

**BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

IN RE: STATE ROUTE 509 )  
SR 99 TO S. 188TH ST. VIC. )  
MP 21.23 TO MP 23.38 )  
LIMITED ACCESS HEARING )

**LIMITED ACCESS  
FINDINGS AND ORDER**

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 6:30 P.M. Wednesday, June 23, 2004 at the Tye High School Auditorium, 4424 South 188<sup>th</sup> Street, SeaTac, Washington, before Administrative Law Judge (ALJ) Tam Bui.

The interested persons and organizations were represented as follows:

CECIL BAIRD, by self, 22625 Military Rd. S., SeaTac, WA, 98198;

PAT DEMARCHAIS, by self, 2405 S. 204<sup>th</sup> St. #12, SeaTac, WA, 98198;

ROBERT MOORE, by self, 20514 25<sup>th</sup> Lane S., SeaTac, WA, 98198;

ROBERT CALDWELL, by self, 23458 20512 25<sup>th</sup> Pl. S. #52, SeaTac, WA, 98198;

RONALD VONKOEHLER, by self, 20511 25<sup>th</sup> Lane S. #78, SeaTac, WA, 98198;

SHERRI ORTEGA, by self, 2424 S. 204<sup>th</sup> St. #13, SeaTac, WA, 98198;

P. JO NELSON, by self, 2405 S. 204<sup>th</sup> St. #18, SeaTac, WA, 98198;

BOYD FAIRES, by self, 2405 S. 204<sup>th</sup> St. #34, SeaTac, WA, 98198;

ROCHELLE BERMUDEZ, by self, 2405 S. 204<sup>th</sup> St. #26, SeaTac, WA, 98198;

JUDITH BAKER, by self, 2721 S. 205<sup>th</sup> #3, SeaTac, WA, 98198;

EDWIN GRAHAM, by self, 1204 S. 196<sup>th</sup> St., SeaTac, WA, 98148;

MARYJO TARBUCK, by self, 19503 13<sup>th</sup> Ave. S., SeaTac, WA, 98148;

TOM THORNTON, by self, PO Box 86, Lilliwaup, WA, 98555;

JEFF EMLER, by self, 19326 10<sup>th</sup> Court S., SeaTac, WA, 98148;

PATRICIA RENAS, by self, 4015 164<sup>th</sup> St. SW #34, Lynnwood, WA, 98037;

JUDITH HENNING, by self, 10452 194<sup>th</sup> St., Des Moines, WA, 98148;

MARIA AND JOSE VICTORINO, by selves, 20500 25<sup>th</sup> Pl. S. #49., SeaTac, WA, 98198;

SPIKE GEORGE, by self, 21853 32<sup>nd</sup> Pl. S., SeaTac, WA, 98198;

RICHARD G. WEILER, by self, 2405 S. 204<sup>th</sup> St. #22, SeaTac, WA, 98198;

JOHN RODDA, by self, 860 S. 192<sup>nd</sup> St., SeaTac, WA, 98148;

KIM HAYES, by self, 20410 25<sup>th</sup> Lane S. #89, SeaTac, WA, 98198;

ELNORA BORSETH, by self, 20425 28<sup>th</sup> Ave. S. #6, SeaTac, WA, 98198;

THOMAS HULSE, by self, 2717 S. 205<sup>th</sup> St., Seattle, WA, 98198;

CINDY LANGE, by self, 2424 S. 204<sup>th</sup> St. #43, SeaTac, WA, 98198;

JOE COLUCCIO, by self, 9600 ML King Way S., SeaTac, WA, 98118;

RANDALL MCLANE, by self, 2424 S. 204<sup>th</sup> St. #53, SeaTac, WA, 98198;

TERRY L. HANSON, by self, 2424 S. 204<sup>th</sup> St. #39, SeaTac, WA, 98198;

HERTZ REALTY CORPORATION, by ALEC PELBLE, 18625 Des Moines Memorial Dr., SeaTac, WA, 98148;

MERLE STEFFENSON, by self, 19330 10<sup>th</sup> Court S., SeaTac, WA, 98148;

AMB PARTNERS II, L.P., by Jill Blechschmidt, Pier 1, Bay 1, San Francisco, WA, 94111;

AMB-IAC, by MICHAEL DANIELS, 11099 S. La Cienega Blvd. #150, Los Angeles, WA, 90045;

TOM BARNES, by self, 16025 10<sup>th</sup> Ave. SW, Burien, WA, 98166;

MA ELIA CONTRERAS, by self, 2702 S. 205<sup>th</sup> Pl., SeaTac, WA, 98198;

CELESTE HIGGINS, by self, 2731 S. 205<sup>th</sup> Pl., SeaTac, WA, 98198;

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 who provided comments or filed 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.

Susan Everett called the meeting to order under the provisions of Chapter 47.52 RCW et seq., the SR 509 Project Manager for the Washington State Department of Transportation. Hearing guidelines and legal requirements were provided by ALJ Tam Bui, after which witnesses were called. Evidence was

taken by a Court Reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were duly introduced and admitted into evidence. Additional exhibits were added as necessary to respond to comments received subsequent to the hearing. 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 Director, Environmental and Engineering Programs makes the following findings:

## I

On July 23, 1953, Commission Resolution No. 95, designated SR 509 in King County, Washington, as a limited access highway on the Master Plan for the establishment of Limited Access Highways. On December 1, 1969, the State Highway Commission approved a Right of Way and Limited Access plan entitled "SR 509, SR 516 TO DES MOINES WAY SOUTH, MP 19.43 TO MP 23.87" was approved. In 2004, a new plan was prepared, superseding the above noted plans, entitled: "SR 509, SR 99 TO S. 188TH ST. VIC., KING COUNTY," Access Hearing Plan (MP 21.23 to MP 23.38) between STA. NBCD 775+82.10 P.O.T. and STA. 889+00 P.O.T. as shown on sheets 1 through 16 of 16 sheets, dated June 3, 2004. These plan sheets were admitted into evidence, marked as Exhibit No. 5, and made 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, the Department prepared and submitted to the appropriate officials an Access Report, showing how those factors have been taken into account as required by chapter 47.52 RCW. A copy of the April 22, 2004 Access Report, SR 509/I-5 Freight and Congestion Relief, SR 509-SR 99 to South 176<sup>th</sup> Street, ACCESS REPORT, SR 509 MP 21.19 to MP 23.94 was admitted into evidence, marked as Exhibit No. 4.

## III

On June 4, 2004, the State Design Engineer by Order proposed said plan and set a hearing date for June 23, 2004 in accordance with the provisions of chapter 47.52 RCW. The Order of Hearing was admitted into evidence, marked as Exhibit No. 1.

## IV

A Notice of Limited Access Hearing was mailed on June 8, 2004 to interested parties and to each property owner of record, as evidenced by the Affidavit of Service by Mailing signed by Jaime Smith, with attached list of abutting property owners, also included in the mailing were: a Notice of

Appearance form; Notice of Limited Access Hearing; Department cover letter and Access Hearing Plans entitled: "SR 509, SR 99 TO S. 188TH ST. VIC., KING COUNTY," sheets 1 through 16 of 16 sheets. The mailing packet, consisting of the above noted documents, was admitted into evidence, marked as Exhibit No. 2.

On June 7, 2004 an exact copy of the Notice of Limited Access Hearing was published in The Seattle Times and Seattle Post-Intelligencer, as shown by the Affidavit of Publication with printed ad copy attached, signed by Daniel S. O'Neal, Authorized Agent of Seattle Times Company, publisher of The Seattle Times and representing the Seattle Post-Intelligencer. The affidavit was admitted into evidence marked as Exhibit No. 3.

## V

The highway plan proposes the establishment of a limited access facility with Full, Partial, and Modified access control for State Route 509, between STA. NBCD 775+82.10 P.O.T. and STA. 889+00 P.O.T. as shown on "SR 509, SR 99 TO S. 188TH ST. VIC., KING COUNTY," sheets 1 through 16 of 16 sheets. This plan was admitted into evidence, marked as Exhibit No. 5.

## VI

This section of State Route 509 is an important unfinished part of the highway system for the State of Washington and represents a substantial expenditure in construction costs. State Route 509 is functionally classified as a multi-lane, divided Urban Principal Arterial and is a part of the National Highway System. The Department of Transportation policy provides for access control on highways of this type. The proposed access control within the project limits on SR 509 will be established as full, partial and modified access control as shown on the highway plans entered into evidence as Exhibit No. 5. In doing so, traffic congestion is reduced, traffic safety is increased, and preserving the highway for efficient future use protects the investment of public funds.

The efficiency of the highway as a means of moving a maximum volume of traffic in an optimal and 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 state highway for their personal use or business use, the optimum operation of the facility 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 intersections.

It is the declared policy of this state to limit access to the highway facilities of this state in the interest of highway safety and for the preservation of the investment of the public in such facilities.

## VII

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

- Exhibit No. 6 Printed copies of the slides, dated June 23, 2004, used during the SR 509, SR 99 to S. 188TH St. Vic., MP 21.23 to MP 23.38, Limited Access Hearing.
- Exhibit No. 7 E-mail, dated June 29, 2004 from Mustaq Pirani, representing Piramco, Inc.
- Exhibit No. 8 Department's response to Exhibit No. 7.
- Exhibit No. 9 E-mail, dated July 13, 2004 from Dale Schroeder, representing the City of SeaTac.
- Exhibit No. 10 Department's response to Exhibit No. 9.

## VIII

The Director, Environmental and Engineering Programs, has considered the following comments and responds as follows:

1. Mr. Gary Ohrt, managing partner representing Norpatsu Company, Parcel No. 1-16815, on pages 37 through 40 of the access hearing transcript expressed concerns regarding potential damages due to acquisition of the neighboring property, Parcel No. 1-16833 owned by Calwest Industrial Properties, LLC. He also expressed frustration over the uncertainty related to the timing of funding for acquisition, and in changing messages over time from the Department related to funding and impacts.

Mr. Ohrt described an easement with the neighboring Calwest parcel, which the Department has verified, related to the business function of the Norpatsu parcel. This easement is necessary so that trucks, up to 72 feet in length, can maneuver to access the warehouse loading areas within the Norpatsu parcel. Without this easement, the trucks would not be able to access the parcel to load and unload. Given the significant impact to the neighboring Calwest parcel, particularly in the vicinity of the southern truck loading area, which Norpatsu rents out, Mr. Ohrt's concern was that there is a potential that the damages will not allow for the current use, and he will not be able to find new tenants. Mr. Ohrt stated that he is currently constructing a new building for relocating Norpatsu's interests, based on previous discussions with the Department regarding the potential timing of acquisition.

While Mr. Ohrt's comments primarily relate to damages to be determined during the appraisal and negotiation process, the timing of which is uncertain due to the necessity of additional funding, the concerns are valid. Over time the Department has been able to reduce the potential impacts to the Norpatsu property through design improvements. Unfortunately, the impacts to the southern

portion of the Calwest parcel, adjacent to the southern Norpatsu building, have been unavoidable to date. Given future final design decisions related to Port of Seattle proposals for SR 509 connection to the southern airport access road, as well as the potential ability to make use of remainder portions of the adjacent Calwest parcel, indicates there is potential for further adjustment to the right of way at this specific location prior to construction.

The Department of Transportation project staff has always been committed to providing honest and up-front information to affected property owners, related to both the preliminary design as well as potential funding timelines. The information provided in these situations, especially without full funding, has always been described as preliminary and subject to change. The Department is committed to continuing communication with Mr. Ohrt and the Norpatsu Company related to the receipt of additional funding, right of way acquisition timing, and any further design revisions that could affect their parcel.

2. Mr. Mustaq Pirani, representing Piramco, Inc., in an e-mail submitted to Susan Everett on June 29, 2004, advocated the Department pursue his property acquisition in the first phase of the project.

The Department, in Exhibit No. 8, stated that through discussions to date, Piramco, Inc. has yet to provide Department staff with development plans for assessment, as has been requested. In addition, through inquiries to the City of SeaTac, there has been no evidence provided of permit submittals related to the proposed development. Without this information, it is impossible for the Department staff to assess the risk related to potential imminent development and increased acquisition costs. Department staff will continue to communicate with Piramco, Inc. and Mr. Pirani regarding their future development plans. As information is provided, any changes to risk related to development will be assessed against the current first phase of priority acquisitions.

3. Mr. Dale Schroeder, Public Works Director the City of SeaTac, in an e-mail submitted to John White on July 15, 2004, regarding the King County Road Standards requirement for a cul-de-sac at the proposed termination of South 204<sup>th</sup> Street, and the proposed cul-de-sac at the South 194<sup>th</sup> Street termination.

The Department, in Exhibit No. 10, stated that based on Mr. Schroeder's comments, design revisions were incorporated at both South 204<sup>th</sup> Street and South 194<sup>th</sup> Street.

At South 204<sup>th</sup> Street a cul-de-sac per City standards was added to the plan resulting in a slight increase to the right of way impact at Parcel No. 1-16910 owned by Echo Four, LLC. The partial acquisition impact designated at the June 23, 2004 access hearing remains the same.

At South 194<sup>th</sup> Street, design considerations related to the 17% grade of the existing street approach to the cul-de-sac, in combination with the allowable 6% cross-slope within the cul-de-sac itself, has resulted in design revisions that increase the right of way impact to Parcel No. 1-16878, that may result in a full acquisition.

## IX

The Director, Environmental and Engineering Programs, has considered the evidence on the entire portion of the above entitled highway and finds the plans admitted into evidence, marked Exhibit No. 5, should be modified as hereinafter set forth:

Plan sheets 1 through 16 of 16 sheets entitled "SR 509, SR 99 TO S. 188TH ST. VIC, KING COUNTY," dated June 3, 2004 will be replaced with a new plan with the same titled, sheets 1 through 16 of 16 sheets. Sheets 1 through 16 of 16 sheets will include the following changes:

1. Plan sheets 2 and 3 of 16 sheets have been revised to add a cul-de-sac at the end of S. 204<sup>th</sup> St. to accommodate fire trucks as requested by Mr. Dale Schroeder, in Exhibit No. 9 and recommended by the Department in Exhibit N. 10.
2. Plan sheet 12 of 16 sheets has been revised to add a cul-de-sac at the end of S. 194<sup>th</sup> St. as requested by Mr. Dale Schroeder, in Exhibit No. 9 and recommended by the Department in Exhibit No. 10.
3. Minor plan revision, to correct ownerships and parcel details, area computations and minor right of way details are shown on plan sheets 1 through 16 of 16 sheets.

## XI

The Director, Environmental and Engineering Programs, 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, with the revisions as listed herein, is required for public convenience and necessity.

Based upon the foregoing findings and the evidence supporting them, the Director, Environmental and Engineering Programs, for the Department of Transportation, State of Washington,

ORDERS:

I

That the section of State Route 509 in King County, Washington is hereby designated as a limited access highway with Full, Partial and Modified control:

Between STA. NBCD 775+82.10 P.O.T. and STA. 889+00 P.O.T. as shown on sheets 1 through 16 of 16 sheets of the Right of Way and Limited Access Plan entitled "SR 509, SR 99 TO S. 188TH ST. VIC., KING COUNTY."

II

That the plans set forth in Exhibit No. 5 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.

1. Show that plan sheets 2 and 3 of 16 sheets have been revised to add a cul-de-sac at the end of S. 204<sup>th</sup> St. to accommodate fire.
2. Show that plan sheet 12 of 16 sheets has been revised to add a cul-de-sac at the end of S. 194<sup>th</sup> St.
3. Show minor revisions that correct ownerships and parcel details, area computations and minor right of way details. (See sheets 1 through 16 of 16 sheets).

III

That the plan entitled, "SR 509, SR 99 TO S. 188TH ST. VIC., KING COUNTY," sheets 1 through 16 of 16 sheets, as reflected in Exhibit "A," is hereby adopted.

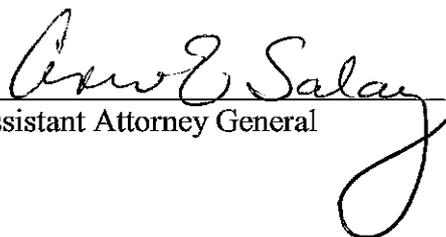
ADOPTED THIS 22<sup>nd</sup> DAY OF November, 2004

DIRECTOR,  
ENVIRONMENTAL AND ENGINEERING PROGRAMS



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Approved as to form:



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Assistant Attorney General