



State Route 520 Mediation Boating Community



April 15, 2010

Jenifer Young
SR 520, I-5 to Medina: Bridge Replacement and HOV Project
Environmental Manager
SR 520 Project Offices
600 Stewart Street, Suite 520
Seattle, WA 98101

Received
APR 14 2010
SR520 Document Control

Dear Ms. Young:

We thank the Washington State Department of Transportation for the opportunity to comment on Supplemental Draft Environmental Impact Statement (SDEIS) dated January 22, 2010 for the SR 520, Interstate 5 (I-5) to Medina: Bridge Replacement and High-Occupancy Vehicle (HOV) Project (also referred to as the SR 520, I-5 to Medina project)

The absence of more construction details and the omissions and lack of specificity in the SDEIS have made it difficult to understand all the potential effects of the project.

Despite the vagueness of the present information about your project, we know enough to have significant concerns. Your project will impact each of our activities for numerous years of construction, and negatively impact our ability to attract and retain members.

BACKGROUND - As representatives of the various boating interests within the Portage Bay, Lake Washington, Montlake Cut, recreational boaters, kayakers, canoeists, and rowers, we have serious reservations about the impact of the plans contained in the SDEIS. There is considerable lack of specificity in the document which must be addressed and mitigated before the plans move forward.

OUR PRESENT CONCERNS

CULTURAL HERITAGE - The flow of commercial and recreational boat traffic on the navigable waterway of Portage Bay and Lake Washington Shipping Canal is critical to the preservation of our nautical heritage. Boating is an historic feature of the Puget Sound area culture and economy stretching back to tribal times and continuing through European settlement in the modern era. Recreational boating continues to inspire important cultural and economic events and activities. Portage Bay, at the nexus of the ship canal and Lake as a protected venue for use of the rowing community: for racing and practicing that is a part of the University of Washington, as well as the Junior and Senior

C-017-001

C-017-002

c-017-002 | rowers of this area. The SDEIS fails to recognize their role in maritime history and their status as premier recreational resources.

Seattle Yacht Club, founded in 1892, and Queen City Yacht Club, founded in 1916, have long-standing ties to the local community and provide important community related activities and services. The current SDEIS threatens their current viability and the adverse effects on these two venerable institutions have not been sufficiently documented or addressed.

c-017-003 | **MARITIME VIABILITY** - The SDEIS is deficient in analyzing the impact on the preservation of existing (or additional) moorage, floating homes and boating services on Portage Bay, both as a feature of the overall regional supply and as a unique feature of this area. Moorage and boating services are in limited supply in the region because of the premium on waterfront and submerged real estate in the area. Any diminishment of the current supply in Portage Bay would have ripple effects throughout the boating community and the businesses that provide for its needs. It is critical that specific information be provided at your earliest convenience to allow the Boating Community to identify future impacts to the functioning of the entire recreational resource and to assist you in meeting our mitigation needs.

c-017-004 | The Boating Community is also concerned about the impact of having two bridge openings in a restricted channel. This could have serious, dangerous consequences for boaters. We are also concerned about the height of the proposed viaduct across Lake Washington, estimated at thirty feet above the water level. There has been no determination in the SDEIS of the impact of such a tall structure on vessels, particularly sailing vessels on the Lake. We also have concerns over the unsightly visual impact such a structure will have on the recreational boating as well as other recreational activities.

c-017-005 | **PORTAGE BAY** - The proposed expansion of 520 will take property from Portage Bay, and will also degrade the public's ability to enjoy the remaining property, because of the added height and doubling of bulk, threatening shadows, and noise. We request that WSDOT include analysis of the impacts of the project and mitigate the impact of construction to insure the continued use of these recreational resources. The Boating Community has concerns for the environmental impact of such a structure on salmon habitat and the introduction or unintentional support for invasive species. We are also concerned about the impact of noise levels both during and after construction of the bridge and the negative impact this will have on the Boating Community and area residents to enjoy the Bay and its resources.

c-017-006 | **OPENING DAY OF BOATING SEASON** - We ask that the final EIS pay particular attention to eliminate interference with Opening Day of Boating Season activities in Portage Bay, Union Bay and the Montlake Cut. We welcome the opportunity to work with WSDOT to mitigate conflicts with this International event. In addition, boating activities by members of the public occur during the entire year and should also be considered and the impacts on boating activities be mitigated to the extent possible.

SUMMARY

C-017-007

The Boating Community recognizes that the SR 520 bridge replacement is necessary. We also recognize that it will have profound impacts on Portage Bay both during construction and after it is completed. NEPA and SEPA require that before beginning a project with significant adverse environmental impacts, the agency in charge must disclose those impacts and describe the mitigation to be proposed. We recognize the challenge that presents for WSDOT, but the fact that the project has so many significant adverse environmental impacts is not a reason why the environmental disclosure can be less than what NEPA and SEPA require; to the contrary it is a reason why the disclosures must be all that NEPA and SEPA require. We appreciate the opportunity to review and comment on the SDEIS and have a continuing Interest in working with WSDOT to resolve the issues.

Sincerely,



Gary R. Stone
SR 520 Boating Community Mediation Representative

From: Earl Bell [mailto:earljbell@hotmail.com]
Sent: Tuesday, April 13, 2010 7:30 PM
To: SR 520 Bridge SDEIS
Cc: Ruedi Risler
Subject: UPCC Comments on the SR 520 SDEIS

UPCC Comments on the SR 520 SDEIS
Addendum to DEIS Comments

c-018-001

The Comments submitted by the University Park Community Club (UPCC) pursuant to the call for public comment on this project contained in the DEIS published 7/18/2006 are hereby referenced (October 4, 2006).

The UPCC participated as a recognized party in the prolonged 520 Mediation Panel begun in the Fall of 2007 and finally abandoned in 2009. As an active organization in this issue we wish to elaborate on our remarks that were prepared and submitted nearly four years ago. While some of the issues then are still being debated today, the 13th of April 2010, one issue that was neglected in our original DEIS comments has emerged and requires our position be extended. These comments in no way modify our original position in support of a six-lane bridge with two lanes dedicated to public transit.

Our major environmental concern then was the ecological integrity of Union Bay, and by extension, the Montlake Cut and adjacent Portage Bay. These remain today but to them must now be added a concern about the connection of the new bridge's access and egress with Lake Washington Blvd. S. ("Boulevard") which passes through the Arboretum and carries today an even heavier load of passenger vehicles than in 2006.

The UPCC neighborhood, while not directly impacted by ramps connecting to the Boulevard, nonetheless is deeply concerned about the health of the Arboretum and its vital role as a city park and open space. It is an irreplaceable treasure; our members and residents have a strong interest in its protection.

Accordingly, we oppose connecting the Boulevard to access ramps for the new 520 Bridge and join other communities who share our wish to see the removal of such ramps from a final option to be selected by the WS Department of Transportation. We support moving to a Final EIS and getting the project implemented.

Submitted on behalf of the UPCC Board,

Earl J. Bell

c: Seattle City Council

The New Busy is not the too busy. Combine all your e-mail accounts with Hotmail. [Get busy.](#)

*** eSafel scanned this email for malicious content ***

*** IMPORTANT: Do not open attachments from unrecognized senders **

UNIVERSITY PARK COMMUNITY CLUB

OCTOBER 4, 2006

Paul Krueger
Environmental Manager
SR 520 Bridge Replacement Project

[Comments sent to sr520deiscomments@wsdot.wa.gov](mailto:sr520deiscomments@wsdot.wa.gov)

These are Comments submitted by the University Park Community Club (UPCC) pursuant to the call for public comment on this project contained in the DEIS dated August 18, 2006. We join those individuals and organizations who have stated their concerns or their opposition to the Pacific Street Interchange Option (PSIO). As the manner in which all of the alternatives and options are presented serves to make it appear that this option under the six-lane alternative is the WSDOT "putative preferred alternative" (PPA) most of our comments will be addressed to it specifically.

First, we lay out our objections to the PPA and then we follow with what we believe is an alternative that will accomplish much of what is sought from this investment without the necessity of a total transformation of the neighborhoods north of the Ship Canal.

Put most succinctly, the UPCC does not see anything in the DEIS that is persuasive that the PPA would be anything but harmful to the environment north of the Ship Canal. It *might*, however, succeed in doing something for the Montlake neighborhood in terms of re-routing traffic that would pass through towards another adjacent area, but at what cost in terms of peace and tranquility for these other areas is nowhere examined in the DEIS.

To us, the Pacific Street Interchange, while it appears to offer some possibility of improving throughput of vehicles through this busiest of intersections, does so only by an "improvement" that is completely out of scale. The impact on one of our major recreational areas (e.g., the UW waterfront) would be devastating, not only in terms of diminished opportunity for recreation but also in terms of environmental impact. However, even if there were magically no impacts in the area surrounding the Interchange, the consequences at short distances from it are not spelled out or even cursorily mentioned in the DEIS. For example, there is no mention of projected congestion estimates for any intersection north of NE 45th or west of 15th AV NE. Those projections that are shown are in the vicinity of Montlake Blvd north of Pacific Street. Communities like ours are left wondering what it might look like in 2030 if the alternatives were built. The DEIS is not helpful to this process. No information is given regarding projections for general increase in traffic volumes in surrounding areas such as Ravenna, Wallingford, Bryant or Laurelhurst.

Members of our community know that any project of this scale will have unintended consequences that will likely be anywhere from significant to devastating. What troubles us is the lack of any attention in the DEIS to the consequences that *are* intended. The PSIO has been put forth as a sort of panacea for solving a problem that may not be amenable to solution: the movement of people and goods using automotive vehicles other than rapid transit without severe impacts on the areas through which the vehicles pass. This is a long term project. While no light rail is foreseen across the 520 bridge in the next expansion of the light rail system, it is

certainly reasonable to expect such an expansion during the 50+ year lifetime of the new bridge. The DEIS contains mentions in passing that the bridge pontoons would be designed to be able to carry rail rapid transit, but there is no design for how this would be achieved.

If we really want to reduce the Montlake mess we have to turn to public transport and move the

bulk of the projected demand to this transport modality. This has not seriously been considered in the DEIS. There is not even a clear plan of how passengers transfer between different bus lines.

There must be a valid concept of how a new light rail line would continue on either side of the bridge and connect to other lines and buses. For instance, the intersection near Marsh Island should be designed to accommodate the wider curves needed for light rail to make the turn towards Husky Stadium. Once light rail gets to the Pacific Street intersection is it going to go over all the planned new construction or below? Can the mezzanine floor of the presently planned station be modified for an underground east-west station for a line to Ballard, or is the 520 line going to make a turn and connect to the downtown line? We should not box ourselves in and prevent solutions needed in the future.

This Putative Preferred Alternative is the most expensive alternative, mostly because it involves the ambitious Union Bay Bridge but it will also be due to numerous lids and other benefits for the Montlake neighborhood. It is instructive to note the comments from the report of the Governor's Expert Review Panel dated September 1, 2006:

"The SR 520 project premised its finance plan on \$573 million of secured funding and over \$3.6 billion of anticipated funding. We think that premise is overly optimistic. Overall, we find it unreasonable to assume the project will realize sufficient funding from secured and anticipated funding sources. We doubt that an anticipated \$153 million in sales tax revenue will be transferred to the project. We have assumed that only the six-lane alternative, if selected, will receive Regional Transportation Improvement District (RTID) ballot measure funding of \$800 million. Moreover, we find no basis to believe that any of the second increment of the RTID funding target of \$1.4 billion will be available to the project.

Consequently, we find that the funding sources identified in the SR 520 finance plan fall far short in secured and anticipated funding categories. This shortfall is of particular concern, given the impacts to regional circulation if the structure should fail. The lack of alternative routes makes it essential to fully fund the solution chosen for SR 520 bridge alternative."

Thus, with the recent adjustments due to inflationary pressure and the Seattle City Council's apparent preference for the most expensive option, the process is dangerously close to assurance that the PPA will not be fully funded. This being the case, the UPCC urges the adoption of the 6-lane alternative with a second Montlake bridge as the most prudent way to proceed given the current fiscal situation of the State. The six-lane alternative is acceptable as an alternative only if the "HOV lanes" are dedicated not for HOV use but for transit use exclusively. To do otherwise would be to court a lack of full funding and thus to delay the immediate undertaking of bridge replacement.

The UPCC recognizes that the six-lane alternative is the likely selection by WSDOT and other decision-making bodies involved in the final selection. With the two

additional lanes dedicated to transit, we could support the six lane alternative. Nonetheless, the UPCC wishes to emphasize its opposition to the Pacific Street Interchange Option no matter what level of funding turns out to be available. Our opposition, as outlined above, is not based entirely upon cost, but lack of benefits for our and other communities north of the Ship Canal as well as the lack of a viable public transit solution.

Please direct any questions or requests for clarification to the email address shown on page one.

I have been authorized and directed to submit these comments on behalf of the Executive Board of the University Park Community Club.

Earl J. Bell
Board Member

From: Kari Olson [mailto:kolson_fip_interlakenpark@msn.com]
Sent: Wednesday, April 14, 2010 10:31 PM
To: SR 520 Bridge SDEIS
Cc: Council Agenda; Richard Conlin; Tim Burgess; Tom Rasmussen; Mike McGinn
Subject: State Route 520

Dear Environmental Manager Jenifer Young:

C-019-001 | The Friends of Interlaken/Boren Park are of the opinion and advocate of option N for SR520 which in reality is keeping the existing floating bridge and westside configurations as they currently are. Toll's are a necessary element to build up funding sources for future need's for the 520 corridore.

C-019-002 | Our perspective is to optimize mass transit to moving the greatest amounts of people at a given time frame toward connective destinations. In theory, the desire for light rail on a floating bridge may be doable on paper or computerized programing, but in reality the concept has yet to be accomplished.

The connectivity toward moving people and good's to other destinations is by rail around Lake Washington and other bodies of water, islands and so forth. Objectively, this mode of transportation is reliable when properly managed and maintained.

Eastern cities have long history of rail services to moving mass people and good's to and from, and within close proximrty to where services are needed and where people need to go. Chicago, New York, Atlanta are prime examples. Whether Seattle and surrounding cities and districts ever build up to these densities remains to be seen.

C-019-003 | But the objective first and foremost is moving greatest numbers of people within a given time frame. To do this and retain higher environmental and asethetic values expected then there must be measures adopted that reduces the number of single occupancy vehicles durning the given time frame mentioned earlier.

Peak hours on and off ramps from I-5, 520 must be regulated so vehicles are not allowed to exit or enter roadways within travel corridore's (misguided assumption driver's shave a few minutes off their commute time by eciting I-5 "cutting through" side streets and neighborhood's to re-enter 520 instead of exiting freeways as is intended).

Also eliminate specific "free" parking areas adjacent to city park properties (exempt of neighborhood permit zoning), regulate to further discourage single user's all day parking...(i.e., Tukwila residents driving in wee AM hours to park on city streets adjacent to city parks and taking "public transportation" downtown or to university/college or other), repeating pracitice daily except for weekends.

C-019-003 | In order to curtail the level of vehicles within the city corridors, there must be ample means of alternative modes of transportation to accomplish these goals. Peak hours to some degree is with light rail, but the a greater and more reliable degree will need to be transit options capable of carrying the capacity needs.

C-019-004 | Option A, K, L, M, and or whatever othe alphabetical letter is added, revised addresses to a lesser degree the need of moving greater numbers of commuters at a given time and unfortunately and seemingly cater's to the conviences of the lone commuter from North, South, East and West through the Montlake Interchange.

Option A+ doesn't do enough to address problems of commuter's using the interchange as they already do today. The expansion of SR520 ultimately amplifies the continuity of bottleneck effects currently experienced on Montlake and Lake Washington Boulevards. The new interchange may for short term ease conjection until driver's figure out ways to circulmvent the objective and return to routine habits...

C-019-005 | Option N -- No rebuild forces us to be "creative" finding mean's that promise change in human behavior. Eliminating bus service and forcing people to take light rail is not changing those behaviors, instead seemingly hinders rather than promoting options. Those who rely solely on public transportation systems cannot always take light rail to and from their destinations. Add more bus services with better connectivity and time tables assures a better "fit" option and choices.

C-019-006 | Using earthquakes and windstorms fear tactics works short term. Our whole region is vulnerable to both. Windstorms are the norm and most frequent type of disaster experienced yearly. People don't like to be reminded, so engrossed are they communication, commuting and work little else seem's to matter until they have to deal with inconviences.

Economics place a moritorium on human migration across the country. Regions are not experiencing growth and prosperity and may not experience it for quite some time. We've room and time to grow, to give serious thought about what we're about to create. 13 years of planning, meetings, public forums, mitigations, committee's may all be for naught should all that time and money spent builds a bridge that for all intents and purposes was thought to fix, but in reality didn't because haste makes waste after all is said and done -- why, oh why didn't we do it right when we had the chance?

"The Friends of Interlaken/Boren Park"
Seattle's Urban Forest Stewards
Naturalist - Kari A. Olson
(206) 240-2445

From: SR520users@aol.com [mailto:SR520users@aol.com]
Sent: Thursday, April 15, 2010 7:54 AM
To: SR 520 Bridge SDEIS
Cc: Hammond, Paula; Dye, Dave
Subject: Comment on SDEIS for "SR 520, I-5 to Medina: Bridge Replacement and HOV Project"

Ms. Jenifer Young
Environmental Manager
SR 520 Program Office
600 Stewart Street, Suite 520
Seattle, Washington 98101

This project recalls *The Economist's* notice to the entire English-speaking world that the greater Seattle area "probably has the worst transport planning in North America" on June 30, 2005.

That prominent international journal's studied judgment of boundless good intentions was validated, promptly, when the Seattle monorail project collapsed from serial bad judgments that completely wasted \$125 million in tax dollars needlessly imposed on city residents.

Five years later, any remaining doubt still possible about the worst transportation planning brought forth on this continent has been removed by a multibillion-dollar highway project to add "high capacity transportation" east and west through the pivotal State Route 520 corridor, and by another multibillion-dollar, **intersecting-but-unconnected**, rail-transit project to upgrade "high capacity transportation" north and south through a light-rail spine largely within Seattle's boundaries.

This reality gives the lie to falsely claimed concerns about an SR 520 corridor which is "**Congested, unreliable, and does not encourage maximum transit and carpool use**" (bolding in Executive Summary at page 6), since nominal multibillion-dollar solutions are designed to discourage **both** maximum-possible transit use and **also** maximum-feasible relief from "severe traffic congestion."

What makes this lack of functional connectivity especially bizarre is indisputable emphases by our state Legislature on the quintessential importance both of **interconnected** High Occupancy Vehicle facilities, bus-rapid-transit and vanpools using those HOV highway lanes, and rail-transit projects (which all initially derive from one path-breaking bill adopted as our state's omnibus "High Capacity Transportation Systems" act in 1990), and also of **compulsory** planning for regional transportation involving such HCT systems being not only "multimodal" but also "cost effective" (which two additional legal requirements subsequently obtain from a likewise visionary and absolutely explicit statute mandating that regional planning here **must** be "based on a least cost planning

c-020-001

c-020-001 | methodology that identifies the most cost-effective facilities, services, and programs” as adopted in 1994).

c-020-002 | Equally maddening after over 15 years of **nominal** transportation planning to devise the irrationality of one multibillion-dollar project literally intersecting with another such multibillion-dollar project at the University of Washington without any **genuine** attention to designing optimal connectivity, from buses to trains, is a planning bureaucracy responsible for this utter fiasco at the state Department of Transportation, Sound Transit and Puget Sound Regional Council that continues to yap endlessly on, without surcease of sorrow, about a **purported** “multimodal” transportation commitment here.

Making matters even worse, not only is Sound Transit the official “lead agency” for its light-rail program, but it also took steps to be specially designated as a “co-lead agency” for adding two HOV lanes to the Evergreen Point Floating Bridge for its express buses – and, while acting as “lead” and “co-lead,” doing nothing or next to nothing to connect its light-rail trains with its express buses, at the UW campus, despite obtaining \$1.313 billion from the U.S. Treasury based on major transit- volume potentials there. Further, that regional transit agency utilized its insider “colead” position to exploit fuel-tax funds for the design of bridge pontoons, in order to benefit its future rail plans, **as a patently unlawful non-“highway use” in violation of our state Constitution’s 18th Amendment.**

With newly elected Seattle Mayor Mike McGinn urging that huge gaping holes in **real** “multimodal” planning require reconsideration – since 20 years of convenient political rhetoric cannot transform two decades of disregard for our state “High Capacity Transportation Systems” act and 16 years of defiance for its explicit “least cost planning” requirements into anything but insubordination toward and insolence for state law – belligerent objections to this sanity insist, effectively, that the “worst transport planning in North America” has succeeded in running out the clock for **actual** planning by flouting state statutes, and that a multibillion-dollar charade obvious even to a neophyte politician must prevail because adequate funds are lacking to build **true** “multimodal” transportation here.

c-020-003 | All fallacies deriving from missing elements at beginning, middle and end of said illogical objections notwithstanding, reality is that both a projected \$2.6 billion shortfall for SR 520 bridge replacement, today, and also another \$101.2 billion deficit in regional funding for follow-on transportation plans, during the next 30 years, each has substantially resulted from willful failures to comply with our state’s admirably farsighted legislation adopted in 1990 to create **interconnected** “High Capacity Transportation Systems” and expanded four years later to require **“least cost planning”** statewide.

In short, immense problems with **nominal** planning for the SR 520 corridor devolve from violations of the Washington State Constitution, our state’s pivotal HCT law and core regional transportation planning requirements expressly

C-020-003

mandating "a least cost planning methodology that identifies the most cost-effective facilities, services, and programs" (**each disregarded by this wasteful project**).

This remarkable hat-trick of misfeasance by breaching our state Constitution, substantive state HCT obligations and critical state planning duties, taken together, yields disastrous multibillion-dollar tax misuses passing off a mindless mix of political rhetoric endorsing "multimodal" transportation for misfeasant acts, which prevent essential connectivity, as bureaucrats rush to pile on another \$103.8 in new taxes to fill a huge void resulting primarily from refusals to fulfill direct least-cost-planning requirements easily honored through basic comparative cost-benefit analyses well understood, for at least 2,350 years, since Aristotle identified the importance of proper allocations of limited financial resources, in his *Politics*, and since his student, Alexander, revolutionized transportation planning by applying comparative cost-benefit principles in order, thereby, to systematize military transport.

The only means to rectify the worst transportation planning in the history of the state of Washington, **as made out by this project**, is through major revisions to correct ruinous failures from incompetent regional misplanning, thus far, so as to provide for optimal "multimodal" connections between multibillion-dollar SR 520 and Link light-rail facilities (as well as through reimbursements for **all** state funds misappropriated to this date, in violation of our state Constitution's 18th Amendment, as legally required to avoid subjecting this badly conceived SR 520 muddle to constitutional litigation).

Respectfully submitted,

Will Knedlik, Chairman
SR 520 Users Alliance
SR520Users@aol.com

From: Peggy Cahill [mailto:cahill@bnd-law.com]
Sent: Thursday, April 15, 2010 11:57 AM
To: SR 520 Bridge SDEIS (2)
Cc: bricklin@bnd-law.com; Claudia Newman
Subject: Comment Letter on SDEIS

Ms. Young:

Attached please find a comment letter from David A. Bricklin on the SDEIS for the I-5 to Medina Portion of the SR-520 Project. The original of the letter will be mailed to you today.

Thank you for your attention to this matter.

Peggy S. Cahill
Legal Assistant
Bricklin & Newman, LLP
1001 Fourth Avenue
Suite 3303
Seattle WA 98154
ph.: 206.264.8600
fax: 206.264.9300

Spokane Office:
35 West Main
Suite 300
Spokane, WA 99201

CONFIDENTIALITY NOTICE: The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

*** eSafe1 scanned this email for malicious content ***

*** IMPORTANT: Do not open attachments from unrecognized senders ***



**Bricklin &
Newman**
LLP

Seattle Office:
1001 Fourth Avenue
Suite 3303
Seattle, WA 98154

Spokane Office:
35 West Main
Suite 300
Spokane, WA 99201

Contact:
Phone: 206-264-8600
Toll Free: 877-264-7220
Fax: 206-264-9300
www.bnd-law.com

Reply to: Seattle Office

April 14, 2010

Jennifer Young
Environmental Manager
SR 520 Project Office
600 Stewart Street, Suite 520
Seattle, WA 98101

Re: Supplemental Draft EIS for the I-5 to Medina Portion of the SR-520 Project

Dear Ms. Young:

I write on behalf of the Coalition for a Sustainable 520 and its members to provide comments on portions of the SDEIS for the above-referenced project. Thank you for this opportunity to comment.

C-021-001

All Reasonable Alternatives Have Not Been Included

SEPA (and NEPA) were adopted to assure that government agencies made decisions “by deliberation, not default.” *Stemple v. Dept. of Water Resources*, 82 Wn.2d 109, 118 (1973). There has been much deliberation regarding addressing the transportation needs in the SR 520 corridor. But despite that, there is still the risk that the lead agencies are defaulting on their obligations to rigorously examine all reasonable alternatives. The alternatives analysis is the “heart of the environmental impact statement.” 40 C.F.R. § 1502.14. It must “[r]igorously explore and objectively evaluate **all** reasonable alternatives . . .” 40 C.F.R. § 1502.14(a). The EIS must “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” 40 C.F.R. § 1502.14(b). Reasonable alternatives include those that are “not within the jurisdiction of the lead agency.” 40 C.F.R. § 1502.14(c).

Determining the range of reasonable alternatives flows from the project’s purpose and need. The SDEIS states that the project’s purpose remains the same today as it was when the purpose statement was first crafted by the Trans-Lake Washington Study Committee in 2000:

The purpose of the project is to improve mobility for people and goods across Lake Washington within the SR 520 corridor from Seattle to Redmond in a manner that is safe, reliable, and cost-effective, while avoiding, minimizing, and/or mitigating impacts on affected neighborhoods and the environment.

Jennifer Young
April 14, 2010
Page 2

C-021-001 | SDEIS at 1-3. This purpose statement is notable in its focus on moving “people and goods” not motor vehicles. Yet every single alternative examined in the SDEIS involves spending billions of dollars to increase the capacity of SR 520 for motor vehicles only. None of the alternatives include light rail. Light rail offers the possibility of accomplishing the project’s purposes at lower environmental costs. The decision to omit light rail from any of the alternatives examined in the SDEIS is inexplicable and renders the SDEIS fatally flawed.

The viability of a light rail option has been documented in the recent draft report prepared for the City of Seattle’s Mayor: *SR 520 Light Rail Alternatives, Draft Report*, Nelson/Nygaard Consulting Associates (Apr. 2010). A copy of the report is available at www.seattle.gov/mayor/.¹

The benefits of a rail option are many. At the top of the list, rail offers opportunities to reduce greenhouse gas emissions. In this day and age, an alternative that offers the promise of reducing GHG emission should be examined in great detail in the environmental review process. Your failure to develop and analyze a rail alternative is disheartening given the commitment of the federal and state governments to reducing GHG emissions in the coming years.

C-021-002 | State legislation establishes demanding standards for *reducing* our GHG emissions. The legislation calls for GHG emissions to be reduced to 1990 levels by 2020. By 2050, we are to reduce GHG emissions to 50 percent of 1990 levels. RCW 70.235.020.

The State is not going to meet these standards if it continues to pour billions of dollars into constructing highways for motor vehicles in areas where light rail is a viable option. Few areas of the State have opportunities for light rail. Residential densities and employment opportunities are high enough in the SR 520 corridor to support rail. It is a dereliction of duty by WSDOT to fail to seize this opportunity and do everything it can to explore the opportunities for rail in this corridor now.

C-021-003 | The SDEIS explains that a rail option was excluded as a result of planning that started in 1998. The SDEIS seems to take the point of view that because rail was eliminated from consideration many years ago, that the momentum behind that decision somehow excuses analyzing a rail alternative in detail in this EIS in 2010. That rationale is flawed in several respects.

C-021-004 | First state law mandates WSDOT, Sound Transit, and others to develop a transportation plan “that ensures the effective and efficient coordination of bus service **and light rail services throughout the State Route Number 520 corridor.**” RCW 47.01.410 (emphasis supplied). That multi-modal transportation plan is to be “closely coordinated” with the 520 bridge replacement and HOV projects. *Id.* Excluding light rail from every alternative considered in the SDEIS does not reflect “close coordination” between this project and the legislative mandate to “ensure” light rail “throughout the State Route Number 520 corridor.”

¹ I presume the City of Seattle Mayor’s Office is providing a paper copy of that report. If you are unable to obtain it otherwise, please contact me and I will be happy to provide you with a copy.

Jennifer Young
April 14, 2010
Page 3

c-021-005 | Second, none of the prior planning efforts that resulted in the “no rail” decision for SR 520 had the benefit of the analysis in an EIS. Government decisions on major projects are not allowed to be made until after the decision makers are informed by the content of an adequate EIS. Relying on recommendations made without the benefit of an EIS puts the proverbial cart before the horse. Your agencies’ recommendations on how to spend billions of taxpayer dollars must be informed by the contents of an adequate EIS. You should not be justifying the exclusion of reasonable alternatives based on studies that did not enjoy the input of an adequate EIS.

c-021-006 | Third, reliance on years of prior planning also is misplaced because the world has changed greatly in the intervening years. Nearly a decade ago, in the early years of the so-called “Trans-Lake Washington Project,” rail was jettisoned from consideration for the SR 520 corridor. SDEIS at 1-10. Much has changed regarding our knowledge about climate change. New policies adopted at the city, state, national, and international levels reflect our increasing awareness of the reality of global warming and the need for bold action to avert its worst consequences.

c-021-007 | In 2007, the United Nations’ Intergovernmental Panel on Climate Change (IPCC) released its frequently cited report reflecting the new scientific consensus that is causing global warming. As summarized by the U.N. News Center in its press release announcing the report:

The IPCC, which brings together the world’s leading climate scientists and experts, concluded that major advances in climate modeling and the collection and analysis of data now give scientists “very high confidence” – at least a nine out of ten chance of being correct – in their understanding of how human activities are causing the world to warm. **This level of confidence is much greater than the IPCC indicated in their last report in 2001.** The report confirmed that it is “very likely” that greenhouse gas emissions have caused most of the global temperature rise observed since the mid-twentieth century. Ice cores, going back 10,000 years, show a dramatic rise in greenhouse gases from the onset of the industrial age. The co-chair of the IPCC working group stated, “There can be no question that the increase in these greenhouse gases are dominated by human activity.”

The United Nations went on to summarize the key findings of the report:

The report describes an accelerating transition to a warmer world – an increase of three degrees Celsius is expected this century – marked by more extreme temperatures including heat waves, new wind patterns, worsening drought in some regions, heavier precipitation in others, melting glaciers and arctic ice, and rising global average sea levels.

Jennifer Young

April 14, 2010

Page 4

C-021-007

The 2007 report from the IPCC represented a major step forward in the scientific understanding of global warming issues. According to the United Nations, "IPCC Chair Rajendra Pachauri said the science has 'moved on' and the extent of knowledge and the research carried now is several steps beyond what was possible for the last report." "This report by the IPCC represents the most rigorous and comprehensive assessment possible of the current state of climate science and has considerably narrowed the uncertainties of the 2001 report," according to Michel Jarraud, Secretary General of the World Meteorological Organization. Executive Director of the United Nations Environment Program was quoted as stating: "[T]his new report should spur policy makers to get off the fence and put strong and effective policies in place to tackle greenhouse gas emissions."

The IPCC was released several years after the Trans-Lake Washington study participants decided not to include rail on SR 520 in the near term. But this information was available to the drafters of the SDEIS in 2009 and 2010 and should have been used by them in determining a regional range of alternatives to simply building more pavement for motor vehicles.

As earth-shaking as the IPCC report in 2007 was (or should have been), scientific analysis since then should be causing alarm bells to ring even louder. The recent Copenhagen Climate Science Congress, attended by 2,000 scientists, concluded with this "Key Message 1:"

Recent observations confirm that, given high rates of observed emissions, the worst-case IPCC scenario trajectories (or even worse) are being realized. For many key parameters, the climate system is already moving beyond the patterns of natural variability within which our society and economy have developed and thrived. These parameters include global mean surface temperatures, sea-level rise, ocean and ice sheet dynamics, ocean acidification, and extreme climatic events. There is a significant risk that many of the trends will accelerate, leading to an increasing risk of abrupt or irreversible climatic shifts.

International Scientific Congress Climate Change: Global Risks, Challenges, and Decisions (Mar. 12, 2009). (This Scientific Congress was held in advance of the December 2009 Climate Change Conference that drew political leaders from around the world.)

More than our scientific understanding of global warming has changed in recent years. The political firmament is shifting, too. At the national level, in 2007, the Supreme Court rejected Bush administration efforts to preclude EPA from regulating greenhouse gas emissions. *Massachusetts v. EPA*, 549 U.S. 497 (2007). The Supreme Court held that the EPA could regulate those emissions as long as the EPA determines they contribute to climate change. *Id.*

The Supreme Court decision was followed by the election of President Obama, which opened the doors for new federal initiatives to combat greenhouse gas emissions. Pursuant to the Supreme Court decision, the EPA has proposed rules regulating GHG emissions from motor vehicles. On

Jennifer Young
April 14, 2010
Page 5

c-021-007 | another front, directly relevant to this project, on January 13, 2010, the United States Department of Transportation announced a “dramatic change from existing policy” regarding the funding of major transit projects. DOT Secretary LaHood stated, “We want to base our decisions on how much transit helps the environment, how much it improves development opportunities, and how it makes our communities better places to live.” No longer would transit funding decisions be based simply on alleviating congestion “in making funding decisions, the FTA will now evaluate the environmental, community, and economic development benefits provided by transit projects, as well as the congestion relief benefits from such projects.” U.S. DOT Press Release (Jan. 13, 2010).

The shifting political climate also is evidenced by the passage of the American Clean Energy and Security Act by the House of Representatives last summer. The bill sets a goal of reducing overall greenhouse gas emissions by 17 percent from 2005 levels by the year 2020, and 83 percent by 2050.

c-021-008 | In like manner, Washington State adopted greenhouse gas reduction standards in legislation adopted in 2008. The legislation states: “The state **shall limit emission of greenhouse gases to achieve the following emission reductions . . .**” RCW 70.235.070(1)(a) (emphasis supplied). As noted above, the statute establishes that by 2020, emissions shall be reduced to 1990 levels. By 2035, GHG emissions are to be 25 percent below 1990 levels and by 2050, they are to be 50 percent below 1990 levels.

The new law also requires agencies distributing capital funds for infrastructure projects to consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions. The agencies must also consider whether the project is consistent with the State’s limit on the emissions of greenhouse gases established in RCW 70.235.020 and the statewide goals to reduce annual per capita miles traveled by 2050. RCW 70.235.070.

c-021-009 | Policy shifts have occurred recently at the local level, too. The Seattle City Council’s 2010 priorities include the adoption of a “carbon neutral goal for Seattle with specific milestones and implementation steps . . .”²

c-021-010 | In sum, whatever may have led the Trans-Lake Washington Project group to exclude rail from SR 520 nearly a decade ago cannot be cited in 2010 as justification for refusing to consider rail within the range of alternatives today.

c-021-011 | Climate change is the most significant and daunting environmental issue facing this generation. We cannot pass up opportunities to reduce GHG emissions based on dated policy recommendations developed without the benefit of an EIS, without the benefit of our current knowledge of the seriousness of GHG emissions, and without the guidance provided by current governmental policies calling for significant reductions in those emissions in the coming years and decades.

² http://www.Seattle.gov/Council/Issues/Council_Priorities.htm#1.

Jennifer Young
April 14, 2010
Page 6

c-021-012 | We recognize the existence of political and economic forces (and their friends in the mainstream media) that resist adding a new study of rail at this time. They argue that studying rail now will cause delays and that the project has been “studied to death.” First, if delays ensue, they are not the result of those asking that the SDEIS be revised to include a rail option. If the SDEIS had included a rail option in the first place, there would be no need for any delay at all. If an analysis of rail at this stage causes any delay, it is because of the failure of the authors of the SDEIS to include a rail option in the SDEIS in the first place when it was published earlier this year. Don’t shoot the messenger.

Second, the new information about climate issues and government policies addressing global warming are issues of the highest environmental magnitude. We understand that at some point, planning must stop and decisions must be made. If there were new information policies about a relatively minor environmental issue, the need for making a decision might outweigh the need for additional study. But as stated above and as recognized by virtually every credible source, there is not a more important environmental issue than dealing with climate change. This SDEIS recognizes that close to 50 percent of the State’s GHG emissions come from the transportation sector. One of the most heavily traveled transportation corridors in the State is the SR 520 corridor. We are about to make a decision regarding transportation options in that corridor that will be with us for the next 50 to 100 years. How can we possibly in good conscience (thinking not only of ourselves, but of the next generation) make a decision of this magnitude and with such long-lasting impacts without taking a hard look at a rail option now?

Third, reliance on the old recommendations to exclude consideration of rail in the SR 520 corridor is misplaced because it is inconsistent with Sound Transit’s current plan for the SR 520 corridor. Sound Transit has not ruled out constructing light rail in the 520 corridor. Rather, Sound Transit’s current plan (“ST 2”) calls for an analysis of opportunities to develop high capacity transit, including light rail, in that corridor. Yet all of the alternatives currently under consideration would effectively eliminate the opportunity to bring rail to this corridor. *See* Nelson/Nygaard report. An EIS is required to assess opportunities that will be lost if the proposal goes forward. RCW 43.21C.030(2)(b)(v). But rather than disclose that all of the studied alternatives will doom light rail in this corridor, the SDEIS suggests light rail can be readily added later. Such a claim is debunked by the extensive analysis in the Nelson/Nygaard report. As those authors state, we have one chance to get this right – and that time is now.

c-021-013 | The failure of the SDEIS to provide a detailed assessment of a rail option infects other portions of the SDEIS, too. For instance, in the discussion of the project’s consistency with local land use plans and policies (SDEIS at 5-42, *et seq.*), there is no acknowledgement that proceeding with the current proposal would stymie the region’s long-term plans that call for possible inclusion of rail in the SR 520 corridor. As just noted, Sound Transit (and other regional planning bodies) still consider rail in the SR 520 corridor a viable option that requires further study. Yet this project would effectively eliminate that option from future consideration (for the next 50 to 100 years). That inconsistency should be disclosed in the EIS.

Jennifer Young
April 14, 2010
Page 7

c-021-014 | In like manner, the Section 4(f) analysis (SDEIS, Attachment 6) totally ignores the light rail option and fails to provide any consideration of the ability of that alternative to avoid or reduce impacts to parklands protected by federal law. A light rail option could eliminate the need for HOV ramps and, thereby, reduce the footprint of the project and its impacts on protected Section 4(f) lands. Yet this avoidance and minimization strategy was not analyzed because rail had been eliminated as an alternative to be studied in detail in the EIS. *See* Attachment 6 at 121. This is yet another fatal flaw in the SDEIS.

The failure to consider rail as a means of reducing impacts to parks is ironic given the Governor's quote in the SDEIS that called for Seattle communities to develop a design for the project in Seattle that "will best serve the neighborhoods, University of Washington, **and parks and natural resources.**" SDEIS at 1-16 (emphasis supplied). The Governor called on WSDOT "to provide support" to that effort. It is not too late. A rail alternative could be the best option for protecting parks and our most vulnerable natural resource – our atmosphere under attack from GHG emissions. We urge the FHWA and WSDOT to provide support for that effort now.

c-021-015 | Segmentation

The SDEIS assesses impacts (and alternatives) only within a part of the SR 520 Project corridor. As the SDEIS recognizes, the earlier Draft EIS evaluated the entire SR 520 corridor from I-5 in Seattle to 108th Avenue NE in Bellevue (just shy of I-405). In contrast, though, the SDEIS chops that corridor in two. The current SDEIS evaluates only the portion of the corridor from I-5 to Medina. This is error.

Federal Highway Administration regulations set forth three criteria that must be met to justify conducting environmental review for only a segment of a longer highway project. The segment evaluated in the EIS "shall:"

- (1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- (2) Have independent utility or independent significance, *i.e.*, be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- (3) Not restrict consideration of alternatives for reasonably foreseeable transportation improvements.

23 C.F.R. § 771.111(f).

The I-5 to Medina segment analyzed in the SDEIS fails all three of these tests.

Jennifer Young
April 14, 2010
Page 8

C-021-016

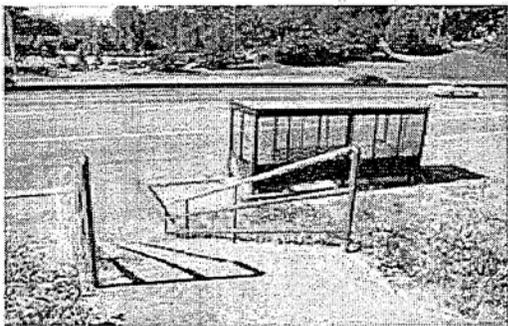
Logical Terminus

The SDEIS explains the logic of the two endpoints in Section 1.14: “These termini are logical because the I-5/SR 520 interchange is a major system interchange in the City of Seattle, while Evergreen Point Road is the location of a major transit transfer point for the Eastside.” We have no quarrel with recognizing the I-5/SR 520 interchange as a major system interchange and a logical terminus for the western end of the project. A parallel eastern terminus is SR 520’s intersection with I-405 in Bellevue or its intersection with SR 202 in Redmond. But there is no comparable “major system interchange” at Evergreen Point Road. The SDEIS claim that Evergreen Point Road in Medina is a logical endpoint because it is a “major transit transfer point” is illogical in several respects.

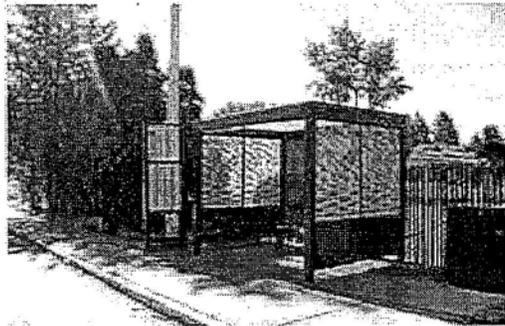
First, an infinitesimal number of persons traveling along SR-520 use the Evergreen Point Freeway Station. According to data in the SDEIS, of the 160,000 people who use the bridge on an average weekday, only 1,000 of them are transit riders who use the Evergreen Point Freeway Station. That is, barely more than one-half of one percent of persons crossing the bridge use the Evergreen Point Freeway Station.³ That hardly makes it a “major” transit transfer point.

Second, even if the comparison is made to transit riders crossing the bridge, the numbers are not much better. According to the EIS, there are 15,000 transit riders passing across the bridge on an average weekday (ES 2-1). The 1,000 transit riders using the Evergreen Point Freeway Station constitute just seven percent of all transit riders crossing the bridge. The Evergreen Point Freeway Station simply is not a “major” transfer point.

Third, the minor role of the Evergreen Point Freeway Station is visually conveyed by these pictures of the facility:



Evergreen Point Freeway
Transit Station – Westbound



Evergreen Point Freeway
Transit Station – Eastbound

SR 520 Transit station Usage summary Page 2
WSDOT Aug 2005

³ According to the EIS, 160,000 people cross the bridge on an average weekday (ES 1-2) of which only 1,000 are transit riders using the Evergreen Point Freeway Station (SDEIS at 2-8 and Ex. 2-5).

Jennifer Young
April 14, 2010
Page 9

C-021-016 | These small bus stops on the side of a major freeway hardly constitute a “logical terminus” for this environmental analysis.

Fourth, in justifying Evergreen Point Road as the western terminus for the segment of this project stretching east to Redmond, the SDEIS asserts: “The existing freeway transit stop at Evergreen Point Road is a key hub for transit on the Eastside, connecting north-south routes with east-west routes across Lake Washington; . . .” SDEIS at 1-36. Key hub? Connecting north-south routes? According to Metro’s Route Map, there are no major north-south bus routes using the Evergreen Point Transfer Station. The only two routes that do not simply pass through the transfer station while remaining on 520 are Route 261 and Route 271. Each of these routes travel south for a short distance and then turn east through downtown Bellevue and then beyond to points further east in Overlake (Route 261) and southeast in Eastgate (Route 271). Characterizing the Evergreen Point Transfer Station as a “logical terminus” on the basis of it being a “key hub” linking east-west with north-south routes is pure fiction. For all of these reasons, the first test in the federal regulation is not met. Evergreen Point is not a major hub and is not a logical terminus.

C-021-017 | Independent Utility

Limiting environmental analysis to this western segment also fails the second test which requires that the project have “independent utility,” “even if no additional transportation improvements in the area are made.” Certainly the “no action” alternative would have independent utility by eliminating safety issues associated with the existing, aging structures. But the proposal is to do much more than that, *i.e.*, to expand the road to include new HOV lanes across the lake and in Seattle. The SDEIS claims that these HOV lanes “will complete the SR-520 HOV system in keeping with regional planning.” SDEIS at 1-23. Hardly! Completion of this segment would not complete the SR-520 HOV system in keeping with regional planning. The Eastside project would have to be completed as well.

Eastbound on SR 520 from the Evergreen Point Station, there are no HOV lanes until considerably east of Evergreen Point Road. Constructing eastbound HOV lanes in Seattle and on the bridge would create a huge backup where that traffic has to merge with the general purpose lanes due to the absence of any eastbound HOV lanes from Evergreen Point east.

The eastern segment of this now bi-sected project (*i.e.*, the segment east of Evergreen Point Road) is described as including this major element:

Construct a new eastbound HOV lane from Lake Washington to the existing HOV lane west of the I-405 interchange. **This improvement** would complete the currently discontinuous HOV network on the Eastside and improve travel time reliability for buses and carpools.

Jennifer Young
April 14, 2010
Page 10

c-021-017 | SDEIS, Appendix Q at 1-4 (emphasis supplied). Not unless the west of Medina segment is combined with the east of Medina segment will there be a continuous eastbound HOV system in the SR 520 corridor.

Westbound, HOV lanes exist from I-405 to Lake Washington, but they are on the outside of the right-of-way. The project in Seattle and on the bridge call for the HOV lanes to be on the inside of the other lanes. "This change would enhance safety by eliminating the need for merging vehicles to weave across the faster-moving HOV lanes to reach the general purpose lanes." Thus, completing the SR 520 HOV system involves more than building HOV lanes in Seattle and on the bridge. The Eastside HOV lanes must be moved so that they form a continuous protected lane inside of the general purpose lanes. Unless the westbound HOV lanes east of Lake Washington are relocated to the inside, the SR 520 HOV system will not be complete, contrary to the claim in the EIS that the Seattle and bridge segment of the project alone will "complete the SR 520 HOV system."

c-021-018 | Segmentation Precludes Alternatives

Carving out the Seattle and Lake Washington portion of the corridor as a separate segment also violates the third test of the federal regulation, *i.e.*, it will "restrict consideration of alternatives for other reasonably foreseeable transportation improvements." As we have already seen, adding rail to this corridor is a "reasonably foreseeable transportation improvement," yet all the alternatives under consideration for this segment would not just "restrict" consideration of light rail, but effectively eliminate it. That would be a loss not just for Seattle communities, but for Eastside communities, too.

In like manner, proceeding with the eastern segment in advance of the Seattle and bridge segment threatens the feasibility of adding rail to the Seattle and bridge segment. Unless provision is made now for rail east of Evergreen Point Road, the decisions made on the eastern segment will "restrict," if not effectively preclude, consideration of adding rail to this corridor at any time in the reasonably near future.

Segmenting the overall project also threatens consideration of alternatives for the Seattle and bridge segment because of funding limitations. There is only so much money that the federal and state agencies can find to fund this project overall. Revenue sources for the entire project have not been found. *See, e.g.*, SDEIS at 2-34. Project cutbacks seem inevitable. By segmenting the project and allowing the eastern segment to go first, scarce funds will be devoted to designing, building, and mitigating impacts on the eastern segment, effectively limiting options when the time comes to design, build, and develop mitigation for the western segment. For all these reasons, the third criterion is not met and this attempted segmentation must be abandoned. A new Supplemental Draft EIS should be prepared that evaluates the entire project. No further action should be taken to implement the eastern segment (east of Evergreen Point Road) until a Final Supplemental EIS is published.

Jennifer Young
April 14, 2010
Page 11

C-021-019 | Section 4(f) Lands

Section 4(f) of the Department of Transportation Act and Section 138 of the Federal-Aid Highway Act preclude the use of parklands for highway projects absent extraordinary circumstances.⁴ Prior to enactment of Section 4(f), parklands had been an easy mark for highway projects. Building highways in parks typically involves less expense and less political and practical problems than building a highway through established residential or commercial areas. As the Supreme Court stated in the seminal 4(f) case of *Citizens to Preserve Overton Park v. Volpe*,⁵ Section 4(f) “expresses the Congressional will ‘that protection of parkland was to be given paramount importance.’”

In *Overton Park*, the highway departments argued that parkland should be used because of cost, safety, and other factors. The highway departments claimed they had discretion to consider these other factors and to determine “whether, on balance, alternative feasible routes would be ‘prudent.’” *Id.* at 412. The Supreme Court rejected these contentions:

But no such wide-ranging endeavor was intended. It is obvious that in most cases considerations of cost, directness of route, and community disruption will indicate that parkland should be used for highway construction whenever possible. Although it may be necessary to transfer funds from one jurisdiction to another, there will always be a smaller outlay required from the public purse when parkland is used since the public already owns the land and there will be no need to pay for right-of-way. And since people do not live or work in parks, if a highway is built on parkland no one will have to leave his home or give up his business. Such factors are common to substantially all highway construction. Thus, if Congress intended these factors to be on an equal footing with preservation of parkland there would have been no need for the statutes.

Congress clearly did not intend that cost and disruption of the community were to be ignored by the Secretary. But the very existence of the statutes indicates that protection of parkland was to be given paramount importance. **The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes.** If the statutes are to have

⁴ These provisions are currently codified at 23 U.S.C. § 138 and 49 U.S.C. § 303. They were originally enacted as § 4(f) of the Department of Transportation Act of 1966 and are still commonly referred to as “Section 4(f).”

Jennifer Young
April 14, 2010
Page 12

C-021-019

any meaning, the Secretary cannot approve the destruction of parkland unless he finds that alternative routes present unique problems.

Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402 at 411-12 (1971) (emphasis supplied; footnotes omitted). See also *Arlington Coalition on Transportation v. Volpe*, 458 F.2d 1323, 1335 (4th Cir. 1972) (“Congress has declared through sections 138 and 4(f) that conservation of parkland is of the **utmost primary importance**”) (emphasis supplied).

Section 4(f) prohibits FHWA from approving any project:

which requires the use of any publically owned land from a public park, recreation area, or wildlife and water fowl refuge of national, State, or local significance as determined by the federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and water fowl refuge, or historic site resulting from such use.

23 U.S.C. § 138(a).

The legislation not only provides the utmost protection for parklands, but it also provides local governments with a major role in deciding whether local parklands can be used for a highway project. The Act protects publicly owned park lands “of local significance,” and the Act reserves to the “local officials having jurisdiction” the right to determine whether municipally owned park lands have “local significance.” 28 U.S.C. § 138(a). In like manner, a finding that an impact to a municipally owned park is *de minimis* requires concurrence by the municipality. 28 U.S.C. § 138(b)(iii)(B). This local concurrence cannot be inferred. There must be an explicit determination by the local government. *Arlington Coalition on Transportation v. Volpe, supra*, 458 F.2d at 1336. See also 23 C.F.R. 774.11(c) (in the absence of an explicit determination by the officials with jurisdiction over a park that it is insignificant, park property “will be presumed to be significant”).

In making the “significance” determination, “the desirability of using the particular parkland in question as a highway must be ignored and only the value of the park as a park can be considered. Were this not so, land valuable to the community as a park could be used for a highway even though ‘feasible and prudent alternatives’ existed because federal or State officials had decided that using the park for highway purposes was desirable according to criteria other than whether such alternatives existed, the *only criterion* allowed by the Acts.” *Id.* (emphasis in original).

Jennifer Young

April 14, 2010

Page 13

c-021-020 | There is no requirement that land that functions as a park be formally designated as a park to enjoy the protection of Section 4(f). *Stewart Park & Reserve Coalition, Inc. v. Slater*, 352 F.3d 545 (2nd Cir. 2003).

Some of the lands at issue here are owned by the State and managed by WSDOT. If WSDOT were to determine that these lands that have been used as park land for decades are not "significant," the Federal Highway Administration has the duty to independently review that determination and reach its own conclusion. 23 C.F.R. § 774.11(d).

c-021-021 | Under separate cover, my clients are providing you with a detailed analysis of the project's use of and impacts to significant parklands protected by Section 4(f). That analysis demonstrates that the EIS and its Attachment 6 do not comply with the requirements of either NEPA, SEPA, or Section 4(f). Lands that have local significance for park purposes have been ignored in the analysis. Impacts to lands that have been identified as Section 4(f) lands have not been adequately assessed. The EIS and the accompanying 4(f) analysis fail to recognize and disclose numerous project impacts that will substantially impair the activities, features, and attributes of these park lands. That substantial impairment constitutes constructive use of the park lands and triggers Section 4(f) requirements. 23 C.F.R. § 774.15(a). The failure of the EIS and its Attachment 6 to fairly and fully acknowledge the substantial impairment of these park lands renders the EIS and the accompanying 4(f) analysis inadequate and void.

My clients' comments regarding the impacts to the parks (and the comments of many other citizens, too) are echoed also by the Seattle Board of Park Commissioners. Their recent resolution states that the Parks Board "cannot endorse any of the alternatives . . . due to the profound negative environmental impacts the project would have on the Washington Park Arboretum and the other City of Seattle Parks along the SR 520 corridor." The resolution goes on to explain that "the visual impacts and noise associated with the project, both during construction and after it is completed, will be significant" for Montlake Playfield. The resolution notes that the SDEIS "fails to recognize Lake Washington Boulevard as a historic resource or a park and recreation resource." "This officially designated park boulevard is a 204-acre, 9.2 mile long linear park wholly owned by the City and under the jurisdiction of Seattle Parks and Recreation." The project's "increased traffic through the heart of the Arboretum limits access to the Japanese Garden from the rest of the Arboretum, reduces the air quality due to vehicle emissions, increases noise from traffic and makes crossing Lake Washington Boulevard unsafe." The resolution further explains that recent improvements to Washington Park Arboretum "will likely be negatively impacted" by the project. The Parks Board has adopted a plan for future improvements to the Park, yet "redevelopment of SR 520 has the potential to negate the potential to undertake some or all of these projects to the detriment of the Arboretum and contrary to the goals set out in the Master Plan." The failure of the SDEIS and the Section 4(f) analysis to fully disclose these impacts renders the disclosure functions of those documents inadequate. These impacts also demonstrate the impropriety of using these park lands for the project and failing to minimize impacts as required by Section 4(f).

Jennifer Young

April 14, 2010

Page 14

- c-021-022 | The EIS and the Section 4(f) analysis also failed to consider the substantial impairment that will occur to park lands if construction of the lids is deferred. Given the considerable funding uncertainties and the lead agencies' acknowledgment that the project may be completed in phases, there is a significant possibility that the lids will be deferred for a considerable period of time, if they ever are built. Analysis of that issue should not be delayed until that decision point arrives. At that juncture, with most of the rest of the project built and money available to complete the Seattle section (but not enough money for the lids), there will be severe pressure to complete the highway project and build the lids at some unspecified time later. That possibility must be addressed now. This dynamic also further demonstrates the impropriety of segmenting this project into an east and west segment.
- c-021-023 | The EIS and Section 4(f) analysis also are inadequate in their failure to consider the possibility of alternatives that would avoid or minimize the amount of park lands to be used by this project. The rail option, discussed above, for instance, would result in a narrower footprint in some areas, thereby, reducing the amount of park land used for the project. The analysis also fails to consider the alternative of double decking the roadway to drastically reduce the width of the project and its use of adjacent park lands.
- c-021-024 | Finally, the EIS and the Section 4(f) analysis are inadequate in their treatment of measures to mitigate the use of and adverse impacts to park lands. Both NEPA and Section 4(f) require the lead agencies to develop and assess all reasonable measures available to mitigate these adverse impacts. As detailed in the accompanying letter from my client, that task remains undone. Of particular (but not exclusive) concern is the extent to which the analysis relies on the unfunded lids. Given the severe funding constraints, exacerbated by your current decision to allow the Eastside segment to proceed in advance of the Seattle segment, there seems to be a significant possibility that the lids never will be built. The EIS and the Section 4(f) analysis must take that into account.
- c-021-025 | Based on the various inadequacies described in this letter, the lead agencies should proceed promptly to develop a new Supplemental Draft EIS that, among other things, addresses the entire project, not just the Seattle/bridge segment and which includes a reasonable range of alternatives, including a light rail alternative. It is unfortunate that decisions made by the lead agencies in the early stages of drafting this document led to such a flawed document. Those decisions will, unfortunately, result in the loss of some time in planning for this project. The sooner the agencies rectify these errors, the sooner this project can get back on the right path. Ignoring these errors or making excuses for them now will simply delay the inevitable and result in yet more lost time. If a mid-course correction is made quickly now, the amount of time lost can be minimized and this project can still move into the construction phase in a reasonable time frame.

Jennifer Young
April 14, 2010
Page 15

Thank you for your consideration of these comments.

Very truly yours,

BRICKLIN & NEWMAN, LLP



David A. Bricklin

DAB:psc

cc: Clients

Friends of SR 520\SDEIS Comment Letter to Jennifer Young

Erin O'Connor
2612 10th Ave E
Seattle, WA 989102
April 14, 2010

Jenifer Young
Environmental Manager
SR 520 Program Office
600 Stewart Street, Suite 520
Seattle, WA 98101

Dear Ms. Young:

Although we are dismayed at the prospect of adverse effects on our historic resources from the SR 520 Bridge Replacement and HOV Project, we are confident that a fair and accurate consideration of the setting, feeling, and characteristic use of our historic resources and the likely multiple, indirect, and cumulative adverse effects from construction and operation of the project will lead to efforts on WSDOT's part to avoid, minimize and mitigate those adverse effects and to cement understandings in a Memorandum of Agreement. Following are some measures that make sense in light of the nature of these adverse effects during construction and in anticipation of operation.

Construction

- **Construct solid fencing and plant buffering vegetation** to protect historic resources in the Roanoke Park Historic District and historic properties in the Portage Bay neighborhood from the effects of demolition and reconstruction of the three bridges over I-5 on East Roanoke Street and over SR 520 on 10th Avenue East and Delmar Drive East, from the effects of construction of the two new lids, and from the effects of the demolition and reconstruction of the Portage Bay Bridge, which will be moved closer to and in front of more homes in the Roanoke Park Historic District and the Portage Bay neighborhood.
- **Without the lids that have been designed into the project, that are an integral part of the project, and because the "temporary" construction effects would go on for seven and a half to eight years**, these effects on historic resources in the Roanoke Park Historic District and Portage Bay neighborhood would be tantamount to ultimate "demolition by neglect" as property values plummeted, and even then visual blight, noise, dust, vibration, and diesel emissions would mean that people would not be able to sell their homes for amounts approaching their present worth. Many of the houses would be rented out to lower income renters, those not in a position to avoid living so close to a mammoth, many-years-long freeway construction project. Some, perhaps many, of the houses would become rooming houses as happened after the construction of I-5 and SR 520 and the economic decline of the 1970s. As we saw then on the borders of the district, a general deterioration would ensue in the absence of owner-residents who work steadily to improve their historic houses and their communities. Repairs would tend to be done on the cheap, with little regard for the historic integrity that owner-residents have maintained over 100 years. With the deterioration of the social fabric of the neighborhoods, would come a deterioration of the setting and feeling of the Roanoke Park Historic District and of the historic resources in the Portage Bay neighborhood.
- Families with young children especially would be likely to move away to protect their children from the **protracted health effects of a seven-and-a-half-to-eight-year construction project**. A snapshot survey conducted by the Portage Bay/Roanoke Park Community Council reported that 126 young people under the age of 20 live in the district. 79 of these children are under the age of 14. (Because parents are reluctant to reveal this kind of information in today's social climate, the number of young children is probably underreported.)

C-022-002 | • These would be serious indirect adverse effects on the single-family with children demographic of our neighborhoods and on businesses and schools in the neighborhoods.

C-022-003 |

- According to WSDOT consultant Larry Kyle, the construction plan for the bridge replacements is to build **half lids** to serve traffic as temporary bridges north of the present East Roanoke Street Bridge and east of the present 10th Avenue East Bridge over SR 520. (The closure of Delmar Drive East, as we understand it, means that a temporary bridge [half lid] will not be constructed adjacent to the present Delmar Drive East bridge over SR 520 at Delmar Drive East.)
- **Finishing and landscaping the lids over I-5 and SR 520 immediately after the replacement bridges have been constructed and put into operation** would spare historic resources from many of the further adverse effects of the preferred option's six- or seven-lane Portage Bay Bridge project's six-year construction phase and the highway widening phase and would provide **an opportunity for monitoring and fine-tuning** to perfect measures to avoid, minimize, and mitigate subsequent operation effects on historic resources.
- Deferring lid construction, as is predicted in the SDEIS's indication that the Phased Implementation Scenario is the most likely construction scenario, would lead to major adverse construction effects on historic resources that could be avoided or minimized. The most vulnerable parts of the project, most in need of replacement, should of course be taken care of first. But lids could go a long way toward easing construction effects. **Note that both the I-5 and the 10th and Delmar lids are designed and option neutral. Their early installation would be an expression of good faith on WSDOT's part, an expression badly needed at this stage of WSDOT's relations with the communities and institutions adjacent to the project.**

• **Adverse effects to both buildings and vegetation from demolition and construction effects** of all three arterial bridge projects and the two lid projects should be anticipated, and ways of avoiding or minimizing, the effects of this extremely dusty, clogging, eroding and soiling, noisy, and earth-shaking demolition and construction activity should be discussed in a Memorandum of Agreement.

C-022-004 | • WSDOT should stay in touch with the residents. WSDOT should furnish **current contact phone numbers and an e-mail address** so that residents can keep WSDOT apprised of effects, and WSDOT should make speedy response to resident notifications. **Developing a website and reporting periodic monitoring results would be a good idea as well.**

C-022-005 |

- Every precaution should be taken to ensure that historic resources in the Roanoke Park Historic District and the Portage Bay neighborhood are not affected during construction by vibration, excavation, or heavy equipment. **Monitor vibration levels** for all demolition and construction activity.
 - **Monitor noise periodically at bedroom height** and ensure compliance with local noise regulations for construction and equipment operation. "Periodically" could mean regularly and whenever a new kind of construction activity starts up and during that activity.
 - **Monitor air quality periodically from the construction footprint to 300 meters from any construction activity.** (300 meters is the distance the *Health Impact Assessment* says highway pollution would reach.) "Periodically" could mean both regularly and whenever a new kind of construction activity starts up and during that activity.
 - **Install fencing and landscaping or landscaped buffers in the Roanoke Parklands South East and West and other areas** where historic resources would be exposed to construction and

- C-022-005
- operation effects of the project to offset the removal or reduction of vegetation in buffer zones and where new or relocated traffic lanes intrude on the character of the historic district or the settings of individual historic properties.
- **Install historically faithful double-paned windows** in houses likely to be affected by seven and a half to eight years of increased construction noise.
 - **Wash windows** of affected historic buildings periodically.
 - **Protect exteriors of affected historic buildings** from an accumulation of excessive dirt and dust during demolition, staging, hauling, and construction, and clean them in an appropriate manner periodically during construction and at the conclusion of construction. WSDOT is to consult with the SHPO and/or the Seattle Historic Preservation Officer before implementing any protection or cleaning methods.
 - **Protect mature trees** from vibration and an accumulation of excessive dirt and dust during demolition, staging, hauling, and construction. Wash them periodically.
 - Locate any construction sheds, barricades, or material storage away from historic properties, and **avoid obscuring views of and views from historic properties.**
 - **Provide construction access directly to and from the construction zone along arterials** to eliminate construction truck traffic and detours along residential streets in the Roanoke Park Historic District and the Portage Bay neighborhood.
 - Make every effort to keep the historic resources in the Roanoke Park Historic District and the Portage Bay neighborhood accessible and functional during and after construction. **Residents should have priority in reaching their homes and accustomed parking places.**

- C-022-006
- Operation**
- Depending on the option, **noise walls and/or quieter pavement** have been incorporated into the design of the project to reduce noise along the proposed roadway. The choice of noise reduction method along the segments of the project should be made in light of both effectiveness and potential visual effects. **The use of more than one method should be considered.** Minimization of noise at expansion joints should be a priority. **Measure and compare the respective noise reducing methods at bedroom height in both the Roanoke Park Historic District and the Portage Bay neighborhood.** WSDOT should consult with the Arizona Department of Transportation, which has experienced great success with quieter pavement over many years with studded tires, chains, and freezing and thawing in the Flagstaff area, on proper installation and maintenance of quieter pavement.

- C-022-007
- New lids have been designed to cover I-5 at the East Roanoke Street crossing and to cover SR 520 at 10th Avenue East and Delmar Drive East. These **lids are to be landscaped and have pedestrian crossings, providing a new green space in each area and reuniting the communities on either side.** The landscaped lids will also help to minimize the visual and audible effects of I-5 and SR 520. (See the discussion of early lid construction and landscaping as mitigation in the "Construction" section above.)
 - **New bicycle/pedestrian paths are to be built along the I-5 and 10th and Delmar lids** to reconnect the Roanoke Park and North Capitol Hill neighborhoods, the Roanoke Park and Eastlake neighborhoods, and the Roanoke Park and Portage Bay neighborhoods, particularly with respect to the many schools in these neighborhoods, and to enhance pedestrian access, which was made unpleasant when I-5 and SR 520 were built in the 1960s.

- C-022-008 |
 - **Every measure should be taken to ensure that historic resources in the Roanoke Park Historic District and the Portage Bay neighborhood are not affected by visual blight, vibration, noise, air pollution, and nighttime glare in operation** of the new arterial bridges, the widened highway, the SR 520 bridges (including the Portage Bay Bridge, the West Approach, and the floating bridge), and ramps.

- C-022-009 |
 - As mitigation, WSDOT should work with the Roanoke Park Historic District to **engage designers or sponsor a competition to provide historic markers for the Roanoke Park Historic District** at East Shelby Street on Harvard Avenue East and on three gateways to the Roanoke Park Historic District: East Roanoke Street at Harvard Avenue East, the main gateway at 10th Avenue East at its intersection with East Roanoke Street, and Delmar Drive East at its intersection with East Roanoke Street. Historic lighting fixtures would be a part of this design project.

- C-022-010 |
 - In addition, WSDOT has been working with the Roanoke Park Historic District to come up with a **treatment of the streets that run along the Roanoke Park Historic District on its south and west sides that is sympathetic with the residential, tree-lined setting of the Roanoke Park Historic District, urban intersections, and in the interests of traffic calming**. Rob Berman, the SR 520 Program Planning Manager, asked us for a plan, which we have furnished. The plan has met with WSDOT's approval and has been passed to SDOT for their evaluation. When approval has been granted, this intention should be recorded in the Memorandum of Agreement.

- C-022-011 |
 - **The introduction of traffic calming devices on the arterials to keep traffic moving at a slow and steady speed, less polluting than idling or high speeds**, would contribute to a lessening of the air pollution that threatens the structural integrity of materials in the built historic environment and that would harm the mature shade trees that so contribute to the atmosphere and feeling of the district's setting.

- C-022-012 |
 - **The undergrounding of wires on the bridges and along the arterials** would permit the planting of tree canopy so characteristic of the setting of the historic district the streets run beside and help to reduce the accurate perception that air pollution from two more lanes of gas-powered vehicles had worsened air quality in our neighborhoods.

- C-022-013 |
 - **The use of quiet pavement on SR-520 as it runs along the West Approach, the Portage Bay Bridge, and the highway to I-5, on ramps, and on Harvard Avenue East, East Roanoke Street, 10th Avenue East, Delmar Drive East, and Fuhrman-Boyer Avenue East** would further contribute to the quiet atmosphere and feeling for which the Roanoke Park Historic District and the Portage Bay neighborhood are noted.

- C-022-014 |
 - Having undergrounded overhead wires and constructed substantial lid columns, **plant large shade trees to create a canopy over the streets that run alongside the Roanoke Park Historic District on the west and the south, along the three arterial replacement bridges, along the edges of the lids and on lid columns, and along Fuhrman-Boyer Avenue East**.

- C-022-015 |

All of these measures to avoid, minimize, and mitigate the construction and operation of the SR 520 Bridge Replacement and HOV project should be recorded and committed to in a Memorandum of Agreement between WSDOT and the Portage Bay/Roanoke Park Community Council to protect and enhance the historic resources in the Roanoke Park Historic District and the historic resources in the Portage Bay neighborhood.

Sincerely,

Erin O'Connor
Historic Resources Chair, Portage Bay/Roanoke Park Community Council
Roanoke Neighborhood Elms Fund
Friends of Roanoke Park

From: Erin O'Connor [mailto:erinoc28@comcast.net]
Sent: Wednesday, April 14, 2010 1:39 PM
To: Young, Jenifer (Consultant); SR 520 Bridge SDEIS; Brooks, Allyson
Cc: 'Houser, Michael (DAHP)'; Karen.Gordon@seattle.gov;
chris.gregoire@gov.wa.gov; Turner, Joyce; Arnold-Williams, Robin; Brown,
Marty; edward.murray@leg.wa.gov; frank.chopp@leg.wa.gov;
jamie.pedersen@leg.wa.gov; mike.mcginn@seattle.gov; 'Richard Conlin';
mike.obrien@seattle.gov; tom.rasmussen@seattle.gov;
jean.godden@seattle.gov; tim.burgess@seattle.gov; Nick.Licata@Seattle.Gov;
warneda@consultant.wsdot
Subject: Addendum on Mitigation for Adverse Effects of 520 project on Historic
Resources in Roanoke Park Historic District and Portage Bay Neighborhood

Dear Ms. Young:

As promised at the end of our March 2009 formal comments on the *SDEIS* December 2009 *Cultural Resources Discipline Report* (below and attached), we are sending you an addendum (attached) on proposed mitigation measures (meant to be understood as avoidance, minimization, and mitigation measures) of the adverse direct, indirect, and cumulative effects of the SR 520 Bridge Replacement and HOV Project construction and operation on historic resources in the Roanoke Park Historic District and the Portage Bay neighborhood. We trust that these proposed mitigation measures will be included in a Memorandum of Agreement between WSDOT and the Portage Bay/Roanoke Park Community Council.

Sincerely,

Erin O'Connor
Historic Resources Chair, Portage Bay/Roanoke Park Community Council
Roanoke Neighborhood Elms Fund
Friends of Roanoke Park

C-022-016