American Railway Development Association

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Environmental Section Feature

Site Selection and Planning

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"The beginning is the most important part of the work." - Plato

In choosing a site to begin or expand rail development, there are any number of variables. Too often, customers and railroads become overwhelmed by them. While making a choice is necessary, and avoiding "analysis paralysis" is key, due diligence could still be the difference between a successful project that can be achieved within budget and schedule and one that never gets off the ground.

So what is "due diligence"? As you may have surmised, by "due diligence," I do not mean merely having ensured title is clear and a Phase 1 or Phase 2 environmental assessment has been completed. I mean something beyond that. Simply put, "due diligence" means doing the necessary homework to ensure that a project can be successfully brought to fruition.

This article will briefly explore some of the most important items that should be considered before a site is chosen as appropriate for rail development.

1. Does the community support the development?

Although it is not always possible to get full community support, and although there is almost always some level of opposition to rail development, if the community as a whole has no appetite for growth, your project will face an uphill battle. This is a bit of a balancing act. On the one hand, showing your cards too early could result in the price of the property you need going up significantly. On the other hand, if you have no idea if the community is open to development, you are missing key intel that is likely to drive project schedule and budget.

It is possible to talk to community leaders in general terms and gage their level of interest in having rail service in their town. Chambers of Commerce are good places to start. Many cities have economic development offices that are willing to share information about the types of projects that have been located in the community recently and how long it took for those projects to receive local permits and approvals. In addition, customers can often be a good resource for information on which towns or counties are known for their business friendly environment.

2. What are the environmental permitting rules for the state and locality? Do those offices adhere to set timelines for issuing permits?

It is astounding how different life can be just across a state line, even for permits that are federally delegated, such as 401 Water Quality Certifications. The easiest way to tell whether a state is open for business is to look at how long it takes on average for a 401 Water Quality Certification to be issued for an individual permit under the 404 program. Under Corps of Engineers regulations, it should not take

longer than 60 days, absent extraordinary circumstances that require an extension by the District Commander. If you have the option to move your project across state lines, from a state that seems unaware of regulations regarding timelines to a state that takes timelines seriously, you should consider doing so.

On an interesting note, the length of time a state or locality takes to make permit decisions has little to no impact on the quality of those decisions. There are states that have stringent rules regarding water quality or protection of local species of concern or flood control, but who can turn a project's permits quickly. One determining factor is whether the offices that are responsible for review are properly staffed. Another is whether that state has a real interest in attracting business and sets its rules to encourage timely and accurate decision-making. A third, as mentioned above, is whether the community is supportive and willing to fight for a project. We have found that often, it is unnecessary to ask those communities who really want a project to step in when a project permit is languishing in a state office. They proactively check in to see where "their" permits are!

Likewise, a county or city can be known for its ability to meet timelines for permitting needs. Even the friendliest communities, ones that are starved for development, can sometimes just not be good at moving projects forward. Their bureaucracy stymies their best intentions. If your choice is between two pieces of property, valued similarly, where one is in a community that seems both willing and able to take project timelines seriously, your project execution will be much more pleasant if you choose the one with a proven track record of making permit decisions.

I have found throughout my career that the best way to know which localities can process permits in a speedy manner is to ask those who live there. Real estate professionals or environmental consultants with ties to the communities are a great place to start.

3. What environmental hurdles are present on the property? What can you do to mitigate for impacts?

It is important to note the physical characteristics of any piece of land you are considering for rail development. Is it hilly? Is it next to a body of water? Is that body of water a sensitive waterway? What sensitive noise receptors, like homes, schools, and hospitals, are nearby? Are there wetlands? Are there ditches that may be considered waters of the United States or of the state? Will your project have an impact on historically or culturally sensitive areas that will trigger National Historic Preservation Act review?

It is unlikely you will find a perfect piece of property that has no environmental hurdles. So the next question is how willing and able you are to mitigate for your impacts. The more proactive you are in coming forward with a plan to address community concerns, the more likely you are to win over both community leaders and permitting agencies. For example, if you have sensitive noise receptors, can you design noise walls with plantings of native species around the walls? If you have wetlands, is there a wetland mitigation bank that has credits available for purchase, or can you avoid the wetlands on the property? If there is a sensitive waterway, can you show that you have planned how to protect that waterway from spills or discharges?

My best advice is never to allow an agency to talk about mitigation before you have. Bring it up first and you will be in a position to set the tone of the conversation. It is always better to be seen as willing to compromise and work with an agency than to be seen as an applicant who is being dragged kicking and screaming to mitigate for impacts.

4. What is the situation with utilities?

When I was in Engineering Services, I always told my teams that the three things that would blow my budget or my schedule would be real estate acquisition, permitting, and utility relocations. In the years

since, that opinion has not changed. Of the three, the one that is the most difficult to work around is utility relocation. Know where utilities are, know who is responsible for moving them, and know what your company's appetite is for forcing utilities to move. Most importantly, know how much it's going to cost either to fight about who will move utilities or to move them yourself.

BNSF's Proactive Efforts

At BNSF, our Economic Development team has taken this whole concept to a new level. We have partnered with communities to find those that are serious about developing large scale rail-served projects for customers. When a community has considered and met goals around all of the factors that hold up project planning, BNSF grants that site the distinction of being "site certified."

So what types of things does BNSF look for?

- Are there available utilities and public services?
- How are the roads? Can they support the development?
- Is there a good public-private partnership in place, showing the community is a committed partner in the process? Does the site have public-private collaboration and investment?
- Is the site zoned properly for industrial development?
- What permits are already in place that would allow immediate building?
- What do geotechnical reports show?
- Are there endangered species considerations that must be considered?
- Does the site have archaeological value that would make development unwise? Are there other cultural sensitivities that should be considered?

Once a site has been certified, BNSF is willing to help steer customers seeking rail-development opportunities to those sites. We have found this to be a win for all involved. The communities who really care to have rail development have a better way to reach customers who may otherwise not know about them, and the customers save 6-9 months on average on getting their facilities up and running.