BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 9 LAKE STEVENS TO ARLINGTON MP 20.15 TO MP 20.95 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 6:00 P.M. on Wednesday, April 24, 2013 at the Marysville Getchell High School, 8301 84th St. NE, Marysville, Washington, before Administrative Law Judge (ALJ) Lisa Dublin.

The interested persons, organizations, and media are as follows:

Media
THE DAILY HERALD COMPANY, P.O. Box 930, Everett, WA 98206

THE MARYSVILLE GLOBE, P.O. Box 145, Marysville, WA 98270

List of Legislators
SENATOR NICK HARPER, 227 John A Cherberg Building, P.O. Box 40438, Olympia, WA 98504-0438

SENATOR KIRK PEARSON, 115D Irv Newhouse Building, P.O. Box 40439, Olympia, WA 98504-0439

REPRESENTATIVE JOHN MCCOY, 132A Legislative Building, P.O. Box 40600, Olympia, WA 98504-0600

REPRESENTATIVE MIKE SELLS, 132B Legislative Building, P.O. Box 40600, Olympia, WA 98504-0600

REPRESENTATIVE DAN KRISTIANSEN, 425a Legislative Building, P.O. Box 40600, Olympia, WA 98504-0600

REPRESENTATIVE ELIZABETH SCOTT, 122E Legislative Building, P.O. Box 40600, Olympia, WA 98504-0600

List of Government, Tribal Government, and Local Agencies
WASHINGTON STATE TRANSPORTATION COMMISSION, REEMA GRIFFITH – EXECUTIVE DIRECTOR, P.O. Box 47308, Olympia, WA 98504-7308

SNOHOMISH COUNTY COUNCIL, COUNCILMAN JOHN KOSTER, 3000 Rockefeller Avenue, M/S 609, Everett, WA 98201

SNOHOMISH COUNTY COUNCIL, COUNCILMAN DAVE SOMERS, 3000 Rockefeller Avenue, M/S 609, Everett, WA 98201

PUGET SOUND REGIONAL COUNCIL, RICK OLSON – DIRECTOR OF GOVERNMENT RELATIONS AND COMMUNICATIONS, 1011 Western Avenue, Suite 500, Seattle, WA 98104-1035

FEDERAL HIGHWAY ADMINISTRATION – WASHINGTON DIVISION, DANIEL M. MATHIS – DIVISION ADMINISTRATOR, 711 Capitol Way, Suite 501, Olympia, WA 98501

SNOHOMISH COUNTY – PUBLIC WORKS DEPARTMENT, STEVE THOMSEN – PUBLIC WORKS DIRECTOR, 3000 Rockefeller Avenue, Everett, WA 98201

SNOHOMISH COUNTY – ENGINEERING SERVICES, BRUCE DUVALL – ENGINEERING SERVICES DIRECTOR, 3000 Rockefeller Avenue, M/S 607, Everett, WA 98201

CITY OF MARYSVILLE – OFFICE OF THE MAYOR, MAYOR JON NEHRING, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE – PUBLIC WORKS DEPARTMENT, KEVIN NIELSEN – PUBLIC WORKS DIRECTOR, 80 Columbia Avenue, Marysville, WA 98270

SNOHOMISH COUNTY FIRE DISTRICT #22, CHIEF TRAVIS HOTS, 8424 99th Avenue NE, Arlington, WA 98223

SNOHOMISH COUNTY SHERIFF'S OFFICE – NORTH PRECINCT, LIEUTENANT CATHI LANG, 15100 40th Avenue NE, Marysville, WA 98271

WASHINGTON STATE PATROL – DISTRICT 7, CAPTAIN JEFF SASS, 2700 116th Street NE, Marysville, WA 98271-9425

MARYSVILLE SCHOOL DISTRICT – CAPITAL PROJECTS DEPARTMENT, JOHN BINGHAM – CAPITAL PROJECTS DIRECTOR, 4220 80th Street NE, Marysville, WA 98270

SNOHOMISH COUNTY PUD, STEVE KLEIN – GENERAL MANAGER, P.O. Box 1107, Everett, WA 98206-1107

COMMUNITY TRANSIT – TRANSPORTATION PLANNING DEPARTMENT, KATE TOURTELLOT – SENIOR TRANSPORTATION PLANNER, 7100 Hardeson Road, Everett, WA 98203

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER JEFF VAUGHAN, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER DONNA WRIGHT, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER JEFF SEIBERT, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER MICHAEL STEVENS, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER ROB TOYER, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER STEPHEN C. MULLER, 1049 State Avenue, Marysville, WA 98270

CITY OF MARYSVILLE COUNCIL, COUNCILMEMBER KAMILLE NORTON, 1049 State Avenue, Marysville, WA 98270

List of Affected Property Owners
BAILEY, WALTER D & VERLA J – WALTER D. BAILEY, 8413 83rd Ave NE, Marysville, WA 98270-7824

GETCHELL ROAD LIMITED PARTNERSHIP – SAUL SCHIFFNER, P.O. Box 14241, Mill Creek, WA 98082

GETCHELL ROAD LIMITED PARTNERSHIP – JOANN DOWD, 2809 Lakewood Rd Pl #4, Arlington, WA 98223
(Tina Dowd-Anderson, a daughter of Pat (James) Dowd, specifically requested that the Findings and Order document should be sent to her mother, Joann Dowd, to the address above. The above address replaced an old address, 11122 99th Ave NE, Arlington, WA, 98223. See Exhibit 8 for emails received from Tina Dowd-Anderson.)

GETCHELL ROAD LIMITED PARTNERSHIP – JIM (JAMES R.) IHNOT, 610 Market Street, Suite 100, Kirkland, WA 98033
(The above address was added by property owner's request. The address obtained from Snohomish County Assessor's Office Website, 19201 40th Ave W, Lynnwood, WA 98036-5607, has been removed from the contact list by property owner's request. See Exhibit 8 for emails received from the property owner.)

LADETOJO INVESTMENTS, LLC – JOHN J. BAKEWELL, 290 Rutland St, Carlisle, MA 01741

LITTLE'S CHILDREN, LLC – THOMAS A. LITTLE, 101 N Sunset Dr, Camano Island, WA 98282

LITTLE'S CHILDREN, LLC – JULIE A. BAKER, 101 N Sunset Dr, Camano Island, WA 98282

RED EARTH, LLC – JAYANA M. LITTLE, P.O. Box 1126, Mukilteo, WA 98275

As a courtesy to interested citizens, the Washington State 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 newspaper companies that provided the Affidavit of Publications, local elected officials that received notification of the Limited 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 Limited 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.

Bill James, the WSDOT Engineering Manager for the SR 9 / 84th St NE (Getchell Road) – Improve Intersection project, called the meeting to order under the provisions of chapter 47.52 Revised Code of Washington (RCW). Hearing guidelines and legal requirements were provided by Administrative Law Judge Lisa Dublin, 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 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 the 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 Commission Resolution No. 95 designated Secondary State Highway (SSH) #1-A (now known as State Route 9) in King County, Washington, and Snohomish County, Washington between Jct. Primary State Highway (PSH) 2 (now known as SR 522) at Woodinville and Jct. SSH 1-E (now known as SR 530) at Arlington as a Limited Access Highway.

On March 1, 1955, the Washington State Highway Commission approved a Limited Access Plan entitled: "SECONDARY STATE HIGHWAY NO. 1-A, LAKE STEVENS TO ARLINGTON, PLAN SHOWING ACCESS."

On March 22, 1955, Washington State Commission Resolution No. 224 designated SR 9 in Snohomish County, Washington as a limited access highway of the partially controlled type.

On April 5, 1955, the Washington State Highway Commission by Findings and Order approved a Right of Way Plan entitled: "SECONDARY STATE HIGHWAY NO. 1-A, LAKE STEVENS TO ARLINGTON, SNOHOMISH COUNTY."

On March 18, 2013, sheets 8 through 10 of the above noted April 5, 1955 Right of Way Plan were modified by (1) transferring the limited access information from the March 1, 1955 Limited Access Plan onto the April 5, 1955 Right of Way Plan (sheets 8, 9 and 10), (2) adding new limited access restrictions along 84th St. NE (sheet 9), and (3) renaming the plan title for

sheets 8, 9 and 10 to "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY."

The March 18, 2013 plan modification is hereafter identified as "Proposed Access Hearing Plan." The Proposed Access Hearing Plan, sheets 8 through 10 of 21, supersedes the above noted March 22, 1955 Right of Way Plan. This plan was admitted into evidence, marked as Exhibit No. 5, and made part of the hearing record.

The Proposed Access Hearing Plan (Exhibit 5) is the subject of this Limited Access Findings and Order. Under this plan, SR 9 will be altered to improve traffic safety and mobility.

As part of the preparation of the above-described Proposed 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 the Access Report entitled "Access Report, SR 9, 84th St. NE (Getchell Road) – Improve Intersection," dated March, 2013. 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 as Exhibit No. 4, and made part of the hearing record.

2. NOTICE OF HEARING

On March 6, 2013, the State Design Engineer by Order proposed said Proposed Access Hearing Plan and set a hearing date for April 24, 2013, 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 Limited Access Hearing, the Department prepared and mailed copies of relevant Access Hearing materials, including (1) an introduction cover letter, (2) Notice of Appearance form, (3) Notice of Limited Access Hearing, and (4) the Proposed Access Hearing Plan. These Limited Access Hearing materials were mailed April 8, 2013, to the abutting property owners of record, as evidenced by the Affidavit of Service by Mailing signed by Junsuk An and notarized by Lois K. Felker, both on April 8, 2013. The list of the recipients of the mailing is attached to the Affidavit as Exhibit A. The signed Affidavit of Service by Mailing and the access hearing materials were admitted into evidence, and marked as Exhibit No. 2, and made part of the hearing record.

On April 3, 2013, a copy of the "Notice of Limited Access Hearing" was published in *The Marysville Globe*, as shown by the Affidavit of Publication with printed ad copy attached, signed by C. Paul Brown, the secretary of *The Marysville Globe*, and notarized by Melody R. Faust, both dated April 12, 2013. On April 9, 2013, the "Notice of Limited Access Hearing" was published in *The Herald*, as shown by the Affidavit of Publication with printed ad copy attached, signed by Karen E. Ziemer, Principal Clerk of *The Herald* and notarized by Diana L. Hendrix, both on April 9, 2013. These Affidavits of Publication for both newspapers were admitted into evidence, marked as Exhibit No. 3, and made part of the hearing record.

3. PRESERVATION OF PUBLIC INVESTMENT

State Route 9 (SR 9) is an important corridor for both commercial vehicles and commuters. Within the project limits, SR 9 is a non-National Highway System (NHS) highway and is classified as an urban-principal arterial highway. The currently proposed access control modifications within the project limits will be established as Partial Control as shown on the Access Hearing Plan, marked as Exhibits No. 5. In limiting access as shown on the Access Hearing Plan, 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 SR 9 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 onto the highway. It has been demonstrated in the past that as property owners establish approaches onto 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 facility at properly designed intersections in order to preserve a highway's efficiency and safety.

The Proposed Access Hearing Plan for the establishment of partial limited access control on 84th St. NE (sheet 9) as shown on the plan entitled, "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY," (Exhibit No. 5) will facilitate travel, reduce accident rates, preserve the public investment, and sustain the highway as a modern transportation facility.

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 March 6, 2013.
Exhibit No. 2	Affidavit of Service by Mailing, dated April 8, 2013.
Exhibit No. 3	Affidavits of Publication, dated April 9, 2013 (*The Herald*) and April 12, 2013 (*The Marysville Globe*).
Exhibit No. 4	Access Report, SR 9, 84th St NE (Getchell Road) – Improve Intersection, dated March 2013.
Exhibit No. 5	Proposed Access Hearing Plan entitled "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY," as shown on sheets 8 through 10 of 21 sheets, approved April 5, 1955 and modified on March 18, 2013.
Exhibit No. 6	Limited Access Hearing, Presentation Slides, dated April 17, 2013.
Exhibit No. 7	Notice of Appearance forms from LADETOJO Investments, LLC, represented by Deb Clark-Wyles, and Snohomish County Public Works, represented by Douglas W. McCormick, P.E.
Exhibit No. 8	Change of Addresses from Property Owners for Getchell Road Limited Partnership, Parcel No. 1-23636.

5. RESPONSES RELATED TO A CHANGE IN ACCESS

The Assistant Secretary of Engineering and Regional Operations has considered the following comments of the abutting or affected property owners and public agencies as part of the Access Hearing Process, and responded to each as follows:

1. Walter Bailey, Parcel No. 1-23640, in oral testimony on page 23 of the Access Hearing Transcript, asked a question related to access issues and following Mr. Bailey's question is the Department's response:

   Q) "What category access would it be on the southwest corner? Total?"

   A) *This question is in reference to Parcel No. 1-23640 owned by Bailey, Walter D. & Verla J. Mr. Bailey's question was in regards to the proposed limited access line along 84th St. NE. During the Limited Access Hearing, the Department responded that the partially controlled limited access line will extend 225 feet along his property line.*

6. RESPONSES NOT RELATED TO A CHANGE IN ACCESS

1. Walter Bailey, Parcel No. 1-23640, in oral testimony on page 23 of the Access Hearing Transcript, asked a question not related to access issues and following Mr. Bailey's question is the Department's response:

   Q) "The only thing I could say is that I had a notarized thing that I sent in stating it wasn't necessary to have this hearing, but you had the hearing anyhow."

   A) *Not all abutting or affected property owners were in an agreement to sign the access hearing waivers. Therefore, a formal Limited Access Hearing was conducted, as required by law.*

7. PROPOSED LIMITED ACCESS PLAN MODIFICATION

The Assistant Secretary of Engineering and Regional Operations has considered the evidence on the entire portion of the Proposed Access Hearing Plan, "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY," sheets 8, 9 and 10 of 21 sheets, approved April 5, 1955, as modified on March 18, 2013, and finds that the plan as admitted into evidence, marked Exhibit No. 5, should be modified as hereinafter set forth:

1. No modification to the Access Hearing Plan has been made as a result of the Limited Access Hearing.

8. ORDER

The Assistant Secretary of Engineering and Regional Operations 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 no revisions, 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 Routes 9 in Snohomish County, Washington is hereby designated as a limited access highway of the Partial control type:

Between existing highway centerline SR 9 Sta. 508+25 and SR 9 Sta. 528+32; as shown on sheet 9 of 21, along 84th St. NE, of the Proposed Access Hearing Plan entitled "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY."

[AES: Since there is no modification, there is no need for this section.]

B

That the Access Hearing Plan entitled "SR 9, LAKE STEVENS TO ARLINGTON, ACCESS HEARING PLAN, PARTIAL CONTROL, SNOHOMISH COUNTY," sheets 8, 9 and 10 of 21, as reflected in Exhibit A, is hereby adopted.

ADOPTED THIS 24th DAY OF JUNE, 2013

CHIEF ENGINEER,
ASSISTANT SECRETARY OF ENGINEERING
AND REGIONAL OPERATIONS

APPROVED AS TO FORM:

ANN E. SALAY

ASSISTANT ATTORNEY GENERAL