Interstate 90 Users Coalition

September 1, 2011

Honorable Ray LaHood, Secretary
U.S. Department of Transportation
1200 New Jersey Avenue Southeast
Washington, DC 20590

Re: Request to suspend consideration of TIGER grant application due to $1.313 billion fraud

Honorable Secretary:

A Citizen Oversight Panel appointed by the Central Puget Sound Regional Transit Authority (doing business as Sound Transit and hereinafter the "agency") was today informed by its Chief Executive Officer, Joni Earl, that the agency is now pressing hard on the U.S. Department of Transportation in order thereby to obtain further federal funds for its hugely underperforming Link light-rail program.

As indicated in the pending requests submitted to you, on August 14, 2011, for your Department to deny a Record of Decision for that agency's East Link Project proposal as stated in a nominal Final Environmental Impact Statement for light-rail uses of the pivotal Interstate 90 corridor from Seattle, Washington to Bellevue, Washington (as formally issued as of July 15, 2011) and, instead, to make a criminal referral to the U.S. Department of Justice due to that agency's previous frauds in order to obtain $1.313 billion in full funding grants through patently false statements earlier submitted (over Ms. Earl's signatures), its egregious misconduct on such an immense scale should **not** be rewarded under any circumstances by you (much less when federal transportation sources are in great deficit).

Additional evidence of that agency's substantial wrongdoing has been documented in several NEPA submissions made to you respecting the above-referenced ROD, *e.g.*, by the Coalition for Effective Transportation (as signed for CETA by Maggie Fimia and by John Niles and dated August 22, 2011), by the Eastside Transportation Association (as signed for ETA by William R. Eager, P.E., Ph.D., and by Richard Paylor and dated August 12, 2011), by Kemper Development Company (as signed by Bruce L. Nurse and dated August 12, 2011), by James W. MacIsaac, P.E. (as dated August 16, 2011), by William Popp, Sr., P.E. (as dated August 15, 2011), and by the Washington Trucking Association (as signed by Larry Pursley and dated August 12, 2011), *inter alia*.

To assist your staff in reviewing that agency's enormous frauds against your Department in order to acquire $1.313 billion through intentionally falsified statements, as well as its other misfeasance and malfeasance meriting an early criminal referral, prior correspondence of the undersigned is attached. If any other evidence of said agency's willful frauds and of its further wrongdoing is needed for your Department to recover $1.313 billion, then I can be reached most promptly at wknedlik@aol.com.

Respectfully submitted,

Will Knedlik

Interstate90UsersCoalition@gmail.com **wknedlik@gmail.com**

cc: Victor Mendez, Federal Highways Administrator
Peter Rogoff, Federal Transit Administrator
Paula Hammond, WSDOT Secretary
Dan Mathis, Region X Administrator, FHWA
Rick Krochalis, Region X Administrator, FTA
David Dye, WSDOT Deputy Secretary

Interstate 90 Users Coalition

August 14, 2011

Honorable Ray LaHood, Secretary
U.S. Department of Transportation
1200 New Jersey Avenue Southeast
Washington, DC 20590

Re: Request to deny Record of Decision for East Link Project and to make criminal referral

Honorable Secretary:

This submission requesting the United States Department of Transportation to deny a Record of Decision for the East Link Project proposal stated within a nominal Final Environmental Impact Statement for a light-rail plan for the Interstate 90 corridor from Seattle, Washington to Bellevue, Washington (as formally issued on July 15, 2011), and instead to make a criminal referral to the United States Department of Justice respecting the Central Puget Sound Regional Transit Authority (doing business as Sound Transit and hereinafter the "agency"), is based upon legally fatal defects identified in the following paragraphs, *seriatim*, together with several further lethal failures identified in an attachment incorporated by reference hereinbelow and in an annex also thus incorporated hereinbelow, and along with major false statements therein in order to degrade freight mobility through critical I-90 elements of the Dwight D. Eisenhower National System of Interstate and Defense Highways, and previously in order to obtain $1.313 billion in New Starts funds from the United States Treasury through clearly false pretenses made by the agency to the Federal Transit Administration over the signature of its chief executive officer Joni Earl (signed *qua* "Joan M. Earl") that are documented hereinafter.

The agency has acquired **no** lawful right to use the multibillion-dollar center roadway of the I-90 corridor for its East Link Project, as the Washington State Supreme Court has squarely informed that junior taxing district in explicitly stating that it has obtained "nothing to establish a mandatory duty to transfer the center lanes" over the I-90 floating bridge and through other related components of that key corridor, in *Freeman v. Gregoire*, __ Wn.2d __, __ (2011), and as is discussed more fully in the attached appeal of the nominal FEIS for that plan addressed to and pending before Ms. Earl, and incorporated herein for all purposes by this reference thereto.

Further, the agency is almost certain to be unable to gain any legal right to use those multibillion-dollar center lanes in the I-90 corridor, **constitutionally**, because such rail usage is unconstitutional under the Washington State Constitution's Article II, §40 – since rail modalities are **not** among "highway purposes" lawful pursuant thereto – due to the Washington State Supreme Court's long standing and *sine qua non* decision whereby it has explicitly so defined "highway purposes" through *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554 (1969).

Still further, the agency is even more certainly unable to obtain any lawful right to use the multibillion-dollar center roadway in the I-90 corridor, **statutorily**, because it cannot meet the

Interstate90UsersCoalition@gmail.com **wknedlik@gmail.com**

paramount statutory obligation for any lawful transfer, on even a temporary basis, namely that such facilities as "held for highway purposes" are "not presently needed," factually, for such constitutionally mandated ends, as required by RCW 47.12.120.

Yet further, the agency is still more certainly unable to obtain any legal right to use those multibillion-dollar center lanes in the I-90 corridor, **procedurally**, because the State of Washington's counsel conceded to our state Supreme Court, during oral argument on September 16, 2010, in open court, that "the two center lanes of I-90 are not surplus and are needed for highway purposes" (as subsequently pleaded, on June 2, 2011, by attorneys for plaintiffs, in *Freeman et alia v. Gregoire et alia*, Kittitas County Superior Court Cause No. 11-2-00195-7, Amended Complaint for Declaratory Judgment, Writ of Prohibition or Mandamus, and Injunction).

The agency is likewise certainly unable to obtain any lawful right to use the multibillion-dollar center roadway in the I-90 corridor, **financially**, because it lacks the monetary resources required to fund actual market value of the applicable highway facilities, as is discussed more fully in a hereinbelow-annexed letter addressed to Hon. Rob McKenna, who is the current Washington State Attorney General, in requesting his Office for an adequate defense of the Motor Vehicle Fund's integrity respecting the financial value of the center roadway or for cession of lawful authority (and as incorporated herein for every purpose by this reference thereto), and as is effectuated by the absolute limit of $800 million on its bonded indebtedness as established by statutory contract authorizing its local taxing powers until its thereby-approved parameters for an initial light-rail plan has been completed from Tacoma to Lynnwood and from Seattle to Redmond (and as outlined more fully in preliminary documentation of the agency's $1.313 billion fraud on the United States Treasury hereinbelow).

The agency is also certainly unable at the present juncture to obtain any legal right to use those multibillion-dollar center lanes in the I-90 corridor, **administratively,** because it has utterly failed to this date to conduct minimally adequate alternatives analysis for the make-or-break Segment A running from Seattle to Bellevue, **SINCE IT HAS MADE ABSOLUTELY NO ALTERNATIVES ANALYSIS OF ANY KIND WHATSOEVER IN COMPLETE DEFIANCE FOR THE ENVIRONMENTAL REVIEW PROCESS,** as documented more fully in the appeal now before Ms. Earl, and as incorporated herein for every purpose by earlier reference thereto.

However, what the agency has done is to substitute explicit misrepresentation for mandatory explication, and the core purpose of its central outright lie respecting falsely purported freight mobility can have no factual, legal, logical or other purposes except for the intentional concealment of its plans for major degradations of freight mobility within the pivotal I-90 corridor connecting Boston Harbor with the Port of Seattle, as well as servicing major ports in Philadelphia, New York, New Jersey, Cleveland and Chicago, *inter alia*, and for its related cover up of enormous undermining, thereby, not only of the fundamental purposes for, but also of the current functionality by, the very critical I-90 element of our nation's interstate-and-defense highway system.

In particular, as the attached appeal documents more fully, the agency's nominal FEIS utilizes the bold-faced lie that "the East Link Project would have an overall beneficial impact on trucks traveling on I-90," based on its falsifications of WSDOT data sets that of necessity must be willful, and it so adds to most serious wrongdoing by means of such generic misrepresentations through its falsified answers to the Port of Seattle's pivotal-and-substantial concerns about freight access to its

waterfront-and-airport facilities in response to prior draft-and-supplemental environmental impact statements. These falsifications should be subject to a criminal referral.

Said false claim regarding freight mobility in the nominal FEIS made in order thereby to degrade the pivotal I-90 corridor, as an essential element of our nation's core system of interstate-and-defense highways, follows the agency's earlier false claims made over the signature of Ms. Earl to obtain $1.313 billion in federal New Starts funds, through two approved full funding grant agreements, whereby she ratified financial plans falsely claiming lawful borrowing authority of well over $2 billion despite knowing this amount to be *circa* three times larger than the agency's maximum authority for long-term debt of $800 million (at least until its initial light-rail plan has been completed as approved by Pierce County, King County and Snohomish County as a central *quid pro quo* term for authorizing its access to residents of those counties to request local taxing powers).

Among quintessential legal constraints on the agency established through that thus-negotiated statutory contract between it and the three counties, as above referenced, is an absolute ceiling of $800 million on its total long-term debt at least until its entire "Phase I" plan has been completed, as is stated as follows:

> **Maximum Bonding Level**: To ensure that the RTA maintains a reasonable, fiscally prudent debt level, an overall long term debt ceiling of $800 million shall be established. This ceiling represents 17% of the total Phase I capital program. This is to be compared with other major rail capital programs nationally which have utilized bonds to finance up to 50 percent of such projects. This ceiling is designed to maximize the level of tax reduction after 16 years if further capital projects are not approved, to ensure that a healthy capital program for Phase II is possible without a tax increase above the .4 sales, .3 MVET package, and to certify to the public that this project will be managed based on sound fiscal principles (*The Regional Transit System Master Plan* at page 3-10, emphasis in original, as formally adopted by the agency on October 29, 1994, and as officially approved by Pierce County Ordinance No. 94-148 on December 9, 1994 [which, in Section 2 thereof, directly "incorporated herein by reference" the complete *Master Plan*], by King County Ordinance No. 11,603 on December 12, 1994 [which, thereby, effectuated each substantive term of the statutory contract at issue herein], and by Snohomish County Motion No. 94-436 on December 14, 1994).

Beyond this explicit contractual obligation created by the agency's formally adopted, officially approved, constitutionally operational and herein legally controlling statutory contract, its Motion No. 4's "Financial & Engineering Principles for RTA Debt Management" also further document squarely and state explicitly that "An $800 million ceiling on long-term debt has been established in the Master Plan," as negotiated with and approved by the three counties as required to obtain local taxing authority, and still further specify directly, in an "Interpretation" section, both **how** principles for debt management "insure [*sic*] that no more than $800 million of the total capital costs were funded through long term debt," and also **how** this absolute ceiling for all long-term borrowing is to remain, in place, even if it underestimated "the total capital costs," originally, during its negotiations of every obligation legally controlling the statutory contract thereby created: "If the cost of Phase I were to increase beyond present estimates, it should be assumed that the $800 million limitation would survive any such adjustments."

Further, the agency's then-Board chair, Hon. Bruce Laing, clearly stated to all Board members before the formal adoption of Motion 4 that: "We do know we are limiting debt to $800 million, and we intend to reduce that debt as rapidly as possible; it will only be that high if we have no other alternative. I think we are saying the tax rate will go down after 16 years, but this is a Master Plan that has additional phases. If the voters approve Phase II, it will affect tax rates" (official Board Minutes, February 10, 1995, at page 11, which state immediately after this exposition of the absolute limit of $800 million on long-term debt for all of its Phase I: "**It was moved by Mr. Nickels, seconded by Mr. Miller and carried by the unanimous vote of all Board members present to approve Motion No. 4, as amended**" [bolding in the original]).

Thus, the agency's adoption and ratification of "all statements, representations, warranties, covenants and materials that it has submitted to FTA" through Ms. Earl's signature – including the "Financing Plan," identifying almost exactly three times more borrowing authority than was and is legally authorized by the binding terms of the statutory contract whereby its local taxing powers were obtained, as "accepted by the [U.S.] Government" as consideration for two full funding grant agreements providing $1.313 billion from the federal treasury, and as specifically "incorporated by reference and made a part of this Agreement" as executed based on this huge fraud in order to obtain $1.313 billion through its false statement – constitute violations both of federal civil laws respecting false statements and also of federal criminal laws.

Taken together, the documentation above outlined, along with the attachment and annex incorporated hereinabove, squarely indicates both that the U.S. Department of Transportation should deny a Record of Decision for the East Link Project pursuant to the nominal FEIS in view herein (due to fatal legal defects and to other lethal failures thereby demonstrated), and also the appropriateness of a criminal referral (as well as recovery of all monies obtained by the agency, through false statements, with criminal penalties).

Additionally, referrals to the Inspector General regarding the Federal Transit Administration and to Hon. Rob McKenna respecting the Washington State Department of Transportation – as co-lead agencies in the submission of a nominal FEIS containing patently fraudulent statements *vis-à-vis* purported freight mobility in the commercially quintessential I-90 element of the Dwight D. Eisenhower National System of Interstate and Defense Highways – would appear to be indicated if the Department that you lead is at all committed to protecting our country's assets and its economic security against multibillion-dollar frauds being imposed against the United States of America of those types squarely manifested in this instance through intentional falsifications identified hereinabove, preliminarily, with rather substantial particularity.

Respectfully submitted,

Will Knedlik

cc: Victor Mendez, Federal Highways Administrator
Peter Rogoff, Federal Transit Administrator
Paula Hammond, WSDOT Secretary
Dan Mathis, Region X Administrator, FHWA
Rick Krochalis, Region X Administrator, FTA
David Dye, WSDOT Deputy Secretary

Attachment: SEPA Appeal with Appendices A – D
Annex: *Qui tam* letter to Honorable Rob McKenna

Interstate 90 Users Coalition

August 12, 2011

Honorable Rob McKenna
Office of Attorney General
Olympia, WA 98504-0100

Re: Request for defense of the Motor Vehicle Fund's integrity or for cession of lawful authority

Honorable General:

This correspondence requests your Office either to ensure reasonable values for core highway assets in the Interstate 90 corridor imperiled by a "Term Sheet" signed in August, 2010 by the Washington State Department of Transportation and by the Central Puget Sound Regional Transit Authority – as is necessary to fulfill Article II, §40 of the Washington State Constitution through preservation of all thus-protected fuel taxes deposited in and expended from the Motor Vehicle Fund pursuant to RCW 46.68.070 – or else to cede its authority to allow *qui tam* litigation to obtain market-based valuations for those critical properties funded by **every** fuel-tax payer, **statewide**, and recoveries based thereon.

The actual monetary value of central I-90 assets at issue is at least several billion dollars, today, and this already enormous amount is increasing rapidly, at present, due to fundamental economic forces lifting valuations, now, especially very major tolling initiatives (as discussed in the attached SEPA appeal of CPSRTA's nominal Final Environmental Impact Statement, for its proposed uses of those pivotal state properties, at pages 4 to 8 therein). However, WSDOT's above-noted agreement with CPSRTA would legally require the state to pay that junior taxing district to reduce freight mobility in the commercially indispensable I-90 corridor, through exclusive rail use of the center roadway, so as not only to degrade freight transport, but also to undercut our state's highly fragile economy thereby.

Thus, rather than our state receiving several billion dollars from rational prices for I-90's expensive highway assets paid for by **every** fuel-tax payer **statewide**, as urgently needed here for crumbling bridges, dangerous roadbeds and other failing transportation infrastructure, the "Term Sheet" in view compels the state to accept **less than nothing** for billions of dollars worth of assets – in violation of our state Constitution – by paying a subordinate agency, serving just parts of three of 39 counties, to degrade freight movements, in the economically quintessential I-90 corridor, at the same time when Gov. Christine Gregoire is chairing the "Connecting Washington Task Force," **personally**, because:

> Effective transportation is critical to maintaining Washington's economy, environment and quality of life. However, funding for Washington's transportation system is insufficient over the long term (http://www.governor.wa.gov/priorities/transportation/connectwa.asp).

For nearly 60 years, your Office has correctly recognized that the state Constitution imposes a legal obligation on state officers to preserve assets acquired and developed for "highway purposes," with state fuel taxes, as constitutionally protected by Article II, §40, and as statutorily segregated into the Motor Vehicle Fund to guarantee that essential constitutional safeguard pursuant to RCW 46.68.070.

Interstate90UsersCoalition@gmail.com **wknedlik@gmail.com**

Thus, General Smith Troy's analysis in AGO 51-53 No. 376, on August 13, 1952, squarely stated "at the outset that if unused lands were given to a city or county for no monetary consideration it would constitute an unlawful diversion of motor vehicle funds, as such land is purchased from a definite fund provided by the motor vehicle users," and General Slade Gorton's subsequent review of that previous opinion in AGLO No. 62, on July 17, 1975, resulted in his later decision to "adopt this same analysis with respect to the question of consideration in connection with leases" (pursuant to RCW 47.12.120): *i.e.* "What, if any, monetary or other valuable consideration is necessary in order to permit the state highway department to lease or sell to a county or city land previously acquired by the department for highway purposes with moneys from the state motor vehicle fund?"

In particular, Deputy Attorney General Philip Austin explained as to any transfers of properties "not presently needed" (for "highway purposes"): "In those instances in which the highway lands (including air space) purchased with motor vehicle fund moneys are to be leased or sold to a county or city for nonhighway purposes, the purchaser or lessee, even though it is also a governmental agency, will be required to provide such monetary or other consideration as is necessary, under the particular factual circumstances involved, to avoid an unlawful diversion of motor vehicle funds."

General Gorton's averments that "where other consideration is constitutionally required, because the lands are to be used for other than highway purposes, such consideration may take various forms," and "need not necessarily be monetary or be precisely equivalent to the fair market rental or sale value of the subject lands" appear faulty, but WSDOT's failure to recover even a single penny for the tax account financed by **all** fuel-tax payers, **statewide**, and its agreement, instead, to pay a district serving merely parts of three counties to take state assets worth billions – for **less than nothing** – go far beyond what any sane official could purport to be prudent, much less to fulfill the Washington State Supreme Court's mandate that our state's jurisprudence is to be constructed from "the facts of each case upon mixed considerations of logic, common sense, justice, policy, and precedent," *King v. State*, 84 Wn.2d 239, 250 (1974), including its own *sine qua non* decision whereby it has explicitly defined "highway purposes" through *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554 (1969).

Although our state Supreme Court has recently determined that CPSRTA has obtained "nothing to establish a mandatory duty to transfer the center lanes," on the I-90 floating bridge and across related elements of that corridor, in *Freeman v. Gregoire*, __ Wn.2d __, __ (2011), follow-on litigation in Kittitas County Superior Court by Kemper Freeman and by other plaintiffs to prevent any surrender, due to Article II, §40, pleads your senior assistant Bryce Brown's statement to our state Supreme Court, in his oral argument on September 16, 2010, that "WSDOT was committed to transferring the I-90 lanes to Sound Transit for light rail" (through the taxpayer-robbing "Term Sheet" at issue).

Hence, given extremely adverse consequences for **every** fuel-tax payer, **statewide**, request is hereby made for your Office either to ensure reasonableness in any lease, based on actual market values, or else to cede equitable, legal and other authority necessary to protect **all** such citizens across our state.

Respectfully submitted,

Will Knedlik

cc: Honorable Paula Hammond
Attachment: SEPA Appeal with Appendices A – D

Eastside Rail Now!

July 26, 2011

Ms. Joni Earl, Chief Executive Officer
Central Puget Sound Regional Transit
Authority (dba Sound Transit)
Union Station
401 South Jackson Street
Seattle, Washington 98104-2826

Re: Appeal of East Link FEIS; formal request for public hearing; and matters related thereto

Chief Executive Earl:

Please find the $200 charge that the Central Puget Sound Regional Transit Authority (dba Sound Transit) imposes through Board Resolution No. 7-1, §4.e.3, on each of the agency's more-than-2.7 million taxpayers to appeal its violations of the Washington State Environmental Policy Act, RCW 43.21, due to its violations of the Washington State Constitution, Article II, §40, *inter alia*.

Please be advised that a public hearing is requested, hereby, pursuant to Res. No. 7-1, §4.i, along with prompt fulfillment of every public disclosure request previously made to the agency by the undersigned (including several long unfulfilled by its management as of the filing of this appeal), and together with subpoena powers during pendency of this appeal (*e.g.*, as required in order to compel release of key documents by the agency or to obtain testimony from essential witnesses).

Please be further advised that appellant anticipates that the case in main will take approximately five days for presentation to the hearing examiner to be appointed pursuant to Res. No. 7-1, §4.f, plus such time as necessary to present rebuttal testimony as indicated by agency responses, and that testimony necessary from senior elected officials located both in Olympia, Washington, and also in Washington, D.C., whom appellant shall call to testify, may require scheduling courtesies by said hearing examiner in order to accommodate their respective availabilities due to their very significant responsibilities upon behalf of state residents, on the one hand, and due to their unique knowledge of major irregularities implicating the agency and its East Link project, on the other.

Please be still further advised that the hearing examiner shall be requested to find factually and to conclude legally – based on all evidence admitted at hearing as to all constitutional, legal, administrative and other issues necessary and sufficient to establish – the Final Environmental Impact Statement for the East Link Light Rail Project being appealed, hereby, to be not simply premature and defective from failures to fulfill minimal adequacy obligations for any acceptable FEIS (due to lack of required analyses respecting Segment A mandatory, pursuant to WAC 197-11-440, for "reasonable alternatives" and for "costs of and effects on public services," inclusive of "roads," *inter alia*), but also dishonest and thus corrupting (due to misrepresentations reflecting a standard *modus operandi* under the agency's current Board officers and its present senior management).

Matters evidencing the nominal FEIS as premature and as defective under SEPA

The agency has failed to undertake mandatory examination of "reasonable alternatives" for High Capacity Transportation within the center roadway of the Interstate 90 corridor and for the High Capacity Transit subset thereof within its statutory authority pursuant to RCW 81.104 and RCW 81.112 – identified hereafter as "HCT" in each instance as applicable – and therefore its nominal FEIS is both premature, and also defective, due to its failures to undertake mandatory reviews of "reasonable alternatives" as required by SEPA in several respects through multiple sections of Chapter 197-11, WAC, for the quintessential Segment A of its proposed project legally required in order to extend its federal New Starts light-rail program, as a recipient of $1.313 billion in federal funds, eastward from its incomplete north-south spine largely within Seattle to Bellevue and beyond (as evidenced by comparing the agency's one self-styled "I-90 Alternative" for Segment A with dual options for Segment B and with likewise multiple options for Segment C, *inter alia*).

Appellant's obligation herein is certainly **not** to attempt to repair the agency's fatally premature and lethally defective failures to undertake mandatory alternatives analyses for Segment A, but this appeal will be more efficiently presented, and decided, if the hearing examiner is fully aware from the outset of his or her services that the central issues requiring attention both involve, and also implicate, a complex that is the essential starting point for all such *sine qua non* assessments.

Initially, any adequate analysis of "reasonable alternatives" for avoidable-and-unavoidable effects on the natural-and-built environments begins, necessarily, with examinations of Article II, §40 of the Washington State Constitution (which has squarely required all components within the I-90 corridor to be utilized "exclusively for highway purposes" since 1944), and of long-established decisional law interpreting that exclusivity (which has been explicitly found by the Washington State Supreme Court to preclude rail uses of highway assets since 1969 through its leading case, *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554 [1969]), as well as with a similar examination of additional legal requirements imposed on usage of the center roadway of the I-90 Floating Bridge by the United States Department of Transportation in consideration of its partial funding of those improvements (which includes "CONDITIONS" requiring the Washington State Department of Transportation to act to warranty that "use of the center lanes is controlled to the extent necessary to maintain bus and carpools speeds of 45 mph or greater" as imposed on September 20, 1978).

Taken together, any adequate analysis of Segment A for "reasonable alternatives" for HCT must identify **both** that several bus-transit options would yield an undeniably constitutional alternative under the state Constitution capable of fulfilling all further HCT obligations legally imposed by the federal government as a *quid pro quo* for federal funds for the I-90 corridor and **also** that any rail-transit alternative would yield elements that are obviously unconstitutional under Article II, §40, as interpreted by our state Supreme Court for well over four decades, as well as violating the further federal requirement that WSDOT ensure "use of the center lanes is controlled to the extent necessary to maintain bus and carpools speeds of 45 mph or greater" in the I-90 center roadway.

This is important because the Washington State Supreme Court has pivotally defined this state's jurisprudence to rest on explicit requirements that the judiciary of this state, at all levels of trial-and-appellate courts, must determine "the facts of each case upon mixed considerations of logic, common sense, justice, policy, and precedent," *King v. State*, 84 Wn.2d 239, 250 (1974), and core defects in the nominal FEIS lack just such logic, common sense and those other pivotal factors.

On information and belief, such an initial review was undertaken by the agency before its current environmental review process was first commenced; was covered up, thereafter, both by its then-officers, and also by its then-senior managers, precisely because they knew from early on that the agency's plans for use of the I-90 corridor devolving over time into its preference for a single "I-90 Alternative" in its nominal FEIS was and is both unconstitutional and also otherwise unlawful; and is continuing to be suppressed, for this same central reason, through intentional malfeasance by its current officers and by its present senior managers, as well as misfeasance in public office at common law by each of the 18 members of its Board of Directors through willful misconduct.

Thus, with one set of HCT options already in place and conforming fully to the state Constitution (and to other federal requirements), and with another set of HCT options requiring billions of tax dollars in order to violate this state's Constitution (as well as other federal requirements), agency actions underlying the nominal FEIS' failure to analyze the former and to select the later, through its singular "I-90 Alternative" for the Segment A section of its East Link proposal, is not simply a casual violation of multiple "reasonable alternatives" requirements, under SEPA, and thus wrong, nor merely bureaucratic obstinacy to a point of wrongheadedness. Rather, defiance for the state Constitution and for federal duties implicates wrongdoing more likely intentional than negligent.

Secondarily, any adequate analysis of "reasonable alternatives" for avoidable-and-unavoidable effects on the natural-and-built environments from decisions to proceed with a rail-transit option for Segment A – notwithstanding a state constitutional prohibition and federal contractual limits – would necessarily require the agency's **identification of every step essential to overcome the 18th Amendment to the state Constitution** by the Washington State Legislature, in early 1944, and by the people of the state, in later 1944, as very prominently interpreted by our state Supreme Court in 1969 through a six-to-three decision, and would thus require agency action to meet that very substantial legal burden **before** undertaking a multimillion-dollar environmental review that would of necessity be and now undeniably is premature and defective (and **before** imposing other multimillion dollar expenses onto the City of Bellevue – needlessly and imprudently – in order to respond to the agency's unconstitutional East Link proposal without any legal authority to cross Lake Washington on what the nominal FEIS styles as its sole "I-90 Alternative" for Segment A).[1]

Except for the agency's intervention in *Freeman v. Gregoire* in an unsuccessful effort to obtain a ruling that Article II, §40 and *State ex rel. O'Connell v. Slavin* do not apply respecting its single and thus-still-unconstitutional "I-90 Alternative" for Segment A, and for its intentional failure to identify our state Supreme Court's ruling that it has obtained "nothing to establish a mandatory duty to transfer the center lanes" in its thus-misleading characterization of that case in its nominal FEIS, the agency appears to have done nothing whatsoever to resolve a constitutional prohibition and federal limits as to its bureaucratic defiance for all constitutional-and-contractual constraints.

---

[1]The Washington State Supreme Court found in *Freeman v. Gregoire*, on April 21, 2011, that the agency has obtained "nothing to establish a mandatory duty to transfer the center lanes" – despite its intervention in litigation filed by Kemper Freeman as an original action in that court – as the basis for a divided-court majority's dismissal of that extraordinary writ action, after its pendency there for nearly two full years, so as thereby to necessitate an additional two-to-three-year process to be undertaken before the high court can directly decide whether to overrule its now-42-year-old precedent, in *State ex rel. O'Connell v. Slavin*, as long relied on as definitive, both by the state, and also by its residents, who pay fuel taxes to it. Thus the prematurity of the agency's nominal FEIS is made out, in fact and in law, not only by its failures to comply with requirements for analysis of "reasonable alternatives," but also by its failed intervention from 2009 to 2011.

Certainly, the agency's nominal FEIS does **not** examine the constitutionally available option of constructing agency-owned facilities necessary and sufficient for routing light rail parallel to I-90, including a separate Mt. Baker tunnel, an alignment across Mercer Island, and two bridges necessary to traverse Lake Washington from a third Mt. Baker tunnel in Seattle to Bellevue, even though the total cost of doing so would be substantially **less** than payment of "fair market value" for the I-90 center roadway (for reasons more fully discussed, hereinbelow, in briefly examining the actual market value thereof in the context of requirements imposed by WAC 197-11-440.6.e).

Plainly put, simply stating that the agency's preference is to use assets having an extremely high value, for reasons more fully discussed below, and belonging effectively to every citizen of the State of Washington statewide, since fuel taxes were invested to build the I-90 center lanes from constitutionally protected fuel taxes – as the agency seeks, *sub rosa* and *sub silentio*, for its single "I-90 Alternative" – is attempted theft, not "reasonable alternatives" analysis (especially after the agency's intervention in *Freeman v. Gregoire* informed it directly, **as a party defendant therein**, that it has thus far obtained "nothing to establish a mandatory duty to transfer the center lanes").[2]

On information and belief, this secondary examination has been undertaken by the agency and is being suppressed both by its current officers and also by its present senior managers because they know it would document the premature-and-defective circumstances of its nominal FEIS, as well as demonstrating multimillion-dollar mismanagement of the underlying process, because the very lengthy delay by our state Supreme Court in concluding the *Freeman* case as an original action on an extraordinary writ, on a narrow procedural basis, after pendency for nearly two years before it, there, implicates strong likelihood that *State ex rel. O'Connell v. Slavin* will **not** be reversed on a return trip to the high court (despite Chief Justice Barbara Madsen's public statement that earlier litigation involving the agency, *Sane Transit v. Sound Transit*, 151 Wn.2d 60 [2004], was decided on political bases, rather than legal grounds, in her pursuit of the 32nd Legislative District Democratic Organization's support, while campaigning for reelection during 2005, in part by squarely taking credit for that political-*versus*-legal outcome which had then favored the agency thereby).

Further, on information and belief, the agency made such a secondary analysis before its current environmental review process was first undertaken and it has since been suppressed both by its then-and-future officers and also by its then-and-future senior managers because they knew from early on that agency rail-use plans are not among "reasonable alternatives" for the I-90 corridor.

Tertiarily, any adequate analysis of "reasonable alternatives" for the avoidable-and-unavoidable effects on the natural-and-built environments from a decision to proceed with a rail-transit option for Segment A – notwithstanding a state constitutional prohibition and federal contractual limits – necessarily includes the agency's clear identification of those multibillion dollar financial costs that are yielded by all steps required to prevail over the 18th Amendment to the state Constitution.

---

[2]As the nominal FEIS indicates, Mr. Freeman and other Washington fuel taxpayers, including major freight companies headquartered in Eastern Washington and highly reliant on the I-90 corridor to haul large quantities of products to the Port of Seattle, filed litigation in Kittitas County Superior Court (assigned Cause No. 11-2-00195-7), in May, 2011, due to Ellensburg's location near the geographical-and-commercial center of that key interstate corridor, and due to the large percentage of the agency's Board who are King County elected officials with direct influence over budgets affecting the King County Superior Court. The agency is not a named defendant therein and, over two months later, it has not attempted to intervene according those records available for inspection as of the date on which this appeal was prepared.

While SEPA explicitly exempts environmental reviews through WAC 197-11-450 from ordinary cost-benefit calculations standard in a wide variety of public-policy contexts, and otherwise generally limits normal practices for balancing of projected expenses against expected outcomes *via* the normal calculus of state-and-local finances, SEPA mandates that "Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (WAC 197-11-444)," and further requires careful explanation of its thus-codified terminology that "Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal" (WAC 197-11-440.6.e).

This mandatory cost discussion *vis-à-vis* public-service infrastructure omitted from the agency's nominal FEIS is not just largely *sui generis* for "reasonable alternatives" analysis within the core environmental review process at issue pursuant to this administrative appeal, but also critical for state residents who pay fuel taxes, statewide, and who would lose several billions of dollars from the agency's bogus "I-90 Alternative," as preferred by it, as a part of its thus-implicated intention to cover up total fees owed by the agency for use of the I-90 corridor, if legal, at their full market value calculated to fulfill the state's duty to obtain the greatly appreciated value of I-90 facilities from the agency as required constitutionally (and who would lose a substantial multiple of those several billions of dollars as the gain in fair market value since its environmental process began).

In basic overview, right of way for transportation infrastructure has experienced rather enormous appreciation in value, during recent decades, due to scarcity factors, assembly expenses and other cost drivers, and the physical improvements of the interstate highway system have likewise been appreciating at a substantially faster rate than associated annual depreciation due to the aging of its component parts. In circumstances where a city and its residents, such as Seattle and persons living there, adamantly obstruct expansion of existing highway infrastructure to reflect growth in regional population, asset appreciation experienced generally is multiplied several times over and can be raised by an order of magnitude, or even more, with decisions to limit roadway additions.

Thus, normal appreciation of transportation infrastructure values, together with the extraordinary increases in such values generated by decisions made by the City of Seattle, indicates a baseline of $8-to-$12 billion for the I-90 center lanes in the corridor from Bellevue westward to Seattle.

Further, during extended environmental processes at issue herein, senior managers for the Puget Sound Regional Council have developed a plan to finance regional transportation infrastructure by tolling of essentially all key existing roadways within its four-county region at quite high rates.

Elected officials who can accept or reject PSRC's staff-initiated fiscal plans endorsed this vision, overwhelmingly, by their formal adoption of its *Transportation 2040* document on May 20, 2010.

Further, during this period, the state Secretary of Transportation Paula Hammond and managers on her staff have been developing plans for funding major transportation infrastructure – starting with a pilot project on State Route 167 that has been recently extended by her – by placing tolls on existing highways, including extension of such tolling to the current Evergreen Point Floating Bridge scheduled to commence in April, 2011 (and repeatedly rescheduled since to start, shortly, to be followed in current planning by Interstate 405 and possibly by Interstate 5). This modality of tolling existing infrastructure, for purposes of revenue generation, differs from traditional toll practices, in this state, to impose tolls on new structures but to remove them promptly when bond

financing has been repaid (as in view *vis-à-vis* two bridges that span the Tacoma Narrows where the 1950s structure remains toll free but where passage over the currently bonded facility opened in 2007 is available, in the opposite direction, only by paying $2.75 charged as a fixed-toll rate).

The state legislature has embraced tolling an existing structure for tolls to be imposed imminently on the established Evergreen Point Floating Bridge, in the State Route 520 corridor that connects Seattle with Bellevue, at rates far higher, in both directions, than the toll being charged Tacoma area residents, in only one direction, and majorities in both houses of the legislature have partially embraced this novel revenue-generation model during the last session – so as to add a 75-cents-per-mile toll to I-405 operations – by approving tolls on existing infrastructure (subject to interim studies to develop additional data, for final review, in the legislature's 60-day session in 2012).

Thus, what is currently known and knowable from the PRSC's formal actions, from the WSDOT Secretary's recent extension of the tolling pilot project on SR 167 and from the state legislature's *seriatim* tolling actions in recent sessions, as to SR 520, and its additional partial step forward on tolling for I-405, taken together, is that tolls are being actively promoted as a major **new** revenue resource for state-and-interstate highways in a fashion that is not only revolutionizing traditional financing for roads, highways, bridges and ancillary transportation infrastructure, here, but that is, in this specific process of toll-based financing, enormously increasing the market value of key highway corridors (so that each is not simply an ultimate beneficiary of most state fuel taxes, but also a primary vehicle for generating a substantial to still-greater percentage of future revenues).

Under these circumstances, discussion required by – but nonexistent in – the nominal FEIS is not feasible in complete detail, yet, but the general outline could not be clearer (unless intentionally omitted, despite WAC 197-11-440.6.e's specific requirements quoted hereinabove, as was done in this instance in order to cover up the gigantic size of this **gift** of state-owned property on which nonexistent analysis of the agency's "I-90 Alternative" as its sole "preferred" option is premised).

In addition to the baseline value of $8-to-$12 billion for the I-90 center lanes in the corridor from Bellevue westward to I-5 – due substantially to enormous scarcity value created by nothing short of vehement obstructionism to any expansions of highway infrastructure into and out of Seattle's boundaries on its east, north and south for at least several decades – a further increment in actual value, from between $12-to-$16-to-$20 billion, arises due to most likely potentials from tolling (with the lower end of an additional $12 billion in full value indicated with "fixed tolls" set at $1 below the "average" of tolls to be collected for use of the SR 520 bridge to start in the next few weeks based on $3.50 each way during peak-use periods, with the midpoint of an additional $16 billion in value indicated with "variable tolls" set at the level of tolls to be collected shortly for use of that bridge with its nominal balancing of congestion management *versus* cash generation, and with the higher end of an additional $20 billion in value indicated with "variable tolls" set at $1 beyond the "average" of tolls to be commenced soon for usage of that bridge with a thereby-lesser functional weighting of congestion-reduction means against revenue-maximization ends).

Taken together, at this relatively early stage during the transformation of core state transportation infrastructure into a cash machine of multibillion-dollar proportions, the initially indicated value of the I-90 center lanes from market pricing is between $20 billion and $32 billion, with both such numbers and all figures in between defensible with recognized cost approaches to value and with

ordinary income-based methodologies for property valuation today applicable, with reasonable accuracy, given the revenue stream generated by the Narrows Bridge now (and to be yielded by the Evergreen Point Floating Bridge), and given prices being paid by corporate toll farmers (for purchasing and for leasing tolled facilities, in recent years, in this nation and internationally).

Whether the agency must pay $20 billion for use of the I-90 center roadway, $32 billion, or some number in between depending on other factors above indicated (and on structuring of its payment flows), the nominal FEIS is defective for total omission of $20-to-$32 billion, and supplemental environmental impact analyses are required to comply with WAC 197-11-440.6.e's very specific requirements quoted hereinabove – pursuant to provisions of WAC 197-11-620 – particularly at a time when this state is unable to replace deteriorating transportation infrastructure, statewide, including crumbling roadways and dangerous bridges that trigger additional requirements for its analyses, under SEPA, to be proven at the formal hearing requested hereinabove, and especially when failure to pay those many billions of dollars due to the agency's cover up would be another unconstitutional act or omission, *i.e.* a **gift** of state assets owned by all taxpayers, statewide, to an agency benefitting only parts of three counties contrary to this state's supreme law as established by the Washington State Constitution since 1889 and as interpreted by our state Supreme Court.[3]

A slow-motion collapse of vital highway infrastructure that is going on currently, throughout the state, also factually and legally degrades the vast majority of the agency's own transit operations, since more-than-56 percent of its total ridership, each day, is served by buses which are operated largely on state highways, including use of much of the state's High Occupancy Vehicle system, locally, as key parts of this state's HCT facilities for buses and for other transit elements of HCT.

On information and belief, elements of such analyses were undertaken by the agency prior to its present environmental review process being first undertaken, and have been since suppressed, both by its then-and-current officers and also by its then-and-present senior managers, precisely because they knew early on, and continuously since, that the agency's plans for rail usage are not among "reasonable alternatives" for I-90 lanes for a variety of reasons, including but not limited to the reality that the thus-implicated violation of Article II, §40 cannot be mitigated in any way.

Additionally, on information and belief, the agency has actively lobbied the state legislature, year in and year out, for a series of actions intended to obtain a multibillion-dollar **gift** of state-owned right of way, highway infrastructure and related assets within the commercially pivotal Interstate 90 corridor – which are all protected for **every** fuel-tax taxpayer statewide by Article II, §40 – in order to deny all taxpayers, statewide, major benefits from $20 billion to $32 billion due to actual malfeasance by current officers and present senior managers, as well as by misfeasance in public office by all, or virtually all, current-and-past members of the agency's Board of Directors (with a notable exception in Hon. Don Davidson, as Mayor of the City of Bellevue during prior service and currently, and in Hon. Rob McKenna, as a King County Councilman when a Board member).

---

[3]Initiative 1125, if adopted by the people, and if able to prevail in nearly certain legal attacks on what are likely to be a substantial number of bases, would preclude both variable tolls (and thus lower the upper-end for a market-value range), and also agency use of the I-90 center lanes (so as moot several other Segment A issues). While appellant will request a supplemental environmental analysis to ascertain the full market value of the I-90 center roadway as an element of relief pursuant to the hearing previously requested hereinabove, this component of relief should not be granted by the hearing examiner so as to impose more needless costs upon regional taxpayers before the General Election on November 8, 2011.

Taken together, both our state Supreme Court's determination that the agency has obtained "nothing to establish a mandatory duty to transfer the center lanes" to it, and also each of the further information demonstrating prematurity and defectiveness of the agency's nominal FEIS, provide documentation of the obvious reality that at least one SEIS is required – and, perhaps, multiple supplemental reviews – rather than the agency's bums-rush to conclude its nominal FEIS several years in advance of any legal right to implement it, unless *Slavin* is overturned, and unless I-1125 is either defeated at the polls or else defeated before our state Supreme Court, particularly when the core of prematurity and of defectiveness derives from defiance for the state Constitution both as to exclusive fuel-tax facilities and also as to **prohibited gifting away** of fuel-tax-based assets.

Simply put, the SEIS indisputably essential pursuant to WAC 197-11-620 requires analysis of the investments needed in the I-90 corridor and whether $20-to-$32 billion would be adequate for all or most unfunded needs of the now deteriorating interstate highway from I-5 to the Idaho border.

Additional prematurity and defectiveness evidenced by the nominal FEIS under SEPA

Ancillary to a preliminary outline of initial, secondary and tertiary issues hereinabove are a large range of gaps within analyses of major issues implicating further prematurity and defectiveness.

The nominal FEIS does not provide adequate review of the constitutionally lawful option of bus rapid transit as an alternative to light rail, its superiority both through greater utilization of I-90's valuable roadway with carpools and vanpools over light rail or other rail modalities as indicated more fully by Appendix A hereto, and also in terms of HCT for communities to be served in the agency's East King County subarea in light of their developed suburban character, as well as its superiority in terms of lesser greenhouse gas emissions as documented by Appendix B hereto.[4]

Don Padelford's discussion of buses, carpools and vanpools as optimizing use of center lanes on I-90, in Appendix A, also draws into question the agency's assertions of higher person throughput than various bus options so as to require, at a minimum, additional analysis through an SEIS process.

Similarly, the agency's assertion that "Light rail would support increased density in Bellevue and Redmond," in a fashion "consistent with regional land use plans," does not appear to square with the nominal FEIS' numbers showing East Link would serve only 0.4 of one percent of downtown Bellevue's transit-access needs by 2030, and thus appears to reflect either the agency's ignorance of statistical insignificance,[5] or another element of its recurring cover-up practices in the nominal FEIS. In either instance, further review is essential through an SEIS process to clarify said *lacunae*.

---

[4]In additional, the nominal FEIS does not appear to fulfill FHWA requirements for permitting access changes to and from I-90 required for light-rail operations without thorough consideration of a TSM alternative involving deployment of additional express buses using I-90 together with carpools and vanpools consistent with the current lane configuration (as a pivotal alternative repeatedly blown off by agency staff, since before the agency's formal creation in late 1993, as a key element, on information and belief, of a staff-initiated program to torpedo honest analyses, repeatedly, through omissions of bus options as "reasonable alternatives," and through creation of needlessly expensive artifices such as rail-convertible bus lanes in order to sabotage cost-effectiveness of bus-rapid-transit consistent with constitutional use of the I-90 corridor.

[5]*Cf.* page 7: "The East Link project would reduce vehicle miles travelled (VMT) and vehicle hours travelled (VHilyT) in the region as described in Section 3.3.3 of Chapter 3 because greater than 10,000 new transit riders would use the light rail system every day with the project." That figure represents less than 0.1% of the region's daily 16.5 million trips.

The agency's nominal FEIS does not adequately examine that 90-to-95 percent of East Link riders are projected to come from buses, carpools and vanpools currently using the state's high occupancy lanes, and thus already participating in the state's HCT program, with less-than-10 percent to come from current drivers of single occupancy vehicles.[6] This in turn requires an SEIS in order to review this reality on selection of the constitutionally permissible HCT system already operating in the I-90 center lanes *versus* a constitutionally prohibited HCT *non*option that the agency strongly prefers, as well as on evaluation of ascertaining whether the constitutionally permissible HCT system already operating provides greater utility for developed communities with strongly suburban characters than the constitutionally prohibited HCT alternative that the agency is promoting, without this vital analysis, so as to cover up relevant factors essential to review constitutional-*versus*-unconstitutional HCT systems for the I-90 corridor, as well as for the Eastside communities nominally to be served.

The agency's inadequate analysis also requires an SEIS because it fails to examine the factual-and-legal reality that East Link would not maintain the same number of traffic lanes, including oversized lanes currently, since it would reduce 10 lanes pursuant to the R8A project to only eight lanes, and since those lanes would all be substandard in size whereas the 10 lanes include two oversized lanes.

In addition, the agency's nominal FEIS fails to examine both facts and also law whereby the current Record of Decision for I-405 specifies fully constitutional HCT for I-90's corridor from I-5 to I-405, in the form of bus rapid transit, which can serve Bellevue community college's large commuting population, rather than unconstitutional rail transit, which cannot serve its large commuter campus.

A further omission that is both more complex, and that also runs closer to outright dishonesty and to a corrupting influence, is a lack of essential review of inherent inadequacy of light rail for effective service using proposed East Link routing from an eastern terminus through the I-90 corridor to the University of Washington, as a major destination for commuters from the East King County subarea, as well as to other locations further north of the Downtown Seattle Transit Tunnel, because such a alignment is too lengthy to provide reasonable transit service with the agency's light-rail modality, as has been specifically documented by Ron Tober, Deputy Chief Executive Officer, in his report of critical inadequacies of the light-rail program, **at your direction**, just before he retired in late 2010 (as either provided to the agency's current officers and its present Board members, so as to implicate them in your cover up of these facts, or else withheld from them, in order to conceal this information from them, as well as from more-than-2.7 million district residents, as citizens, and as taxpayers).

Mr. Tober reported to the agency's Citizen Oversight Panel, shortly before his retirement, that he was tasked by you to prepare this key study for you, as well as identifying and discussing, then, **why** Link's length is well in excess of a reasonable distance for efficient use of light rail as a modality, here, due to an excessive number of stops rendering it unable to compete with express buses using HOV lanes (which are both faster, and also have cheaper fares, while affording effective reliability).

---

[6]WSDOT's Puget Sound Region Vanpool Market Assessment (Technical Memorandum 2) documents much larger potential throughput in major corridors through greater use of vanpools as a currently underutilized element of the state's HCT system, including in the I-90 corridor, and the nominal FEIS fails to incorporate this data because it fails to analyze anything other than its rail preference for the quintessential Segment A. An earlier-circulated draft of WSDOT's van study prepared by John Shadoff stated that vanpool use can be increased 19 times beyond then-current levels, *i.e.* with adequate investment in marketing vans' convenience, so as to generate HCT usage greater than **total** East Link ridership projections at essentially **no** cost to local taxpayers (since vans operate as an effective "profit center" for transit agencies).

These very serious problems with the Link light-rail system which Mr. Tober has outlined for you – and which you have either reported to Secretary Hammond and to the other 17 Board members or else withheld from them – is even more relevant to East Link than for Link's north-south operations (given both the convoluted routing for East Link requiring passengers in the East King County subarea to go south in order to go north, and given also the communities' clear suburban character).

In addition, thorough examination needs to be made of the I-90 routing, since the Evergreen Point Floating Bridge creates a much-more-direct and much-faster alternative to any I-90 routing, so that forcing nine out of ten potential East Link riders out of more-efficient, less-expensive and already-operating HCT modes, using buses, carpools and vanpools, and into far-less-efficient, much-more-expensive and constitutionally prohibited light rail, hardly benefits Eastside residents in any obvious way, and since a bastardized-and-convoluted routing is not only unlikely to benefit them as HCT users but results from the agency's intent to violate its core subarea equity principles by awarding its East King County subarea taxpayers' substantial subarea equity interest in the DSTT to residents of the Seattle/North King County subarea, both *sub rosa* and also *sub silentio*, at least until examined fully by the supplemental environmental analyses required to ascertain if there could be **any** benefit that is actually positive, since most of the nominal benefits appear to be substantially negative, after an initial preliminary review prior to the public-hearing process as hereinabove formally requested.

While heading south to go north can perhaps sometimes afford a logical and common sense method for transport, it appears more consistent with brief tactical retreat than with long-term transit systems.

Initial, secondary, tertiary and further issues indicate need for supplemental analyses

Taken together, then, the agency is required either to select a mode of HCT that can use highway facilities in a manner lawfully consistent, **constitutionally**, with Article II, §40 (including buses, bus rapid transit, carpools and vanpools, *inter alia*, but not rail-based transit), or to select an HCT mode that cannot utilize highway facilities in a manner legally consistent, **constitutionally**, with Article II, §40 (including commuter rail, light rail, trolleys and any other rail modalities) and then to construct all essential facilities, at its own expense, while paying full market value for any and all state assets (*e.g.*, highway rights of way and school-trust interests in lake surfaces, *inter alia*).

What the agency cannot do is simply to assume that the state Constitution does not apply to it and that it can exploit constitutionally protected highway assets contrary both to the state Constitution in Article II, §40 and also to over four decades of precedent directly on point through *Slavin*, and that it can pass off a major cover up of several pivotal matters in its nominal FEIS as adequate, as above indicated, so as thus to move from prematurity and defectiveness to flagrant dishonesty in that FEIS, as it has been and is corrupting the entire system of transportation in the central Puget Sound region (as it now eats up 32 percent of total state-collected transport taxes here currently).

Matters evidencing the nominal FEIS as both dishonest and as also corrupting

As previously indicated, the agency must provide supplemental environmental analyses both due to immense changes to critical financial circumstances during the pendency of its premature-and-defective environmental review, and also due to the agency having failed to undertake any of the pivotal fiscal examinations of the center lanes essential and required *vis-à-vis* impacts not just on I-90's center lanes but also on overall functioning of the total HCT system operated by WSDOT.

Beyond all of this evidence of logical prematurity and of gross defectiveness, circumstances also manifest wrongdoing through dishonesty in the nominal FEIS and, thus, by way of the agency's misconduct that is corrupting of governance, regionally and statewide, since major elements of the foregoing discussion strongly implicate not merely shortcomings but also its recurring efforts to conceal information essential both for policymakers, as representatives of citizens, and also for the people of this state, as the ultimate source of all legitimate power here pursuant to our state Constitution's Article I, §1 (which derives directly from self-evident truths of the Declaration of Independence pursuant to the Enabling Act of 1889's provisions as to said Declaration therein).

On one key level, utter defiance for the state Constitution is *sui generis*, and wrongdoing deriving from resulting malfeasance by the agency's prior-and-present officers and by its past-and-current senior managers – as well as from misfeasance in public office at common law by virtually every Board member with only very few identifiable exceptions – is the ultimate form of abomination in a democratic system premised on basic honesty by elected representatives in meeting fiduciary duties, and even worse than dismissal of our state Supreme Court even if its present Chief Justice meant precisely what she said to the 32nd Legislative Democratic Organization when she publicly informed members of that overtly partisan group operating mainly in the agency's Seattle/North King County subarea that previous determinations made in favor of the agency, in *Sane Transit v. Sound Transit*, resulted from political, rather than jurisprudential, decisionmaking (as proffered as an appropriate political basis, for partisan support, thus requested, and thereby obtained in 2005).

However, in the context of an administrative appeal herein, egregious misrepresentation made by the agency as to central elements within its nominal FEIS, based on patent dishonesty, rises to a very high level of wrongdoing, indeed, even if not coming within several orders of magnitude *vis-à-vis* open defiance for the state Constitution and one-or-more orders of magnitude for dismissal of the high court's long established interpretation of Article II, §40, in *Slavin*, since early 1969.

For example, the agency's utter dishonesty in its nominal FEIS with respect to all highly adverse impacts on freight mobility to and from the Port of Seattle is particularly gross not only because its lies are patently intentional, but also because a substantial percentage of agricultural products shipped from Eastern Washington are either high-value products that are highly perishable and at great risks from substantial delays to result from any unconstitutional use of the I-90 center lanes or else bulky products that are placed at huge risk by reducing the dimensions of lanes that are at present oversized in terms of federal requirements without unconstitutional use of the center roadway but that would be reduced to substantially undersized lanes requiring federal waivers granted over concerns as to certain increases, in accidents, and in readily projected unnecessary deaths of human beings (as expressed in anxiety of the FHWA's local representatives located in Olympia).

The agency's explicit claim that "the East Link Project would have an overall beneficial impact on trucks traveling on I-90" is both an intentional falsification of WSDOT data sets, and also an obvious attack on the "mixed considerations of logic, common sense, justice, policy, and precedent," including pivotally *Slavin*, as mandated for the jurisprudence of this state by our state Supreme court in *King* for more than 35 years before the agency attempted to subvert those values.

As Appendix C identifies with WSDOT data sets – each taken from its 2006 center-lanes study – freight mobility would be greatly degraded by East Link, as logic and common sense do indicate, but as the agency falsely denies, and misrepresents, in its fraudulent crafting of its nominal FEIS.

As Appendix D documents, the agency's misrepresentations respecting freight mobility are **not** limited to its generic misrepresentations, but have been expanded in its falsified answers to the Port of Seattle's substantial concerns about freight access to its waterfront-and-airport facilities.

As WSDOT Secretary Hammond – a misfeasant agency Board member – was informed before a large audience on May 10, 2001 by the practical-and-pithy owner of a leading freight company located in Ellensburg, Washington (in response to a question posed by James MacIsaac, P.E., as to actual effects on freight mobility over I-90, *versus* the nominal FEIS' above-quoted fairy tale, with his inquiries into adverse impacts from narrowing I-90 lanes for trucks hauling agricultural goods and other products from eastern Washington to the Port of Seattle if WSDOT permits I-90 roadway to be squeezed down by 44 feet whereby now-oversized lanes would be thereby shrunken to thereafter-substandard width, essential shoulders would be reduced or eliminated, and truck speeds presently achievable within that crucial freight corridor would be significantly slowed):

> Yeah, I think narrowing the corridor would be an outstanding initiative if we want to narrow down trade in the state. So I think, let's ... [interrupted by audience laughter and murmurs in response to that seemingly ironic statement]
>
> I mean that's, that's honestly what it is ... because that's our corridor ... [audience applause]
>
> So if you want less water to go through, get a smaller pipe. I'm not a plumber, but that's, that's how that would work ... and we would have less trade because that is our corridor to a world market ... Period ... That, that, the data there shows it.[7]

On information and belief, major political pressure was placed on FHWA officials by Hon. Patty Murray or by her staff to compel the granting of waivers for substantially **substandard highway lanes to accommodate unconstitutional use** of I-90's center lanes in a fashion that indisputably will increase motor vehicle accidents – and beyond denial result in loss of human lives – despite explicit objections raised by local FHWA officials before that political pressure applied through requests made by Ric Ilgenfritz, as a former staff member to Sen. Murray, as well as by you (directly or through staff). Nonetheless, the FHWA office's local Division Administrator, Daniel M. Mathis, P.E., noted on "Sound Transit – I-90 East Link Project Final Interchange Justification Report," on June 22, 2011, his ongoing concerns that the "WB I-90 HOV lane is a safety issue."

This and all other wrongdoing by the agency derives, substantially, from its efforts to suppress both its own direct cost-effectiveness obligations pursuant to RCW 81.104 and to RCW 81.112, and also its related participatory obligations to make its major resource allocations between bus-and-rail operations based on a "least cost planning methodology" pursuant to RCW 47.80.030, in the course of the agency's constant distortions of its duties to advance its rail-*uber-alles* agenda.

This dishonest and corrupting wrongdoing should begin to be rectified in supplemental analysis required as an initial element of the relief to be requested pursuant to this administrative appeal (as well as through litigation needed to obtain full market value for any I-90 corridor assets used).

---

[7] A video file of Mr. MacIsaac's above-referenced question and Mark Anderson's above-quoted answer is available at http://www.washingtonpolicy.org/events/details/2011-transportation-policy-conference (starting at *circa* Minute 50).

Identification of appellant's specific interest in this appeal as required by Res. 7-1, §4.a-k

As ordinary applications of logic and of common sense indicate to every normal person – who is **not** paid by the agency to misunderstand through its quite generous use of local, state and federal dollars provided by citizens as local, state and federal taxpayers – a nominal FEIS that is not only premature and defective, but also dishonest and corrupting, adversely affects every citizen forced first to pay for a purported environmental analysis that is intended to obscure, and does so, while mouthing the agency's *faux* claims of transparency, and then to pay further in order to appeal its wrongdoing due to its patent failures to supply "reasonable alternatives" analysis, *inter alia.* The undersigned falls into that category squarely and must be and is thereby harmed, *sui generis*, with all of the agency's more-than-2.7 million taxpayers living within its jurisdictional boundaries, as well as with millions more not living therein, but shopping therein so as to pay transit taxes to it, together with every Washingtonian, statewide, harmed by its enormous waste of public tax funds that cannot be fully understood prior to supplemental reviews required by WAC 197-11-620 and by WAC 197-11-440.6.e, *inter alia*, and greatly needed for logical and common sense reasons.

When no analysis is made in circumstances wherein one alternative costs far less, does far more, and works far better with carpools, vanpools and emerging vanshare HCT modes, as well as also being fully constitutional, and wherein another alternative costs far more, does far less and works far less well with other HCT modalities, as well as being unconstitutional, all taxpayers are justly aggrieved, particularly when such nonsense is pursued through an obscenely expensive planning process conducted years, if not decades, in advance of obtaining any legal right for use of a route needed in order to achieve far-less-useful transit services at far greater cost, and especially when that very suboptimal financial outcome would also add to green house gases and other pollution.

Also, because the undersigned is a regular transit user and an occasional driver in and through the I-90 corridor, he suffers specific injuries, in fact, through great harm from the agency's failure to develop constitutionally authorized transit service there as fully and as promptly as possible with huge financial resources available (but for its pursuit of an unconstitutional option), and he would be further harmed in the future by the agency's intentional misconduct so as to increase dangers to the human lives of drivers in and through the I-90 corridor (including that of the undersigned).

Further, as a taxpayer to the district, the undersigned has already been harmed by its multimillion misallocations of limited tax resources to develop its premature-and-defective nominal FEIS, and he will be further harmed by its plans to undermine economic development and financial vitality as implicated by false claims to the Port of Seattle's key concerns stated in regard to degradation of freight mobility essential for prosperity (as is more fully indicated within Appendix D hereto).

Still further, the undersigned would be additionally harmed, both as a transit taxpayer and also as a fuel taxpayer, by institutionalization of underutilization of extremely valuable I-90 center lanes so to as to ensure long-term economic and financial outcomes that would create suboptimal uses of bridge roadbed by buses, carpools, vanpools and emerging vanshare modalities, together with imposition of greater environmental harms locally to air, water and other core elements of nature.

As president of Eastside Rail Now! – a grassroots environmental and rail advocacy organization – the undersigned has also been harmed because funds available for over 30 miles of north-south

Eastside Rail Now!

July 26, 2011

Ms. Joni Earl, Chief Executive Officer
Central Puget Sound Regional Transit
Authority (dba Sound Transit)
Union Station
401 South Jackson Street
Seattle, Washington 98104-2826

Re: Appeal of East Link FEIS; formal request for public hearing; and matters related thereto

Chief Executive Earl:

Please find the $200 charge that the Central Puget Sound Regional Transit Authority (dba Sound Transit) imposes through Board Resolution No. 7-1, §4.e.3, on each of the agency's more-than-2.7 million taxpayers to appeal its violations of the Washington State Environmental Policy Act, RCW 43.21, due to its violations of the Washington State Constitution, Article II, §40, *inter alia*.

Please be advised that a public hearing is requested, hereby, pursuant to Res. No. 7-1, §4.i, along with prompt fulfillment of every public disclosure request previously made to the agency by the undersigned (including several long unfulfilled by its management as of the filing of this appeal), and together with subpoena powers during pendency of this appeal (*e.g.*, as required in order to compel release of key documents by the agency or to obtain testimony from essential witnesses).

Please be further advised that appellant anticipates that the case in main will take approximately five days for presentation to the hearing examiner to be appointed pursuant to Res. No. 7-1, §4.f, plus such time as necessary to present rebuttal testimony as indicated by agency responses, and that testimony necessary from senior elected officials located both in Olympia, Washington, and also in Washington, D.C., whom appellant shall call to testify, may require scheduling courtesies by said hearing examiner in order to accommodate their respective availabilities due to their very significant responsibilities upon behalf of state residents, on the one hand, and due to their unique knowledge of major irregularities implicating the agency and its East Link project, on the other.

Please be still further advised that the hearing examiner shall be requested to find factually and to conclude legally – based on all evidence admitted at hearing as to all constitutional, legal, administrative and other issues necessary and sufficient to establish – the Final Environmental Impact Statement for the East Link Light Rail Project being appealed, hereby, to be not simply premature and defective from failures to fulfill minimal adequacy obligations for any acceptable FEIS (due to lack of required analyses respecting Segment A mandatory, pursuant to WAC 197-11-440, for "reasonable alternatives" and for "costs of and effects on public services," inclusive of "roads," *inter alia*), but also dishonest and thus corrupting (due to misrepresentations reflecting a standard *modus operandi* under the agency's current Board officers and its present senior management).

rail service on the Eastside immediately, through adoption of a constitutional option for the I-90 corridor, is continuing to be delayed by machinations to facilitate an unconstitutional *non*option.

Until the agency stops withholding documents requested by the undersigned, added particularity as to the agency's specific errors, falsifications and other wrongdoing is not possible; corrective actions indicated and to be requested cannot be more fully stated; and reasons for major changes needed, and indeed mandatory, cannot be more explicitly indicated until such stonewalling ends.

Other specific harms are set forth as to initial, secondary, tertiary and additional matters stated more fully hereinabove, including but not limited to specific elements provided as examples of defects requiring supplementation in some instances and withdrawals of dishonest averment also essential in other instances, again, all provided while the agency intentionally withholds essential information in keeping with its longstanding misfeasant *modus operandi* with all of its taxpayers.

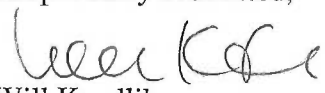
Notice as to reservation of rights

The undersigned hereby reserves all rights, including his right to amend this Appeal and to add to its documentation as additional information becomes available from materials long withheld from him by the agency's failures to provide documents requested pursuant to its central public disclosure obligations, as it has previously been found to do by the King County Superior Court.

Notice as to a scheduling *datum*

Since the undersigned is flying to the east coast today, going abroad tomorrow, and thereafter returning to the east coast in order to meet with congressional and agency staff in Washington D.C. before returning from that city to Kirkland on approximately August 10, 2011, request is formally hereby made that no actions be undertaken by the agency requiring any response by him until at least 10 days thereafter.

Respectfully submitted,



Will Knedlik
Post Office Box 99
Kirkland, Washington 98083
wknedlik@eastsiderailnow.org
425-822-1342

cc: Sound Transit Board of Directors

(*Nota been*: typographical and other errors, in the original filing, were corrected August 8, 2011)

APPENDIX A

Donald F Padelford
POB 2846
Seattle, WA 98111
tel 206-262-1155
fax 707-202-1155
dfp07@dfpNET.NET

Gov. Christine Gregoire
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

July 21, 2011

Dear Governor Gregoire

I watched a portion of the "Ask the Governor with Enrique Cerna" on KCTS9 last night. One questioner asked about what effect Tim Eyman's latest initiative (1125) would have on rail transit using the I-90 floating bridge. You responded that you would vote against the initiative and that we need transit on I-90. I believe you then segwayed into how good the railways are in Spain.

I too will likely vote against the initiative and admire the European rail network, but I think you have misconstrued the effect of rail on I-90. Here is the blunt reality: at maximum build-out and use light rail on I-90 would carry the equivalent of <u>one</u> bus every minute on the bridge, which at 60 mph equates to one bus per mile. So, looking at the bridge, you would see one bus heading east and one heading west; the center lanes would be otherwise unoccupied. Something in excess of 90% of the capacity of those lanes would be left to rot on the vine. Here is the question: does it make any sense to take a ultra-valuable piece of urban freeway, kick out all cars, carpools, vanpools and trucks, spend billions of dollars, and then (in effect) run one bus a minute down it when the adjoining lanes are stuck in rush hours snail's-pace traffic? Are we really so rich that we can afford this kind of profligacy? Me thinks not.

The alternative (not, of course, favored by either Mr Eyman or his backer, Kemper Freeman) is to "mobility price" those lanes so that express buses always move at 60 mph, even at the height of rush hours, and so that the remaining 90+ percent of the capacity of those lanes is fully utilized.

Light rail on I-90 may be the greatest squandering of public resources on a transportation project even contemplated by this state. So, maybe I *will* vote for 1125 (it can always be undone by the legislature a few years hence).

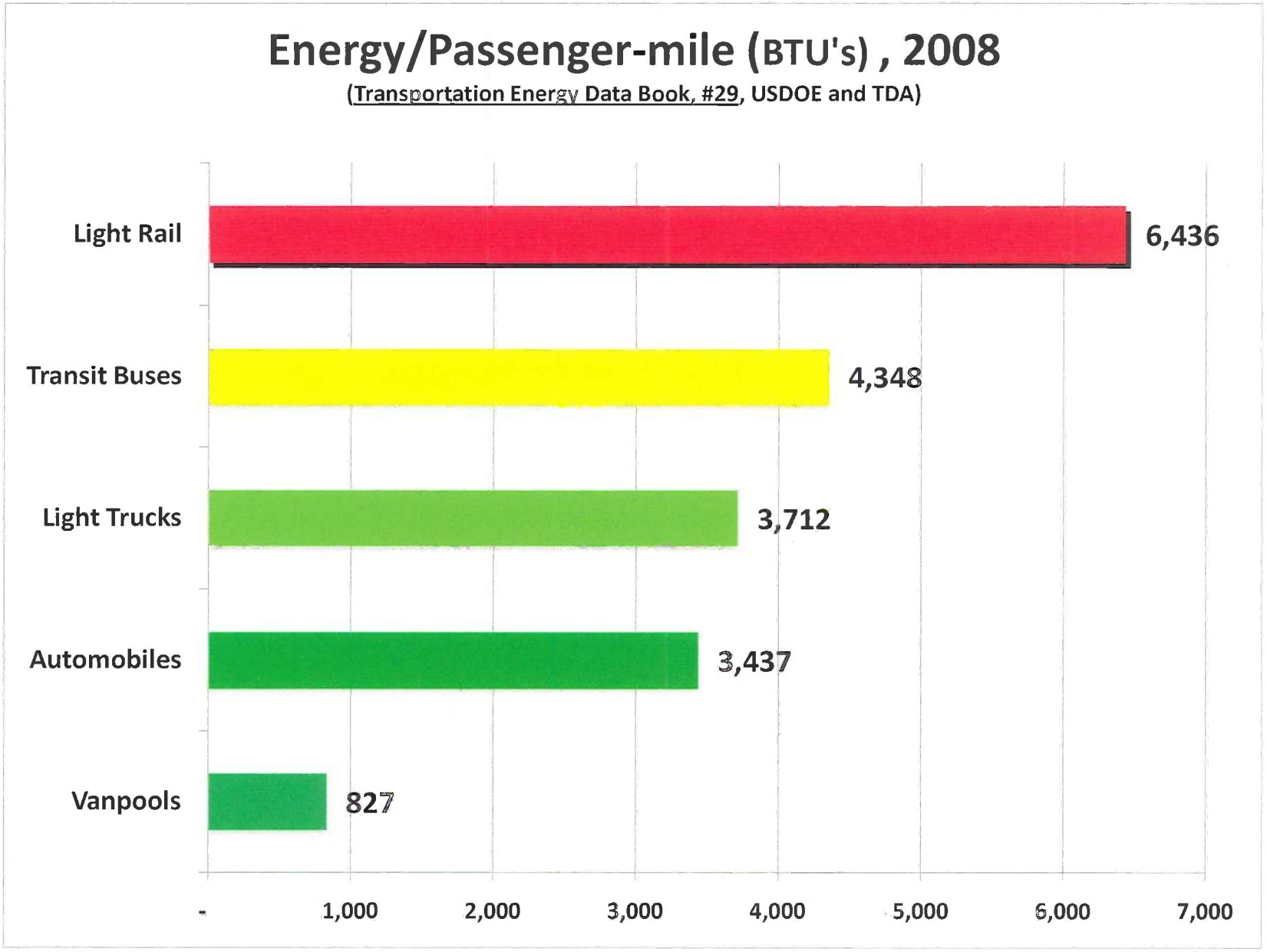
Sincerely,

cc (via email): Doug MacDonald

APPENDIX B

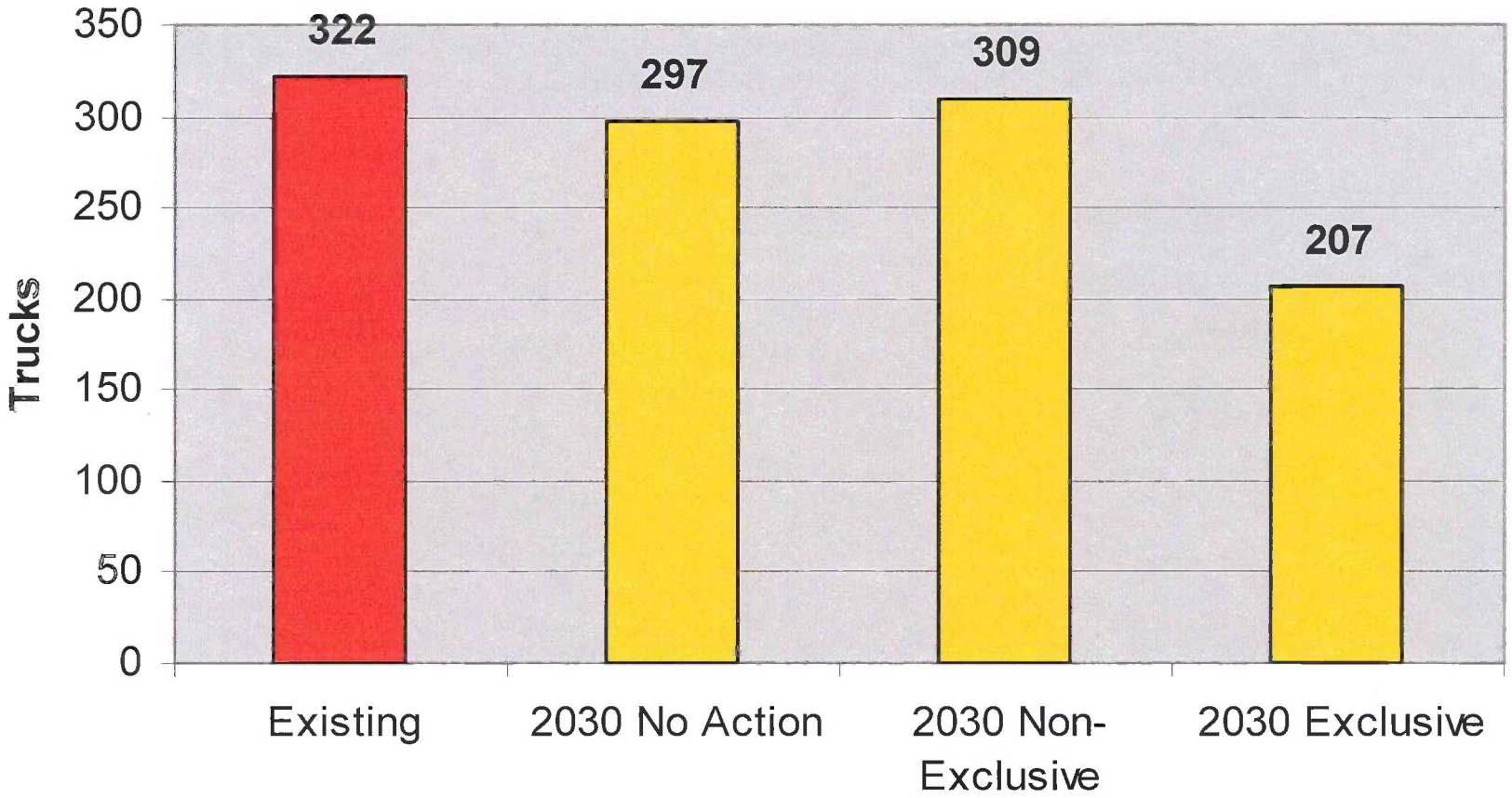
Energy/Passenger-mile (BTU's) , 2008

(Transportation Energy Data Book, #29, USDOE and TDA)



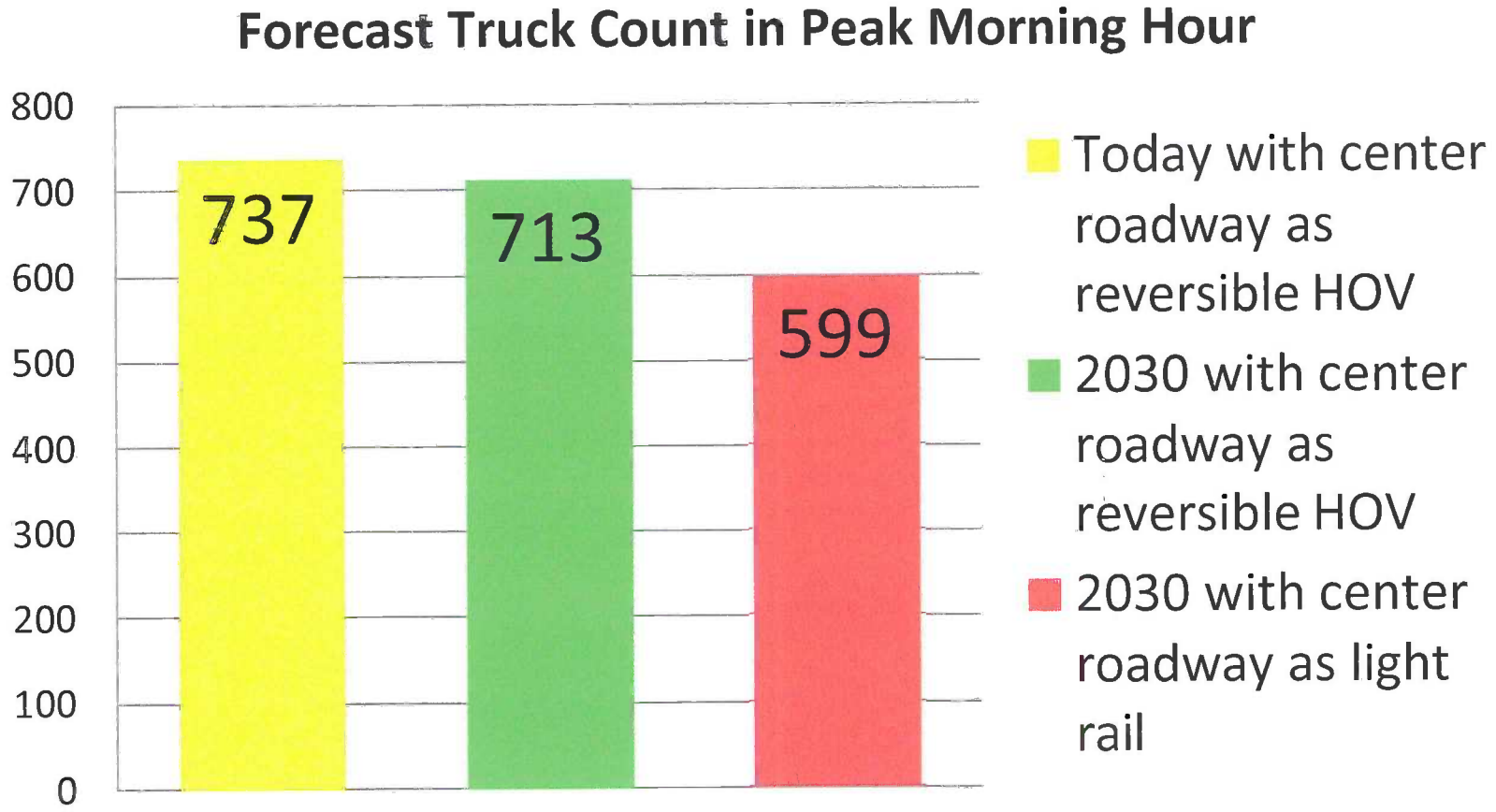
APPENDIX C

Truck Throughput, AM Peak Hour, Westbound at East Channel Bridge (R8A lanes included)



Source: I-90 Center Roadway Study, WSDOT, July 2006, p. 19

I-90 Cross Lake Corridor:
Light Rail Reduces Truck Flow by 16%



Source: WSDOT *I-90 Center Roadway Study*, July 2006, p. 19. Counts are at East Channel Bridge for combined east and westbound in morning peak. 2030 configuration assumes outer roadways under R8A plan have one new HOV lane in each direction. Prepared by Coalition for Effective Transportation Alternatives following concept development by TDA Inc. and Eastside Transportation Assoc.

APPENDIX D

No comments
- n/a -

Borbe, Elma

EL 578

From: Lee, Christine [Lee.C@portseattle.org]
Sent: Monday, February 23, 2009 4:30 PM
To: eastlink deis
Cc: Irish, James; Poor, Geraldine; Beckett, Kurt; McWilliams, Joe; Merritt, Mike; Burke, Dan; Safora, Isabel
Subject: Port of Seattle Comments on East Link Project DEIS
Attachments: EastLinkDEIS_POS 090223.pdf

<<EastLinkDEIS_POS 090223.pdf>>

Please advise if you have comments or questions.

Best,

Christine Lee
Project Assistant
Regional Transportation
t. 206-728-3776
f. 206-728-3754

2/24/2009

No comments
- n/a -

Port of Seattle

February 24, 2009

Mr. James Irish
Environmental Manager, Link Light Rail
Central Puget Sound Regional Transit Authority
401 S. Jackson St
Seattle, WA 98104

RE: Comments on "East Link Project" Draft Environmental Impact Statement (DEIS)

Dear Mr. Irish:

Thank you for the opportunity to review the Sound Transit "East Link Project" DEIS. The Port of Seattle (Port) recognizes the multitude of benefits provided by Sound Transit systems. We appreciate the opportunities to work with Sound Transit to improve the region's transportation system for our tenants and passengers at our air and seaport, and the region as a whole. Our comments focus on two areas:

- use of the Eastside Rail Corridor for East Link right of way, and
- potential impacts to freight/truck operations from converting the center reversible express lanes to light rail.

Eastside Rail Corridor (ERC)

In May 2008, the Port, BNSF Railway Company and King County signed acquisition agreements that will result in the Port's acquisition of the 42-mile ERC from BNSF. The Port and King County have requested federal Surface Transportation Board (STB) approval to rail-bank the southern portion (Renton-Woodinville and the Redmond-Woodinville spur). Commercial freight use will continue on the northern section from Woodinville to Snohomish via an operation agreement between the Port and a third-party "shortline" operator. By purchasing the corridor, the Port ensures that it is owned by the public and available for transportation needs in the future. Without the Port's involvement, the corridor might have been sold in small sections, fragmenting the corridor and preventing any further public use. In October 2008, the agreement closing date was extended to March 31, 2009 due to the credit market difficulties.

When the acquisition transaction is complete, the Port and King County will begin a regional public process to gain input on how King County citizens would like to see the rail corridor used. The federal rail banking program allows rail corridors to be preserved through interim

P.O. Box 1209
Seattle, WA 98111-1209
USA

Tele: (206) 728-3000
Fax: (206) 728-3252
www.portseattle.org

conversion to trail use. At the same time, rail banking preserves the line's future for the possibility of restored freight rail use. It's our understanding that passenger rail is not a prohibited use in a rail-banked corridor.

In addition to development of a trail by King County, there has also been discussion of the feasibility of commuter rail along the corridor, including the Sound Transit/Puget Sound Regional Council study completed in December 2008 ("BNSF Eastside Corridor Commuter Rail Feasibility Study"). These plans are discussed in the East Link Project DEIS on pages 2-20 and 2-21, and Exhibit 2-24 demonstrates how an at-grade light rail track might co-exist with a trail in the right-of-way.

Our understanding of the potential ERC touch points is noted in the table below:

Segment	Alternative	Location	Use
B	B7	From I-90, north to ~SE 16th	Link rail line
C	C1T, C2T	NE 7th to NE 12th	Link rail line
C	C1T, C2T	NE 8th to NE 9th	"Hospital" Station
C	C3T, C4A, C7E, C8E	NE 12th	Elevated Crossing
D	Connectors to C1T/C2T	NE 12th to NE 15th	Link rail line
D	D5	NE 12th to NE 20th	Link rail line
D	Maint Facility 1 or 2	NE 12th to NE 22nd	Lead track to MF1/2
E	E1, E2, E4	Downtown Redmond	Link rail line & "Town Center" Station

We understand further that the development of the Maintenance Facility and extension to Segment E are not currently anticipated in the existing Sound Transit 2 funding package.

EL578-1

Comment 1: For those alternative segments which utilize the ERC (B7, C1T/C2T [along with elevated station north of NE 8th], D5, MF1 and MF2 lead tracks, and Segment E alternatives), please demonstrate how the corridor could accommodate all three potential uses, the East Link Project, a Commuter Rail line, and multipurpose trail. It appears that a decision at this point to use a portion of the corridor for light rail may impact the ability to have all three uses co-exist in the corridor.

Freight Impacts of Interstate-90 Center Lane Conversion

EL578-2

Comment 2: The Port would like to see a more robust discussion of freight and its importance to the economy discussed in the East Link Project DEIS. We are concerned about the impacts to freight mobility when East Link is implemented and roadway congestion worsens. While the DEIS analysis shows that there are not major differences in freight operation without and with the project in 2030, the future build travel time is nearly double the existing truck travel time

P.O. Box 1209
Seattle, WA 98111-1209
USA

Tel: (206) 728-3000
Fax: (206) 728-3252
www.portseattle.org

Response to comment EL578-1

A majority of the former BNSF Railway corridor on which some of the East Link alternatives would potentially be built is 100 feet wide, and thus construction of the East Link Project would not preclude implementation of the potential additional uses described in the comment. Where the project intersects with the former BNSF Railway corridor, the design has accounted for future trail or rail use, to be constructed by others.

Response to comment EL578-2

Section 4.3.3 of the Final EIS discusses the economic effects of the project on freight. The project is expected to benefit freight activity during peak travel times. Additional detail on freight movement is available in Appendix H1 of the Final EIS.

EL578-2

(Table 8-6). The report should note the impacts of the increased truck travel time in economic terms.

EL578-3

Comment 3: The East Link Project DEIS analysis (Transportation Appendix H1, Chapter 8.0) states that two-thirds of the existing daily truck traffic on Interstate 90 travels outside of the peak hours to avoid traffic congestion. The analysis then assumes that in the future, truck traffic will continue to grow outside the peak hours as traffic congestion worsens on I-90. The impact of increased travel time within the peak hours and a higher number of trucks outside the peak hour will have impacts on time-sensitive freight delivery. Please address how these segments of freight movement will be impacted.

EL578-4

Comment 4: The Port supports increased transit capacity on I-90, leading to reduced single occupant vehicle (SOV) volumes and resultant environmental impact. However, freight still needs to operate efficiently, or the regional economy will risk being negatively impacted. The report should address actions that could be taken to keep freight moving during the peak hours in future conditions. Such analysis might include freight using the high occupancy vehicle (HOV) lanes or other techniques.

Please do not hesitate to call or email (206-728-3778, poor.g@portseattle.org) if you have any questions or concerns. We look forward to continuing to work with Sound Transit through the remaining planning and design phases toward successful regional transportation solutions.

Sincerely,

Geraldine Poor
Regional Transportation Manager

cc: K. Beckett, J. McWilliams, M. Merritt, J. Saforn, D. Burke

P.O. Box 1209
Seattle, WA 98111-1256
USA

Tel: (206) 728-3000
Fax: (206) 728-3252
www.portseattle.org

Response to comment EL578-3

Freight mobility and access are discussed in Section 3.8 of the Final EIS, which compares the No Build Alternative and the East Link Project. As discussed above, the project is expected to benefit freight travel during peak periods and not substantially affect freight in off-peak periods. The level of detail does not differentiate among the freight types—such as time-sensitive freight movement—nor are there data available to do so.

Response to comment EL578-4

As documented in Section 3.8, implementation of the East Link Project would not adversely affect freight mobility. Freight travel times would stay the same or improve with the project.