

Sound Transit Fraud, 1996-2007

Fraud: Deceit, trickery, sharp practice, or breach of confidence, perpetrated for profit or in order to gain some unfair or dishonest advantage.

Within the performance record of Sound Transit to date lies clear evidence of fraud perpetrated on the citizens of the Central Puget Sound Region, and, secondarily, on the taxpayers of the USA. The manner in which costs are projected into the future confirms that the erroneous cost data are not the result of incompetence, but willful deception. This memorandum is a summary of the evidence, focused on Operating and Maintenance costs.

The record of what has transpired to date, as contrasted with what was represented by Sound Transit in its 1996 Sound Move Plan, is in the hands of the State Auditor General's Office, as it works on its performance audit of Sound Transit.

The representation of operating and maintenance costs

The reason for focusing on Operating and Maintenance costs is that they provide the easiest, clearest demonstration of past, egregious misrepresentations, and the manner in which that fraud is projected into the future. The cost implications soar past an accumulation of billions of dollars of O&M cost overruns by 2030, to scores of billions by 2057, the year the Phase 2 bonds are to be retired. The consequence is to transform the prediction of accumulating resources to one of accumulating deficits.

According to Sound Transit's predictions, after Phase 1 and Phase 2 projects have been developed, there will be financial surpluses sufficient to continue to expand and improve the Link light rail system--which will be only half completed at the end of Phase 2, in 2028. But with competent projections of O&M costs, in accord with industry norms and Sound Transit's experience, the projected surpluses are transformed to ruinous deficits. It will be possible neither to continue to develop light rail, nor even to operate on the level promised, with 67 miles of the 125 light rail system, plus Sound Transit's bus and commuter rail programs.

There are many ways to demonstrate willful fraud in Sound Transit's projections of O&M costs, all reaching the same conclusion. The simplest and most direct is to follow the conclusion of the National Transit Database, that transit O&M increases at an annual rate approximating inflation plus 1.47 percent per unlinked trip (i.e. per boarding). Using that calculation, and Phase 1 data only, results in an escalation from the 21,899,000 Sound Transit trips in the baseline year 2010, for \$8.32 per boarding, to a projected 52,722,000 trips in 2030. If the per-trip cost goes up by inflation plus 1.47 percent annually, the O&M cost per trip would be 2.34 times (234 percent) higher, \$19.47, total \$1,026,434,000 in 2030. That contrasts dramatically with the amount budgeted by the agency, \$531,338,000, resulting in an O&M cost overrun of \$495,096,000, 93 percent, in the year 2030.

However, a much higher proportion of light rail trips are forecast by Sound Transit in 2030, than in 2010. And light rail, covering much shorter trips than those of regional express buses and Sounder commuter rail, has lower per-trip O&M. So the following computation--with recent

Sound Transit Fraud, 1996-2007

(2005) cost and ridership data taken from Sound Transit's 2007 Service Implementation Plan (12.14.06)--disaggregates the three modes and computes them separately:

1. Current ST1 plans are that the regional express bus (REX) will grow from 8.8 million trips in 2005 to 15 million trips in 2030. The respective annual O&M costs are \$62.7 million in 2005 and a projected \$243.5 million in 2030. The baseline year 2005 is selected because that's the latest year for which Sound Transit provides actual, rather than estimated cost and ridership data. The REX cost per trip in 2005 was \$7.11. In 2030, at a growth rate equal to inflation plus 1.47 percent per year, it's projected at \$19.91. (The factor over 25 years, using Sound Transit's annual inflation projections, ranging from 3.5 to 3.8 percent, plus the National Transit Database's annual 1.47 percent growth, is 2.8, 280 percent.)

The total O&M cost for REX in 2030, with 15 million trips, would approximate \$298.6 million, considerably higher than the \$243.5 million budgeted, about 23 percent higher. As will be shown later, that is much less flagrant than the projections for the rail projects. This lends a measure of credence to Sound Transit's claim to its Citizen Oversight Panel, July 25, 2007, that it has REX contracts with the local transit agencies that justify its O&M costs (letter attached, Response to COP, see page 3). Also, it makes the pertinent observation that, if ST2 is passed in November, it intends to sharply reduce REX service, hence O&M.

2. Current plans for Sounder is growth from 1,268,000 trips in 2005 to 4 million in 2030. The O&M cost in 2005 was \$20.8 million, and that for 2030 is projected at \$97.9 million. So the per-trip cost in 2005 was \$16.40, and that projected for 2030 is \$24.50, a suspiciously modest increase considering the passage of a quarter-century. Applying the same 280 percent increase over 25 years described above, on account of CPI plus 1.47 percent annual growth, puts the anticipated per-trip cost in 2030 at \$45.92. If indeed there are 4 million Sounder trips served in 2030, the O&M cost will approximate \$183.7 million, nearly 88 percent, \$85.8 million, over the budgeted \$97.9 million.

3. For Link light rail, the first full-service year is expected to be in 2010. In that year ridership is projected at 9.8 million, and O&M cost at \$47,569,000, a per-trip cost of \$4.84. In 2030--accepting the ridership projections from Sound Transit 2, and the O&M costs for light rail from ST1 plus ST2 financial plans--ridership is projected at 93 million trips, and O&M costs at \$190 million (ST1) plus \$297.4 million (ST2), \$487.4 million total. That's only \$5.24 per trip--an implausible increase over \$4.84 in 2010, considering standard inflation plus greater-than-inflation per-trip costs. If the per-trip cost increased by 234 percent, the sum of inflation plus 1.47 percent over the 20 years, it would equal \$11.33 per trip. And total O&M would equal \$1.05 billion, a \$566 million, 116 percent cost overrun, in a single year, for one transit mode.

In short, the two Sound Transit rail projects, if they operate in 2030 at the service levels purported by Sound Transit, and if O&M per-trip costs grow at the modest rate experienced nationally over the decade 1996-2005, inflation plus 1.47 percent annually, there will be an O&M cost overrun of \$652 million. For that single year. Because of the ongoing discrepancy between reasonable, competent O&M estimates and those of Sound Transit, the scale of overruns will accelerate with each ensuing year following 2030.

Sound Transit Fraud, 1996-2007

In Sound Transit's calculations (see the attached table, O&M Growth Rates, using Phase 1 data, including Sound Transit's projections of inflation rates), O&M routinely increases more slowly than increased ridership plus inflation. Effectively, the agency claims that its real costs per trip will go down over time, not up, in contradiction to the entire history of public transit in the US. The long-established industry norm is the opposite: Over time, O&M increases faster than inflation, and faster-still with increased ridership and service. The same is the case with Sound Transit's own record, through 2006. The reasons are obvious and elemental: O&M increases with inflation. Because nearly 80 percent of O&M is devoted to labor costs, and the field is well-unionized, O&M increases at a rate greater than inflation, and is expected to continue to do so. And O&M increases faster still with increased service levels and expanding ridership.

The Citizen Oversight Panel's 2006 O&M recommendation, 8-10 percent annual growth, and the 1996 ECONorthwest analysis, CPI + 4 percent

There are other credible ways to make future calculations of O&M, and all of them dramatize a yawning discrepancy between Sound Transit's cost projections and reality. For example, in reviewing the experience of Sound Transit over its initial decade, the Citizen Oversight Panel complained in its letter of January 11, 2006 (attached, COP letter), that the agency's O&M projections are not reasonable. They are roughly CPI plus one percent annually--about 5 percent. COP advised Sound Transit to be realistic, and increase its O&M projections to 8 to 10 percent growth annually.

Jim MacIsaac selected the lowest number proposed by COP, eight percent, and projected it to 2057, with the result that Sound Transit's projected bottom-line surplus of \$28 billion was transformed to a liability of \$20.5 billion.

That effort to escape from reality already has been manifested in Sound Transit's representations of costs for the Sound Move Plan, as opposed to its actual experience. In the Sound Move Plan, Sound Transit projected O&M costs at a static rate, the rate of inflation. This was flagged as erroneous by the ECONorthwest economic consulting firm in its October 1996 analysis (attached, ECONorthwest/RTA Study, see pages 10-12). ECONorthwest pointed out that national bus transit experience over the preceding 15 years was approximately annual O&M growth at CPI + 4%, and rail transit was higher than that. (In the decade following, 1996-2005, actual annual O&M growth turned out to be CPI + 3.69 percent, according to the National Transit Database.)

Indeed, as the implementation of Sound Move proceeded, the discrepancy between projected and actual O&M costs grew wider and wider. The outcome is represented in a chart prepared by Jim MacIsaac (attached, 2007 draft fin plan O&M). Note how, even with that experience, Sound Transit persists in projecting future O&M at an implausible rate. The Citizen Oversight Panel tartly observed, with reference to the future, that reality will intrude, whether planned for or not, and pointedly urged Sound Transit to project realistic O&M costs. To no avail.

COP noted earlier that Sound Transit's O&M costs were markedly exceeding those projected--but the financial impact was masked, because Sound Transit's rail projects were so far behind schedule. Central Link light rail has no O&M costs to date, because, contrary to the agency's

Sound Transit Fraud, 1996-2007

promise, even its scaled-back "Initial Segment" is years from being put into operation. REX exceeded its projected O&M costs, even though service levels are lower than promised. Sounder commuter rail was just about on-target with its O&M costs in 2006, \$30 million, but the money sufficed to support only six daily trains, while it had been projected at the outset to pay for 15. The actual per-train O&M cost was 2.5-times that predicted.

If Sound Transit had accurately forecasted its development costs and schedule, it would be in a financial crisis today on account of the vastly greater-than-predicted scale of its operating costs. Perversely, it is able to keep its fiscal head above water because the pace of its project development and service delivery is so poor.

Sound Transit persists in misrepresenting future O&M costs. Every effort to get the agency to project these costs in a professional, honest manner has failed. ECONorthwest's analysis was ignored, and events have vindicated it. COP's pleas for realistic O&M budgeting have been ignored. Jim MacIsaac wrote a supportive, follow-up memo to COP's observations on January 14, 2006, that has been ignored.

On April 20, 2006, COP President Karen Miller forwarded another letter to Sound Transit Chairman John Ladenburg, with the following, frustrated observation:

"[W]e believe the O&M cost issue in the financial plan is only partially a policy issue. While we appreciate that adding transit service in the future would be a Board policy choice, the actual assumptions about cost increases need to be fiscally realistic..."

That's the nub of the problem. Sound Transit's O&M assumptions for the future are not realistic. Like its Sound Move Plan's budget and implementation schedule, the current O&M projections reflect what Sound Transit wants people to believe as it seeks more taxing authority--"strategic misrepresentation"--rather than providing the public a realistic, honest representation. Yes, the Board can decide what to do, and what future transit service levels to provide. But it will be confined by fiscal reality. Sound Transit has refused to make representations to the public, past and present, that meet the elemental criterion of realistic projections of future transit services. Instead, it projects fantasy ridership--benefits it wants people to believe--that it will be unable to provide, because the operations will exceed its financial capacity. It is a confirmation of past fraud, and manifests a clear, discernible intent to project fraud at an escalating scale into the future.

In a recent letter to COP, July 25, 2007 (letter attached, Response to COP, page 2), Sound Transit made the following claim:

"We believe the best way to guard against these [cost overrun] risks are,

- "1. Prudent assumptions....,**
- "2. Real world experience...., and**
- "3. Continuous oversight..."**

Sound Transit Fraud, 1996-2007

Those are precisely the attributes absent in the Sound Move Plan's O&M assumptions, and those of Phase 2. The Sound Move assumptions were recklessly imprudent, detached from real-world experience, as noted in 1996 by ECONorthwest, and confirmed since then in national transit experience and that of Sound Transit. Predictably, the imprudent assumptions have proven to be at variance with the record accumulated by Sound Transit itself, as confirmed by its Citizen Oversight Panel in 2006. Continuous oversight and adjustment to reality is utterly lacking. And now, similarly reckless, imprudent assumptions are projected into the future, in the form of current, fraudulent O&M cost representations.

The context and the motivation for fraud

There is a broader context, that adds illumination. The agency's dissembling can be understood by the diligent study conducted by an international team of scholars, regarding the costs and benefits of 258 transportation projects--highways, bridges, tunnels, and rail transit--spanning decades of experience, across national boundaries, primarily in Europe and North America. The team was headed by the Danish scholar Bent Flyvbjerg. Its report, published in 2003 by Cambridge University Press, is titled **Megaprojects and Risk: An Anatomy of Ambition**.

Generally--but not always--the 258 transportation projects' sponsors underestimated costs and exaggerated benefits. The researchers concede that it is impossible to reliably estimate large construction projects, implemented over a number of years. But honest and proficient cost and benefit projections, with appropriate contingencies for inadequately known variables, result in predictions that are more-or-less randomly over, or under, the actual outcomes. That's what generally happens in the private sector, because private sector sponsors, who must bear the consequences of their forecasts, have an incentive to be as accurate as possible. If costs are predominantly under-estimated in public sector projects, in tandem with routinely exaggerated benefits, it signals intentional misrepresentation. That method, conclude the scholars, is one of "strategic misrepresentation." The motive is to lie, as necessary, to get the money for the project. The sponsoring agencies, their vendors, and political allies reap benefits, while the public is victimized. This is facilitated by the fact that public agencies, in the US, are not held to the standards that private, publicly-traded companies are obliged to observe. Managers and board members of the latter, as in the cases of Enron and WorldCom, can face criminal indictments and convictions for fraud. But Sound Transit's leaders are at liberty to commit fraud with abandon, because they represent a public agency.

The **Megaprojects and Risk** researchers noted the staggering implications of "**a new political and physical animal: the multibillion-dollar mega infrastructure project.**" Public works projects now reach figures so imposing they are hard for the sponsoring governments to manage, sometimes even within a national budget. Indeed, nearly two decades ago, Dr. Don Pickrell, a senior economist for the US Department of Transportation, studied ten US urban rail transit projects. He found they all were grossly underestimated in development costs, and all had grossly exaggerated ridership benefits. On average, the actual cost/benefit ratio was merely one-quarter of that predicted. Usually the rail projects were selected on narrow margins over alternatives that, in retrospect, would have been vastly superior. In most instances, the rail transit projects turned out to be the most costly public works programs ever implemented in the

Sound Transit Fraud, 1996-2007

sponsoring jurisdictions. (C/f Don Pickrell, "A Desire Named Streetcar," **APA Journal**, Spring 1992. This article is more accessible than his official USDOT report.)

The **Megaprojects and Risk** study found that the 58 rail transit projects, within the total of 258 transportation projects, were distinctively, consistently misrepresented. While highway projects, on average, ran 20 percent over the projected budget, with fewer benefits than represented, rail projects' overruns were multiples of that scale. Further, cost overruns for rail projects were not merely manifested most of the time, but all of the time, just like those of the Pickrell study. And the ridership benefits were even more deficient than the costs were excessive.

Rail sponsors know the projects are unwarranted, and public approval can be won only by misrepresenting their costs and benefits. A corollary observation is that rail projects are, in the abstract, popular: People have a fond estimation of trains, and if the public can be led to believe they comprise a reasonable transportation option, can be implemented in a timely way, will add to cost-effective mobility, and ameliorate congestion, then the necessary funds may be sanctioned by voters. That's the incentive to lie about the costs and benefits. Sound Transit's polling warned it that the truth about light rail's costs and benefits would obviate prospects for approval at the ballot. And Sound Transit wanted to win, at all costs. Unlike in the private sector, there are no legal sanctions for willful misrepresentations committed by representatives of a public agency.

An example of how this plays out is the testimony of Professor Scott Rutherford, a seven-year member of Sound Transit's **Expert Review Panel**, 1989-1996. A panel that was supposed to keep cost and benefit forecasts honest; a panel that had been established by the state legislature to see that the outcomes reported by Dr. Pickrell did not happen here. The following are transcribed, verbatim excerpts from a forum in which Professor Rutherford participated at Portland State University on January 10, 2003. The initial excerpt regards the selection of rail transit, in preference to bus transit enhancements. There was supposed to be a diligent, comparative study leading to the selection of the most meritorious option; in fact, it has been falsely claimed by Sound Transit that there was:

"I thought we were going to get there in Seattle a few years ago when doing an alternatives analysis for what we were going to do. Because [when] they started out, they were going to hire separate consultants for the bus alternative and for the rail alternative and let them sort of fight it out in the arena of choice. I forget what happened, but it just fizzled. As soon as the more powerful policymakers decided that rail was it, it was it. So, what can you say? It's kind of disappointing. We'd like to think, as engineers and planners, that we're going to go in there and do this totally objective thing and they're going to take our advice, (but) it doesn't happen very often. It doesn't happen very often."

Later he commented on the motivations behind how costs and benefits are represented:

"So the 'game' was, you know, if you could keep your cost estimate down and your rider forecast up, they were looking at this cost-effectiveness number, cost per new rider -- and those costs can get waaay out of of line. And so the federal government is saying 'well we don't want to invest in something that has, you know, \$30 per new rider', and so what

Sound Transit Fraud, 1996-2007

people did was sort of lowballed their cost estimates and goosed their forecasts so that that number comes down to sort of under \$10. I always thought that when I was out there, watching this that, you know, 'someone's gonna go to jail, these people are robbing the federal government of a billion dollars'. You know, they're defrauding the federal government basically --I mean what else could you say?-- they're cheating. But the thing was that if you didn't cheat, you got nothing. If you cheated, you might get a billion dollars. So what do you think people do? I mean, duh!" (laughter)

When subsequently confronted with his recorded comments, Professor Rutherford denied that the second quote specifically referred to Sound Transit; he may have been referring to an example in Miami, or Detroit. Be that as it may, the same phenomena occurred here, for the same reasons, with Sound Transit's ridership forecasts "goosed" and its cost estimates "lowballed"--as elaborately confirmed by events. Indeed, Sound Transit's performance, its scale of misrepresentation, is much worse than the norm.

Sound Transit's poll by Fairbank, Maslin, Maullin & Associates, September 1994

The motive for Sound Transit's fraud is suggested by the polling it commissioned in advance of its 1995 and 1996 tax proposals, especially the extensive Fairbank, Maslin, Maullin & Associates poll, completed in September 1994. The results provided detailed guidance on what level of taxes voters might approve, what kind of transportation benefits they would need to believe would result, and a sense of the necessary schedule of implementation. The 1996 Sound Move Plan conforms very closely to the polling results, even more closely than the failed proposal of 1995. It also departs radically from the truth, from what actually ensued. The Sound Move Plan was prepared with the polling in mind, as refined by the vote of 1995 and subsequent testing of public opinion, rather than a proposal to the public incorporating a competent, honest representation of costs, benefits, and implementation schedule.

Here's a quick summary of Sound Transit's performance in executing its \$3.9 Billion (\$5 billion, in year of expenditure dollars) Sound Move Ten Year Regional Transit System Plan: The schedule for implementing the centerpiece Central Link light rail is well beyond a decade late, more than doubling the promised time for development. The cost will approach and may exceed three-times that represented. As of 2016, Sound Transit's financial plan estimates the agency will receive \$12 billion toward its \$5 billion (\$YOE) plan, which still will be far from complete--and can't be completed without an infusion of new, Phase 2 taxes. This is confirmed by the fact that some very costly elements of Sound Move have been rolled-over into the Phase 2 plan. Also, five Central Link stations have been eliminated, the abandonment of First Hill alone reducing the agency's projected costs by \$350 million. Sounder commuter rail was supposed to be completed and fully operating in 2002; the latest estimate is 2012. Capital development costs have doubled. The actual operating costs, on a per-train basis, are multiples of those predicted, and ridership benefits are a fraction of those confidently claimed.

But the adopted and proffered Plan closely matched the agency's public opinion polling.

The Deloitte & Touche performance audit of 2001

Sound Transit Fraud, 1996-2007

For a brief moment in 2001 it looked as though Sound Transit might come clean, and dig into the reasons underlying the yawning gap between the truth and the agency's 1996 representations. A staff leadership transition--the departure of executive director Bob White, replaced by Joni Earl--was triggered by the belated admission in December 2000 that there was a \$1 billion cost overrun that had been hidden and denied. In September 2000, a group of 88 citizens had called attention to no less than a half-billion dollar discrepancy between what Sound Transit's internal cost data indicated was the known cost of Central Link light rail, and what it was representing to the public and to Congress. The September 6, 2000 document, named A Call for an Independent Audit (attached, Call for an Audit), suggested that the full truth would prove even worse, and enumerated some of the reasons why. Within the day Sound Transit's current and next board chairmen falsely claimed to the press, hence the public, that the agency had been "audited to death," there were "no cost overruns," and that the 88 citizens were "twisting the truth" (attached, Seattle Times article, 9.7.00). Within a few months the contentions of those who issued the Call were fully validated, including the claim to have provided a cautious, conservative estimate. That billion dollar cost overrun proved to be but a way-station to much greater cost overruns, with overruns and schedule extensions accumulating on Joni Earl's watch faster than on Bob White's. Though, to be fair, they are not fundamentally the fault either of Mr. White or Ms. Earl; they are rooted in the calculated misrepresentations in the 1996 Sound Move Plan itself.

In this setting, in early 2001 some Sound Transit board members initiated a comprehensive performance audit (promised in the Sound Move Plan to be commissioned annually--but never has been carried out) to ascertain what went wrong. The board appropriated \$500,000 for the audit.

The savvy powerbrokers on the board, appreciating how discrediting an honest-to-god performance audit would be--since it would expose how cynically fraudulent the 1996 Sound Move Plan was--moved to cut the prospective audit back and back and back. They settled on one element of four, the most arcane, "the methodology of cost estimating," and eliminated every other avenue of inquiry. The enabling resolution also specified a crimped time span: The inquiry was not to go back to the beginning, to 1996 or earlier, which would expose how the original poll-induced costs were generated. It must stick to events subsequent to the funding proposal submitted to the Federal Transit Administration on September 3, 1999. Sound Transit, furthermore, hired the agency's own accounting firm rather than an outside, independent organization. It severely cut the \$500,000 approved for the audit to a mere \$75,000, plus \$25,000 for expenses. It decreed that the report must be submitted in less than two months.

All considered, the small Deloitte & Touche team did an exemplary job--and not long afterward Sound Transit selected another firm as its auditor. The team presented a power-point/oral report to the Sound Transit board and senior management on September 13, 2001. A copy of the power-point presentation was provided to the author by board member Rob McKenna. The most telling, outlined item, headed "**Deficiencies in development of prior estimates include...**", enumerated why costs have turned out to be so wide of the mark.

The list led with the revelation, "**Development of estimates to match a budget**". The Sound Move budget didn't originate, and wasn't refined by and updated by professional, studied compilations of real estimated costs. Rather, a politically opportune budget was crafted, and cost

Sound Transit Fraud, 1996-2007

estimates were made to conform to it. A budget that would sell, a budget that hewed to the public sentiments reflected in the Fairbank, Maslin, Maullin & Associates poll. It is germane that a central player in presenting cost data from the beginning has been Parsons Brinckerhoff--which has played precisely the same role in its work for the Massachusetts Turnpike Authority on the Big Dig. The Massachusetts Inspector General concluded his damning, historical account of egregious cost misrepresentations on the Big Dig in March 2001 with the following sentences:

Big Dig officials would never have been able to perpetrate the inaccurate presentation of such detailed information without the active collaboration of B/PB [Bechtel and Parsons Brinckerhoff]--the entity that gathered, controlled, and manipulated all Big Dig cost data. B/PB did not participate passively. B/PB took control soon after Big Dig officials decided to obscure the true costs and after FWHHA accepted the accounting assumptions. In fact, documents reviewed by this Office illustrate B/PB's efforts to develop and maintain the mechanisms to obscure Big Dig costs. (Attached, HistoryBigDig, page 52. The Inspector General's report includes five pages enumerating 218 accounting tricks, pages 34-38, used by Bechtel and Parsons Brinckerhoff to help make a \$14 billion project appear to cost a politically-opportune \$8 billion. It's germane to emphasize, as the Inspector General notes, that it was the agency that directed that this be done, the Massachusetts Turnpike Authority, and the consultants did as they were told by their client. The same is true in Sound Transit's case--the fraud originates with the agency, and the contractor applies its expertise to carry it out.)

The Big Dig and the Sound Move Plan illustrate the kind of fraudulent work described by Bent Flyvbjerg and his international team in **Megaprojects and Risk** as "**strategic misrepresentation**"--lie, in order to gain access to vast sums of money.

In addition to developing estimates to match a budget, rather than develop a budget to reflect real, anticipated costs, the Deloitte & Touche auditors added that Sound Transit's estimates were "**overly optimistic,**" there were "**inadequate contingencies,**" "**contingencies [were] prematurely reduced,**" there were "**inadequate/insufficient data,**" and "**inadequate soft costs.**" The proffered costs were rooted in the desire to see the taxing authority passed, truth be damned. Riddled throughout the 1996 Sound Move Plan were cynical representations that the costs presented were "**conservative,**" "**very conservative,**" "**consciously conservative,**" the ridership projections were probably much too low, and the Sound Transit board, and its financial policies, would "**make certain Sound Move stays on schedule and within budget.**"

And then, in contradistinction to its lavish assurances, and virtually unknown to the public, Sound Transit enacted Resolution 75 in the summer of 1996, in cynical anticipation that its proffered costs and schedules would not be met. Then subsequently, successfully argued in court that Resolution 75 freed it from any obligation to meet the cost and schedule standards it represented to voters. It can tax and spend on its Sound Move Ten Year Plan in perpetuity.

The current representations of Sound Transit regarding the capital development costs, and ridership and time saving benefits of Phase 2, perpetuate these same fraudulent practices. But it's hard for outsiders to gain access to the data, and marshal expertise sufficient to authoritatively reach such a conclusion, or, if they do, to find a place to intervene. With this exception: **The 1996 representation of operating costs was fraudulent, and can be demonstrated so, with**

Sound Transit Fraud, 1996-2007

material currently in the hands of the State Auditor's Office. It is clear that the same impulses have been projected in the current plan into the future, confirming that they are intentional. This is not a close call: The Sound Move O&M costs clearly were wildly erroneous, at variance with industry experience and common sense. As confirmed by Sound Transit's record over the past decade. The fact that the same practices are projected in Phase 2 demonstrates that the fraud is willful. In short, in evaluating Sound Transit's performance in implementing the Sound Move Plan, there is clear evidence of fraud, with the same fraudulent practices now projected into the future at an escalating scale.

The current issue of the National Transit Database is attached (2005-NSTS). Data on operating costs and performance appear on pages 14-20. During the decade 1996-2005, operating costs grew at a rate of inflation plus 3.69 percent annually. The cost per-boarding (unlinked trip) grew at a rate of inflation plus 1.47 percent annually. Either approach, in calculating future O&M, results in costs vastly higher than predicted by Sound Transit. But the latter figure, annual inflation plus 1.47 percent, is more applicable to Sound Transit's situation, as the agency claims in its Sound Transit 2 Plan that it will accomplish a large expansion in service and ridership growth over the coming two decades.

The State Auditor' Office is engaged in a performance audit, commissioned pursuant to the mandate of a citizen initiative. The proof of fraud is in the State Auditor's hands--because it's substantiated by the record accumulated from 1996 to the present. Sound Transit fraudulently understated O&M costs in its 1996 Sound Move Plan, the record establishes that they were erroneous--by wide margins, but the impact has been masked by poor performance on the development schedule front. Confirmation of the fraud is inherent in the fact that Sound Transit persists in projecting fraudulent numbers, especially for its rail projects, decades into the future, even in the face of clear, irrefutable evidence that its projections are grossly understated.

Emory Bundy
August 24, 2007