

September 13, 2011

Ms. Nancy Sutley, Chair
White House Council on Environmental Quality
Washington, DC

RE: July 2011 Final Environmental Impact Statement for East Link Light Rail in Seattle (FEIS); lead agency, Federal Transit Administration, U.S. Department of Transportation

Dear Chair Sutley:

We are writing to you based on an understanding gained from the White House CEQ website: "NEPA assigns CEQ the task of ensuring that Federal agencies meet their obligations under the Act." Thank you for this important service that you provide, as well as many others.

Based on reading the July 15 Final EIS for the Seattle light rail expansion across Lake Washington to Bellevue and Redmond, we believe that U.S. DOT Federal Transit Administration has not yet met its obligations as a Federal NEPA lead agency in its oversight of Sound Transit, the project advocate. As we approach the point of a Record of Decision for East Link, we respectfully request that your staff examine the NEPA record on the points described below in order to suggest further action by U.S. Department of Transportation or by us.

The \$3 billion East Link rail project by Sound Transit uses 26% of the right-of-way width of the existing Interstate 90 for a key segment. This infrastructure is already well-used by buses, vanpools, and carpools. Coalition for Effective Transportation Alternatives (CETA) and other local organizations have determined through research that enhancing express bus service would likely achieve the same underlying purposes of the project sponsors, yet this alternative has not been analyzed in the NEPA process.

All of this is covered in the attached letter that CETA sent on August 22 to Transportation Secretary Ray LaHood raising issues about which we have invited DOT headquarters intervention. We had earlier provided input to the NEPA scoping process and on the two earlier draft EIS documents, but to no avail. The letter we sent to Secretary LaHood stands on its own, but upon further consideration of what is happening in the NEPA process for East Link we are struck by two troubling aspects of the Final EIS for this project. CEQ may find both of these points worthy of comments to the project sponsors as they decide how to react to CETA's letter.

First, the East Link project purpose is stated in a way that obviates alternatives analysis. We've learned from reading documents on the CEQ web that the "purpose and need" in an environmental impact statement under the CEQ regulations is to "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." 40 C.F.R. §1502.13. Available

CEQ materials indicate that the purpose and need are “important for general context and understanding as well as to provide the framework in which ‘reasonable alternatives’ to the proposed action will be identified.”

However, this important intent has not been met in the case of East Link light rail. The Final EIS states the project purpose as follows: “The purpose of the East Link Project is to expand the Sound Transit Link light rail system from Seattle to Mercer Island, Bellevue, and Redmond via I-90 in order to provide a reliable and efficient alternative for moving people throughout the region.” **The agency has simply made its preferred alternative the main content of the project purpose!** The specification of the light rail mode in the purpose statement intrinsically penalizes objective analysis of highway mode alternatives such as the enhanced express bus mode described in the attached letter.

Since the project requires massive construction with environmental impacts including conversion of existing motor vehicle lanes to an electrified light rail guideway on a landmark floating bridge, keeping the project purpose open to the potential for other transit modes is critical to meeting NEPA intent.

This point leads to the second issue we underline and detail for your attention: The East Link FEIS fails to include an analysis of a strong express bus alternative. CETA knows that an express bus alternative could potentially be very competitive with light rail in meeting the portion of the purpose statement that says the East Link project is to “provide a reliable and efficient alternative for moving people throughout the region.” Since a bus system alternative can move people to many more places in the region than a single light rail line, one can argue on first principles that specification and analysis of this alternative is critical to complete understanding of the light rail project’s environmental impact.

The Sound Transit excuse for not including an express bus alternative, as stated in the Final EIS in response to comments from CETA on this very point, is manifestly problematic:

As no agency has adopted a policy, developed a plan, or identified funding for a high-performance express bus service for the same markets that East Link light rail is designed to serve, the described service is not reasonable and foreseeable and has not been included in the Final EIS.

As we noted in the attached letter to Secretary LaHood, as well as to Sound Transit in comments on the draft EIS, the failure to analyze a competitive bus alternative to light rail in the East Link draft EIS is a breach of NEPA, since Section 1502.14 of CEQ guidance requires that project proponents:

Rigorously explore and objectively evaluate all reasonable alternatives. Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits. Include reasonable alternatives not within the jurisdiction of the lead agency.

We would be most appreciative of CEQ assuring Seattle area citizens that the two named problematic aspects of the NEPA process to date for East Link – the overly narrow purpose statement and an incomplete set of project alternatives evaluated for impact – will be made completely compliant with the legal requirements that you monitor.

Respectfully yours,



John Niles
CETA Technical Co-Chairman



Maggie Fimia
CETA Co-Chair

Attachment:

Letter from CETA to Secretary Ray LaHood, August 22, 2011

Cc.

Jon Carson, Chief Of Staff, CEQ

Horst G. Greczmiel, CEQ

August 22, 2011

Hon. Ray LaHood,
Secretary of Transportation
U.S. Department of Transportation
Washington, DC

RE: July 2011 Final Environmental Impact Statement for East Link Light Rail in Seattle (FEIS), and May 2011 draft Final Interchange Justification Report (IJR) for the Sound Transit I-90 East Link Project.

Dear Secretary LaHood:

Sound Transit is proposing to make vast changes in an important segment of Interstate 90 with a new light rail line. Both the final FEIS and the draft IJR for this project attempt unsuccessfully to justify these changes.

We are writing to ask you to require FHWA and FTA to exercise their due diligence before issuance of the U.S. Government's pending dual Records of Decision on I-90 light rail between Seattle and the Eastside suburbs. We believe that analysis of an additional highway-based transit alternative is mandatory under regulations, and important to accomplish before proceeding with America's first light rail takeover of Interstate highway lanes. Insisting that Sound Transit comply with established Federal policy and procedure can only advance USDOT's adopted policy objectives. **The Interchange Justification Report is the key document here.**

CETA is an all-volunteer, pro-transit, non-partisan, non-profit citizen organization. Our mission is to support and advocate for accountable public transportation governance and investments that grow transit, vanpool, and carpool ridership throughout the Puget Sound region in the most cost-effective way.

Based on findings from research funded by FTA and others, we are convinced that retaining, expanding, and strengthening express bus service on the I-90 floating bridge between Bellevue and Seattle will work better than Sound Transit's proposed light rail service. Driven by ideology rather than sound analysis for over two decades, light rail must be able to withstand an objective alternatives analysis as required by Federal law.

In 2006, Sound Transit took the all-bus option for East Link off the table, and won't conduct alternatives analysis for this mode despite the clear regulatory requirement from NEPA and the *Interstate Access Guidelines* documented in this letter.

The East Link proposal is the first time in America that local government has requested U.S. DOT's permission to take over existing, well-used Interstate Highway and HOV/Bus lanes with light rail tracks. There may well be other projects across the country that will seek to emulate this kind of freeway lane repurposing. For this reason,

CETA urges that the alternatives analysis in the FEIS or the IJR, or both, be exceptionally strong and complete. So far they are not.

Bus-based Alternative

Despite pleas from CETA and others, Sound Transit has ignored the potential of expanding and improving its existing Regional Express bus network to provide frequent service on multiple lines converging on the I-90 corridor. Sound Transit's short response to CETA and others making this request is,

BRT, as an alternative for East Link, was eliminated during the ST Long Range Planning and ST 2 process. Please see Final EIS Section 1.3 - History of East Corridor. As stated in the project Purpose and Need, Section 1.1 of the Draft EIS, the purpose of the East Link Project is to expand the Sound Transit Link light rail system from Seattle to Mercer Island, Bellevue and Redmond via Interstate 90 and to provide a reliable and efficient alternative for moving people throughout the region. Light rail provides the highest level of ridership and the shortest travel times of all technologies evaluated in the corridor.

However, a bus-based alternative would serve far more urban territory than the single light rail line that the agency is proposing, and preserve the existing functionality of I-90 at the same time. Evidence of the strength of the bus mode is seen in the MPO forecast that bus travelers originating in the Eastside suburbs in weekday morning peaks will outnumber rail travelers in 2040 by a ratio of almost two to one. This suggests the viability of strengthening the bus mode as an alternative to adding a new cross-Lake rail mode.

The no-build alternative has been weighed down with unfavorable assumptions and does not come close to representing the performance of an even moderately well designed BRT/TSM alternative. With all that is at stake on this vital Interstate Highway it is especially important for FTA and FHWA to insist on a comparison of realistic alternatives. **Rubber-stamping another comparison of an optimistic rail alternative with a straw man bus alternative would obscure more than it reveals. Too often we have seen that same type of unrealistic comparison used to hide the very trade-offs Federal requirements are designed to illuminate. This time around let's get it right.**

Background

Sound Transit, Central Puget Sound Regional Transit Authority, and Washington State Department of Transportation (WSDOT) are collaborating on a plan to utilize existing reversible HOV lanes of the Interstate 90 between Seattle and Bellevue, Washington for a new light rail line between Seattle, Bellevue, and Redmond. See Attachment 1 for pictures illustrating the plan.

Specifically, the proposed lane conversion requires eliminating seven connections between the Center Roadway and either the local streets or the I-90 westbound and eastbound mainline roadways. In addition, the Sound Transit plan requires a change in

the use of a dedicated all-bus roadway to allow joint operation with light rail, as well as relocation of an HOV direct-access off ramp.

The two center lanes of I-90 – called the Center Roadway -- now carry 15,000 vehicles per day, a combination of cars and buses providing approximately 21,000 person trips per day. Sound Transit wants to install train tracks that will displace all of these vehicles to other lanes of the bridge. This is a change that impacts 26% of the I-90 right-of-way width. The general-purpose lanes of this bridge are forecast to become more congested in peak periods with or without light rail.

Sound Transit generously forecasts light rail to carry 36,000 customers per day in 2030 on the I-90 segment of East Link. However, most of these customers will come from today's high quality bus service. At most 10,000 light rail customers system-wide are forecast to be new riders. That's the equivalent of two new bus routes.

The I-90 performance outlook is poor even if these numbers are accurate. And to date, Sound Transit ridership forecasts have not materialized on its rail lines.

Not only does the environmental analysis of the light rail alternative lack transparency, it is based on an existing WSDOT simulation model that yielded substantially different results when run by WSDOT. No attempt was made to specify and analyze a solution keeping all bridge lanes as they are now and investing instead in an express bus system combined with other transportation system management (TSM) components.

How can Sound Transit claims its light rail is good deal for the Seattle-Bellevue region when:

- ❑ There will be five miles or more of headway space between light rail cars?
- ❑ The remaining lanes of I-90 become more and more congested?
- ❑ It attracts so few new riders?
- ❑ The cost is over three billion dollars?

The public is demanding more accountability for its tax dollars. The Federal government should not accept statements about outcomes without scrutinizing the methods used to achieve those outcomes. For instance, Sound Transit makes the following claims on page 3-41 of its FEIS:

By 2030, the transit mode share percentage across Lake Washington (SR 520 and I-90) would increase by up to 33 percent from the No Build Alternative. People would readjust their mode choices and choose to ride light rail because of faster travel times when compared to bus or auto modes. The overall transit mode share (combined eastbound and westbound) on I-90 alone would more than double from about a 10 and 7 percent share (AM and PM conditions) without the project to slightly over a 20 percent share with the project in both AM and PM conditions.

When no strong feasible alternatives are allowed to be on the table, like BRT/TSM, of course their numbers sound good.

NEPA Requirement

CETA has been demanding analysis of a strong bus alternative while participating in the East Link NEPA process since 2005. We asked for this in the 2006 East Link environmental scoping process, in comments on the 2008 draft EIS, and in comments on a 2009 supplemental draft EIS. In response, Sound Transit has refused to include an enhanced bus and TSM program in their alternatives analysis. The last response from Sound Transit to CETA in the Final EIS (Response to our comment EL663-1) is

As no agency has adopted a policy, developed a plan, or identified funding for a high-performance express bus service for the same markets that East Link light rail is designed to serve, the described service is not reasonable and foreseeable and has not been included in the Final EIS.

There has never been a side-by-side analysis of a light rail system with an enhanced bus system that builds on a type of funded service that Sound Transit already operates. This fallacious argument must end now.

The failure to analyze a competitive bus alternative to light rail in the East Link draft EIS is a breach of the National Environmental Policy Act (NEPA). The NEPA process Section 1502.14 requires that project proponents:

Rigorously explore and objectively evaluate all reasonable alternatives. Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits. Include reasonable alternatives not within the jurisdiction of the lead agency.

As documented in CETA's previous correspondence in the environmental process, there is ample reason to believe that a bus and HOV alternative – a form of TSM, or transportation system management—would perform better than the preferred light rail alternative. The existing I-90 HOV lanes in the Center Roadway could potentially be used to meet the East Link project's mobility goals. If the preferred light rail alternative is such a good one, then Sound Transit should welcome a true alternatives analysis.

Council on Environmental Quality's (CEQ) comments explaining NEPA indicate that Sound Transit is out of compliance in its FEIS for East Link:

Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

The no-build alternative that has been analyzed by the light rail proponents in the East Link Final EIS includes only a weak bus transit configuration, an extrapolation of the present public transit system.

The public transit aspects of the current no-build alternative are deliberately constrained to be non-competitive with the performance of Sound Transit's light rail. The present no-build alternative is not the strong all-bus alternative that transit-planning professionals at Sound Transit and King County Metro could create if they were ordered to do so. The lack of a strong bus alternative using the present I-90 bridge center roadway and the other segments of this corridor violates common sense in light of the challenges of constructing a new passenger railroad on a floating bridge and through residential neighborhoods.

IJR Requirement Even Stronger

FHWA Interstate Access Guidelines posted on the Internet are also clear that a physical change of this magnitude in the use of an Interstate highway requires analysis of a transportation system management (TSM) alternative at the level of detail of the preferred light rail alternative.

Interstate System Access Change Requests need to address the appropriate issues and provide the information necessary to allow the FHWA to make an informed decision considering the potential consequences of a change in access.

A TSM alternative would use enhanced bus service, other high occupancy vehicles, tolling, signal priority, and queue jumper lanes on the existing right of way and adjacent arterials without the considerable construction and disruption needed for installing light rail tracks.

The *FHWA Interstate Access Guidelines* call for eight policy points to be addressed. Point number two requires documenting that

The need being addressed by the request cannot be adequately satisfied by reasonable transportation system management (such as ramp metering, mass transit, and HOV facilities), geometric design, and alternative improvements to the Interstate without the proposed change(s) in access (23 CFR 625.2(a)).

The draft Interchange Justification Report for this proposed change to I-90 does not include an analysis of a transportation system management option. Instead, the East Link draft IJR from Sound Transit states clearly,

*Analysis of alternatives and options is included in Draft Environmental Impact Statement (EIS), and **this document supports only the preferred alternative identified by the Sound Transit Board in June 2010.***

Of course the problem, Mr. Secretary, is that the Sound Transit Final EIS also fails to evaluate a TSM alternative, as we indicated earlier.

Apparent Conflict of Interest

The record is clear that justifying light rail was a predetermined outcome of the IJR process, not only from Sound Transit, but also WSDOT and FHWA. CETA holds an electronic copy of an existing project management plan from the East Link IJR government-consultant team that states:

*This project Management Plan covers the work conducted for the Interstate 90 Interchange Justification Report (IJR) related to changes in access along I-90 necessitated by the extension of light rail from Seattle to the eastside via I-90.... The IJR Core Team will **work collaboratively to develop an Interchange Justification Report for Sound Transit's East Link project that will provide the necessary analysis and documentation to support a Finding of Engineering & Operational Acceptability.** This effort will enable the project to move forward with confidence into its next phase.... Consistent with the guidance provided in WSDOT Design Manual Section 1425 governing Interchange Justification Reports, the project will be facilitated through analysis to a finding of engineering and operational acceptability using a 'Core' team of technical staff from stakeholder agencies [in this case Sound Transit, WSDOT, FTA, & FHWA].*

The letter from the FHWA Region 10 Administrator to the Washington Secretary of Transportation on June 22 (Attachment 2) finding the draft IJR acceptable is theatrical because the FHWA signature is from one of the IJR core team just described.

The private sector consultants on the IJR, CH2MHill, are the same consultants that provided analysis of traffic for the East Link Light Rail EIS, and in fact the analysis of the EIS and IJR overlap.

This cooperation between the project advocates at Sound Transit and the stewards of Washington State's main east-west highway at WSDOT and FHWA showed a significant conflict of interest in reversing earlier contradictory results. IJR modeling results claim improved general-purpose traffic speeds with light rail compared to the No Build alternative. This claim is in conflict with the 2006 WSDOT I-90 Center Roadway report. That study indicated a 13% increase in general-purpose travel times with the "exclusive" (light rail) use of the center roadway. Using the same model but with different assumptions, Sound Transit claims the opposite: with light rail, general-purpose travel times decreased by 15%.

The same Sound Transit undocumented revisions of the 2006 WSDOT model has also led to the improbable conclusion that trucks on I-90 will find traffic conditions improved compared with light rail compared to no build. But even if true, this conclusion is not compared to the results on trucking for a transit alternative that does not require removing 26% of the highway right-of-way.

Conclusion

Federal as well as regional policy goals call for actually improving transportation system performance, not just building expensive rail projects. A careful review of all the

prior studies (including their erroneous assumptions and omissions) leads to the inescapable conclusion that conversion of the center roadway of I-90 to light rail is a very poor choice.

The system capacity for all modes on I-90 lost to light rail would be far more effectively used by other transit modes, in particular, high quality, higher frequency bus service with TSM improvements in other parts of the corridor. A bus/TSM alternative would have the additional advantages of much lower risk, lower cost, and swifter implementation.

If conformity to USDOT policy and achievement of regional goals are compatible objectives of East Link, there is no justification for approving light rail while failing to perform the required comparison with a credible alternative.

In summary, compliance with Federal regulations will result in a superior outcome.

Given the serious problems Sound Transit has had with prior planning work, why isn't USDOT insisting on compliance with planning requirements for this phase of the program?

Every one of the characteristics of East Link light rail that stem from criticism of the existing bus system could be met sufficiently, more cost-effectively, and sooner than the proposed timeframe for East Link light rail construction by an upgraded, well-designed express bus system operating on actively-managed HOV lanes on arterials and expressways, with road user fees as needed. Such an alternative should be thoroughly covered in both East Link Records of Decision, the one from FHWA, and the one from FTA.

The Public is expecting their government to do the right thing, to follow its own rules. Ignoring established process and allowing unjustified outcomes fuels public dissent and discontent.

We implore you and your agency to refrain from being boosters of local projects that cost so much and do so little for public transit. Please order FHWA and FTA to include an independent, strong bus/TSM alternative in the East Link ROD. It should be well described, transparent and a truly objective quantitative analysis.

The Public asks for this requirement and deserves no less.

Respectfully yours,



John Niles
CETA Technical Co-Chairman



Maggie Fimia
CETA Co-Chair

Attachments:

Graphics depicting project

Letter from FHWA Region X to WSDOT tentatively accepting the IJR

Cc.

Hon. Patty Murray, U.S. Senate

Hon. Maria Cantwell, U.S. Senate

Hon. Jim McDermott,
U.S. House of Representatives

Hon. Dave Reichert,
U.S. House of Representatives

Hon. Curtis King,
Washington State Senate

Hon. Don Davidson, City of Bellevue

Hon. Don Gerend, City of Sammamish

Hon. Steve Buri, City of Newcastle

Federal Transit Administrator

Federal Highways Administrator

FTA Region X Administrator

FHWA Region X Administrator

Washington State
Secretary of Transportation

Sound Transit Chief Executive Officer

Map of I-90 corridor location for light rail from the East Link Final EIS

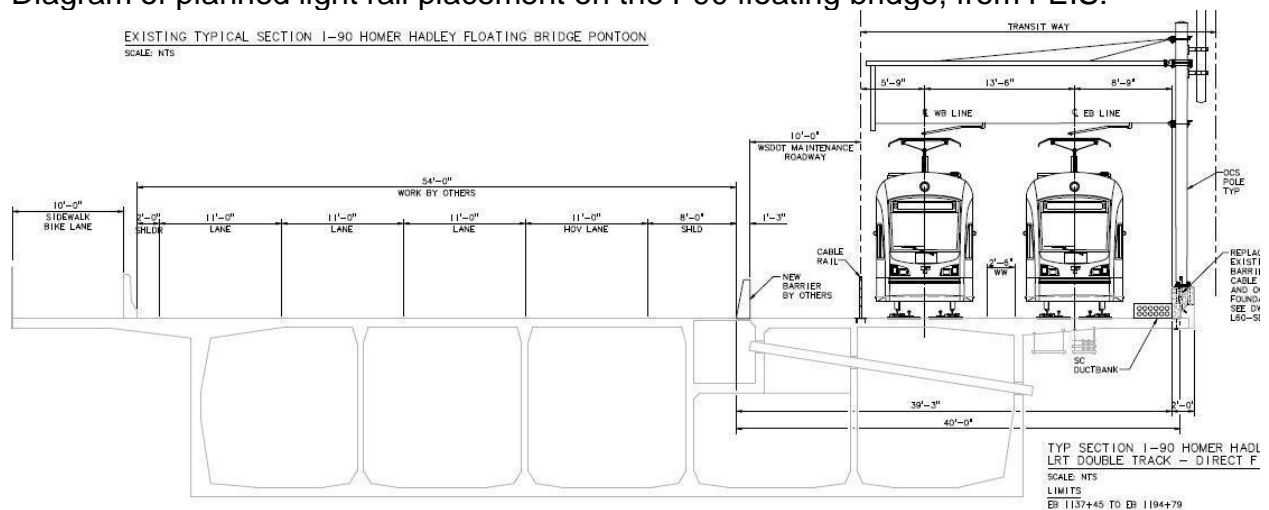


FIGURE 2-5
East Link Project - Segment A

WSDOT photograph of I-90 floating bridges from Seattle perspective looking toward Bellevue



Diagram of planned light rail placement on the I-90 floating bridge, from FEIS:



Sound Transit photo simulation of light rail operating on the I-90 floating bridge





U.S. Department
of Transportation

**Federal Highway
Administration**

Washington Division

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June 22, 2011

HDE-WA/560/WA 624

Ms. Paula J. Hammond
Secretary of Transportation
Department of Transportation
Olympia, Washington

Attention: Barb De Ste Croix

**Sound Transit – I-90 East Link Project
Final Interchange Justification Report**

Dear Ms. Hammond:

This letter is in response to your June 20, 2011, request for a finding of engineering and operational acceptability for the Sound Transit I-90 East Link Interchange Justification Report (IJR). The project, in part, incorporates interchange modifications and closures within the I-90 center roadway to allow Sound Transit's East Link light rail project to use the I-90 reversible express lanes from MP 1.99 to MP 9.44. In addition, part of this project, incorporates comprehensive changes to I-90, including HOV access and lane modifications resulting from the I-90 Two-Way Transit and HOV Operations Project that form the ultimate configuration of I-90 between the cities of Seattle and Bellevue. We have compared the final IJR to previous drafts and find that it satisfies the requirements of the FHWA Interstate Added Access Policy.

Based on an engineering and operations review, the access request is considered acceptable. However, the general purpose left-hand on ramp connecting Island Crest Way to the WB I-90 HOV lane is a safety issue. The AASHTO Greenbook, *A Policy on Geometric Design of Highways and Streets*, discourages the use of left-hand on and off ramps. This access point should be monitored and closed to single occupant vehicles use if significant collision frequency and severity begin to occur. In addition, ramp metering must continue at this location.

If there are no major changes in the design of the proposal, final approval may be given upon the completion of the environmental process. Please submit a request for final IJR approval at the completion of the NEPA process.

Sincerely,

DANIEL M. MATHIS, P.E.
Division Administrator

By: Donald A. Petersen
Division Safety/Design Engineer

Enclosure

cc: Ed Barry, MS TB-85, LeRoy Patterson, MS 47336