobility in the Mid-Atlantic region. Improvements to the Mid-Atlantic rail corridor encourage the movement of both freight and passengers and reduce demand on the region's highways. The states of Delaware, Maryland, New Jersey, Pennsylvania, and Virginia as well as three railroads, Amtrak, Norfolk Southern, and CSX, are participating with the I-95 Corridor Coalition in an ongoing study of rail mobility in this region. In 2002, the I-95 Corridor Coalition completed the "Mid-Atlantic Rail Operations Study"¹ (MAROPS) and identified more than seventy rail improvement projects for their potential to improve freight and passenger capacity throughout the Mid-Atlantic region between Richmond, Virginia and northern New Jersey. MAROPS foresees spending \$6.2 billion over twenty years to make critical infrastructure improvements that will reduce highway congestion, vehicle emissions, and fuel use, and provide greater connections between ports and industrial areas. Currently, no mechanism exists to provide the necessary cross-jurisdictional structure or finances to implement these infrastructure improvements.

This project explores potential options in cross-jurisdictional planning, authority, and funding. Our goal is to define a process by which Mid-Atlantic states can implement an interdependent, multi-jurisdictional program of railroad improvement projects.

2 METHODOLOGY

After reviewing the literature and the original MAROPS report, our project team interviewed potential stakeholders in order to outline the opportunities and challenges to undertaking multi-jurisdictional, yet interdependent, rail improvements. We researched case studies for publicly funded, regional rail improvements and other examples of multi-jurisdictional cooperation, and we reviewed available funding sources. Based on this work, we developed a number of criteria on which to judge the potential success of proposed alternatives.

We interviewed personnel from Norfolk Southern, Amtrak, and CSX. In addition, we contacted representatives from the departments of transportation in Virginia, Maryland, Delaware, Pennsylvania, and New Jersey. In order to gauge third party support, we also interviewed personnel at the American Trucking Association, the Federal Railroad Administration, and the National Center for Interstate Compacts.

Our project team looked at a number of existing rail improvement projects including Alameda Corridor Transportation Authority (ACTA), Chicago Region Environmental and Transportation Efficiency program (CREATE), Fast Action Strategy for Everett-Seattle-Tacoma (FAST), the Midwest Regional Rail Initiative (MWRRI), and Delaware and Norfolk Southern's Shellpot Bridge reopening. These projects have achieved varying levels of funding and completion. We looked at whether these existing programs are sustainable and whether they are effective in promoting mobility.

¹ Cambridge Systematics and Parson Brickerhoff Quade and Douglas, Inc., *Mid-Atlantic Rail Operations Study: Summary Report*, April 2002, online.

Several examples of multi-jurisdictional cooperation provide insight into the effort for rail improvements. We looked at the development of the Chesapeake Bay Program, the Woodrow Wilson Bridge project, the Delaware River Joint Commission, and the Delaware-New Jersey Agreement. We reviewed existing interstate compacts to determine if they could form the basis for a legal agreement to execute the planned improvements.

Our findings suggested a number of criteria for a successful regional rail improvement policy. These included robustness, effectiveness, equity, and efficiency. Using these criteria we looked at three alternative methods of organizing and funding regional rail improvements: 1) continue the status quo of funding through private and individual state funds, 2) establish a regional rail task force, and 3) form a multi-state compact. After weighing the criteria for importance, we ranked these alternatives using a criteria matrix.

3 FINDINGS

As we began our research, we concentrated our efforts in three main areas. First, we interviewed interested parties. Second, we explored existing compacts and the process for creating a new one. Lastly, we looked at several existing multi-jurisdictional rail improvement projects. From these findings, we produced a list of criteria for a successful alternative.

3.1 Perspectives of States and Railroads

In order to assess the interest and concerns within each of the states, the project team conducted interviews with one representative from each of the states and railroads. In addition, we spoke with a representative from the American Trucking Association and the Federal Railroad Administration.

Our interviews suggest that three main challenges exist: trust, funding, and the lack of a champion. The largest of these challenges appears to be trust. Many of the representatives with whom we spoke asked for confidentiality. Enough of the interviewees requested this that we have chosen not to quote individuals in this section, but simply outline the basic issues that exist without attributing them to a particular state, railroad, or person.

Many interested parties expressed a concern that the other parties may not actually participate as fully as they initially indicate. Therefore, those entities that are willing to proceed are hesitant to put their money and effort into an initiative when they cannot be sure that all others will do the same. Part of this concern is based on some states accruing more benefits, while others have greater investment costs. As a result, the states are looking for a system that will ensure that everyone meets their obligations.

Funding is another common thread that appeared in our interviews. While funding is not directly within the scope of our project, it is an important topic. Primarily, in order to accomplish all of the projects that MAROPS proposes, the funding needs to be available. If only a few of the projects were to be funded, then the goal of eliminating bottlenecks, rather than just moving them up or downstream, would not be accomplished. After speaking to our interviewees, it became apparent that a consistent source of funding is not available currently. There are several

means of providing consistent funding. While this is discussed briefly below, any recommended alternative needs to accommodate both existing funding and any new funding.

The last major issue is the lack of a champion. A leader needs to come forth to move regional rail improvement forward. Many of the states are looking to either the U.S. Department of Transportation or the Federal Railroad Administration for that leadership. In the states' opinion, this is not occurring and the lack of a national railroad policy is severely hampering their ability to provide improvements.

Other less common issues also surfaced in some of our discussions. Any chosen mechanism needs to have flexibility as juggling of projects may occur. Until a centralized administration and funding source can be formed, a few states are continuing on with those projects that they can afford now. These states indicate that they consider rail a priority and have begun to fund critical projects within their boundaries. Because of this, some projects on the current MAROPS list may be complete before any other mechanism comes to fruition. States would like the ability to add, remove, or change the status of projects on the list.

We also found that visibility is an issue. Many successful, multi-jurisdictional rail improvement projects are well known. MAROPS does not seem to have the same level of name recognition as the others. Perhaps this is due to the lack of a champion. Without greater name recognition, gaining political and public support may be difficult.

Despite these challenges, there is an advantage that needs to be capitalized to its fullest potential: The states see the need for a multi-jurisdictional effort in enhancing rail capacity. Each person with whom we spoke recognized that improving the flow of rail traffic depends not only on the track capacity within their own state, but also on the capacity within neighboring states. There is a strong desire to find a solution since the states believe that they will benefit from regional investment in the rail network. This is common ground encourages each of the interested parties to work together.

3.2 Interstate Compacts

We reviewed existing transportation compacts and found them to be insufficient in their purpose and scope to allow for MAROPS rail improvements to be implemented. Nevertheless, compacts are popular means to achieve common goals, and their use is increasing. From 1873 to 1920, only 36 compacts were approved, primarily to settle boundary disputes. Since that time, over 150 compacts have been set up for various purposes including transportation, environmental, and juvenile issues.

In 2004, The Council of State Governments (CSG) performed a 50-state survey on interstate compacts to identify states' needs.² State compact administrators identified primary needs that include:

² John J. Mountjoy "National Center for Interstate Compacts: A New Initiative Council of State Governments," (Council of State Governments, 2004), 1
<http://www.csg.org/NR/rdonlyres/ekrvzzi7vjykkvw4cgn7jjgnzqaizbu76md5un5bckpjlllovnazzvrrorcbjct544opszfiugd4bvatlq6jwtoe32xb/Spectrum+Fall+2004+-+National+Center+for+Interstate+Compacts.pdf> (May 4, 2005)

- additional resources and assistance in their compact work,
- legal assistance in drafting and interpreting compacts,
- information on how to build coalitions and partnerships to promote compacts,
- assistance in educating legislators and other state officials about compacts,
- opportunity to network with compact colleagues,
- a national information clearinghouse to promote compacts, and
- non-technical explanations of compact requirements.

Following this survey, CSG formed the National Center for Interstate Compacts to help states by providing information, training, technical assistance, and facilitating the creation and use of interstate compacts “to solve multi-state problems or provide alternatives to federal preemption.”³ CSG also maintains a database of existing compacts.

CSG was instrumental in developing the Midwest Interstate Passenger Rail Compact. This compact matured from a mutually desired concept to a decision-making commission in less than 10 years.

“Administered from CSG's Midwest Office, the Midwest Interstate Passenger Rail Compact (MIPRC) brings together state leaders from across the region to advocate for passenger rail improvements. Formed by compact agreement in 2000, the MIPRC's current members are Indiana, Minnesota, Missouri, Nebraska, North Dakota and Ohio. The main purposes of the compact are to promote, coordinate and support regional improvements to passenger rail service: 1) Promote development and implementation of improvements and long-range plans for intercity passenger rail service in the Midwest; 2) Coordinate interaction among Midwestern state officials, and among the public and private sector at all levels (federal, state and local); and 3) Support current state efforts being conducted through state DOTs.”⁴

3.3 Existing Multi-jurisdictional Rail Improvement Projects

There are a number of multi-jurisdictional rail improvement programs that provide insight into the opportunities and challenges for the Mid-Atlantic region. We looked at the Alameda Corridor Transportation Authority (ACTA), Chicago Region Environmental and Transportation Efficiency program (CREATE),⁵ Fast Action Strategy for Everett-Seattle-Tacoma (FAST),⁶ the Midwest Regional Rail Initiative (MWRRI),⁷ and Delaware and Norfolk Southern's Shellpot Bridge reopening.⁸

³ Council of State Governments, <http://www.csg.org>, (5/4/05).

⁴ Council of State Governments

⁵ American Association of Railroads, “The Chicago Region Environmental And Transportation Efficiency Project (CREATE)”

⁶ Washington State Department of Transportation, “FAST Partners,” April 2, 2004, <http://www.wsdot.wa.gov/mobility/fast/partners.htm>, (5/3/05).

⁷ Transportation Economics and Management Systems, Inc, “Midwest Regional Rail System, A Transportation Network for the 21st Century,” Executive Report, September 2004.

⁸ Delaware Department of Transportation, “Shellpot Bridge Is Open For Business,” September 2, 2004, <http://www.deldot.net/public.ejs?command=PublicNewsDisplay&id=1946&month=9&year=2004>, (5/3/05).

Each of these projects involves a substantial level of public investment in rail infrastructure. Some of the projects include public bodies in operations. Separating the management of infrastructure and operations is part of an international trend.⁹ Whereas European and Japanese railways are moving from public ownership to a disintegrated public and private system, the challenge for privately owned railroads in the United States is to increase public funding in rail to match the public investment in highway infrastructure.

ACTA and the Shellpot Bridge are similar in that they rely primarily on bonds that are financed with tolls on rail traffic. This self-perpetuating funding allows for variable but predictable funding. Both of these projects have completed their initial scope of work. CREATE and MWRRI both rely primarily on federal allocations. This funding is both variable and unpredictable. Although these projects are well advanced, the improvements are not complete.

Several of the existing rail improvement projects have worked to improve acceptance by affected parties early in their development. ACTA, CREATE, and MWRRI started a task force with broad stakeholder representation and then narrowed participation to key players willing to commit resources. Early recognition of stakeholder concerns allowed for increased legitimacy and helped build political support for the improvements. For instance, ACTA incorporated local employment goals. Although railroads enjoy the benefits of federal interstate commerce regulation, local governments in the Mid-Atlantic may influence related non-rail system improvements such as warehousing.

Many funding mechanisms exist for capitalization of MAROPS projects which other rail projects have used or are pursuing. These include Congressional allocation, creative partnerships through Public-Private Partnerships (PPPs), and tax-credit bonds. Congress authorized PPPs through the Public Private Transportation Act of 1995 (PPTA). PPTA is designed “to leverage public sector transportation funding by attracting private sector risk capital and to bring private sector creativity and efficiency to the task of building transportation projects.”¹⁰ The MAROPS financing white paper suggests a concern that states have difficulty justifying “spending on projects that are perceived to inordinately benefit the private sector freight community (i.e., railroads).”¹¹ However with PPPs, states and the private sector will be able to share costs and benefits. As of December 2004, those states allowing PPPs include Virginia, Delaware, and New Jersey.¹² Maryland and Pennsylvania lack PPP legislation and may not be able to take advantage of these mutually beneficial partnerships. The advantages of the public and private sectors working together are increased productivity, expanded economic growth, and reduced congestion.

In summary, significant findings included concerns regarding trust between states, procuring funding, the need for a champion, and providing visibility for the project. Some of the mechanisms used to organize stakeholders and conduct business included task forces and

⁹ M. Brooks and K. Button, “Separating Transport Track from Operations: A Typology of International Experiences,” *International Journal of Transport Economics* 23, No. 3 (October 1995), 236.

¹⁰ James Regimbal, Jr., “An Analysis of the Evolution of the Public-Private Transportation Act of 1995,” 2004, http://southernenvironment.org/Cases/smart_growth_va/ppta_report_jan05.pdf, (April 2, 2005), 3.

¹¹ I-95 Corridor Coalition, “White Paper Recommending a Regional Approach to Organizing and Financing Rail Improvements,” February 13, 2003, 3.

¹² James Regimbal, Jr., 38-39.

forming compacts between states. Development and evaluation of alternatives must address these issues.

4 EVALUATION CRITERIA

Based on our findings, we identified and prioritized four broad sets of criteria. These criteria are robustness, effectiveness, equity and efficiency. These criteria comprise several subcomponents. Some of these criteria are more significant and are weighted more heavily in determining the alternative that best addresses important and fundamental needs.

4.1 Robustness

This criterion indicates the overall “health” of an alternative. It includes four subcomponents: optimize cooperation, minimize ability to withdraw, provide consistent funding, and convey legitimacy. The idea behind this is that “even if the implementation...does not go very smoothly, the...outcome will still prove to be satisfactory.”¹³ In this study, robustness was deemed the most important overall criteria and was given more weight in judging alternatives. Everyone whom we interviewed suggests that each of these subcomponents needs to be addressed in order for any alternative to be successful. While the other criteria, outlined below, are necessary as well, they are given a lower priority.

4.1.1 Optimize Cooperation

As part of the problem definition, these are multi-state, regional projects. Cooperation among the states, railroads, and other stakeholders is essential. To date, each state has been making its own decisions about what projects to fund and with which railroad. These projects are prioritized on a local level. Regional planning is substantially absent.

4.1.2 Require Commitment

Any alternative that makes it easy for contracting parties to back out would be detrimental. Certainly, no one wants to get part way through a process only to have a key player decide to break off on its own. A process that will require explicit commitment is important for the projects to go forward.

4.1.3 Provide Consistent Funding

Funding is a critical issue. If all of the money to complete these projects were available, there would be no need for our study. All of the interviewees indicated that money is a big concern. With limited funds from the state and federal governments and the railroads, only those alternatives that can leverage all available funding will be successful.

4.1.4 Convey Legitimacy

To assist the first three subcomponents of robustness, the alternative needs to be legitimate and legally binding. The purpose of this is two-fold. First, it will ensure that all parties are fully committed to the process and structure. Second, it will promote confidence for private sector investment and generate the good will necessary to invest public funds in a private enterprise.

¹³ Eugene Bardach, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving*, 2nd ed., (Washington DC, CQ Press, 2005), 33.

4.2 Effectiveness

Effectiveness is given the second highest priority level and shows how well each alternative addresses the issues and fixes the problem. Three subcomponents of effectiveness are identified as encouraging shift of traffic to rail, promoting branding and name recognition, and enabling all parties to work together.

4.2.1 Allow Shift of Traffic to Rail

MAROPS is a direct effort of the I-95 Corridor Coalition's attempt to reduce congestion on I-95. The entire purpose of these rail projects is to enhance rail capacity. If an alternative impedes a shift of, primarily freight but also passenger traffic, to rail, no real gain will have been made. There are several mechanisms available to encourage this modal shift. One example would be to hold the railroads accountable with performance measures.

4.2.2 Promote Branding and Name Recognition

Essentially, this is marketability. There are several different audiences to consider. First, name recognition allows greater lobbying potential. Government recognition of the needs and benefits is necessary to secure sufficient funding and attention at both the state and federal levels. Branding also helps to garner wide spread support from the public and special interest groups. Public education on the importance of rail mobility is included in this criterion.

4.2.3 Enable Parties to Work Together

While this may seem to have been covered in the robustness criterion, it can also be a factor in effectiveness. In this instance, the criterion refers to the ability to successfully work together in a coordinated movement. Under robustness, the emphasis was providing a legal framework that forced commitments. While those commitments may be available, if an alternative is set up in a way that causes dissension, the parties may not work together.

4.3 Equity

While everyone seems to agree that there are legitimate concerns over equity, this criterion was given the third highest priority when evaluating the alternatives. It is not that equity is unimportant, but that inequity may well be a fact of life. How an alternative works around the issue of equity, while important, may not be a lynchpin in the ability to successfully achieve the desired outcome. Equity can be summed up in two basic areas, return on investment and balance of costs and benefits.

4.3.1 Provide Return on Investment

Providing direct public funding to a private entity can be difficult. To justify their costs to the taxpayers, states must be able to show a return on their investment. While the railroads may be able to cite an increase in train capacity, these measures need to be shown as beneficial to the public. Items like reduced congestion, improved air quality, and increased highway safety are benefits that are included in this criterion.

4.3.2 Balance Costs and Benefits

To some the balance of cost and benefit is a considerable issue. To others, the balance seems to exist already. Nevertheless, some states may incur more capital costs than others without

reaping commensurate benefits. I-95 Corridor Coalition's planned MAROPS Phase II study of benefits will help illuminate this concern.

4.4 Efficiency

With freight traffic expected to far exceed planned capacity within the next 20 years, a solution needs to be efficient. MAROPS outlined short-, mid-, and long-term projects. Knowing that some of these projects are considered to be several years in the future, efficiency, in terms of flexibility, timing, and flexible funding, was given the lowest priority in evaluating the alternatives.

4.4.1 Flexible

Both before and during the planning process to implement a recommendation, some states and railroads may begin piecemeal work on some of the suggested projects. As a result, some degree of flexibility is necessary. Each state needs to be able to change its projects and priorities as the program develops. As projects are finished and new project needs are identified, they can be removed or added from the project list. Nevertheless, any changes should be made with the goal of improving the Mid-Atlantic region overall.

4.4.2 Timing

Good timing is essential to any project. The funding should be made available as quickly as possible. There should not be a lengthy process to appropriate funds for each of the entities. In addition, projects should be completed in a timely manner in order to ensure that money is spent appropriately and that the completion cost does not escalate.

4.4.3 Flexible Financing

Earlier, we noted the importance of funding that is consistent. While it may be possible to find a constant funding stream from tolls or other dedicated taxes, the successful alternative will also be able to handle any other monies that may be made available, such as private investment.

5 ALTERNATIVES

After reviewing our findings and establishing our criteria, we selected several alternatives. Our initial list of alternatives was narrowed down to three that best address the identified needs. These alternatives are 1) continue with the status quo, 2) establish a Mid-Atlantic rail task force, and 3) form a Mid-Atlantic rail compact.

5.1 Status Quo

Currently, each state acts independently. There is no formal coordination of action among them. Although each of the five states has programs that allocate funding to railroads, there is limited coordination among the states when it comes to spending the allocated funds. States work with railroads on a project by project basis. While there are some informal arrangements among the railroads and the states, no formal, regional body exists that acts to represent the rail interests of the five states.

There is an umbrella volunteer organization, the I-95 Corridor Coalition, which brings together various stakeholders in transportation issues. The organization has no enforcement authority.

Nevertheless, it serves as an influential model for how various bodies might work together to find and implement solutions to multi-jurisdictional problems.¹⁴

5.2 Mid-Atlantic Rail Task Force

The I-95 Corridor Coalition is naturally focused on paved roads and not likely to work as a whole to increase funding for railroad infrastructure. Because of its roots in the I-95 Corridor Coalition, the current committee structure may not be adequate to resolve rail related issues. While the I-95 Coalition is an effective organization, its member states range from North Carolina to Maine, and its expansive scope of projects does not lend itself to focusing on the needs of rail improvement projects. In addition, the members of the I-95 Corridor Coalition may not share the interests of states and railroads in creating an environment that will encourage federal and state lawmakers to fund system improvements, find a suitable management and funding mechanism, identify other sources of funding, and maintain relationships between the states and railroads.

The current MAROPS group is the perfect starting point, but it takes too much time and energy for already overworked employees. To get to the next level of the project, each state and railroad should designate one, or a small group of, “champions” who can make the commitment to work on rail infrastructure projects and be a part of the long-term formal compact described below. These champions will be responsible for raising the profile of these rail projects within their organizations and to work cooperatively on issues with the other partners. Also they will lobby governments at the local, state, federal level for appropriations and other legislation.

A task force would be formed to bring representatives from all parties together and would work off the MAROPS plan to implement projects and determine the best sources of funding. The task force would not only bring ideas to the table but would have the authority to seek outside counsel, hire lobbyists, form compacts, alter the project list, establish funding mechanisms, and take any steps that can be agreed to by a majority that will lead to completion of the projects. The focus of this group will be to create a legal and binding organization which can work to keep the states and railroads together and on target towards completion of the MAROPS projects.

5.3 Mid-Atlantic Rail Compact

The creation of a compact provides a unique opportunity to focus on rail issues, freight and passenger, across the Mid-Atlantic region. Compared to maintaining the status quo, or creating a Mid-Atlantic Rail task force, a state compact has several advantages:

- It preserves state sovereignty.
- It provides opportunities to states for economies of scale, scope, standardization, and integration for planning and construction of coordinated improvements.
- It provides opportunity to form a multi-state commission with authority to function on behalf all participants.
- It provides opportunity to create uniform procedures and guidelines for all agencies in member states.

¹⁴ I-95 Corridor Coalition, “About the Coalition,” <http://www.i95coalition.org/about.html>, (5/3/05)

- It provides opportunity for consultation between states and agencies of the federal government.
- It provides opportunity for an expanded legal relationship directly between Mid-Atlantic states.

There are also disadvantages to creating a compact.

- States can still pursue policies and activities that are outside the compact.
- States may be wary of additional bureaucracy.
- States may prefer their opportunities for federal funds acting on their own.
- States may not be willing to give up their own priorities.

The route to creating a compact includes identifying stakeholders, issues, experts, and key players; defining the language of the compact; and obtaining ratification of the compact. The process is as important as the outcome because it provides a forum for dialogue. Additional information on compacts appears in the appendices.

6 ANALYSIS

To analyze our alternatives we created a criteria matrix. Each criterion is weighted based on its individual importance. We placed each alternative in the matrix and examined how well it met each criterion. The project team applied judgment derived from our research and scored the alternatives. Figure 1 represents our results. We observed that each of our alternatives is a step in a larger process leading up to the final recommendation, which ranks highest in our analysis.

Criteria	Status Quo	Task Force	State Compact
Optimize Cooperation	-	0	+
Minimize Ability to Withdraw	-	-	+
Provide Self Perpetuating Funding	-	0	+
Convey Legitimacy	-	0	+
Overall Robustness	-	0	+
Encourage Shift of Traffic to Rail	-	0	+
Promote Branding and Name Recognition	-	+	+
Enable Parties to Work Together	-	+	+
Overall Effectiveness	-	+	+
Return On Investment	0	0	+
Balance of Costs and Benefits	0	0	+
Overall Equity	0	0	+
Flexible	-	-	0
Timing	-	-	0
Streamlined Funding	-	-	0
Overall Efficiency	-	-	0

Legend: - little contribution 0 satisfactory + promotes

Figure 1 - Ranking of Alternatives with Criteria

The status quo alternative ranks poorly against the criteria. It has some ability to distribute costs and benefits, but even this is limited.

The task force performs better. Because its focus is specifically on the problem of improving rail infrastructure, the organization does not have to compete internally with other priorities. It is better than the status quo at optimizing cooperation between organizations, but it falls short in enforcement. It cannot legally distribute funding, nor is it legally binding. Any of the organizations can withdraw at anytime. In general, the task force is an effective structure. It will encourage project completion with a focus on improving overall capacity first. This will help to encourage a shift from roads to rail.

Additionally, the task force has the advantage of being a recognizable entity. This will help the task force raise awareness of the infrastructure needs of railroads among the public and the state and federal governments. In matters of equity, the task force will not have the ability to truly act as a regional entity. This will make it more difficult to ensure each state has a return on investment. Finally, the task force will have some flexibility, but without legal structure, the value of flexibility is limited.

Creating a multi-state compact is our final alternative and is the one that performs the best in the matrix. Because it is a legally binding agreement, a compact has the ability to maximize funding sources in a way that none of the other alternatives can. It optimizes cooperation among the states and gives the railroads and other stakeholders a legal entity for addressing concerns about rail infrastructure within the Mid-Atlantic states. The compact will allow for implementation of regional priorities, and it will allow for all states and other stakeholders to see a return on their investment.

7 RECOMMENDATION

From the analysis of alternatives our research team determined the best method for improving the Mid-Atlantic rail network would be a two-step process involving the creation of a task force eventual adoption of a compact.

The status quo has not provided sufficient leadership or financial support in drawing together stakeholders towards the goal of an improved Mid-Atlantic rail network. Therefore, as a first step we suggest the creation of a task force which would bridge relationships between states and railroads. The task force would formalize the loose networks and relationships that presently exist. The primary responsibility of the task force would be to establish a legally binding compact among the five participating states. MWRRI, ACTA, and CREATE all established a task force before evolving into entities held together by compacts or agreements. The task force alternative ranks highly in the robustness and effectiveness criteria with its ability to improve cooperation among the states and railroads and to encourage them to work more closely towards meeting common goals. This alternative also ranks highly in the efficiency criterion as it provides a flexible method of reaching the compact goal.

The compact alternative ranks highest in each of the criteria. A Mid-Atlantic rail compact would provide a robust, effective, equitable, and efficient method of cooperatively meeting the region's objectives. The compact, being a legally binding contract, would provide the states the ability and encouragement to work together for the common goal of improving the rail corridor. It would provide a platform for states to more closely partner with each other. Currently, this crucial resolution is lacking. The compact should provide a clear direction, timelines to achieve milestones, and responsibilities of each participant.

A compact would allow the states and railroad companies to move from each acting in its own best interest to stakeholders moving ahead with projects that will not only improve their own state's rail network, but would benefit the entire region. With a more efficiently functioning rail network, more freight traffic will be encouraged to use rail instead of highways thereby reducing congestion and meeting a goal of the I-95 Corridor Coalition. To create this agreement among

the states, we recommend taking advantage of the services offered by the National Center for Interstate Compacts through the process outlined in the appendices.

As compacts are contracts among states, private companies would not be able to be included. Creation of a Mid-Atlantic rail compact would therefore require a restructuring of the member parties of the task force. The railroads could form a parallel version of the compact through an operations committee. ACTA effectively utilized a similar concept. A joint subsidiary company responsible for track and signals is another option. The operations committee would ensure smooth project implementation. Additionally, the committee would assist in the prioritization of project construction and maximizing efficiency and safety of the rail network in the Mid-Atlantic region.

In addition to the Mid-Atlantic rail task force and Mid-Atlantic rail compact, the public and private stakeholders would also benefit from PPPs. Innovative PPPs would increase productivity, expand economic growth, and ease congestion. The states' sharing the financial burden of upgrading the rail system with railroads and other stakeholders would extend the reach of public funds in an acceptable manner, such as in Delaware's Shellpot Bridge reopening.

In other regions of the country, states and railroads have successfully cooperated with each other on large scale projects. Following similar steps, we believe the goals expressed in MAROPS will be more likely to come to fruition. The stakeholders have everything to gain from exploring the suggested alternatives. Through cooperative partnerships that more formally structure the efforts of stakeholders and the shared financing of projects, we believe the Mid-Atlantic region will continue to benefit from our geographic location, population, economies, and resources.

8 APPENDICES

8.1 APPENDIX A Interview Questions

1. How does your organization feel about the project?
2. What was the key positive or concern that lead to this position?
3. What do you see as some potential positive and negative impacts?
4. How would you propose mitigating the negative and getting other states to agree to your positives?
5. What public interest groups are you facing in a positive and negative relationship?
6. What is your state's feeling on federal intervention and regulation? Do you feel your state's needs are a part of the priority list?
7. Has your state entered into any other money sharing project in past? Outcome?
8. Are there severe legal or jurisdictional problems that must be overcome and how are you starting that procedure?
9. Is rail the answer to the congestion problem in your mind, or rail, road, water combination?
10. What concessions do you as a state need from railroads?

8.2 APPENDIX B Existing Rail Improvement Project Case Studies

Alameda Corridor Transportation Authority

ACTA is a joint powers authority that the Cities of Los Angeles and Long Beach and the Ports of Los Angeles and Long Beach established in 1989. A seven member governing board consists of two representatives from each port, a member of each city council, and a representative from the MTA. The Alameda Corridor Engineering Team (ACET) provided management for the project. The Alameda Corridor Operations Committee is responsible for ongoing operations. The Operations Committee consists of one member each from the two ports, UP, and BNSF. The Governing Board continues to set policy for additional projects.

The Alameda Corridor passes by or through seven cities and the County of Los Angeles. Developments leading up to the ACTA included a Ports Advisory Committee (PAC) that the Southern California Council of Governments (SCAG) appointed in 1981. The PAC consisted of the Ports and Cities of Los Angeles and Long Beach, the U. S. Navy, the Army Corps of Engineers, the affected railroads, the trucking industry, and the Los Angeles County Transportation Commission. After the PAC completed a study of highway and rail access to the ports in 1984, SCAG appointed the Alameda Corridor Task Force expanding the PAC to include California Public Utilities Commission and each of the cities on the proposed corridor. The Task Force then recommended creation of the ACTA.

Chicago Region Environmental and Transportation Efficiency program (CREATE)

The Chicago Area Transportation Study (CATS) is the region's metropolitan planning organization. In 1994 it organized an intermodal advisory task force. In December 2000, the Mayor of Chicago requested the Surface Transportation Board to consider the problems of the Chicago area rail congestion. The Surface Transportation Board established the Chicago Rail Task Force consisting of the trunk line railroads and belt lines, Metra, Amtrak, and the Illinois Department of Transportation. This led to an agreement between the City of Chicago, the State of Illinois, and six of the Class I railroads to undertake a program of improvements.

Fast Action Strategy for Everett-Seattle-Tacoma

Fast Action Strategy for Everett-Seattle-Tacoma (FAST) is a joint partnership of three Washington State agencies, one regional council, three ports, twelve cities, three counties, and three freight carriers. The goal of the partnership is to make improvements in transportation infrastructure that will facilitate the rapid, safe and efficient movement of freight through the Puget Sound region of Washington State.

FAST, conceived in 1996, identified 25 projects to be undertaken. Of those, seven are complete; four are under construction, and the remaining fourteen await funding. Funding for the FAST projects is broken down as follows: Federal, 37%; state, 36% (which includes money from the Freight Mobility Strategic Investment Board (FMSIB) and from the state's Transportation

Improvement Board (TIB); local, 13%; ports, 8%; railroads, 4% and other, 2%. The federal funding came from ISTEA and TEA-21.¹⁵

Midwest Regional Rail Initiative

The Midwest Regional Rail Initiative (MWRRI) is a multi-jurisdictional effort involving the transportation departments of nine states (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin) and Amtrak. The \$7.7 billion (2002 dollars), initiative is focused on developing a high-speed passenger rail system with a central Chicago hub over a ten-year period. Dedicated federal funding is assumed to be the primary source for infrastructure funding. The MWRRI Steering Committee is comprised of the nine states as well as Amtrak representatives. Formed in 1996, the Committee has completed conception, feasibility, and planning aspects of the project. Current activities revolve around funding issues. Five of the nine states involved in MWRRI have signed compacts, making them members of the Midwest Interstate Passenger Rail Commission (MIPRC). The express purpose of the MIPRC is advocacy and building legislative support at the local and national level for federal passenger rail funding.

Rehabilitation of Shellpot Bridge, Wilmington

A public-private partnership (PPP) between Delaware and the Norfolk Southern Corporation enabled the state to provide \$13.9 million for restoration of the Shellpot Railroad Bridge that crosses the Christina River. Under the partnership agreement, Norfolk Southern Corporation agreed to repay the state over a twenty-year period using tolls collected from rail use of the bridge. The toll collection makes use of a technology that counts the number of railroad cars crossing the bridge. Cost per car varies from \$35 dollars per car for the first 5000 cars each year to \$5 per car after 50,000 cars.

With the restoration of the Shellpot Bridge, passenger and freight movement into and out of the Port of Wilmington saw a vast improvement because conflict between passenger trains and freight trains on Amtrak's North East Corridor was eliminated. Before restoration of the Shellpot Bridge, passenger trains were restricted to those times when there were no scheduled freight trains.

Satisfied with the partnership between Delaware and Norfolk Southern Corporation, Wick Moorman, Norfolk Southern's senior vice president of Corporate Planning and Services, declared "The relationship between the state of Delaware and Norfolk Southern, as evidenced by the restoration of the Shellpot Bridge, can serve as a model for public-private partnerships throughout the country."¹⁶

¹⁵ FAST, personal communication, Spring 2005.

¹⁶ Delaware Department of Transportation, "Shellpot Bridge Is Open For Business," September 2, 2004, <http://www.deldot.net/public.ejs?command=PublicNewsDisplay&id=1946&month=9&year=2004>, (5/3/05).

8.3 APPENDIX C Steps to Create a Compact

The process to create a new compact requires the following steps to be completed:

Customers: States must express need for compact. Several states must make a similar request.

Inputs: build background and compile issues of assent and dissent.

- a. Assemble a list of stakeholders.
- b. Review backgrounder for completeness similar to a business plan.
- c. Brainstorm on issues to ensure capture of all stakeholders.
- d. Publish and promote discussion of issues.

Process to Develop Compact:

- a. Convene exhaustive list of stakeholders. Get agreements from all stakeholders to work towards compact.
- b. Identify and develop rapport with true experts.
- c. Describe the basics of compact, the what, why, and where, in language that will work within existing systems.
- d. Begin to streamline issues into several points. During this process, identify key players who could develop language.
- e. Assemble a small group of key players.
- f. Define contract language for compact, including description of states' ability to opt in or out of compact.
- g. Write language of compact that is agreeable to the majority.

Output: Compact ready for introduction as resolution in each state legislature.

- a. Compact would create:
 - Option 1: Create a Commission or Authority created, or
 - Option 2: Convene a decision-making body representing all members of compact.
 - Option 3: Other.
- b. Compact results in rail improvements implemented according to unified systematic approach.

Customers have forums for dialogue.

- a. Promoters,
- b. Federal, state and local legislators,
- c. Other key players,
- d. Other stakeholders, and
- e. States and their citizens.

8.4 APPENDIX D Sample Language for Interstate Compact

___ *Compact*

A bill for an act

The contracting states solemnly agree:

**ARTICLE I
STATEMENT OF PURPOSE**

The purposes of this compact are, through joint or cooperative action:

- A) to promote development and implementation of ___;
- B) to coordinate interaction among ___state elected officials and their designees on ___;
- C) to promote development and implementation of long-range plans for ___ in the ___and among other regions of the United States;
- D) to work with the public and private sectors at the federal, state and local levels to ensure coordination among the various entities having an interest in ___and to promote ___interests regarding ___; and
- E) to support efforts of ___agencies involved in developing and implementing ___in the region.

**ARTICLE II
ESTABLISHMENT OF _____**

To further the purposes of the compact, a _____is created to carry out the duties specified in this compact.

**ARTICLE III
___MEMBERSHIP**

**ARTICLE IV
POWERS AND DUTIES OF THE ___**

Duties of ___ are:

To advocate, identify partnership, seek development and cooperation, adopt bylaws, expend funds, report to states...

The ___ is empowered:

To provide multi-state advocacy, work with elected officials/organizations, educate, work with federal agency officials/Congressional members, make recommendations to member states, if requested by member state provide oversight to, establish office and hire, contract for or provide services, assess dues in accordance with terms of this compact, conduct research, establish committees

**ARTICLE V
OFFICERS**

**ARTICLE VI
MEETINGS AND ___ ADMINISTRATION**

**ARTICLE VII
FINANCE**

Except as otherwise provided for, the monies necessary to finance the general operations of the ___ in carrying forth its duties, responsibilities and powers as stated herein shall be appropriated to the ___ by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states. Nothing in this compact shall be construed to commit a member state to participate in financing a ___ project except as provided by law of a member state.

The ___ may accept, for any of its purposes and functions, donations, gifts, grants, and appropriations of money, equipment, supplies, materials and services from the federal government, from any party state or from any department, agency, or municipality thereof, or from any institution, person, firm, or corporation. All expenses incurred by the ___ in executing the duties imposed upon it by this compact shall be paid by the ___ out of the funds available to it. The ___ shall not issue any debt instrument. The ___ shall submit to the officer designated by the laws of each party state, periodically as required by the laws of each party state, a budget of its actual past and estimated future expenditures.

ARTICLE VIII

ENACTMENT, EFFECTIVE DATE AND AMENDMENTS

The states of ___ are eligible to join this compact. Upon approval of the ___, according to its bylaws, other states may also be declared eligible to join the compact. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by any three (3) party states incorporating the provisions of this compact into the laws of such states. Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

ARTICLE IX

WITHDRAWAL, DEFAULT AND TERMINATION

Withdrawal from this compact shall be by enactment of a statute repealing the same and shall take effect one year after the effective date of such statute. A withdrawing state shall be liable for any obligations, which it may have incurred prior to the effective date of withdrawal. If any compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default as fixed by the ___, and the ___ shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default shall be remedied under the stipulations and within the time period set forth by the ___, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other ___ members. Any such defaulting state may be reinstated, upon vote of the ___, by performing all acts and obligations as stipulated by the ___.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

The provisions of this compact entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the

applicability thereof to any government, agency, person or circumstance shall not be affected hereby. If this compact entered into hereunder shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

8.5 APPENDIX E Sample Letter to Council of State Governments

July 1, 2005

Mr. John Mountjoy
National Center for Interstate Compacts
Council of State Government
2760 Research Park Drive
P.O. Box 11910
Lexington, KY 40578-1910

Dear Mr. Mountjoy:

The Governor of [state] notes that a recent study identified numerous projects, which if funded and completed, would substantially improve the movement of both passenger rail and freight rail within the five states of Virginia, Maryland, Delaware, Pennsylvania, and New Jersey. To date, there is no clear mechanism that would allow the five states to pool resources, and thereby efficiently execute rail improvement projects.

In our research for solutions, we came across your organization. We believe that establishing a compact among the five states is an avenue worth exploring. We would like retain your organization to provide guidance in setting up the compact.

We look forward to working with you.

Sincerely,

Move M. Fast,
Secretary of Transportation