

BEFORE THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

<u>IN RE: STATE ROUTE 9</u>)	LIMITED ACCESS
<u>S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC</u>)	FINDINGS AND ORDER
<u>MP 13.73 TO MP 14.26</u>)	
<u>LIMITED ACCESS HEARING</u>)	

The hearing on the above entitled matter was held upon due notice to interested parties, beginning at 6.30 P.M. on Wednesday, February 18, 2015 in the Commons at Cavelero Mid High School, 8220 24th St. SE, Lake Stevens, Washington, before Administrative Law Judge (ALJ) Jane Shefler

The interested persons and organizations are represented as follows:

Media

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

List of Legislators

SENATOR STEVE HOBBS, 239 John A. Cherberg Building, P.O. Box 40444, Olympia, WA 98504-0444

REPRESENTATIVE HANS DUNSHEE, 314 John L. O'Brien Building, P.O. Box 40600, Olympia, WA 98504-0600

REPRESENTATIVE MARK HARMSWORTH, 466 John L. O'Brien Building, P.O. Box 40600, Olympia, WA 98504-0600

List of Government Agencies and Local Agencies

DAVE SOMERS, Council Member, Snohomish County, 3000 Rockefeller Avenue, M/S 609, Everett, WA 98201

STEVE THOMSEN, Public Works Director, Snohomish County, 3000 Rockefeller Avenue, M/S 607, Everett, WA 98201

CHERIE HUTCHINS, Property Management Division, Snohomish County, 3000 Rockefeller Avenue, M/S 607, Everett, WA 98201

MICK MONKEN, Public Works Director / City Engineer, City of Lake Stevens, 1820 Main Street P.O. Box 257, Lake Stevens, WA 98258

VERN LITTLE, Mayor, City of Lake Stevens, 1812 Main Street P.O. Box 257, Lake Stevens, WA 98258

SCOTT NIELSEN, Department of Public Works, City of Everett, 3200 Cedar Street, Everett, WA 98201

Washington State Transportation Commission

WASHINGTON STATE TRANSPORTATION COMMISSION, P.O. Box 47308, Olympia,
WA 98504-7308

List of Abutting or Affected Property Owners

EMILY BARKER, 2415 S Lake Stevens Rd, Lake Stevens, WA 98258

STEPHEN GOOD, 2929 Wetmore Ave, P.O. Box J, Everett, WA 98206

SNOHOMISH COUNTY, 3000 Rockefeller Ave, Everett, WA 98201

JENNIFER KNUTSEN, P.O. Box 916, Snohomish, WA 98291

JOAN & KENNETH REED, 7724 74th St. SE, Snohomish, WA 98290

PHIL & EVERYLN BLUM, 17719 NE Woodinville-Duvall Road, Snohomish, WA 98072

CLAUDE & TERESA SCHNETTER, 7724 74th St. SE, Snohomish, WA 98290

HOLY CROSS LUTHERAN CHURCH, 9613 20th St. SE, Lake Stevens, WA 98258

JILL CROWE, 1925 94th Dr. SE, Lake Stevens, WA 98258

NORDIN INVESTMENTS LLC, P.O. Box 463, Lake Stevens, WA 98258

JAMES & ELAINE SCHROEDL, 9406 20th St. SE, Lake Stevens, WA 98258

List of persons who provided written or verbal comments

YVONNE MEREDITH, 2415 S Lake Stevens Rd, Lake Stevens, WA 98258

List of persons who filed a Notice of Appearance

STEPHEN GOOD, 2929 Wetmore Ave, P.O. Box J, Everett, WA 98206

YVONNE MEREDITH, 2415 S Lake Stevens Rd, Lake Stevens, WA 98258

JENNIFER TAYLOR (KNUTSEN), P.O. Box 916, Snohomish, WA 98291

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, 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.

Hung Huynh, WSDOT Northwest Region Project Engineer in the Sno-King Area, 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 ALJ Jane Shefler, 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. Based upon the oral evidence, the exhibits introduced into evidence, 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 its Jct. with Primary State Highway (PSH) 2 (now known as SR 522) at Woodinville and its Jct. with SSH 1-E (now known as SR 530) at Arlington as a Limited Access Highway.

On January 25, 1944, Director of Highways, Burwell Bantz, approved a plan entitled "SR 9 Snohomish to Arlington," Right of Way Plan, Sheet 3 of 14 sheets.

On April 3, 1956, Director of Highways, William A. Bugge, approved a plan entitled "SR 9 Snohomish to Lake Stevens," Plan Showing Access, Sheet 3 of 5 sheets.

In 2015, a new plan was prepared, superseding a portion of the above noted plans, entitled "SR 9 S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC, Snohomish County," Access Hearing Plan, as shown on Sheets 1 through 3 of 3 sheets, approved January 9, 2015 (hereinafter "Proposed Access Hearing Plan"). This plan was admitted into evidence, marked as Exhibit No. 5 and made part of the hearing record.

This Proposed Access Hearing Plan 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 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 "Limited Access Report, SR 9 / S. Lake Stevens Road to 20th St. SE, MP 13.73 to MP 14.26," dated December 2014. This report shows that the data received has been taken into account by WSDOT 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 January 21, 2015, the State Design Engineer by Order proposed the establishment of limited access as shown on the Proposed Access Hearing Plan and set a hearing date for February 18, 2015, 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) a personalized cover letter, (2) Notice of Appearance form, (3) Notice of Limited Access Hearing, and (4) the Proposed Access Hearing Plan. These Access Hearing materials were mailed on January 29, 2015 to the abutting property owners of record, as evidenced by the Affidavit of Service by Mailing signed by Keith Sterling on January 29, 2015 and notarized by Barbara Bulzomi on January 29, 2015. The list of the abutting property owners as recipients of the mailing is attached as Exhibit A to the Affidavit. The signed Affidavit of Service by Mailing, Exhibit A, including the above noted Access Hearing materials, were admitted into evidence, marked as Exhibit No. 2 and made part of the hearing record.

However, two Access Hearing notice packages were returned as undeliverable and marked as Exhibit No. 7, as follows:

1. Parcel No. 1-22911: Emily Barker is the vested owner of the entire property while the contract purchaser's interest is held by Stephen Good. The access hearing package was not deliverable to Emily Barker, but was returned as the mailing address found on the Snohomish County Property Record does not reflect the current address for Emily Barker. Nonetheless, the access hearing package was deliverable to Stephen Good.

2. Parcel No. 1-22916: Joan C. Reed is the vested owner of the entire property while Phil & Evelyn Blum are the owners of the mobile home located on the leased southern portion of the property. The access hearing package was not deliverable to Phil & Evelyn Blum, but was returned as the mailing address found on the Snohomish County Property Record does not reflect the current address for Phil & Evelyn Blum. Nonetheless, the access hearing package was deliverable to Joan C. Reed.

On February 2, 2015, an exact copy of the "Notice of Limited Access Hearing" was published in the Everett Daily Herald, as shown by the Affidavit of Publication with printed ad copy attached, signed by Kathleen Landis, the legal representative of the Everett Daily Herald. The Affidavit of Publication was admitted into evidence, marked as Exhibit No. 3 and made part of the hearing record. The published notice is deemed sufficient as to any owner who cannot be located.

3. PRESERVATION OF THE PUBLIC INVESTMENT

SR 9 is the only north-south highway on the east side of Snohomish County and the only major alternative to Interstate 5.

This section of SR 9 is an important part of the State of Washington's highway system, representing a substantial expenditure of public funds to facilitate public travel. State Route 9 is functionally classified as an Urban Principal Arterial and a non-National Highway System (NHS) route. This section of SR 9 is designated as a Limited Access Partial Control facility on the WSDOT Limited Access and Managed Access Master Plan. The proposed access control revisions within the project limits will be established as shown on the Access Hearing Plans entered into evidence and marked as Exhibit No. 5. In limiting access as shown on the 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 demonstrated 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 facility at properly designed intersections in order to preserve a 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 January 21, 2015.
- Exhibit No. 2 Affidavit of Service by Mailing, dated January 29, 2015, including Exhibit A, list of abutting owners, and Limited Access Hearing Notice package.
- Exhibit No. 3 Affidavit of Publication, dated February 3, 2015.
- Exhibit No. 4 Limited Access Report, SR 9 / S. Lake Stevens Road to 20th St. SE, MP 13.73 to MP 14.26, dated December 2014.
- Exhibit No. 5 Proposed Access Hearing Plan entitled "SR 9, S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC, Snohomish County," as shown on Sheets 1 through 3 of 3 sheets, dated January 9, 2015.
- Exhibit No. 6 Printed copies of the presentation slides used during the access hearing.
- Exhibit No. 7 Returned Access Hearing Packages for Phil and Evelyn Blum, dated February 7, 2015, and for Emily Barker, dated February 12, 2015.

5. SPECIFIC ACCESS RESPONSES

The Assistant Secretary of Engineering and Regional Operations has considered the following comments of abutting property owners and public agencies as part of the Access Hearing process and responds to each as follows:

1. Ms. Yvonne Meredith, a current tenant of Parcel 1-22911 (Emily Barker, owner; Stephen Good, contract purchaser), in oral testimony on pages 29-30 of the Access Hearing Transcript, requested clarification about the proposed limited access partial control on Parcel 1-22911. Following Ms. Yvonne Meredith's question is the Department's response:

"...I am a little confused...about the "no change in access" and yet the 30 feet into it, because does that mean you're going to just own the 30 feet, or does that mean you're going to go into from the edge of the road into my yard 30 feet?" "Is my yard going to shrink?" "...30 feet in would put you guys on my couch."

The Department responded during the hearing that the proposed limited access partial control will allow her to keep her current driveway access, but the driveway cannot be wider than 30 feet. The Department also confirmed that her yard (on Parcel 1-22911) will not shrink due to the establishment and acquisition of the proposed limited access partial control.

6. RESPONSES NOT RELATED TO PROPOSED NEW ACCESS

There were no recorded questions that were not related to proposed access control during the hearing.

7. PROPOSED LIMITED ACCESS PLAN MODIFICATION

The Assistant Secretary of Engineering and Regional Operations has considered the evidence on the entire portion of the "SR 9, S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC, Snohomish County," Access Hearing Plan (Partial Control), Sheets 1 through 3 of 3 sheets, dated January 9, 2015, and finds that the plans as admitted into evidence, marked Exhibit No. 5, should be modified as hereinafter set forth and marked as Exhibit A to this Limited Access Findings and Order as follows:

1. Revise plan Sheet 2 of 3 sheets to correct the property owner information for Parcel 1-22911 by adding Good along with Barker, as requested and recommended by the Department.

8. ORDER

The Assistant Secretary of Engineering and Regional Operations specifically finds in the case of each abutting ownership that the adoption of the Proposed Access Hearing Plan, making said highway a partially controlled limited access facility, said plan being attached hereto and marked Exhibit A, with the revision as listed herein, is 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 9 in Snohomish County, Washington is hereby designated as a limited access highway of the Partial control type:

Between Sta. 160+00 P.O.T. and Sta. 188+00 P.O.T. BK. (Sta. 188+04.62 P.O.T. AHD.) as shown on sheets 1 through 3 of 3 sheets of the Access Hearing Plan entitled "SR 9 S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC, Snohomish County," dated January 9, 2015.

B.

That the plan set forth in Exhibit No. 5 for the establishment of access control of said highway be revised as follows, and as further shown on Exhibit A hereto attached and by this reference made a part hereof:

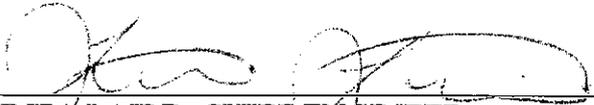
1. Plan Sheet 2 of 3 sheets has been revised to correct the property owner information for Parcel 1-22911 by adding Good along with Barker.

C.

That the Access Hearing Plan (Partial Control) entitled "SR 9, S. LAKE STEVENS ROAD VIC TO 20TH ST. S.E. VIC, Snohomish County", Sta. 160+00 P.O.T. and Sta. 188+00 P.O.T. BK. (Sta. 188+04.62 P.O.T. AHD.), Access Hearing Plan, sheets 1 through 3 of 3 sheets, as reflected in Exhibit A, is hereby adopted.

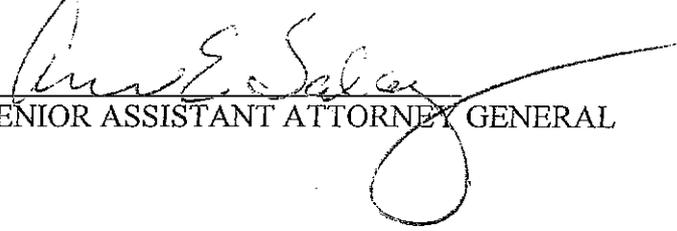
ADOPTED THIS 8th DAY OF May, 2015

ASSISTANT SECRETARY OF ENGINEERING
AND REGIONAL OPERATIONS



LINEA LAIRD, CHIEF ENGINEER

APPROVED AS TO FORM:



SENIOR ASSISTANT ATTORNEY GENERAL