

**BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

IN RE: STATE ROUTE (SR) 5 )  
MELLEN ST. TO BLAKESLEE JUNCTION )  
MP 79.81 TO MP 84.15 )  
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. on Tuesday, May 25, 2010 at the Washington State Department of transportation's Chehalis Office, 1411 Rush Road, Chehalis, Washington, before Administrative Law Judge (ALJ) Todd Gay.

The interested persons and organizations were represented as follows:

THE CHRONICLE, 321 North Pearl St, Centralia, WA 98531-4323;

REPRESENTATIVE BRIAN BAIRD, 750 Anderson St, Suite B, Vancouver, WA 98661;

SENATOR PATTY MURPHY, 173 Russell Senate Office Building, Washington D.C. 20510;

SENATOR DAN SWECKER, 103 Irv Newhouse Building, PO Box 40420, Olympia, WA 98504-0420;

REPRESENTATIVE RICHARD DEBOLT, 335 C Legislative Building, PO Box 40600, Olympia, WA 98504-0600;

REPRESENTATIVE GARY ALEXANDER, 407 John L O'Brien Building, PO Box 40600, Olympia, WA 98504-0600;

WASHINGTON STATE TRANSPORTATION COMMISSION, PO Box 47308, Olympia, WA 98504-7308;

YAMILEE VOLCY, FEDERAL HIGHWAY ADMINISTRATION, 711 South Capitol Way, Suite 501, Olympia, WA 98501;

RON AVERILL, LEWIS COUNTY COMMISSIONER, 351 NW North St, Chehalis, WA 98532;

MERLIN MACREYNOLD, CITY OF CHEHALIS – CITY MANAGER, City Hall, 350 N Market St, Chehalis, WA 98532;

SHANNON MURPHY-OLSON, CITY OF CENTRALIA – ACTING CITY MANAGER, PO Box 609, Centralia, WA 98531;

ROSEMARY SIIPOLA, CWCOG, Administrative Annex, 207 4<sup>th</sup> Ave North, Kelso, WA 98626;

JAN STEMKOSKI, CITY OF CENTRALIA – CITY ENGINEER, 1100 N Tower Ave, Centralia, WA 98531;

ROD LAKEY, LEWIS COUNTY – ACTING COUNTY ENGINEER, 2025 NE Kresky Ave, Centralia, WA 98532;

TROY REICHERT, 916 Harrison Ave, Centralia, WA 98531;

933 HARRISON AVENUE CENTRALIA LLC, 15005 NW Cornell Rd, Beaverton, OR 97006;

RAMOS PROPERTIES LLC, PO Box 48237, Seattle, WA 98148;

JASON SOPER, PO Box 66096, Seattle, WA 98166;

RSSK INC, PO Box 1332, North Bend, WA 98045;

AJF LLC, Attn: Bob Cahill, 15007 Woodinville-Redmond Rd, Suite B, Woodinville, WA 98072;

CITY OF CENTRALIA, PO Box 609, Centralia, WA 98531;

KING SOLOMON'S MINE AND TOP SEACREST LLC, 2333 Carillon Point, Kirkland, WA 98033;

S & G SINGH, 1232 Mellen Street, Centralia, WA 98531;

HORNER FAMILY LIMITED PARTNERSHIP, 1015 Johnson Rd, Centralia, WA 98531;

BARRY AND GAIL PANUSH, PO Box 54, Curtis, WA 98538;

TIMOTHY K. & DERRICK TAYLOR, 1233 Alder Street, Centralia, WA 98531;

WILLIAM RAPLH, 1000 Kresky Ave, Centralia, WA 98531;

WARREN DEVELOPMENTS INC, PO Box 995, Chehalis, WA 98532; and

MIDWAY MEATS INC, 8508 Prather Road, Centralia, WA 98531.

As a courtesy to interested citizens, the Department of Transportation, hereinafter "the Department," or alternatively, "WSDOT," furnishes a copy of these 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, the daily newspaper publication that provided the Affidavit of Publication, local elected officials that received notification of the Access Hearing, all persons who provided written or verbal comments, filed a Notice of Appearance, or are listed on the Affidavit of Service by Mailing for the Access Hearing as abutting property owners, 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.

Kevin Miller, Area Engineer for the Southwest Region Design Office, called the meeting to order under the provisions of chapter 47.52 RCW. Hearing guidelines and legal requirements were provided by ALJ Todd Gay, after which witnesses were called. Evidence was taken by a Court Reporter who, thereafter, transcribed the verbal testimony. Certain exhibits were added as necessary to respond to comments received at or subsequent to the Hearing. Based upon the oral evidence, the exhibits introduced into evidence, and the additional exhibits entered into the record subsequent to the hearing, and acting under authority of the Secretary of Transportation for the State of Washington, the Assistant Secretary of Engineering and Regional Operations makes the following findings:

#### 1. PROCEDURAL FINDINGS

On July 23, 1953, Washington State Highway Commission Resolution No. 95 designated SR 5 in Lewis County, Washington, as limited access highway on the Master Plan for the establishment of limited access highways. On January 19, 1970, the Washington State Highway Commission by Findings and Order approved a Right of Way and Limited Access Plan entitled: "SR 5, MP 69.65 TO MP 85.51, KOONTZ ROAD TO THURSTON CO. LINE, LEWIS COUNTY."

In 2010, a new plan was prepared, superseding sheets 30 through 35 of 38 sheets of the above noted SR 5 plan, entitled: "SR 5, MELLEN ST. TO BLAKESLEE JUNCTION, LEWIS COUNTY," Access Hearing Plan, Full, Partial and Modified Control, as shown on sheets 1 through 19 of 19 sheets, dated April 29, 2010. This plan was admitted into evidence, marked as Exhibit No. 5, and made part of the hearing record.

This plan is the subject of this Limited Access Findings and Order.

As part of the preparation of the above-described Access Hearing Plan, the Department solicited and received from public agencies concerned with the proposed plan their available data on planning, land use, local traffic, and other information. Thereafter, the Department prepared and submitted to the appropriate officials an Access Report entitled, "ACCESS REPORT, I-5, MELLEN STREET TO BLAKESLEE JUNCTION – ADD LANES, INTERCHANGE IMPROVEMENTS, APRIL 2010." This report shows that such data has been taken into account

by the Department as required by chapter 47.52 RCW. A copy of the Access Report was admitted into evidence, marked Exhibit No. 4, and made part of the hearing record.

## 2. NOTICE OF HEARING

On April 28, 2010, the State Design Engineer by Order proposed said Access Hearing Plan and set a hearing date for May 25, 2010, in accordance with the provisions of chapter 47.52 RCW. The Order of Hearing was admitted into evidence, marked as Exhibit No. 1, and made part of the hearing record.

As part of the notice of Access Hearing, the Department prepared and mailed copies of relevant Access Hearing materials, including (1) an introductory cover letter, (2) a blank Notice of Appearance form, (3) a Notice of Limited Access Control Hearing, and (4) the proposed Access Hearing Plan. These Access Hearing materials were mailed May 10, 2010, to a list of interested parties and abutting property owners of record, as evidence by the Affidavit of Service by mailing signed by Christina M. Zumwalt and notarized by Kathleen A. Hortin. The list of the recipients of the mailing is attached as Exhibit A to the Affidavit of Service. The signed Affidavit of Service by Mailing; Exhibit A, and the Access Hearing materials were admitted into evidence, marked as Exhibit No. 2, and made part of the hearing record.

On May 8, 2010 and May 15, 2010, an exact copy of the "Notice of Limited Access Control Hearing" was published in The Chronicle, as shown by the Affidavit of Publication with printed ad copy attached, signed by Andrea Ozterich, Legal Clerk of The Chronicle. The Affidavit of Publication was admitted as evidence, marked as Exhibit No. 3, and made part of the hearing record.

## 3. PRESERVATION OF THE PUBLIC INVESTMENT

This section of State Route 5 (SR 5) is an important and unfinished part of the State of Washington's highway system, representing a substantial expenditure of public funds to facilitate public travel. State Route 5 is functionally classified as an Interstate facility and is part of the National Highway System. The Department of Transportation has established State Route 5 as a Limited Access highway with Full Access Control. This most restrictive level of limited access provides access, using interchanges, for selected public roads/streets only, and prohibits at grade highway intersections. The proposed access control within the project limits on SR 5 will be to revise established Full Control and propose new sections of Partial and Modified Control as shown on the proposed Access Hearing Plan entered into evidence, marked as Exhibit No. 5. In limiting access as shown on the proposed Access Hearing Plans, traffic congestion is reduced, traffic safety is increased, and the highway is preserved for efficient future use, protecting 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 determined in the past that as property owners establish approaches to a highway for their personal use or business use, the optimum operation of the facility gradually diminishes and becomes obsolete. Therefore

access points should be kept to a minimum consistent with allowing local traffic adequate use of the highway and interchange area at properly designed intersections in order to preserve the highway's efficiency and safety.

#### 4. EXHIBITS

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

- Exhibit No. 1        Order of Hearing, dated April 28, 2010.
- Exhibit No. 2        Affidavit of Service by Mailing, dated May 10, 2010.
- Exhibit No. 3        Affidavit of Publication, dated May 15, 2010.
- Exhibit No. 4        Access Report, I-5, Mellen Street to Blakeslee Junction-  
Add Lanes, Interchange Improvements, dated April 2010.
- Exhibit No. 5        Proposed Access hearing Plan entitled "SR 5, Mellen St. to Blakeslee  
Junction, Lewis County, Access Hearing Plan, Full and Modified  
Control," as shown on sheets 1 through 19 of 19 sheets, approved and  
adopted April 29, 2010.
- Exhibit No. 6        Red and green plan revisions to sheets 17 and 19 of 19 sheets, entitled "SR  
5, Mellen St. to Blakeslee Junction, Lewis County, Access Hearing Plan,  
Full and Modified Control."
- Exhibit No. 7        Printed copies of the slides used during the access hearing.
- Exhibit No. 8        Notice of Appearance forms from Horner Family Limited Partnership,  
represented by Scott Horner, and RSKK Inc., represented by Ranjeet Heer.
- Exhibit No. 9        Letter dated June 7, 2010 from Ranjeet Heer, President of RSKK, Inc.
- Exhibit No. 10      Letter dated June 23, 2010 from WSDOT in response to Exhibit 9, June 7,  
2010 letter from Ranjeet Heer, President of RSKK, Inc.

## 5. SPECIFIC ACCESS RESPONSES

1. Mr. Larry Robertson, Parcel Nos. 4-08086 and 4-08105, in oral testimony on pages 29-31 of the Access hearing Transcript, representing Willard Warren and Warren Developments, states issues that need to be addressed as noted below. Following Mr. Robertson's statements are the Department's responses:

A) *"We know there will not be access allowed to the large parcel to the south. So we're wondering is there access to the three northerly parcels which are listed under WR Warren and wasn't shown on your slide?"*

This comment is in reference to Parcel Nos. 4-08086 (Warren Developments) and 4-08105 (Willard Warren). WSDOT is only proposing Full Control Limited Access to the southernmost parcel (Parcel No. 4-08086). This means that the Parcel No. 4-08086 will no longer have access to A Line (raised and realigned Airport Road). Therefore, the northerly three properties (Parcel No. 4-08105) will still have access to AW Line (old Airport Road). However, the accesses to these parcels will be slightly modified to tie in with the raising of old Airport Road.

B) *"What was the red line that seemed to dissect and basically go up to the entrance of the bridge? On my package here there is a line, so we will have to get together and talk about that after the presentation."*

This comment is in reference to parcel No. 4-08105 (Willard Warren). The lines Mr. Robertson referred to are lines for partial acquisition of the property that is needed to reconstruct Mellen Street and Airport Road. Once the roadways are reconstructed these partial acquisitions will then be relinquished to the City of Centralia.

2. Mr. Barry Panush, Parcel No. 4-08081, in oral testimony on pages 31-33 of the Access Hearing Transcript, states his concern as noted below. Following Mr. Panush's statement is the Department's response.

*"You've eliminated over half of my access to my business. We've discussed possible property additions to what I have for possible turn-around areas. There is no way anybody in this room can take a 25-foot trailer behind a pickup, pull into the lot, get fuel, and get back out. I don't care about the modules or whatever, 80 year old people don't drive well with trailers. So I've lost over half of my access and I see nothing saying I'm going to be getting more land or any way to get people out of there. We've talked about it but there's nothing on paper, so I need to have it on record that as you presented it tonight, I have no way to get people out of my lot, to get in and out, and you'll create traffic hazards with trailers parked in the street."*

The Access Hearing Plan represents the first step of the right-of-way plan development process. The plan shows the full control limited access establishment on Ellsbury Street, which eliminates Mr. Panush's accesses to said street. WSDOT has examined access control impacts and mitigation options and will be compensating the property owner for damages to the property

caused by the project which will include intra-parcel circulation issues. Additionally, this parcel will be provided a Type D, commercial approach at Station B 11+44.87.

3. Mr. Scott Horner, Parcel No. 4-08079, in oral testimony on page 33 of the Access Hearing Transcript, states his concern as noted below. Following Mr. Horner's statement is the Department's response.

*"Somehow I didn't communicate in the earlier stages, there is another exit on the west side of the property for all the people in the drive-thru lane to come out there, and we've got an easement that clips the southwest corner of the gas station property. So that is an exit that we need to recognize as apparently being blocked off."*

WSDOT recognizes that there is an ingress/egress easement for Parcel No. 4-08079 (Horner Family Limited Partnership) on the southwest corner of Parcel No. 4-08078 (S&G Singh Inc.). This access will be eliminated with the implementation of Full Control Limited Access along the east side of existing Ellsbury Street. This parcel will be provided a Type D, commercial approach at station B 12+05.91.

4. The Department received written testimony from Mr. Ranjeet Heer, President of RSKK Inc., Exhibit No. 9, Parcel 4-08084, which was not related to limited access. WSDOT responded to this comment by letter dated June 23, 2010, Exhibit No. 10.

#### 7. PROPOSED LIMITED ACCESS PLAN MODIFICATIONS

The Assistant Secretary of Engineering and Regional Operations has considered the evidence on the entire portion of the "SR 5, MELLEN ST. TO BLAKESLEE JUNCTION" plan and finds that the plan as admitted into evidence, marked Exhibit No. 5, should be modified as hereinafter set forth:

1. Plan sheet 6 of 19 sheets has been revised to add a WSDOT access at station L 1779+61 (179.16' RT) and L 1782+43 (152.50' RT) for highway maintenance easement on Parcel No. 4-08084 (RSKK Inc).
2. Plan sheet 7 of 19 sheets has been revised to add an area for relinquishment to the City of Centralia; Temporary Construction Easements on Parcel Nos. 4-08078 (S&G Singh Inc.) and 4-08070 (King Solomon's Mine LLC); and a WSDOT access at station L 1794+92 (140.73' LT) for highway maintenance easement.
3. Revise plan sheet 12 of 19 sheets to make minor revision to maintenance easement on Parcel No. 4-08102 (King Oscar Hotel) and add a WSDOT access at station L 1854+90 (240.50' RT) and L 1856+48 (188.14' RT) for highway wall maintenance easement.

4. Plan sheet 14 of 19 sheets has been revised to add a WSDOT access at station L 1885+37 (211.82' LT) for highway maintenance easement on Parcel No. 4-07910 (Puget Sound & Pacific Railroad).
5. Plan sheet 17 of 19 sheets has been revised to make minor revision to right-of-way needed from Parcel No. 4-08079 (Horner Family Limited Partnership), as well as adding Temporary Construction Easements to Parcel Nos. 4-08078 (S&G Singh Inc), 4-08070 (King Solomon's Mine LLC), and 4-08071 (Birdwell Enterprises). This sheet was also revised to remove the Type D approach at station M 20+94.53 (18'LT) from the approach schedule because it is outside the limited access area.
6. Revise plan sheet 18 of 19 sheets to show new area for relinquishment to the City of Centralia.
7. Plan sheet 19 of 19 sheets has been revised to add Temporary Construction Easements on Parcel Nos. 4-08063 (933 Harrison Avenue Centralia LLC); 4-08064 (Ramos Properties LLC); 4-08061 (Kamal's Investments LLC); and 4-08062 (BP West Coast Products LLC). Plan sheet 19 is also revised to show a change in right-of-way needed from Parcel No. 4-08060 (Mallard Investments LLC) and to add a note to show that the Type D-2 approaches to Parcel Nos. 4-08063 (933 Harrison Avenue Centralia LLC) and 4-08064 (Ramos Properties LLC) will be changed to right-in only access

#### 7. ORDER

The assistant Secretary of Engineering and Regional Operations Specifically finds in the case of each abutting ownership that the adoption of the plans making said highway a limited access facility, said plans being hereto attached and marked Exhibit A, with the revisions as listed herein, are required for public convenience and necessity.

Based upon the foregoing findings and the evidence supporting them, the Assistant Secretary of Engineering and Regional Operations for the Department of Transportation of the state of Washington,

#### ORDERS:

##### A.

That the section of State Route 5 in Lewis County, Washington is hereby designated as a limited access highway with Full, Partial and Modified Control types:

Between STA. L 1739+00 P.O.T. to STA L 1899+76.12 P.O.T. as shown on sheets 1 through 19 of 19 sheets of the Access Hearing Plan entitled "SR 5, MELLEEN ST. TO BLAKESLEE JUNCTION, LEWIS COUNTY."

B.

That the plan set forth in Exhibit No. 5 for the modification of access control on SR 5 be revised as follows with the changes set forth in Exhibit A hereto attached and by this reference made a part hereof:

1. Plan sheet 6 of 19 sheets has been revised to add a WSDOT access at station L 1779+61 (179.16' RT) and L 1782+43 (152.50' RT) for highway maintenance easement on Parcel No. 4-08084 (RSKK Inc).
2. Plan sheet 7 of 19 sheets has been revised to add an area for relinquishment to the City of Centralia; Temporary Construction Easements on Parcel Nos. 4-08078 (S&G Singh Inc.) and 4-08070 (King Solomon's Mine LLC); and a WSDOT access at station L 1794+92 (140.73' LT) for highway maintenance easement.
3. Revise plan sheet 12 of 19 sheets to make minor revision to maintenance easement on Parcel No. 4-08102 (King Oscar Hotel) and add a WSDOT access at station L 1854+90 (240.50' RT) and L 1856+48 (188.14' RT) for highway wall maintenance easement.
4. Plan sheet 14 of 19 sheets has been revised to add a WSDOT access at station L 1885+37 (211.82' LT) for highway maintenance easement on Parcel No. 4-07910 (Puget Sound & Pacific Railroad).
5. Plan sheet 17 of 19 sheets has been revised to make minor revision to right-of-way needed from Parcel No. 4-08079 (Horner Family Limited Partnership), as well as adding Temporary Construction Easements to Parcel Nos. 4-08078 (S&G Singh Inc), 4-08070 (King Solomon's Mine LLC), and 4-08071 (Birdwell Enterprises). This sheet was also revised to remove the Type D approach at station M 20+94.53 (18' LT) from the approach schedule because it is outside the limited access area.
6. Revise plan sheet 18 of 19 sheets to show new area for relinquishment to the City of Centralia.
7. Plan sheet 19 of 19 sheets has been revised to add Temporary Construction Easements on Parcel Nos. 4-08063 (933 Harrison Avenue Centralia LLC), 4-08064 (Ramos Properties LLC), 4-08061 (Kamal's Investments LLC), and 4-08062 (BP West Coast Products LLC). Plan sheet 19 is also revised to show a change in right-of-way needed from Parcel No. 4-08060 (Mallard Investments LLC) and add a note to show that the Type D-2 approach to Parcel Nos. 4-08063 (933 Harrison Avenue Centralia LLC) and 4-08064 (Ramos Properties LLC) will be changed to right-in only access.

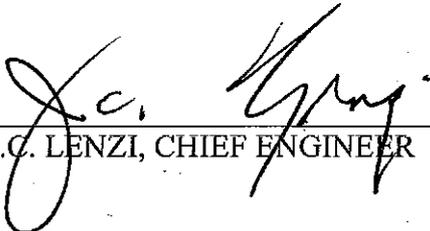
C.

That the plan entitled "SR 5, MELLEN ST. TO BLAKESLEE JUNCTION, LEWIS COUNTY," sheets 1 through 19 of 19 sheets, as reflected in Exhibit A, is hereby adopted.



ADOPTED THIS 2<sup>nd</sup> DAY OF August, 2010

ASSISTANT SECRETARY OF  
ENGINEERING AND REGIONAL OPERATIONS

  
\_\_\_\_\_  
J.C. LENZI, CHIEF ENGINEER

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ASSISTANT ATTORNEY GENERAL