



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

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URBAN CORRIDORS OFFICE

June 6, 2006

Reply to  
Attn Of: ETPA-088

Re: 06-037-FHW I-405 Tukwila to Renton

Jim Leonard  
Area Engineer  
Federal Highway Administration  
711 South Capitol Way, No 501  
Olympia, WA 98501

✓ Allison Ray  
I-405 Project Environmental Manager  
600 - 108<sup>th</sup> Ave NE, Suite 405  
Bellevue WA 98004

Dear Mr. Leonard and Ms. Ray:

The U.S. Environmental Protection Agency (EPA) has reviewed the Environmental Overview for the Tukwila to Renton Improvement Project. Thank you for the opportunity to provide comments at this stage of the environmental process.

The scoping comments that follow are provided to inform the Federal Highways Administration (FHWA) and the WA State Department of Transportation (WSDOT) of issues that EPA believes to warrant treatment during the NEPA process. In providing these comments, it is our goal to have these issues addressed in the NEPA environmental analysis.

We appreciate the opportunity to participate early in the planning process for this project and are available to discuss issues or answer questions that arise while you develop the NEPA analysis. Should you have any questions regarding our comments please contact me at (360) 407-6925 or by electronic mail at [betts.patty@epa.gov](mailto:betts.patty@epa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Patricia Betts".

Patricia Betts  
NEPA Review Unit

Attachment



**U.S. Environmental Protection Agency  
Scoping Comments for  
I-405 Tukwila to Renton Improvement Project**

**Mitigation Measure Commitments in the I-405 Tier I Corridor Program Final EIS and Record of Decision**

The Record of Decision (ROD) for the I-405 Corridor Program and final EIS identifies several mitigation measure commitments that will be implemented for specific projects within the I-405 Corridor. These ROD commitments provided the basis for FHWA and FTA to make the determination that "the project sponsor(s) will have taken all reasonable, prudent, and feasible means to avoid or minimize impacts from the Selected Alternative." The ROD also states that these commitments will be incorporated into any subsequent project-specific level NEPA environmental review, finding, and mitigation plan. EPA supported and participated in preparation of the I-405 Corridor EIS. Our concurrence for the Corridor EIS preferred alternative and mitigation plan was contingent on the list of mitigation measure commitments that were included. These measures allowed selection of the build alternative that is now being pursued at the project specific level. We believe the commitments are important and that readers should be able to understand how they are being incorporated into the project specific environmental review, finding, and mitigation plan. We recommend the Tukwila to Renton NEPA document discuss how these ROD commitments would be implemented for this project or if not expected to be implemented, explain why. If the document only provides summary information on the I-405 Corridor ROD commitments, we recommend the discipline reports provide the discussion we are requesting.

**Coordination with Resource Agencies**

The Environmental Overview states that "the I-405 Team will work with the Multi-Agency Permit Team (MAPT) to permit the Tukwila to Renton Projects." The Overview lists the permits or approvals that may be required which includes the Section 7, ESA, consultation with the United States Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries. A key strength of the MAPT concept is that all the regulatory agencies coordinate and communicate together to: 1) identify their agency's issues and possible solutions, and 2) identify and resolve possible regulatory conflicts between them. EPA recommends that USFWS and the NOAA be included in the MAPT for this project. If nothing else, this project could serve as a pilot for including the Services on the MAPT for specific projects that require ESA coordination/consultation. We believe this approach provides the opportunity for the best possible project and environmental outcomes.

**Range of Effects/Impacts**

NEPA calls for analysis of effects and impacts in a broad sense, addressing important issues that arise during scoping. Impacts from a project may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. There can be situations when adverse impacts occur even though regulations are met. For example, several air toxics are not regulated but are known to create a health risk. Therefore, it is important to consider impacts that may not be managed through existing regulations. The environmental analysis needs to evaluate and disclose the impacts from all emissions regardless of whether there is a regulation that manages those emissions. "Potential violation of Federal, State, or local law or requirements imposed for the protection of the environment" is but one of ten factors that should be considered in evaluating severity of impact (40 CFR 1508.27(b)).

## **Impacts to Air Quality**

There is heightened concern for human health from projects that result in air toxics emissions and particulate matter from mobile sources, particularly diesel exhaust. The National Air Toxics Assessment, <http://www.epa.gov/ttn/atw/nata>, asserts that a large number of human epidemiology studies show increased lung cancer associated with diesel exhaust and significant potential for non-cancer health effects. Also the Control of Emissions of Hazardous Air Pollutants from Mobile Sources Final Rule (66 FR 17230, March 29, 2001) lists 21 compounds emitted from motor vehicles that are known or suspect to cause cancer or other serious health effects.

EPA recommends that the NEPA document disclose whether vehicular air toxics emissions would result from project construction, discuss the cancer and non-cancer health effects associated with air toxics and diesel particulate matter, and identify sensitive receptor populations and individuals that are likely to be exposed to these emissions. The NEPA document should then identify and commit to appropriate mitigation for the identified impacts.

## **Impacts to Water Quality**

The project may include activities that have potential to degrade water quality. Section 303(d) of the Clean Water Act (CWA) requires the State of Washington to identify those waterbodies which are not meeting or not likely to meet State water quality standards. The NEPA document should disclose which waterbodies may be impacted by the project, the nature of the potential impacts, and the specific pollutants likely to impact those waters. It should also report those water bodies potentially affected by the project that are listed on the State's current 303(d) list and whether Washington Department of Ecology has developed a water quality restoration plan (Total Maximum Daily Load) for the waterbodies and the pollutants of concern. If a Total Maximum Daily Load (TMDL) has not been established for those water bodies on the 303(d) list, then in the interim until one is established, the NEPA document should demonstrate that there will be no net degradation of water quality to these listed waters.

## **Impacts and Mitigation for Aquatic Resources**

The NEPA document should describe the current quality and potential capacity of habitat, its use by fish and wildlife on and near the proposed project area, and identify known fish corridors, migration routes, and areas of seasonal fish and wildlife (bird, marine mammal) congregation. Aquatic habitat descriptions should include habitat type, plant and animal species, functional values, and integrity.

These resources will experience varying degrees of impacts and alteration of their hydrologic functions, and project encroachment may degrade habitat for fish, other aquatic biota, and wildlife. The NEPA document should evaluate effects on these species and populations from habitat removal and alteration, aquatic habitat fragmentation caused by infrastructure, land use, and management activities, and human activity. Effects on aquatic plant species and populations should be included. Impacts to aquatic resources should be evaluated in terms of the acreage to be impacted and by the functions they perform.

For any impacts that cannot be avoided through siting and design, the NEPA document should, at a minimum, describe the types, location, and estimated effectiveness of best management practices applied to minimize and mitigate impacts to aquatic resources.

It is possible the proposed activities will require a Clean Water Act Section 404 permit from the Army Corps of Engineers. For wetlands and other special aquatic sites, the Section 404(b)(1) guidelines establish a presumption that upland alternatives are available for non-water dependent activities. The 404(b)(1) guidelines require that impacts to aquatic resources be (1) avoided, (2) minimized, and (3) mitigated, in that sequence. The NEPA document should discuss in detail how planning efforts (and alternative selection) conform with Section 404(b)(1) guidelines sequencing and criteria. In other words, the lead agencies must show that they have avoided impacts to wetlands and other special aquatic sites to the maximum extent practicable. The NEPA document should discuss alternatives that would avoid wetlands and aquatic resource impacts from fill placement, water impoundment, construction, and other activities before proceeding to minimization/mitigation measures.

Habitat improvement goals (e.g. desired and possible aquatic habitat functions and values in the project area) should be an important aspect of alternative screening, impact assessment, and mitigation effectiveness for this already heavily impacted area.

### **Understanding and Addressing Impacts to Endangered Species**

Activities at the proposed location for the I-405 Tukwila to Renton Improvement Project may impact endangered, threatened or candidate species listed under the Endangered Species Act (ESA) and their habitats, as well as state sensitive species. The NEPA document needs to discuss the direct, indirect and cumulative impacts on all threatened and endangered species and their habitat. Of particular concern are water quality standard requirements for ESA listed salmonids that may be impacted by the proposed project such as temperature, dissolved oxygen, metals, and sediments. In addition, the EIS should describe the critical habitat for all ESA listed species, identify any impacts the proposed project will have on these species' critical habitat, and how it will meet all requirements under ESA.

### **Assessing Cumulative Impacts**

It will be important to consider other projects in the area in terms of the timing for these projects, the resources impacted, and any geographic overlap of impact areas. For example, we suspect air quality, traffic, and business operation, at a minimum might be cumulatively impacted by construction of this project and the other projects. Once important cumulative construction impacts are understood, it will also be important for the project proponents to coordinate with other projects in the area in order to mitigate those impacts

### **Include a Monitoring Program**

As discussed above, the proposed project has the potential to impact air and water quality, and habitat. Predicting the severity of these impacts and the effectiveness of mitigation measures is an imprecise science. We recommend that the project include a monitoring program designed to assess both impacts from the project and the effectiveness of measures utilized to mitigate such impacts. The EIS should describe such a monitoring program and how it will be used as an effective feedback mechanism for the proposed project.

**Effective Public Participation and Environmental Justice  
Consultation with Native American Tribes**

EPA considers public participation, environmental justice, and consultation with Native American tribes to be very important issues but does not have any specific scoping comments at this time.