

# Northwest Regional Planning Commission

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## Assessing Risk Prior to Municipal Property Acquisition

(Adapted from the PREPARED WORKBOOK: Process for Risk Evaluation, Property Analysis and Reuse Decisions, EPA 2012)

Municipalities often face the prospect of acquiring contaminated properties or taking other property recovery actions to promote economic vitality or strengthen the tax base. In cases where contamination complicates the reuse of a property, local governments can play a pivotal role in transforming these properties from liabilities to community assets. The municipal role could involve retaining the property for some long-term public use, or assuming temporary ownership in order to clear title or otherwise prepare the property for transfer to private developers. Other non-acquisition options, such as leasing, transferring tax liens, or providing incentives, might also be used to facilitate redevelopment.

There are some fundamental differences between assessing risk for municipal development projects and private development projects. Municipalities may need to perform a comparative analysis of the costs, risks, and benefits of multiple property recovery actions, where private development projects are looking solely at property acquisition. Also, unlike private development projects that can be evaluated based on just the return on investment, a municipality's project goals may also be based on more subjective considerations, such as public safety or the need to revitalize a neighborhood.

Projects involving contaminated properties inherently involve risks and like most risks, they cannot be entirely eliminated, only managed. Managing risks requires a fundamental understanding of the risks that may exist, the likelihood of those risks occurring, and the potential consequences if those risks are realized. It also involves prioritizing those risks and taking steps to contain the most significant risks within acceptable limits. What is deemed acceptable will depend on a number of factors, such as a municipality's basic goals for the contaminated property and its general sensitivity to risk. This is a determination that must be made by municipal officials based on the needs of the local community.

### What is Environmental Due Diligence?

Due diligence refers generally to the array of inquiries and activities that a prospective property owner might conduct prior to taking title to a property. Environmental due diligence specifically refers to completing Environmental Site Assessment, or an ESA. An ESA Focuses on determining whether contaminations exists on a property and, if so, what can be done to return the property to use for community benefit effective cleanup and re-development plans.

In addition, environmental due diligence is conducted to meet the requirements for all appropriate inquiries (AAI). All appropriate inquiries, as defined in federal brownfields law (CERCLA) must be conducted prior to property acquisition for a property to be eligible for certain liability protections provided under CERCLA.

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How should a municipality evaluate risks associated with a property they are interested in recovering? The EPA has developed specific steps for a municipality to follow. These steps are outlined below and described in more detail in the *PREPARED WORKBOOK: Process for Risk Evaluation, Property Analysis and Reuse Decisions*.

**Steps to follow in selecting an appropriate property recovery action (the PREPARED approach):**

1. Establish realistic and achievable project goals and key parameters for the project (e.g., budgetary constraints, timeframes). This may include conducting a preliminary reuse assessment to assess whether the property attributes and underlying economic conditions generally support those goals.
2. Screen-out property recovery actions that are not likely to achieve the project goals.
3. Conduct due diligence to obtain relevant property-specific information regarding environmental conditions, regulatory status, condition of buildings and structures, title status, and other key considerations and to qualify for certain liability protections under the federal Superfund statute.
4. Evaluate property recovery actions through an iterative approach comprised of the following components:
  - a) Identify potential redevelopment obstacles.
  - b) Assess project risks.
  - c) Assess the project’s financial viability and other financial considerations.
  - d) Identify risk management tools and approaches.
5. Identify information gaps to focus and prioritize additional information gathering efforts.
6. Select a property recovery action based on the municipality’s sensitivity to the potential risks identified through the evaluation process and on other relevant factors.

Want more information or assistance on applying this approach to assessing the risk of property recovery actions in your community? You can download the PREPARED workbook from this site: <http://www.epa.gov/region1/brownfields/prepared/>. Or you can call or email Greta Brunswick at 524-5958 or [gbrunswick@nrpcvt.com](mailto:gbrunswick@nrpcvt.com).

## The Transportation Advisory Committee Ranks Pavement Leveling Projects

VTrans is seeking input from NRPC’s Transportation Advisory Committee (TAC) on candidate pavement leveling projects for state fiscal year 2015 (July 1, 2014-June 30, 2015). This regional input is only one of many factors VTrans will consider when selected which section of state highways will be paved and there is no guarantee that there will be any pavement leveling in the region this coming field season.

At its January 9<sup>th</sup> meeting, the TAC ranked the following roadway segments.

*What is a pavement leveling project?*

A pavement leveling project is where an asphalt overlay is applied over the existing road surface in an especially rough section as a temporary stop-gap measure to provide the traveling public with an adequate surface until funding is secured for more comprehensive maintenance. Leveling typically does not address shoulder work on an existing road.

TAC Ranking	Route	Town Begin	Mile Begin (MM)	Town End	Mile End (MM)	Length (miles)	Approximate Location
1	105	Swanton	3.80	Sheldon	2.00	2.10	Section near intersection with Woods Hill Road
2	105	Swanton	0.50	Swanton	3.80	3.30	Section near rail trail crossing at Greens Corners.
3	105	Enosburgh	2.27	Berkshire	1.30	4.20	From Hannaford in Enosburgh to VT 118
4	104A	Georgia	0.20	Georgia	3.30	3.10	Most of 104A in Georgia
5	104A	Fairfax	0.00	Fairfax	1.15	1.15	From Georgia/Fairfax line to VT 104
6	105	Richford	0.00	Richford	1.55	1.55	From Berkshire/Richford line to Richford Village
7	38	St. Albans Town	0.00	St. Albans Town	3.40	3.40	From St. Albans Town/City line to the state prison

The TAC will prioritize state bridge, town highway bridge, roadway and safety projects at its February 13<sup>th</sup> meeting. Please contact Bethany Remmers with any questions or comments at 802-524-5958 or [bethany@nrpcvt.com](mailto:bethany@nrpcvt.com).

# Emergency Relief and Assistance Fund (ERAF)

ERAF provides State funding to match Federal Public Assistance after federally-declared disasters. Eligible public costs are reimbursed by federal taxpayers at 75%. For disasters after October 23, 2014, the State of Vermont will contribute an additional 7.5% toward the costs. For communities that take specific steps to reduce flood damage the State will contribute 12.5% or 17.5% of the total cost.

## What is needed?

### **12.5% - eligible communities have adopted four mitigation measures:**

1. National Flood Insurance Program (participate or have applied);
2. Town Road and Bridge Standards (annually certify adopted standards that meet or exceed the standards in the current: *2014-2016 VTrans Orange Book: Handbook for Local Officials*);
3. Local Emergency Operations Plan (Adopt annually after town meeting and submit to Shaun at NRPC before May 1);
4. Local Hazard Mitigation Plan (The Local Hazard Mitigation Plan requirement can be satisfied if the draft plan has been submitted to FEMA Region 1 for review).

### **17.5% - eligible communities also:**

5. Protect River Corridors from new encroachment; or, protect their flood hazard areas from new encroachments and participate in the FEMA Community Rating System.

After a declared disaster the damage to public infrastructure including roads and culverts may approach a million dollars. Here is how the cost of damage will be carried by federal, state, and municipal taxpayers:

	<i>7.5% ERAF Rate</i>	<i>12.5% ERAF Rate</i>	<i>17.5% ERAF Rate</i>
Federal Share	\$750,000	\$750,000	\$750,000
State Share	\$75,000	\$125,000	\$175,000
<b>Municipal Share</b>	<b>\$175,000</b>	<b>\$125,000</b>	<b>\$75,000</b>
100% of \$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000



## What does my community need to do?

Visit [tinyurl.com/eraf2014](http://tinyurl.com/eraf2014) to find out what your community has already done.

## How do we update our bylaws to protect River Corridors and participate in the National Flood Insurance Program?

Contact the [VT DEC Floodplain Manager for your region](#) and your planner at the [Regional Commission](#).

## How do we update and certify our Town Road and Bridge standards?

The current [2014 - 2016 VTrans Orange Book](#) is online. The Select Board adopts and certifies the standards. Contact [VTrans District Staff](#) or your planner at the [Regional Commission](#) for help and more information.

## How do we adopt an approved Local Hazard Mitigation Plan?

Support for your Local Hazard Mitigation Plan is available through the [Regional Commission](#) and other consulting planners.

## How do we update our Local Emergency Operations Plan?

The Local Emergency Operations Plan (LEOP) needs to be updated after Town Meeting and submitted before May 1. Contact your [Regional Commission](#) for help and more information.

## Who administers ERAF?

The Department of Emergency Management and Homeland Security (DEMHS) manages Public Assistance funds and tracks the eligibility of individual municipalities for State matching funds.

## Who can I call directly for help and more information?

Please call NRPC at (802) 524-5958 if you need any assistance.

## For more information read:

[Flood Damage Mitigation Incentives for Municipalities under the New ERAF Rule](#), A summary of ERAF from the November, 2012, VLCT News, [www.vlct.org](http://www.vlct.org)

## Northwest Regional Board of Commissioners

Alburgh Town:	Terry Tatro Vacant Seat
Alburgh Village:	Vacant Seat Vacant Seat
Bakersfield:	Dennis DeBevec Bill Irwin
Berkshire:	Claude Charron Richard Ross
Enosburg Falls:	Michael Manahan Vacant Seat
Enosburgh:	Ronald Duso Vacant Seat
Fairfax:	David Shea Colleen Steen
Fairfield:	Marilyn Savoy Jason Booth
Fletcher:	Lynn Douglas Mary Jane Featherstone
Franklin:	Yvon Dandurand Clark Hubbard
Georgia:	Jerry Baitz Kirk Waite
Grand Isle:	Edwin Gelinias David Borthwick-Leslie
Highgate:	Richard Noel Tom Racine
Isle La Motte:	Paul Hinman Sylvia Jensen
Montgomery:	Carol McGregor Vacant Seat
North Hero:	Vacant Seat Vacant Seat
Richford:	Rowena Brown Vacant Seat
Saint Albans City:	Lazarus Scangas Jeff Young
Saint Albans Town:	Bruce Cheeseman Albin Voegele
Sheldon:	Patrick Howrigan Greg Stebbins
South Hero:	Bob Buermann Michael Guernsey
Swanton Town:	Harold Garrett Ross Lavoie
Swanton Village:	Christopher Leach Neal Speer

## Staying Connected in the Northern Greens Linkage



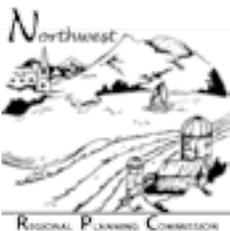
Wildlife often need to range widely to find food and mates: whether between Vermont and New York, or eastward toward New Hampshire, Maine, and Canada. In order to thrive, these (and localized species) need continuous forest cover – which is increasingly hard to find. The forested lands in your town are a key part of these regional “wildlife corridors,” which is why we need your help!

**Please join Staying Connected on Wednesday, Feb. 12, 2014 from 6:00 PM - 8:30 PM at the Enosburg Emergency Services Building (83 Sampsonville Road, Enosburg Falls, VT) to learn more about strategies your town can use to maintain and enhance landscape connections for wildlife. Local experts will be there to help brainstorm what you can do and how Staying Connected can help, and free copies of *Community Strategies for Vermont’s Forests and Wildlife: A Guide for Local Action* will be given away.**

This meeting is free; light refreshments will be provided. **For more information or to RSVP, contact Emma at 802-223-2328 or [ezavez@vnrc.org](mailto:ezavez@vnrc.org).**

The Staying Connected Initiative | [www.stayingconnectedinitiative.org](http://www.stayingconnectedinitiative.org)

*A partnership of public and private conservation organizations.*



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