

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 17)	
SR 17/SR 26 INTERCHANGE)	
VICINITY MAP MP 27.75 TO MP 28.94)	FINDINGS AND ORDER
COMBINED HEARING ON DESIGN)	(Relating to Limited Access)
LIMITED AND ACCESS)	

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 7:00 p.m. Thursday, March 5th, 1998, at the Othello High School Corridor located at 340 S. 7th Ave., Othello, WA 99344, before Edward Steinmetz, Hearing Examiner.

The interested persons and organizations were represented as follows:

MAYOR & MRS. E.R. KELLEY, by selves, 474 E. Pine Pl., Othello, WA 99344;

VALI AND WENDY LYONS, by selves, 632 Highway 17, Othello, WA 99344;

JIM AND MARY PAUL, by selves, 2826 W. Kuhn, Othello WA 99344;

CURT ANDREWS, by self, 1336 E. Oak St., Othello, WA 99344;

IVAN WHITNEY, by self, PO Box 382, Othello, WA 99344;

WASHINGTON STATE POLICE, by Trooper Greg Monroe, 101 Laguna, Moses Lake, WA 98837;

OTHELLO COMMUNITY HOSPITAL, by Jerry Lane, 315 N. 14th Ave., Othello, WA 99344;

DAVID AND PAMELA GEORGE, by selves, 9306 E. Boone Rd., Spokane, WA 99204;

DUANE VANBEEK, by self, 387 Macbeth, Othello, WA 99344;

JAY WEISE, by self, 2069 W. Highway 26, Othello, WA 99344;

FONTELLA & V. HAUS, by selves, 925 South Highway 17, Othello, WA 99344;

BRUCE REAMES, by self, 747 South Booker, Othello, WA 99344;

FIELDING & SONS, by Herman Fielding, 672 South Bellington Rd., Othello, WA 99344;

EAST COLUMBIA BASIN IRRIGATION DISTRICT, by Craig Simpson, 1334 W. Cunningham, Othello, WA 99344;

MARILYN FREI, by self, 4408 Rd. 11 SW, Royal City, WA 99357;

GREG HANOFF, by self, 854 Hummingbird Dr., Othello, WA 99344;

MARK GRIN, by self, 735 E. Larch, Othello, WA 99344;

DAVE AND BOBBI KEGLY, by selves, 863 Meadowlark Ln., Othello, WA99344;

JIM FAIX, by self, 850 South Highway 17, Othello, WA 99344;

LES CLEMONES, by self, 1333 E. Oak, Othello, WA 99344;

BUDDY & DIANE HAMPTON, by selves, 1955 W. Hwy. 26, Othello, WA 99344;

MILTON EIDAH, by self, 2262 W Shelly, Othello, WA 99344;

ROBERT SCHUTTE, by self, 830 E. Hemlock, Othello, WA 99344;

KEN GAYLOR, by self, 44 E. Main, Othello, WA 99344;

JENNIE OCHOA, by self, 595 S. 6th , Othello, WA 99344;

TRI-CITY HERALD, by Kristin Alexander, PO Box 113, Othello, WA 99344;

INLAND PACIFIC ENGINEERING, by Todd Whipple, 707 W. 7th #200, Spokane, WA 99704;

GARY BYERS, by self, 220 S. Broadway, Othello, WA 99344;

KRISTI SPOHR, by self, 420 N. 9th , Othello, WA 99344;

KEVIN SPOHR, by self, 420 N. 9th ,Othello, WA 99344;

DONNA J. VAN BEEK, by self, 387 Macbeth, Othello, WA 99344;

DWAYNE MICHEL, by self, 2516 W. Hwy. 26, Othello, WA 99344;

DEVON MICHEL, by self, 2235 McManomon Rd., Othello, WA 99344;

As a courtesy to interested citizens, the Department of Transportation furnishes a copy of the Findings and Order to all persons filing a Notice of Appearance, even though some may not properly be parties to the hearing. For administrative convenience, all persons filing a Notice of Appearance are listed above. The Department, by including a person in this listing and by furnishing a copy of the Findings and Order, does not acknowledge or necessarily recognize the recipient to be a proper party to the hearing.

The meeting was called to order under the provisions of RCW 47.52 *et seq.*, by Daniel A Sarles, Jr., North Central Region Project Development Engineer, after which witnesses were called and evidence was recorded by a Court Reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced as evidence. Based upon the oral evidence and the exhibits introduced into evidence, and acting under the authority of the Secretary of Transportation for the State of Washington the Assistant Secretary of Environment and Engineering makes the following findings:

I

A plan for the establishment of a limited access highway over State Routes 17 and 26 in Adams County, Washington, was ordered under Commission Resolution Nos. 271 and 272 respectively, and amendments thereto approved July 26, 1955.

Such a plan was prepared and entitled "SR 17, MP 27.75 TO MP 28.94, SR 26 INTERCHANGE, ADAMS COUNTY" sheets 1 through 5 of 5 sheets, approved February 6, 1998. These sheets were introduced into evidence marked Exhibit No. 9, which was made a part of the hearing record.

II

The Department of Transportation received from public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and other information required, and thereafter prepared and submitted to the appropriate officials an Access Report showing how those factors have been taken into account and covering other matters required by RCW 47.52.131, *et seq.* A copy of that report was introduced into evidence marked Exhibit No. 8.

III

On February 6th, 1998 the Deputy State Design Engineer by Order proposed said plan and set a hearing date in accordance with the provisions of RCW 47.52.131, *et seq.* The Order of Hearing was introduced into evidence marked Exhibit No. 1.

IV

Kirk D. Berg, Project Engineer, Washington State Department of Transportation issued a Notice of Hearing. On February 13th, 1998, an exact copy of this notice was mailed to the City of Othello, Adams County, various agencies and other interested parties and to each of the record owners of property listed on the County Tax Roll as depicted in the Affidavit of Service by Mailing introduced into evidence marked Exhibit No. 2. Exact copies of the notice were published in The Wenatchee World on February 2nd, 1998 and February 24th, 1998 as shown by Affidavit of Publication of Sharon Barnett, Legal Clerk of said newspaper, marked Exhibit No. 3; Ritzville Adams County Journal on February 5th, 1998 and February 26th, 1998 as shown by Affidavit of Publication of D. Ruser, Publisher and Manager of said newspaper, Exhibit No. 4; The Outlook on February 4th, 1998 and February 25th, 1998 as shown by Affidavit of Publication of Bill Edlin, Publisher of said newspaper, marked Exhibit No. 5; Columbia Basin Herald on February 2nd, 1998 and February 24th, 1998 as shown by Affidavit of Publication of Lynda Palmer, Principle Agent of said newspaper; marked Exhibit No. 6; Tri-City Herald on February 4th, 1998 and February 24th, 1998 as shown by Affidavit of Publication of Kim Bezold, Legal Clerk of said newspaper, marked Exhibit No. 7.

V

The plan proposes the establishment of a limited access facility with full access control for the SR 17/SR 26 Interchange between SR 17 Sta. 327+62.49 to SR 17 Sta. 390+54.67 and SR 26 Sta. 2314+36.06 to SR 26 Sta. 2339+77.75 as shown on sheets on sheets 1 through 5 of 5 sheets entitled "SR 17, MP 27.75 TO MP 28.94, SR 26 INTERCHANGE, ADAMS COUNTY".

VI

These sections of State Route 17 and State Route 26 are an important part of the highway system of the state of Washington and represent a substantial expenditure in construction costs. They are functionally classified as Principal Arterials and the Department of Transportation Policy provides for full access control on highways of this type. In doing so, the investment of public funds is protected by preserving the highway for efficient future use.

The efficiency of the highway as a means of moving a maximum volume of traffic in a safe manner is directly related to the number of access points. It has been demonstrated in the past that, as property owners establish approaches to the highway for their personal use or business enterprise, the safe operation of the facility is jeopardized and the road gradually becomes obsolete. Therefore, access points should be kept to a minimum consistent with allowing local traffic adequate use of the facility at properly designed interchanges and intersections.

The Right of Way and Limited Access Plans for the establishment of the limited access control facility on SR 17 and SR 26, SR 17/SR 26 Interchange, introduced into evidence marked Exhibit No.

9, will facilitate travel, reduce accident rates, preserve the public investment, and sustain the highway as a modern transportation facility.

VII

In addition to the exhibits previously mentioned, the following exhibits were entered into evidence at or subsequent to the hearing and made part of the hearing record:

- | | |
|----------------|---|
| Exhibit No. 10 | Sign in sheet containing 33 names. |
| Exhibit No. 11 | Comment sheet dated March 16 th , 1998 from David & Pamela George (Parcel 2-03078). |
| Exhibit No. 12 | Reserved Exhibit, WSDOT's response to Exhibit No. 11. |
| Exhibit No. 13 | Letter dated March 16 th , 1998 from Todd Whipple (Inland Pacific Engineering, Inc.) representing David & Pamela George. |
| Exhibit No. 14 | Reserved Exhibit, WSDOT's response to Exhibit No. 13. |
| Exhibit No. 15 | Comment sheet from Buddy Hampton (Parcel 2-03080). |
| Exhibit No. 16 | Reserved Exhibit, WSDOT's response to Exhibit No. 15. |
| Exhibit No. 17 | Letter from Mrs. Wendy Lyons. |
| Exhibit No. 18 | Reserved Exhibit, WSDOT's response to Exhibit No. 17. |
| Exhibit No. 19 | Letter dated March 15 th , 1998 from Darin and Devon Michel, (Parcel 2-03076). |
| Exhibit No. 20 | Reserved Exhibit, WSDOT's response to Exhibit No. 19. |
| Exhibit No. 21 | Letter dated March 13 th , 1998 from Dwayne Michel, President, Michel Development. |
| Exhibit No. 22 | Reserved Exhibit, WSDOT's response to Exhibit No. 21. |
| Exhibit No. 23 | Letter dated March 12 th , 1998 from Donna Michel. |
| Exhibit No. 24 | Reserved Exhibit, WSDOT's response to Exhibit No. 23. |
| Exhibit No. 25 | Comment sheet dated March 5 th , 1998 from Ms. Jennie Ochoa. |

VIII

The Assistant Secretary of Environment and Engineering has considered the following requests and made the following findings.

1. Ms. Jeannie Ochoa, on page 28 of the hearing transcript and in Exhibit No. 25 expressed concern about the paving project scheduled for the summer of 1998. This paving project begins half a mile south of the SR 17/SR 26 intersection and ends near Lind Coulee. If the overcrossing is built half a mile of new pavement would be destroyed by the new interchange project and taxpayer dollars would be wasted.

As stated by the Department of Transportation in Reserved Exhibit No. 26, the department is aware of the paving section in question. If the new interchange is not funded right away, this section of highway will need to be maintained as scheduled.

2. Mr. & Mrs. George in Exhibit No. 11, expressed concern as to why the WSDOT did not explain the justification for acquiring more right-of-way to the west of SR 17 than to the east, why there is full access control farther to the west on SR 26 than is normally required, and the acquisition of excess lands to allow for future state uses.

As stated by the Department in Reserved Exhibit No. 12, based upon a value engineering study recommendations to avoid impacts to USBR wasteway, culverts, wetland acquisition and impacts to the east, the proposed interchange was skewed to the west more than the original interchange layout. This project has been designed to minimize impacts to abutting property owners. The right of way being acquired is for this project only, not for future projects.

Full access control will be implemented on SR 26 to retain the operational and safety characteristics of the interchange. The department is required to restrict access control according to the Design Manual section 1402.02. The 20 year traffic projection requires an SR 26 eastbound right turn lane on to SR 17 southbound ramp.

The proposed county road located at Sta. 2315+90.00 Lt. will be deleted from the plan on the basis that there is insufficient spacing from the county road to the intersection.

3. Inland Pacific Engineering, Inc., representing Pamela and David George, in Exhibit No. 13 expressed several concerns relating to access of Parcel 2-03078.

As stated by the Department in Reserved Exhibit No. 14, this parcel does not have direct legal access to SR 17 or SR 26. However, it does have access through the county road (Crain Road) which is adjacent to the parcel. The department is not taking any of the existing access away from David and Pamela George.

The Department cannot provide any commercial access to a fully controlled highway. Currently, this section of SR 17 is established as partial access control and commercial approach Types D and E are not allowed within the limits of partial access control (Design Manual 1420.03). Type A residential, Type B farm; and Type C special use approaches are allowed under specific circumstances in partial access control areas. The proposed county road located at Sta. 2315+90.00 Lt. will be deleted from the plan on the basis that there is insufficient spacing from the county road to the intersection.

4. Mr. Buddy Hampton (Parcel 2-03080) expressed a request for a commercial access in Exhibit No. 15 by means of the proposed county road.

As stated in Reserved Exhibit No. 16, the proposed county road is located at Sta. 2315+90.00 Lt. on SR 26 as shown on sheet 5 of 5 sheets of the hearing plan. This road has not been constructed as of this date. The proposed county road is 0.25 miles from the intersection of SR 17 and SR 26. The minimum spacing for county road intersections within partial access control is 1 mile from crossroad to crossroad. The proposed county road will be deleted from the plan on the basis that there is insufficient spacing from the county road to the intersection A Type B approach has been added to the plan between Sta. 2314+36 and Sta. 2317+00 Lt. for Parcel No. 2-03080.

5. Mr. Val and Mrs. Wendy Lyons, whose property is located within Parcel 2-03082, expressed their concerns in Exhibit No. 17 and page 29 of the hearing transcript that the department is taking their access away.

As stated in Reserved Exhibit No. 18, Mrs. and Mr. Lyons never had a legal access to either State Route 17 or 26. When they bought their land, they acquired an easement from their property to the SR 26 highway right of way line but never acquired legal access rights to the highway. The Lyons' are currently using Mr. T. and B. Brownlow's legal access. This access is listed as a Type B approach. This Type B approach is an off and on approach in legal manner, not to exceed 50 feet in width, for use necessary to the normal operation of a farm, not for multiple ownerships.

6. Mr. Darin and Devon Michel, in Exhibit No. 19, Mr. Dwayne Michel, in Exhibit No. 21 and on page 32 of the hearing transcript, Mrs. Donna Rae Michel, in Exhibit No. 23 indicated concerns relating to their access to Parcel No. 2-03076 being severed and the relocation of improvements on the land and other related issues.

The time frame used by department for the comment/review period was according to established procedures outlined in the Design Manual (210.05).

SR 17 was established as Partially controlled limited access facility in 1955. The design standards criteria used for this project calls for a portion of SR 17 and SR 26 surrounding the interchange to be designated as Fully controlled limited access facility. A portion of Parcel 2-03076 lies within the Full access control limits. The establishment of Full access control is necessary to preserve the safety and operation of the proposed interchange.

Even under the designation of Partial access control the department cannot grant nor upgrade any Type B access to a commercial access as Mr. Darin & Devon Michel have requested. All approaches, except special use Type C approaches, are prohibited within full control limits (Design Manual 1420.02). This parcel has existing access south of the full control limits on SR 17.

Concerns about damages, fencing, right of way and access control acquisitions will be considered during right of way negotiations.

IX

The Assistant Secretary of Environment and Engineering has considered evidence on the entire portion of the above entitled highway and finds the plans should be modified as hereinafter set forth.

Plan sheets 1 through 5 of 5 sheets dated February 6, 1998 will be replaced with new plan sheets with the same title. Sheets 1 through 5 will include the following changes:

1. A Type C approach located at Sta. R1 12+19 Lt. has been added to the plan as shown on sheet 2 of 5 sheets. This plan change is recommended by the Department to provide the USBR access to the wasteway.
2. A Type C approach located at Sta. 2332+35 Rt. has been added to the plan as shown on sheet 3 of 5 sheets. This plan change is recommended by the Department to provide access for Big Bend Elect. Co-op, Inc. to service their power lines.
3. A Type B approach located at Sta. 390+40 Rt. has been added to the plan as shown on sheet 4 of 5 sheets. This plan change is recommended by the Department to provide access to Parcel No. 2-0382.
4. The grade intersection located on SR 26 at Sta. 2315+90 Lt. has been deleted from the plan and a Type B approach has been added to the plan between Sta. 2314+36 and Sta. 2317+00 Lt. as shown on sheet 5 of 5 sheets. This plan change is recommended by the Department in Reserved Exhibit No. 16.
5. Minor revisions that correct ownership and parcel details, area computations, right of way details. (See plan sheets 1 through 5 of 5 sheets).

X

The Assistant Secretary of Environment and Engineering specifically finds in the case of each abutting ownership that the adoption of the plan making said highway a limited access facility, said

plan being attached hereto and marked Exhibit "A", is required for public convenience and necessity.

Based upon the foregoing findings and evidence supporting them, the Assistant Secretary of Environment and Engineering for the Department of Transportation, State of Washington

ORDERS:

I

That the sections of State Route 17 and SR 26 in Adams County described as follows is hereby designated as a limited access highway of the fully and partially controlled type:

Between SR 17 Sta. 327+62.49 and SR 17 Sta. 390+54.67 and SR 26 Sta. 2314+36.06 and SR 26 Sta. 2339+77.75 as shown on sheets 1 through 5 of 5 sheets entitled "SR 17, MP 27.75 TO MP 28.94, SR 26 INTERCHANGE, ADAMS COUNTY".

II

That the plan set forth in Exhibit No. 9 for the establishment of access control of said highway be revised as follows, and as shown on Exhibit "A" hereto attached and by this reference made a part hereof.

Plan sheets 1 through 5 of 5 sheets dated February 6, 1998 will be replaced with new plan sheets, 1 through 5 of 5 sheets, using the same title but reflecting in Exhibit "A" the changes specified below:

1. Show that the Type C approach located at Sta. R1 12+19 Lt. has been added to the plan as shown on sheet 2 of 5 sheets.
2. Show that the Type C approach located at Sta. 2332+35 Rt. has been added to the plan as shown on sheet 3 of 5 sheets.
3. Show that the Type B approach located at Sta. 390+40 Rt. has been added to the plan as shown on sheet 4 of 5 sheets.
4. Show that the grade intersection located on SR 26 at Sta. 2315+90 Lt. sheets has been deleted and that a Type B approach between Sta. 2314+36 and Sta. 2317+00 Lt. has been added to the plan as shown on sheet 5 of 5 sheets.
5. Show minor revisions that correct ownership and parcel details, area computations, right of way details. (See plan sheets 1 through 5 of 5 sheets).

III

That the plan entitled, "SR 17, MP 27.75 TO MP 28.94, SR 26 INTERCHANGE, ADAMS COUNTY", sheets 1 through 5 of 5 sheets, as reflected in Exhibit "A", is hereby adopted.

That the following plan sheets are hereby superseded:

"SR 17, FRANKLIN COUNTY LINE TO JCT P.S.H. NO. 18, PLAN SHOWING ACCESS, ADAMS & GRANT COUNTIES", sheet 3(Pt.) of 13 sheets, approved July 12, 1955;

"SR 26, JCT. S.S.H. NO. 11-G WESTERLY, PLAN SHOWING ACCESS, ADAMS COUNTY", sheet 1(Pt.) of 1 sheet, approved June 16, 1953;

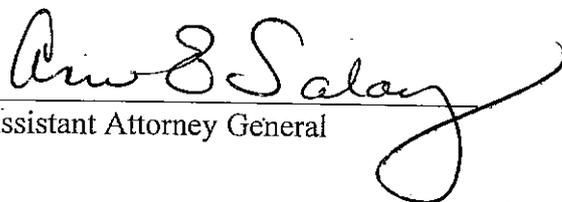
"SECONDARY STATE HIGHWAY NO. 7-C, JCT. S.S.H. NO.11-G TO KOREN, PLAN SHOWING ACCESS, ADAMS COUNTY", sheet 1(Pt.) of 3 sheets, approved July 12, 1955.

ADOPTED THIS 28th DAY OF September, 1998

ASSISTANT SECRETARY OF
ENVIRONMENT AND ENGINEERING
SERVICE CENTER



Approved as to form:



Assistant Attorney General