

ADDITIONAL COMMENT LETTERS

The following letters or communications were received after the Final Environmental Impact Statement 30-day notice of availability had run. These comments were reviewed and considered for this Record of Decision, however, no response-to-comments have been prepared.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



AUG 19 2011

ER 10/0956

Mr. John Witmer
Federal Transit Administration Lead Community Planner
Jackson Federal Building, Suite 3142
915 Second Avenue
Seattle, Washington 98174

Dear Mr. Witmer:

The Department of the Interior (the Department) has reviewed the Final Environmental Impact Statement (FEIS) for the Federal Transit Administration (FTA) and Sound Transit Board's proposed East Link Rail Transit Project in King County, Washington, which was released on July 15, 2011. In addition, the National Park Service (NPS) undertook a preliminary review of the administrative draft of the document during June 2011.

SECTION 4(f) EVALUATION COMMENTS

The Department concurs with the "least overall harm" analysis that has been completed and concludes that there is no feasible or prudent alternative to the composite preferred alternative identified by the Sound Transit Board and FTA. With due consideration of the consultations completed with the State Historic Preservation Officer, the Department finds that all reasonable measures to minimize or avoid harm (e.g., environmental commitments) to §4(f) property have been identified.

SECTION 6(f) EVALUATION COMMENTS

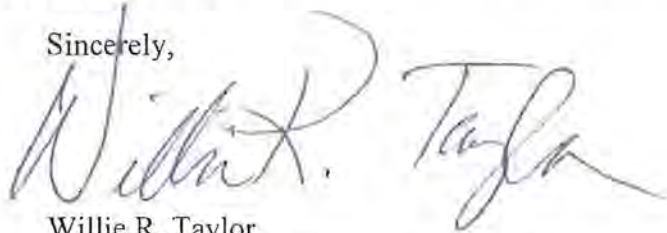
There are two inconsistencies related to Land and Water Conservation Fund (LWCF) regulations that needing clarification in the ROD. First is a reminder that any temporary use of properties protected by §6(f) which exceed 180 days must be treated as a permanent conversion. Second is a correction regarding the mitigation requirements as stated in Appendix D. The FTA indicates that mitigation property will be provided up to three acres in size. Regulations require that mitigation properties must exceed fair market value of the impact, be of sufficient quality, and must not be smaller than what is required to provide a viable park unit.

Otherwise, the Department finds that the FEIS adequately addresses issues related to LWCF protection at Mercer Slough and the associated environmental and recreation impacts. The NPS reserves the right to increase the conversion footprint if sound and light impacts from the final approved project exceed what is predicted and this exceedance results in a negative recreation

experience as compared with current conditions. Since the FEIS does not include information about the mitigation site and analysis of environmental impacts associated with developing the mitigation site for park use, the Department through the NPS will be unable to issue a NEPA determination regarding the §6(f) outcome at this time. The NPS looks forward to working with FTA to complete this NEPA process once a mitigation site has been selected.

For questions regarding Section 6(f) Evaluation Comments, please contact Heather Ramsay, NPS Project Manager at (206)220.4123/Heather_Ramsey@nps.gov. Any general questions may be addressed to Lisa Treichel in the Department's Office of Environmental Policy and Compliance at (202) 208-7116/ Lisa_Treichel@ios.doi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Willie R. Taylor". The signature is written in a cursive, flowing style.

Willie R. Taylor
Director, Office of Environmental Policy
and Compliance



COPY

August 22, 2011

Mr. R. F. Krochalis
Regional Administrator
US Department of Transportation
Federal Transit Administration
915 Second Avenue
Federal Building, Suite 3142
Seattle, WA 98174-1002

Re: Sound Transit East Link 4(f) Determination

Dear Mr. Krochalis:

Thank you for informing the City of Redmond of the recent Section 4(f) determination of *de minimus* for the East Link Light Rail Project's affects to City of Redmond properties. The City has no comments on this determination. We look forward to continued cooperation with Sound Transit on this project.

Sincerely,



Craig Larsen
Director, Parks and Recreation Department

Cc: ✓ Elma Borbe, Sound Transit
Leonard McGee, Sound Transit
Terry Marpert, City of Redmond

From: [Krochalis, Rick \(FTA\)](#)
To: [Witmer, John \(FTA\)](#)
Cc: [fta.tro1@mail](#)
Subject: Fw: Sound Transit FEIS comments
Date: Tuesday, August 30, 2011 8:42:57 PM

These questions are quite specific---this gentlemen has done a lot of study on this subject.

Was this letter included in the original CD of letters received by FTA sent to ST for response/ROD comments?

Rick

From: Alfred Cecil [mailto:awcecil@yahoo.com]
Sent: Tuesday, August 30, 2011 11:07 PM
To: LaHood, Ray (OST); Rogoff, Peter (FTA); Krochalis, Rick (FTA)
Subject: Fw: Sound Transit FEIS comments

Gentlemen: Forwarded herewith and my comments snt to Mr. Witmer on 8/17 regarding the East Link FEIS. Respectively Submitted,
Alfred Cecil P.E.

----- Forwarded Message -----

From: Alfred Cecil <awcecil@yahoo.com>
To: "John.Witmer@dot.gov" <John.Witmer@dot.gov>
Sent: Wednesday, August 17, 2011 3:38 PM
Subject: Fw: Sound Transit FEIS comments

----- Forwarded Message -----

From: Alfred Cecil <awcecil@yahoo.com>
To: "John.Witmer@dot.gov" <John.Witmer@dot.gov>
Sent: Monday, August 15, 2011 11:37 AM
Subject: Sound Transit FEIS comments

From: Alfred Cecil <awcecil@yahoo.com>
To:
Sent:
Subject:

Summary of my comments on the FEIS and related issues. revised 8/17/2011

ISSUES REQUIRING RESOLUTION BEFORE FTA APPROVAL.

- 1) Explanation why no alternative was considered for segment A
- 2) Certification that rails can be placed across floating bridge expansion joints by recognized independent engineering consulting firm.
- 3) Full disclosure of all costs on the chosen B segment (B2M) including noise mitigation, guideway

support through the wetland portion east of Bellevue and 112th SE and ground water control

to be verified by an independent auditing agency.

4) Certification that Winters house structural integrity will not be compromised from vibration due to

close proximity (30 ') to railbed.

5) Certification that traffic congestion can be mitigated during construction by closure of one lane

of Bellevue Way with traffic flow analysis done using a recognized prediction model such as the BKR model.

6) Description of transit parking alternative due to closure of the South Bellevue Park and Ride lot.

7) Identification of property to be exchanged to compensate for the taking of parkland East of Bellevue Way.

8) Certification that Sound Transit has the financial resources to complete entire phase 2 project. (segments A thru D).

If not and the line has to be terminated prematurely does the truncated line have sufficient ridership to

be economically viable. A plan should be presented explaining how the uncompleted portion will be funded

and an estimation of the delay in completion.

9) Noise and vibration mitigation:

a) A plan is needed to properly mitigate the residences affected consistent with the city of Bellevue's noise ordinance.

b) A more effective and permanent solution to wheel squeal other than rail lubrication such as train drive

mechanism modification needs to be identified and implemented. Affected Tukwila residents near the light

_____ rail currently operating claim that rail lubrication is not effective

Respectively submitted

Alfred Cecil, Bellevue Washington

From: [Renay Bennett](#)
To: fta.tro1@mail
Cc: [Witmer, John \(FTA\)](#); [LaHood, Ray \(OST\)](#); [Mendez, Victor \(FHWA\)](#); [Rogoff, Peter \(FTA\)](#); [Mathis, Daniel \(FHWA\)](#); [Krochalis, Rick \(FTA\)](#); jeff.harvey@mail.house.gov
Subject: Sound Transit East Link and their non-factual analysis
Date: Friday, September 02, 2011 3:41:50 PM

To members of the federal government with oversight over transit and highway agencies:

I am writing you today to be very blunt and to bring to your attention that something is really wrong, and possibly fraudulent going on here.

Sound Transit is proposing to build a train alignment using the I-90 floating bridge into Bellevue along Bellevue Way and 112th Ave. SE (called the B2M). Bellevue Way comes off I-90 and is a four lane road bounded on the east by the Mercer Slough and the west by long time established single family homes in a quiet neighborhood, 112th Ave. SE is bounded on the east by the Mercer Slough and the west by single family long time established family homes in a quiet neighborhood and the Bellefield Town Homes.) This area is a beautiful and green oasis, with treed medians, arboreal in nature, protected by the City of Bellevue's Comprehensive Plan, and a graceful entry to our city.

I first read a newspaper article that mentioned a possible alignment along Bellevue Way and 112th Ave. SE here in Bellevue TEN YEARS AGO. I immediately contacted our Mayor and council to find out more and was told that there would be much public input before an alignment was selected. Thousands of comments against this alignment later, including the Draft Environmental Impact Analysis where over 70% of the comments were against this alignment and for the B7, it looks like Sound Transit never had any intention of any other alignment.

The B7 alignment, which would continue across I-90, using a portion of the abandoned and severed Burlington Northern Santa Fe railroad right of way , paralleling the 405 freeway and then entering downtown Bellevue is a far superior alignment. This alignment would allow for future connections further east (such as Issaquah) utilizing the new park and ride in Eastgate recently built for transit and for points south, such as Renton, where Boeing could benefit from more transit usage, and would pay for it in today's dollars.

Our community has shown factual analysis for YEARS proving the superiority in cost and ridership, as well as the environmental savings of this alignment, but have been met with no refuting of the facts, just scurrilous attempts to paint us as "nimby's" and 'anti-transit'. This is not the case at all.

For many years, regular people and industry professionals have attempted time and time again to bring up the many instances of wrong doing by Sound Transit with no success.

Sound Transit continues to ram through it's projects without factually addressing the issues or taking into account the community it passes through.

Sound Transit has finished an alignment in Tukwila where the neighbors showed repeatedly for years that an alignment closer to the freeway would be quieter on the homes along the proposed route. Boeing engineers in a building close to the alignment showed them the same thing. Sound Transit refused to listen. After years of neighbors trying to reason with them, Sound Transit finally told the neighbors that they were too far along to change the route. Since then, the noise continue to be above federal levels. Sound Transit, in their Final Environmental Impact Analysis and your Record of Decision, stated that the they would use quiet trains (they didn't, said they cost too much), said that the noise would be below Federal levels (still isn't), said the train was traveling in areas that outdoor use was not an issue (these go by single family homes), said they will continue to work on the noise (sort of, they try a few options, only to try another, still not working). It appears they have lied to you - and you have unknowingly granted them a Record of Decision - and now we are paying the price for it.

I have written you with extensive comments on the Final Environmental Impact for Sound Transit East Link project, as well as many others, and have brought to your attention the various instances of inadequate and faulty analysis done by them and their consultants. Here are just a few:

1. Sound Transit refuses to use less costs analysis on the B7 alignment,
2. Sound Transit made the B7 as expensive as possible by using construction methods that run up costs,
3. Sound Transit hasn't analyzed the real costs for trying to build the B2M (which is in the Mercer Slough),
4. Sound Transit has used different traffic numbers to make their traffic analysis look better,
5. Sound Transit does not know how to get across I-90 expansion joints on this floating bridge,
6. Sound Transit is basing this alignment on using traffic lanes on the I-90 bridge that it does not have a legal right to (this issue is currently in court),
7. Sound Transit could use B7 to COMPLETELY AVOID impacts to the whole western shore of the Mercer Slough, a large swath of the Surrey Downs Park and the Winters House (on the National Registry of Historic Places),
8. Sound Transit is taking lanes on a floating bridge that serves as a major freight corridor,
9. Sound Transit has ignored the City of Bellevue which has chosen the B7 as THEIR PREFERRED ROUTE...and on and on - you already have pages of this analysis.

What recourse is there when a ROD is given when the agency gives non-factual information?

Why hasn't the federal government come back and look at what was approved to make sure it got done?

So many times regular people don't get results without having money and attorneys - which we don't have. That is not the way it should be. I hope that you will listen to the homeowners who will have to live with this alignment and which cannot be mitigated. Our homes and investments are at stake here and we are begging you to help us stop this misguided alignment before it is too late.

Very truly yours,
Renay Bennett
826 108th Ave. S.E.
Bellevue WA 98004

ACTION FTH
S10-110915-008
CONTROL NO.

Pettiford, Marie (OST)

From: William Hirt [wjhirt@yahoo.com]
Sent: Wednesday, September 14, 2011 7:40 PM
To: LaHood, Ray (OST); johnwitner@fta.dot.gov
Subject: Sound Transit East Link Federal Environmental Law Violation

Dear Secretary Lahood,

I believe Sound Transit's East Link light rail encroachment on Mercer Slough Park violates Federal Environmental law because they failed to consider a viable "no-build" alternative of converting the center Lake Washington bridge to a two-way bus-only configuration. The other vehicular traffic currently using the bridge center section would be accommodated by adding a fourth HOV lane to the outer bridge sections. Each bus lane can accommodate up to 720 buses per hour (5 sec intervals) more than 20 times light rail and enough to satisfy any potential cross-lake requirements.

The added capacity would allow express bus routes directly connecting each of the east side P&R lots with Seattle allowing every resident to leave their car at a local P&R and get fast, reliable transportation into and out of Seattle. To facilitate the added buses 4th Ave and 2nd Ave will be reserved for buses with each express bus having one or two dedicated drop off points on 4th Ave and pick up points on 2nd Ave. This approach allows people to park their cars near where they live rather than where they work, the key to reducing congestion throughout the Eastside.

The real tragedy is the East Link program described in the July 15, 2011 Final EIS will result in Sound Transit spending i6-8 billion on a project which does absolutely nothing to reduce 405 and I-90 congestion, devastates Mercer Slough Park and nearby residential areas, and makes it impossible to better utilize the bridge center section.

Thank you for your interest in this matter

Sincerely,
Bill Hirt
2615 170th SE
Bellevue, WA
980008
425-747-4185
[wjhirt@yahoo.com](mailto:wjihirt@yahoo.com)

From: [Witmer, John \(FTA\)](#)
To: fta.tro1@mail
Subject: FW: Public record request for additional input to environmental record for East Link light rail
Date: Thursday, September 29, 2011 1:30:56 PM

John Witmer
FTA Region 10
915 Second Avenue, Suite 3142
Seattle, WA 98174-1002
206-220-7964
http://www.fta.dot.gov/regions/regional_offices_918.html

From: John Niles [mailto:jniles@alum.mit.edu]
Sent: Thursday, September 29, 2011 11:23 AM
To: Witmer, John (FTA)
Cc: Earl, Joni; Krochalis, Rick (FTA); Rogoff, Peter (FTA); dave.reichert@mail.house.gov; Davidson, Don; Mathis, Daniel (FHWA); Hammond, Paula
Subject: Public record request for additional input to environmental record for East Link light rail

Dear Mr. Witmer:

As you know, I am a resident of central Puget Sound region with a deep interest in public transit cost-effectiveness across America and locally. In the present day I find the East Link light rail project troubling compared to available alternatives and I believe it would continue to benefit from intense Federal scrutiny as mentioned in the recent Sound Transit publication *Federal Partnership Report, September 2011*.

The local government decision making process for East Link light rail in City of Bellevue, Washington is still generating track alignment alternatives as described on the City of Bellevue web site at <http://www.bellevuewa.gov/9740.htm> and is also stirring up ongoing, intense citizen interest in the environmental impacts by those who live closest to the planned transit addition.

Therefore, please receive this email as an on-record request for FTA to include the referenced web page and two of the documents hot linked to it as of today as new and important parts of the ongoing Federal environmental record for East Link in the post-FEIS phase of the project, all for consideration by FTA as it proceeds to decide what its next official action will be for this project under NEPA.

In addition to the web page noted above, the two hot linked pdf documents I want added to the environmental record are the City Council study session item for September 26, 2011 and the draft East Link Outreach Report of the same date. These are large files in their present format, but available tools would likely compress them. Be in touch if you would like me to help on that. Of course also call me if you aren't clear on the documents I am referring to. If they should disappear from the web before you get to them, I have copies.

The turmoil in City of Bellevue implied in these documents over the choice of light rail

alignment serves to underscore the demand made by Coalition for Effective Transportation Alternatives in a letter to U.S. DOT on August 22, 2011 for full environmental analysis of an express bus alternative to light rail that would likely achieve the transit ridership objectives of East Link sooner and less expensively than the preferred alternative, with less environmental damage to existing residential communities, and with less controversial impact on the Interstate 90 corridor.

Please acknowledge receipt of this email.

Respectfully,

John Niles
4005 20th Ave West, Suite 111
Seattle, WA 98199
206-781-4475

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News Release

FOR IMMEDIATE RELEASE: Tuesday, September 27, 2011

Council Roundup: East Link hearing draws crowd

Scores of people turned out Monday to comment on the East Link light rail project during a public hearing called by the City Council.

The purpose of the hearing was to allow residents and others to express themselves on: design options for the light rail segment along 112th Avenue Southeast, south of downtown; a possible high-occupancy vehicle (HOV) lane on Bellevue Way, from the "Y" at 112th Avenue to Interstate 90; and a binding agreement, or memorandum of understanding (MOU), with Sound Transit on how to pay for a downtown light rail tunnel.

Monday's hearing was the latest push in an aggressive public outreach process as Bellevue negotiates the MOU with Sound Transit. The deadline for signing the agreement is Oct. 25. The council is considering additional public hearings.

The extensive outreach effort has garnered a strong response from the public. Sixty-two people addressed the council during last night's hearing. A week ago, on Sept. 20, more than 200 people attended an open house at City Hall, where the latest alignment options were displayed and feedback was encouraged.

In addition, city staff have held about 40 individual or small group meetings with more than 100 property owners and residents in the Enatai, Bellefield and Surrey Downs neighborhoods whose homes would be most affected by the light rail route, design options or potential HOV lane.

Council members have been especially concerned about possible noise, visual impacts and traffic impacts related to the East Link route south of downtown.

East Link will run from Seattle, through Bellevue, to the Overlake area of Redmond. Construction is forecast to begin by 2015 and service is expected to start by 2023.

For more information, see the [council study session item](#) or the [draft East Link Outreach Report](#).

Feedback: Michael Kattermann, Senior Planner, 425-452-2042 or mkattermann@bellevuewa.gov; and Bernard Van de Kamp, Regional Projects Manager, 425-452-6459 or bvandekamp@bellevuewa.gov

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August 22, 2011

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

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

Dear Secretary LaHood:

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

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

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

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

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

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

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

Bus-based Alternative

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

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

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

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

Background

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

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

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

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

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

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

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

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

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

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

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

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

NEPA Requirement

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

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

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

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

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

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

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

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

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

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

IJR Requirement Even Stronger

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

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

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

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

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

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

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

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

Apparent Conflict of Interest

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

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

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

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

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

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

Conclusion

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

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

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

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

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

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

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

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

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

The Public asks for this requirement and deserves no less.

Respectfully yours,



John Niles
CETA Technical Co-Chairman

Maggie Fimia
CETA Co-Chair

Attachments:

Graphics depicting project

Letter from FHWA Region X to WSDOT tentatively accepting the IJR

Cc.

Hon. Patty Murray, U.S. Senate

Hon. Maria Cantwell, U.S. Senate

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

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

Hon. Curtis King,
Washington State Senate

Hon. Don Davidson, City of Bellevue

Hon. Don Gerend, City of Sammamish

Hon. Steve Buri, City of Newcastle

Federal Transit Administrator

Federal Highways Administrator

FTA Region X Administrator

FHWA Region X Administrator

Washington State
Secretary of Transportation

Sound Transit Chief Executive Officer

Honorable Ray LaHood, August 22, 2011, Attachment 1

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

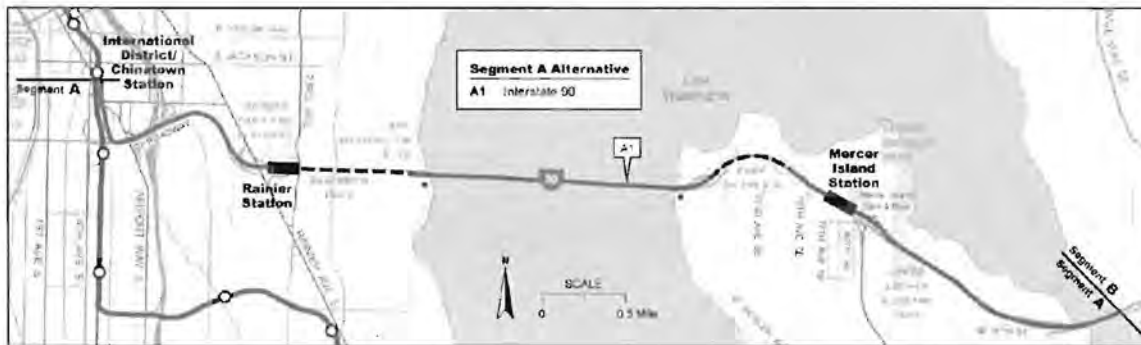
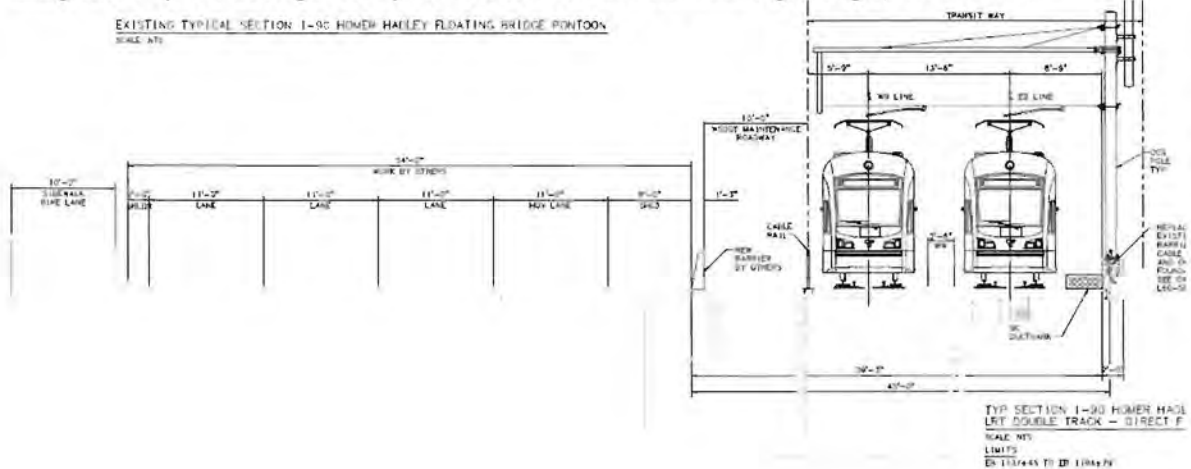


FIGURE 2-5
East Link Project - Segment A

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



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



Honorable Ray LaHood, August 22, 2011, Attachment 1

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





Honorable Ray LaHood, August 22, 2011, Attachment 2

U.S. Department
of Transportation

Federal Highway
Administration

Washington Division

Suite 501 Evergreen Plaza
711 South Capitol Way
Olympia, Washington 98501-1284
(360) 753-9480
(360) 753-9889 (FAX)
<http://www.fhwa.dot.gov/wadiv>

June 22, 2011

HDE-WA/560/WA 624

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

Attention: Barb De Ste Croix

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

Dear Ms. Hammond:

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

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

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

Sincerely,

DANIEL M. MATHIS, P.E.
Division Administrator

By: Donald A. Petersen
Division Safety/Design Engineer

Enclosure

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

From: John Niles [mailto:jniles@alum.mit.edu]

Sent: Thursday, September 29, 2011 11:23 AM

To: Witmer, John (FTA)

Cc: Earl, Joni; Krochalis, Rick (FTA); Rogoff, Peter (FTA); dave.reichert@mail.house.gov; Davidson, Don; Mathis, Daniel (FHWA); Hammond, Paula

Subject: Public record request for additional input to environmental record for East Link light rail

Dear Mr. Witmer:

As you know, I am a resident of central Puget Sound region with a deep interest in public transit cost-effectiveness across America and locally. In the present day I find the East Link light rail project troubling compared to available alternatives and I believe it would continue to benefit from intense Federal scrutiny as mentioned in the recent Sound Transit publication *Federal Partnership Report, September 2011*.

The local government decision making process for East Link light rail in City of Bellevue, Washington is still generating track alignment alternatives as described on the City of Bellevue web site at <http://www.bellevuewa.gov/9740.htm> and is also stirring up ongoing, intense citizen interest in the environmental impacts by those who live closest to the planned transit addition.

Therefore, please receive this email as an on-record request for FTA to include the referenced web page and two of the documents hot linked to it as of today as new and important parts of the ongoing Federal environmental record for East Link in the post-FEIS phase of the project, all for consideration by FTA as it proceeds to decide what its next official action will be for this project under NEPA.

In addition to the web page noted above, the two hot linked pdf documents I want added to the environmental record are the City Council study session item for September 26, 2011 and the draft East Link Outreach Report of the same date. These are large files in their present format, but available tools would likely compress them. Be in touch if you would like me to help on that. Of course also call me if you aren't clear on the documents I am referring to. If they should disappear from the web before you get to them, I have copies.

The turmoil in City of Bellevue implied in these documents over the choice of light rail alignment serves to underscore the demand made by Coalition for Effective Transportation Alternatives in a letter to U.S. DOT on August 22, 2011 for full environmental analysis of an express bus alternative to light rail that would likely achieve the transit ridership objectives of East Link sooner and less expensively than the preferred alternative, with less environmental damage to existing residential communities, and with less controversial impact on the Interstate 90 corridor.

Please acknowledge receipt of this email.

Respectfully,

John Niles
4005 20th Ave West, Suite 111
Seattle, WA 98199
206-781-4475

From: [Renav Bennett](#)
To: [fta.tro1@mail](#)
Cc: [Witmer, John \(FTA\)](#); [LaHood, Ray \(OST\)](#); [Mendez, Victor \(FHWA\)](#); [Rogoff, Peter \(FTA\)](#); [Mathis, Daniel \(FHWA\)](#); [Krochalis, Rick \(FTA\)](#); [jeff.harvey@mail.house.gov](#)
Subject: Fw: Equal Mitigation Required for Both the Winters House, and the NRHP-eligible Surrey Downs Historic District Under Federal Laws 4(f) and 106
Date: Friday, September 30, 2011 6:58:07 AM
Attachments: [Email to Council-SDHS 09.11.doc](#)
Importance: High

Dear sirs,

Here is more information you should also know regarding the Sound Transit East Link alignment and their dismissal of the 4 (f) rules.

Renav Bennett

From: [Stacie LeBlanc](#)
Sent: Monday, September 26, 2011 4:55 PM
To: [council@bellevuewa.gov](#)
Cc: [Joseph Rosmann](#) ; [Renav Bennett](#)
Subject: Equal Mitigation Required for Both the Winters House, and the NRHP-eligible Surrey Downs Historic District Under Federal Laws 4(f) and 106

September 26, 2011

Bellevue City Council
Via email

Re: Equal Mitigation Required for Both the Winters House, and the NRHP-eligible Surrey Downs Historic District Under Federal Laws 4(f) and 106

Dear Mayor Davidson and Council members-

The recent meetings conducted by the City of Bellevue to gather "directly impacted" citizens' input on Sound Transit's preferred alignment's adverse impacts were so egregiously incomplete and inadequate to the task that those of us that are impacted have to wonder as to the motivations of some of the city's staff.

Bellecrest neighbors (to the west of 112th) were completely left out of consideration, even though many of them could experience sliver takings or condemnations; they finally gathered themselves and sent the city a letter with their collective input.

I specifically asked to be informed of meetings of "directly impacted" property owners, both as someone who will experience all of the adverse impacts a light rail alignment has to bear (noise, visual blight, construction impacts, access/egress, possible property value impacts), but also as a founder of the Surrey Downs Historical Society (SDHS), and staff flatly refused to inform me of the meetings (even though one at least was conducted at City Hall on public property), and made distinctions as to whose was "directly impacted".

Staff never offered to meet with me as a homeowner, or as a representative of

SDHS.

I was invited by a neighbor to the meeting at City Hall on September 14th, and the questions that many of us asked (Tim Osborn, Dick Applestone, and myself) re: what the specific criteria was as to which properties were designated "directly impacted" were never answered, nor was it ever revealed who had made the decisions to leave out particular homeowners. Additionally, Tim Osborn had specifically asked for a Sound Transit representative to be there to answer his questions re: property values, but somehow when it was learned that Tim had requested a large space at City Hall so that many of his neighbors could attend, Sound Transit mysteriously failed to attend the meeting, and there was no one there who could answer his questions.

Added to this complete circus of a process is the unlawfully unequal treatment given to two similar mitigation situations with regard to historic resources:

- The Winters House, and
- The NRHP-eligible Surrey Downs Historic District

According to federal laws 106 and 4(f), when a transportation project accepts federal funds, it also has an obligation to avoid historic resources, or to show why it cannot avoid adversely impacting said properties.

Sound Transit has neither avoided the NRHP-eligible Surrey Downs Historic District, nor stated why it **MUST** utilize a Main Street alignment, whereas it has taken numerous steps and liberally spent finite resources to either fully mitigate for the Winters House (reportedly \$50 Million with a cut and cover tunnel), OR to utilize the west side of Bellevue way to **AVOID** it altogether.

As I have testified to the Bellevue City Council previously, Sound Transit **cannot** pick and choose in which cases it will comply with federal laws 106 and 4(f). It must comply in any case where it will adversely impact a historic property.

As a National Register of Historic Places- eligible Historic District, the Surrey Downs collection of Mid-Century Modern homes by regionally renowned Omer Mithun are protected by federal laws 106 and 4(f) whether or not they are currently on the register, or not. In other words, Sound Transit has taken elaborate steps to **AVOID** the Winters House because of its status as listed on the NRHP; the NRHP-eligible Surrey Downs Historic District, by definition, **MUST be treated exactly the same way.**

Bellevue City Attorney Lori Riordan's letter to FTA's Richard Krochalis dated August 29, 2011, page 3, states:

"Because of the ongoing discussions with Sound Transit impacting this portion of their preferred alignment in particular, Bellevue reserves the right to supplement comments regarding East Link's impacts on Surrey Downs."

Also, on page 4:

"Bellevue has significant concerns regarding the Least Overall Harm Analysis

included in the FEIS. Bellevue believes that:

- The Least Overall Harm Analysis is not complete;
- It does not always respect the preservation purpose of the statute; and
- Sections of the analysis are conclusory with little or no factual or analytical support provided.”

I heartily agree. And that determination is wholly without any mention, listing, or accounting heretofore of the numerous adverse impacts to the NRHP-eligible Surrey Downs Historic District from the Sound Transit preferred alignment, utilizing Main Street.

Please take steps to rectify this glaring omission now, and include the NRHP-eligible Surrey Downs Historic District in Bellevue’s list of supplemental concerns regarding East Link.

Regards,

Stacie LeBlanc Anderson
Founder, Surrey Downs Historical Society

September 26, 2011

Bellevue City Council
Via email

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NRHP-eligible Surrey Downs Historic District Under Federal Laws 4(f) and 106

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space at City Hall so that many of his neighbors could attend, Sound Transit mysteriously failed to attend the meeting, and there was no one there who could answer his questions.

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“Bellevue has significant concerns regarding the Least Overall Harm Analysis included in the FEIS. Bellevue believes that:

- *The Least Overall Harm Analysis is not complete;*
- *It does not always respect the preservation purpose of the statute; and*
- *Sections of the analysis are conclusory with little or no factual or analytical support provided.”*

I heartily agree. And that determination is wholly without any mention, listing, or accounting heretofore of the numerous adverse impacts to the NRHP-eligible Surrey Downs Historic District from the Sound Transit *preferred* alignment, utilizing Main Street.

Please take steps to rectify this glaring omission now, and include the NRHP-eligible Surrey Downs Historic District in Bellevue’s list of supplemental concerns regarding East Link.

Regards,

Stacie LeBlanc Anderson
Founder, Surrey Downs Historical Society

From: [Renay Bennett](#)
To: [fta.tro1@mail](#)
Cc: [Witmer, John \(FTA\)](#); [LaHood, Ray \(OST\)](#); [Mendez, Victor \(FHWA\)](#); [Rogoff, Peter \(FTA\)](#); [Mathis, Daniel \(FHWA\)](#); [Krochalis, Rick \(FTA\)](#); jeff.harvey@mail.house.gov
Subject: Fw: Mercer Slough B2M vs B7 - Sound Transit is choosing the most impactful environmental alignment!
Date: Monday, October 03, 2011 4:14:55 PM
Attachments: [B2M_Environmental.pdf](#)

Please find attachment from **FEIS Section 4.17 Parklands** page 6 ([B2M_Environmental.pdf](#)) that compares B2M with B7 in terms of permanent impacts to the Mercer Slough. In summary 3.0 acres for B2M and 0.9 acres for B7 and that does not include 11.5 acres that can be returned back to enhance the Mercer Slough when the B7 alignment makes the Park and Ride on Bellevue Way surplus.
Geoff Bidwell

Preferred 112th SE Modified Alternative (B2M) would result in the highest permanent property impact to the 320-acre Mercer Slough Nature Park when compared with the other Segment B alternatives; it would not affect the other two parks in Segment B.

When connecting to *Preferred Alternative C11A*, 2.9 acres would be permanently impacted (1.5 acres at-grade and retained cut and 1.4 acres elevated) and 3.0 acres (1.6 acres at-grade and retained cut and 1.4 acres elevated) when connecting to *Preferred Alternative C9T* (Table 4.17-2). Exhibit 4.17-2 depicts the impacted park area. This alternative would acquire an approximately 30- to 50-foot section of the park's western boundary for a distance of approximately 3,200 feet and would remove shrubs and trees. The acquisition area would be less than 1 percent of the total park area.

TABLE 4.17-2
Segment B Parks and Open Spaces Permanent Impacts

Alternative		Mercer Slough Nature Park (acres)	Bellevue Way Greenbelt (acres)
Preferred 112th SE Modified Alternative (B2M)	To Preferred Alternative C11A	2.9	None
	To Preferred Alternative C9T	3.0	
Bellevue Way Alternative (B1)		0.5	0.4 (full acquisition)
112th SE At-Grade Alternative (B2A)		1.7	0.1
112th SE Elevated Alternative (B2E)		0.7	None
112th SE Bypass Alternative (B3)		1.7	0.1
B3 - 114th Extension Design Option		1.7	0.1
BNSF Alternative (B7)		0.9	None

From: [Renay Bennett](#)
To: [fta.tro10mail](#); [Witmer, John \(FTA\)](#); [LaHood, Ray \(OST\)](#); [Mendez, Victor \(FHWA\)](#); [Rogoff, Peter \(FTA\)](#); [Mathis, Daniel \(FHWA\)](#); [Krochalis, Rick \(FTA\)](#); [jeff.harvey@mail.house.gov](#)
Subject: Fw: Available:Technical memorandum to evaluate design options on 112th Avenue SE
Date: Wednesday, October 19, 2011 11:42:04 AM
Attachments: [Conclusions.pdf](#)
[2011 Article on Tukwila noise at 80 db.doc](#)
[2011 Article with Arjun and line in backyard.doc](#)
Importance: High

Dear sirs,

I feel I must call to your attention once again that Sound Transit is distributing patently false information regarding their noise impacts.

Please find attached the page of the Technical Memorandum that discusses noise and impacts with this direct quote:

"Options B and C would both result in greater numbers of noise and vibration impacts since they are closer to homes along 112th Avenue SE than Option A, with Option C having the most. **All noise impacts for all options could be mitigated**; (emphasis added) however, under Option C, one to three vibration impacts could still remain after mitigation."

Please also find attached a recent article that states, once again, **that Sound Transit has still not been able to mitigate the noise in Tukwila. Keep in mind that Sound Transit told the federal government that all noise impacts would be mitigated and that the train would not be going by areas where there is outdoor use. Of course, you all now that this was a lie.**

Sound Transit has, now, for the first time, officially acknowledged partial takings for 11 of our homes (an entire row except one which is marked as full acquisition), which we have been pointing out for over a year. They have paid hefty amounts in fees to CH2M consultants to arrive at this conclusion - a waste of our tax money.

Please find attached the article with a picture of our neighbors backyard that shows where Sound Transit wants to place the line. The red line shows just close this train will pass by his home. In the front of Mr. Sirohi's home is a quiet street with still more single family homes. This continues west for 8 blocks. This area is a quiet, single family neighborhood and an area wholly inappropriate for this train.

We have shown factual and professional analysis to Sound Transit proving that the B7 alignment (which would use the abandoned BNSF railroad right of way and parallel the 405 freeway) is cheaper, provides just as much ridership and is in an area that is perfectly

suited for a train as trains have already been running here for a hundred years!

We implore you to help us. The same mistake can be avoided and everyone can have what they want - trains in an appropriate corridor.

Sincerely,
Renay Bennett

Key engineering design considerations used to develop alternative route options A, B, and C along 112th Avenue SE from the wye intersection at Bellevue Way to Main Street included soil conditions, roadway reconstruction, number of grade crossings and crossing locations, operating speed of light rail trains, and construction schedule. Brief descriptions of these considerations are provided in Appendix A.

Quantitative traffic, environmental, and cost comparisons among the three design options are summarized in Tables ES-1 and ES-2. For the purpose of this technical memorandum, costs are reported as the difference between the preliminary engineering cost estimate for B2M/C9T with the SE 8th Station and Options B and C. The preliminary engineering cost estimate is similar, but not identical to Option A since it includes a station at SE 8th rather than at East Main location.

TABLE ES-1
Cost Impact Comparison Table (figures shown in millions of 2010\$)

Baseline B2M-C9T (Preliminary Engineering Alternative)	Option B: Flyover to Trench	Option C: At-Grade to At-Grade at SE 15 th Street
Baseline	\$15 to \$20 increase	\$25 to \$30 decrease
<p>Note: The baseline is the preliminary engineering cost estimate, which is similar, but not identical to, Option A since it includes a station at SE 8th Street rather than at East Main location. Therefore, the cost increase would be higher when compared to Option A, and the cost decrease would be lower when compared to Option A.</p>		

ES.5 Conclusions

Out of the three options, Option B would have the fastest travel time since it is fully grade separated and, therefore, would attract the greatest ridership and have the smoothest light rail operation. Although none of the options would result in failing intersections during operation, Option A would result in more traffic congestion during construction than the other two options. Option A would also result in the greatest number of at-grade crossings along 112th Avenue and the greatest number of modifications to 112th Avenue side streets.

Option A would have the least number of full and partial acquisitions and displacements, while Options B and C would result in the same total amount of full and partial acquisitions and displacements. Project elements, such as the elevated profile, the straddlebents and the walls supporting the retained-cut portion of Option B would affect the visual experience along 112th Avenue for travelers and adjacent residents. Options B and C would both result in greater numbers of noise and vibration impacts since they are closer to homes along 112th Avenue SE than Option A, with Option C having the most. All noise impacts for all options could be mitigated; however, under Option C, one to three vibration impacts could still remain after mitigation. The cost estimates in this memo include allowances for the noise and vibration mitigation. Option C would also result in the greatest amount of permanent park impact at Surrey Downs Park. Options B and C offer reduced construction risk related to poor soil conditions compared to Option A since B and C alternatives shift from the east side to the west side near SE 15th Street. However, the retained cut portion in Option B will introduce new risk. Relative to the route studied in the preliminary engineering work on B2M/C9T (which is similar to Option A but with the station at SE 8th rather than at Main Street), Option B is higher cost, and Option C results in cost savings.

ES.6 Next Steps

The City of Bellevue and Sound Transit are scheduled to execute a binding Memorandum of Understanding (MOU) by October 27, 2011. The City and Sound Transit are expected to identify a preferred option for the 112th design in that MOU. If the preferred option is other than Option A (which is included in the Final EIS) additional environmental review might be needed and, if so, will be performed prior to the Sound Transit Board of Directors decision on the option.

http://www.pnwlocalnews.com/east_king/bel/news/131466438.html

Residents irked over potential design changes to light-rail route



Arjun Sirohi looks at red a line painted through his backyard that he says is one of the options Sound Transit sees for its light-rail line.

Chad Coleman/Bellevue Reporter

Eastside

None at this time.

By **NAT LEVY**

Bellevue Reporter Staff Writer

Oct 10 2011

Arjun Sirohi takes in a cool fall morning on his second-story deck. A lush, green backyard flanked with a line of trees and hedges protects the home from the noises emanating from the nearby street.

Situated just off 112th Avenue, one of the main thoroughfares into downtown, Sirohi's home is close to the action. A quick walk takes him into Bellevue's bustling downtown where he works as a software engineer. His day done, Sirohi can return to his dwelling.

But he can't help but look at the orange line drawn midway through his backyard – the place, he says, where Sound Transit may locate tracks for its East Link light-rail trains.

As currently envisioned, the train is proposed to head north into downtown on the east side of 112th Avenue before crossing at Southeast Sixth. But two design changes considered by the council would take the train west sooner – a route that could impact the locals, but may also take some of the intersection crossings and noise problems out of the equation.

Sirohi said he feels "terrible, but not hopeless," about the prospect of a train coming into his backyard.

These options could put the train less than 20 feet from his back door. Sirohi cited Sound Transit's data saying that it would intrude 21 feet into his property line, leaving only 18 feet

between the train and his home. Sound Transit officials said they won't know all the details until they delve into the final design process that will occur over the next three years.

One of the options has the train at street level into the downtown section, where it will go into a proposed tunnel. The other option includes an approximately 40-foot flyover that would eliminate street crossings, and add an underground trench.

Proponents of the route say that by moving it to the west side earlier, noise is eliminated - by decreasing the number of crossings there are fewer bells to be heard - and the roads will be safer because of less interaction between cars and trains.

"By putting it on the west side you take these intersections out of play," said Bellevue Club President Bill Thurston, one of the main proponents of a west-running alignment. "You're eliminating the bells and whistles, and for safety you are removing any type of crash."

Thurston believes the street-level route would be the more effective of the two because it could be tucked into the hillside, creating a natural noise and visual barrier for residents on that side of the road.

Sirohi's neighbor to the north, Susan Ilvanakis could be even closer to the train. Her biggest fear in the process is choosing the flyover. She too cited a distance of about 20 feet distance between her home and a train. Ilvanakis imagines a worst case scenario where a towering train would loom over her home.

"That's a four-story structure over a single-story home," she said."

Still Early

Sirohi and Ilvanakis posed many questions about these new options to Sound Transit in private meetings earlier this month. They said they did not get answers to their questions about ground conditions and impacts to nearby properties.

Sound Transit officials said there would certainly be impacts to the properties, but the extent of the disruption, and whether or not the properties would need to be bought out could not be determined until later in the process.

Residents are unnerved by the urgency of downtown tunnel negotiations, combined with the many unknowns present in the new design options. Sound Transit and Bellevue are continuing to negotiate on the route, and funding a downtown tunnel in hopes of reaching a Memorandum of Understanding by Oct. 25. That document will point to a preferred option of either the original or one of the two new options, said Sound Transit spokesman Bruce Gray.

After this deadline passes, Sound Transit will go into final design, which will continue through 2015. This is when everyone will get the full data and scenarios they seek. Should home acquisitions prove too expensive, or impacts too great, Gray said, the Sound Transit board can alter the route when it makes its final decision in late 2012 or early 2013. Still, Sound Transit officials said they understand the concern on the part of residents.

"I know it can be frustrating for property owners just being able to look at lines on a map," said Gray.

Gray said more information will be known Oct. 13, when staff presents new technical analysis to Sound Transit's capital committee.

Gray maintained that these options are being examined because the Bellevue council requested them. It has only been a few weeks since these options came to light.

Both Ilvanakis and Sirohi said they were unsure about whether they would agree to a buyout of the properties should one of the two new options be chosen. Sirohi felt it would be poor logic to consent to a buyout upfront, and then be forced to wait on terms. He said he doesn't want to be stuck not knowing whether or not he will need to move.

Gray said Sound Transit buys property at market value, and the estimation of how many homes could be needed won't come until later. He could not put an exact time frame on when the buyouts would occur.

For Ilvanakis, waiting is a worst-case scenario. She is torn between attempting to move, or go forward with an expansion of the house. She would rather know her fate now than be stuck in this purgatory.

"I feel like a scarlet letter has been placed on our home, and we can't do anything," she said. "We can't make improvements, and we can't sell until we know what is going to happen."

Bellevue Reporter Staff Writer Nat Levy can be reached at nlevy@bellevuereporter.com or 425-453-4290.

http://seattletimes.nwsources.com/html/localnews/2016486742_tukwilanoise13m.html

By Seattle Times staff

Relief could be coming next year for Tukwila residents who have endured train noise near the Duwamish River light-rail bridge.

On Thursday, the Sound Transit board's Capital Committee will consider a \$549,000 work order to install steel bracing, where composite panels would be fastened along 2,700 feet of elevated track. The entire project is worth about \$4.2 million, spokesman Bruce Gray said.

Noise there violated federal standards after the Link line opened in 2009, sometimes as high as 80 decibels — equivalent to a kitchen garbage disposal. Sound Transit significantly reduced the volume through track lubrication, grinding and lightweight barriers, but it's still near the limit.

The full transit board is scheduled to vote on the work order Oct. 27.

From: [Laura Fox](#)
To: [Witmer, John \(FTA\); fta.tro1@mail; LaHood, Ray \(OST\); Mendez, Victor \(FHWA\); Rogoff, Peter \(FTA\); Mathis, Daniel \(FHWA\); Krochalis, Rick \(FTA\); jeff.harvey@mail.house.gov](#)
Subject: Washington Eastlink Light Rail System Injustice
Date: Wednesday, October 26, 2011 12:05:00 PM
Attachments: [memo to council re voters info 10-17.docx](#)
[ST2 System Map 52407.pdf](#)

Dear sirs,

I have never before written the federal government, but I feel I must alert you to a terrible injustice being done to us by Sound Transit that you are most likely unaware of.

Attached is the mailer that went out to voters to persuade them to vote for the last Sound Transit ballot. You can plainly see that the alignment they are showing is the 'B7' alignment, which travels on I-90 then onto the abandoned BNSF railroad right of way, paralleling SR405, and then into our downtown. This is what people voted for! What Sound Transit is now forcing upon us is not what they showed the voters they would do.

This is much worse than a breach of truth in advertising, this is a breach of TRUST to the voters, and frankly fraudulent.

Sound Transit's current proposed alignment creates massive environmental destruction, unavoidable impacts to our precious Winters House (the only property on the National Registry of Historic Places), noise impacts beyond the federal limits that they CANNOT MITIGATE (just ask what is happening in Tukwila where they have spent millions and can't get the noise levels below federal levels), huge visual impacts to 1000's of homes in our single family neighborhoods and the Mercer Slough.

This can all be avoided by constructing the B7 alignment, which is what they showed voters!

Please don't let this terrible mistake happen. We support rail but not at the expense of our environment, our historic places and our neighborhoods - ESPECIALLY when there is a cheaper, better route with better ridership.

Sincerely,
Laura Fox
425-453-9658
Bellevue, WA 98004

MEMORANDUM

TO: Bellevue City Council
FROM: Bill Popp, P.E.
DATE: October 17, 2011
SUBJECT: What the voters thought they were approving

The attached Regional Transit System Plan map was adopted by the Sound Transit Board in May 2007 and was the official plan used for pictorial representations to voters. Note that the line appears to parallel I-90 and I-405 depicting very nicely the B7 and C14E alignments.

I submit that had the voters been aware that this line might be coming through the neighborhoods, that favorable yes vote on the east side may have well been a different story.

In any case in the interest of public confidence in our democratic process, you should bring the B-7R /C14E combination to the negotiating table. It is especially critical given the dire financial straights we find our governments in and the increasingly costly and destructive impacts of the B2M/C9T alignment.

To borrow some lines from a previous memo: **It is incredible to me and others that a city that promotes itself as one of the most livable, would trade quality of life in established single-family neighborhoods for an ideological concept of densification to promote LRT use, when the resulting use is marginal at best, and when the added cost of the concept is a budget busting \$160 million to the City. And that trade-off is made in the face of a far less residentially impacting alignment that can provide faster transit service and potentially better ridership at an estimated cost of zero to the City.**

Sound Transit 2 Regional Transit System Plan Map



From: [Witmer, John \(FTA\)](#)
To: fta.tro1@mail
Subject: FW: John Niles here repeating my voice mail to you
Date: Tuesday, November 01, 2011 1:47:10 PM

Forwarding to mailbox; includes my response.

From: Witmer, John (FTA)
Sent: Tuesday, November 01, 2011 8:28 AM
To: 'niles@globaltelematics.com'
Subject: FW: John Niles here repeating my voice mail to you

John: FTA is currently in the process of completing NEPA. The issuance of the Record of Decision will indicate the completion of that process. FTA cannot speculate what the Sound Transit Board may have meant by "further environmental work."

John Witmer
FTA Region 10
915 Second Avenue, Suite 3142
Seattle, WA 98174-1002
206-220-7964
http://www.fta.dot.gov/regions/regional_offices_918.html

From: John Niles [<mailto:niles@globaltelematics.com>]
Sent: Friday, October 28, 2011 9:41 AM
To: Witmer, John (FTA)
Subject: John Niles here repeating my voice mail to you

John,

IF there were further environmental work pending on the East Link light rail project, would FTA be permitted under NEPA to issue an ROD before that environmental work is complete?

Example: ST staff stated at the Board meeting yesterday documented by the press release below that further environmental work is required for the 112th track design preferred by City of Bellevue and accepted yesterday by vote of the Board.

<http://www.soundtransit.org/About-Sound-Transit/News-and-events/News-releases/Bellevue-tunnel-partnership-1027.xml>.

Thanks

John N

About Sound Transit

Board of Directors
CEO Corner
News & events
 News releases
 Calendar
 Reports
Jobs
Doing business with us
Environment & sustainability
Accountability
Taxing district

ST Board endorses agreement for tunnel partnership with Bellevue

October 27, 2011

CEO authorized to sign agreement following Bellevue City Council approval

The Sound Transit Board today endorsed a landmark agreement with the City of Bellevue to enable the East Link light rail project to serve downtown Bellevue via a tunnel.

The Board authorized Sound Transit CEO Joni Earl to execute a Memorandum of Understanding (MOU) with Bellevue following upcoming action by the Bellevue City Council. Bellevue Mayor Don Davidson yesterday presented the Board with a letter stating the city's commitment to take action on the MOU on or before Nov. 14.

The MOU establishes a collaborative partnership for Sound Transit and the City of Bellevue to work together during the final design and construction processes for East Link to manage the project's costs and impacts and to share the additional cost of building the tunnel. Benefits of the partnership include saving time for transit riders as well as motorists by avoiding at-grade street crossings in downtown Bellevue and establishing a grade-separated light rail alignment all the way from Seattle to the Bel-Red Corridor.

"Building the voter-approved East Link line is critical for the mobility and prosperity of our region. This agreement is good for the people of Bellevue and good for the people of King County," said Sound Transit Board Member and King County Executive Dow Constantine.

The MOU reviewed by the Board today was shaped through negotiations over the past two months, with Constantine and Sound Transit Board members Fred Butler and Richard Conlin representing the agency in discussions with Bellevue City Council members Jennifer Robertson, Grant Degginger and Kevin Wallace.

Following the issuance of a Record of Decision by the Federal Transit Administration (FTA), Sound Transit will move the East Link project into final design. Sound Transit is expected to start construction of East Link in 2015 or 2016 and launch passenger service in 2023.

The tunnel is estimated to cost an additional \$276 million beyond the cost of an at-grade alignment through downtown after factoring in cost savings from locating East Link's South Bellevue alignment along 112th Avenue Southeast. The MOU establishes a firm funding commitment by the City of Bellevue for up to \$160 million (2010\$), identifies the City's preferred design for the alignment along 112th Avenue Southeast and commits Sound Transit to review and consider the design changes.

Other key elements of the agreement include mechanisms to share risks and benefits between the parties and commitments to work collaboratively in the final design process to manage the project's scope, schedule and budget. The agreement provides that Bellevue will process land use code amendments to establish a consolidated permit process and other actions including resolving technical code issues.

A Transitway Agreement slated for approval alongside the MOU grants Sound Transit non-exclusive use of City right-of-way to construct, operate, and maintain the East Link project, at no cost to Sound Transit; and outlines typical standards for construction, operation and maintenance of the Project in City right-of-way generally consistent with existing transitway agreements in the cities of Seattle, Tukwila and SeaTac.

East Link documents including the project's Final Environmental Impact Statement are available at <http://projects.soundtransit.org/Projects-Home/East-Link-Project.xml>

Riding East Link between Seattle and downtown Bellevue is projected to take less than 20 minutes. By comparison, in the afternoon peak period it can currently take approximately 45 minutes to travel between Seattle and Bellevue via I-90.

As the region's population continues growing in the decades ahead East Link will provide tremendous new transportation capacity to the I-90 corridor. Increases in the length and frequency of trains over time offer the capacity to carry from 9,000 to 12,000 people per hour in each direction, which would more than double the person-carrying capacity of I-90 and is roughly equivalent to seven to ten freeway lanes of vehicle traffic. By 2030 East Link is projected to carry more than 50,000 riders each weekday.

From: Nancye Matheson [<mailto:nancyematheson@hotmail.com>]
Sent: Tuesday, November 08, 2011 1:52 PM
To: council@bellevuewa.gov; fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); jeff.harvey@mail.house.gov; representative.reichert@mail.house.gov
Cc: shawnamatheson
Subject:

Dear Council Members,

I realize that you are under tremendous pressure to agree to Sound Transit's MOU, but I implore you to look at the big picture and require Sound Transit to revisit the B7 option. There are numerous reasons why B7 makes more sense.

Sound Transit has plans to extend light rail across I-90 in the future (and they must if they plan to capture the future growth of the Eastside and the majority of the commuters on the 1-90 corridor) so why are they insisting that it will cost too much or that there are too many environmental concerns. It is evident that there will be less impact on Mercer Slough, only .9 acres being taken if the B7 route is selected, vs the 3 acres required for B2.

Bellevue family's can ill afford the tax burden that will be forced on them due to the cost of a downtown tunnel and mitigation. If the council plans to increase our taxes by 3% or more a year, then it absolutely should let the community vote on the issue. I assure the measure will not pass. A cross over pedestrian bridge or moving sidewalk or access buses can be used to bring commuters to the core of downtown Bellevue from 405 or 1-90 without the cost of a tunnel or impact of a train in our quiet residential neighborhoods. Have you studied successful Light Rail Systems around the nation? They do not go through residential areas with low density, they parallel freeways!

If Sound Transit's own growth projections for growth and ridership are accurate, then the existing Bellevue Transit Center will become obsolete in the next 20 to 30 years due to the limited growth potential. Do you really want your legacy to be a 300 million dollar tunnel to nowhere?

The loss of tax revenue estimated, at 900 million dollars, and jobs estimated at 2,700 due to the relocation of businesses and avoidance of the downtown core by consumers will cause the City of Bellevue to go further into the red and already struggling businesses to close.

Once those companies leave the area they may never come back. Consumers will avoid downtown Bellevue like the plague if they can not continue to access the city by both Bellevue Way and 405. Please read the Hebert Research study commissioned by pro transit group, Bellevue Fast Forward. Have you even considered the loss of revenue as property values

plummet? Their will be a mass exodus from Enatai, Surrey Downs, Bellecrest, Bellfield Park even if people have to take a loss on their homes.

The quiet neighborhoods that you swore to protect will forever be changed by up-zoning, noise pollution and visual blight. Condemnation of more than sixty homes and the countless other families whose life will be forever changed, because they can no longer enjoy their homes, refinance them or sell them, the removal of some 1,200 mature trees, the safety and access to Enatai Elementary School which will be severely compromised during construction as commuter's cut through 108th to get to I-90 and the destruction of both the Mercer Slough and the entrance into Bellevue are among a few reasons B7 is a better alternative. I assure you if a child or pedestrian is hurt by a commuter speeding down 108th Ave. SE during construction I will lead the call for a law suit against the city of Bellevue and Sound Transit.

I implore you to listen to the majority of Bellevue residents who want the responsible and truly regional transportation option that B7R/C14E offers.

Sincerely,

Nancye Matheson

BELLEVUE CITY COUNCIL VOTER, Bellevue Resident, and Tax Payer

Begin forwarded message:

From: Joseph Rosmann <joe@betterbellevue.org>
Date: November 10, 2011 2:52:03 PM PST
To: fta.tro10mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov
Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

The purpose of this message is to provide you with critical information obtained from the Puget Sound Regional Council (PSRC), and its transportation planning staff, which shows that Sound Transit has seriously failed in understanding, and has also failed to properly address the extent to which its plan for linking a tunnel placement of its light rail line in Downtown Bellevue to the existing Bellevue Transit Center will cause major hardship to Bellevue downtown businesses, to the employees and customers of those businesses, and to the neighborhood residents who live adjacent to downtown Bellevue, because of the massive traffic congestion that will be caused by the rapid growth in transit services into and from Downtown Bellevue in the near term.

This expected downtown traffic congestion will likely lead the City of Bellevue to have to abandon Bellevue taxpayers', and Sound Transit's investment in the proposed downtown light rail tunnel and Transit Center interchange plan that is a central element of the Eastlink light rail plan. The City of Bellevue will be faced with this dire decision because transit-caused congestion will soon leave the City of Bellevue with no other choice but to invest in a different intermodal transportation interchange solution in Bellevue downtown that will effectively serve the City of Bellevue, its downtown businesses, and the adjacent neighborhoods for the next 100 years. The documentation provided by Sound Transit in its FEIS documents and its Request for a Federal Record of Decision on its Eastlink Plan totally completely fails to incorporate this newly available information.

Building A Better Bellevue (BBB), which represents the interests and concerns of many thousands of homeowners with homes adjacent to downtown Bellevue, requests that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

Prior to Building A Better Bellevue's presentation to the Bellevue City Council on November 7, 2011 regarding this new information on traffic congestion in downtown Bellevue, no public body has fully understood the facts identified by these recently released new PSRC data, nor analyzed the implications of these important data for Bellevue's coming downtown gridlock. Most specifically, Sound Transit has completely failed to properly assess this information which has also been available to the agency for nearly a year.

BBB's findings and presentation were drawn solely from our region's primary public research entity charged with assessing regional transportation needs, the Puget Sound Regional Council. These PSRC data show that total transit demand for access to our Bellevue Downtown will grow to a **five-fold level by 2040**, from the present transit use level in downtown Bellevue. There is no way that the present downtown Bellevue Transit Center, and its nearby streets, can accommodate such a total volume of transit access each week day.

BBB believes that the only intermodal transit interchange solution that will work for our City at that point must recognize the eastward growth of our downtown, take advantage of every available access and egress point to and from I-405, link to an elevated light rail line that runs adjacent to I-405, and that also provides for gaining the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

Sincerely,

Joe Rosmann

for Building A Better Bellevue
www.betterbellevue.org
 425.417.0797

Ensor, Deborah (FTA)

*copy 220
downloaded*

From: Joseph Rosmann [joe@betterbellevue.org]
Sent: Thursday, November 10, 2011 2:52 PM
To: fta.tro10mail; Wiltmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; representative.reichert@mail.house.gov
Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years
Attachments: BBB Presentation - Transit Center Challenges Require No MOU Now.pdf; ATT1225300.htm

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the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

Sincerely,

Joe Rosmann

for Building A Better Bellevue
www.betterbellevue.org
425.417.0797



What If.....

The Transit Center

And

The Tunnel

Do Not Work?

WHAT IF.....

- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
- And:
 - Congestion In Our Downtown Core Increases
 - Downtown Core Traffic Spills Over To Other Downtown Access Corridors
 - Downtown Traffic Moves Into The Neighborhoods Adjacent To Our Downtown

Could This Happen?



What Are the Likely Downtown Congestion Causes?

- Personal Vehicles
- Commercial Traffic
 - Delivery Trucks
 - Construction Vehicles
 - Others
- Public Transit Vehicles



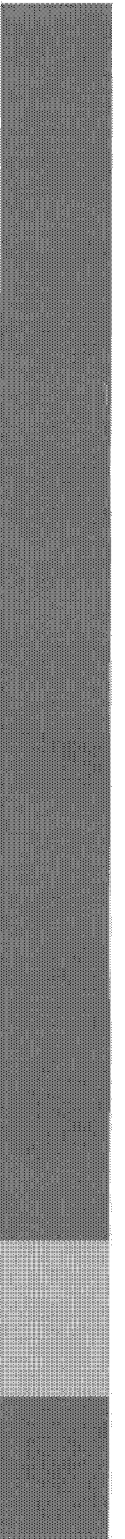
Private Traffic Can Be Modulated

- Personal Vehicle Traffic Reductions Via:
 - Increased Transit Use
 - Higher Parking Costs
 - Time Lost Due To Congestion
- Commercial Traffic Reductions Via:
 - Short Term Parking Restrictions
 - Time Of Day Limits
 - Other Measures

What About Transit-Caused Downtown Congestion

- Transit Growth – A Desired Public Policy
- Transit Use - A Desired Personal and Commercial Objective

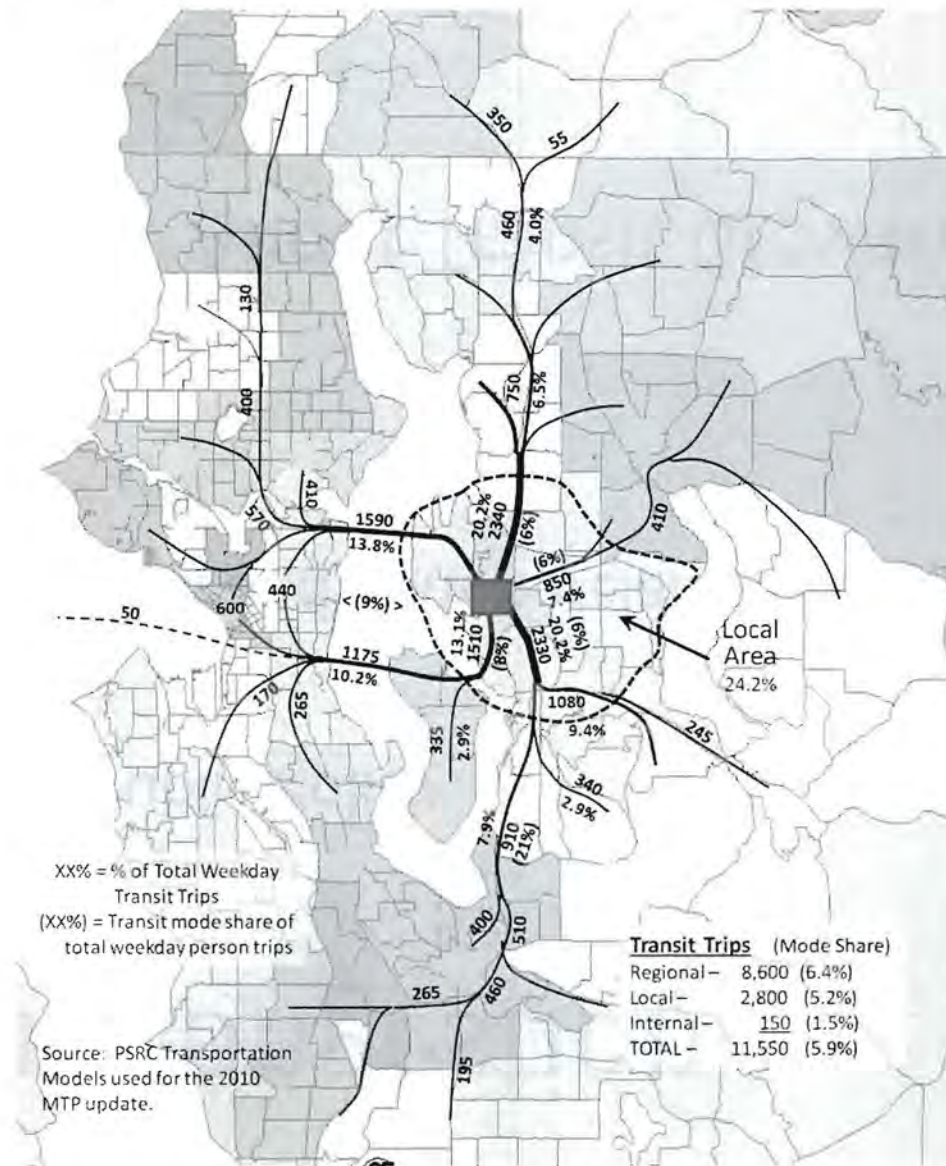
What Do the Numbers Say About Transit Growth?



PSRC's Transit Measures: 2006

- The Basis of COB's Eastlink Light Rail/ Transit Interchange Design Preference
 - 11,550 person trips

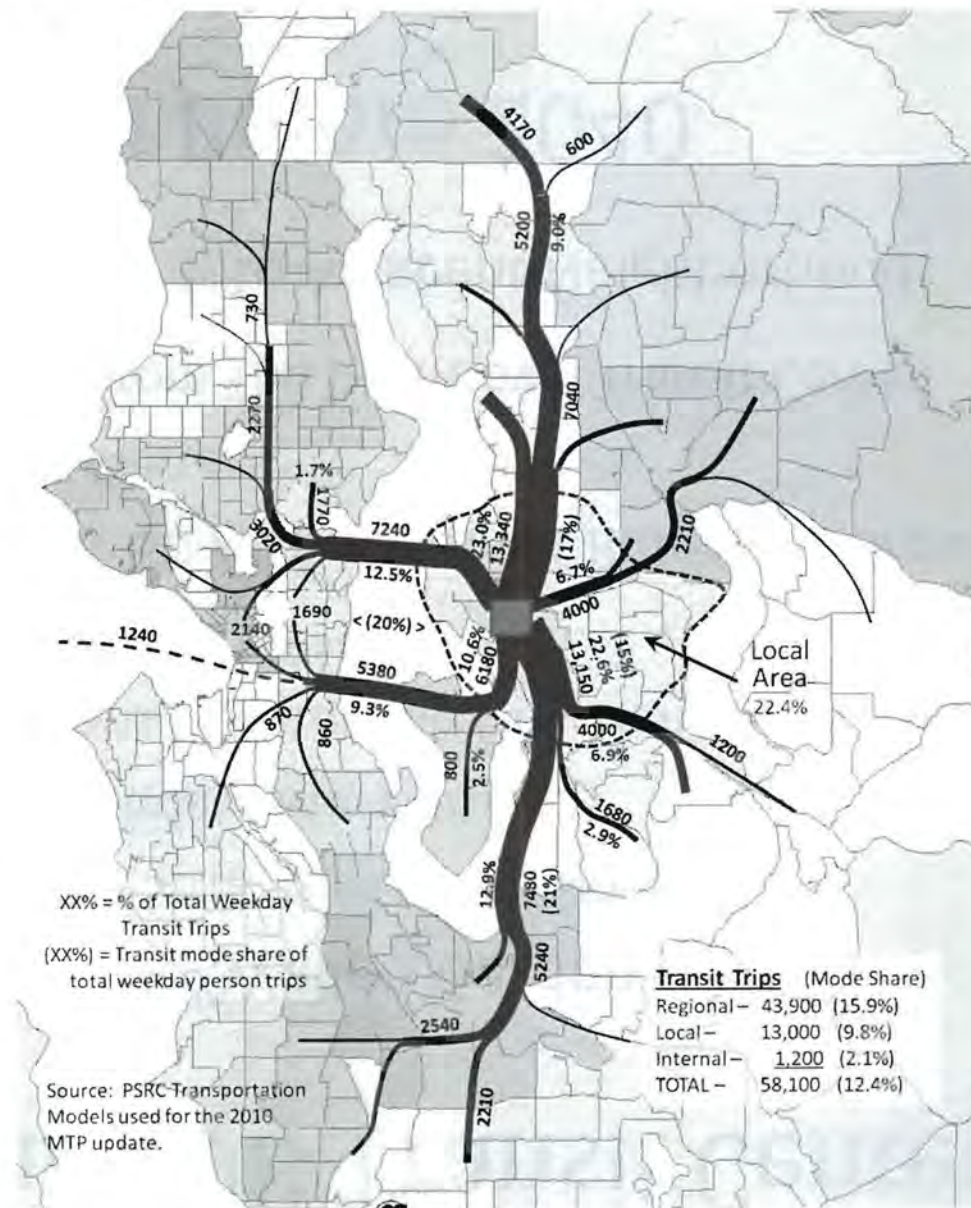
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2006 Total Weekday Transit Trips

PSRC's Transit Measures: 2040

- A **5 – Fold increase** in total weekday transit trips in our COB downtown core –
 - From 11,550 person trips
 - To 58,100 person trips
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2040 Total Weekday Transit Trips

The Reality Of Our COB Transit Center

- The Bellevue Transit Center Is A “Walled Garden”
 - Surrounded By Massive High Rise Structures On All Sides
 - Cannot Be Expanded To Accommodate More Buses
 - The Tunnel Trains Below the Transit Center Can Only Handle A Small Portion Of This Increased Volume of Transit Users
- Massive Bus Congestion In The CBD As Bus Transit Ridership Grows
 - Between I-405 And The Transit Center
 - Along Major Thoroughfares To/From The Downtown Transit Center
- Massive Personal Vehicle Spillover Into Adjacent Neighborhoods
- **And, All of This, Well Before 2040**

The Reality Of 2040 Transit Demand

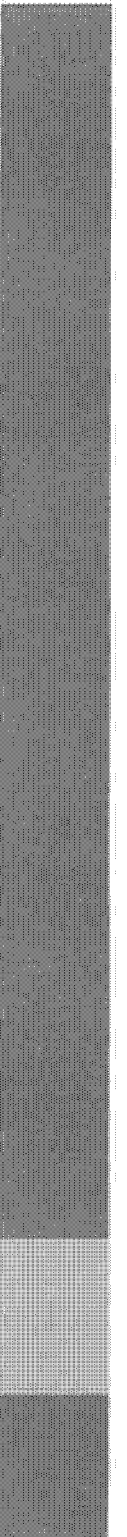
- Due To Constraints That Block Further Transit Center Utilization
 - The COB Will Have To Implement A New Intermodal Transportation Interchange Solution For Our Downtown

That Ties Together:

- The North/South Bus Volumes On I-405, And The East/West Bus Volumes on I-90 and 520
- The Eastward Expansion Of Our Downtown
- The Need for Better CBD East/West Surface Traffic Flows
- The Demand for Faster CBD East/West Ambulatory Modes

The Best Candidate for A New CBD Intermodal Transportation Interchange Facility: One That Integrates:

- Both Sides Of I-405
- The Top Of I-405
- With An Elevated Eastlink Train Interface At The Core Of This New Interchange
- With An East/West Personal Mobility Solution Across The Entire CBD



What Best Serves Bellevue's Tax Payers and the Future Of Our City?

- Before Proceeding With The **MOU** Our City Must Immediately:
 - Understand The Implications of the PSRC's Transit Growth Projections
 - Evaluate The Sunk Costs Of Investing In The Existing Transit Center By Adding A Light Rail Tunnel
 - Determine Whether Raising Property Taxes For A \$300 Million Downtown Tunnel, Whose Utility is Limited, Is A Wise Decision For Our Taxpayers
 - Evaluate Whether This Temporary Relief, At A Massive Taxpayer Cost, Is A Sound 100-Year Plan, When A Better Long Term Solution Is Available

OUR CITY MUST
NOT SIGN THE MOU NOW

From: BetterBellevue <info@betterbellevue.org>
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Date: November 11, 2011 9:00:19 AM PST
To: fta.trol0mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.

Eastlink will serve only a very small portion of all these new transit trips into the Bellevue downtown core.

The reality in 2040 - focusing both rail transit (the Eastlink tunnel) and bus transit (the existing Bellevue Transit Center) into a constrained interchange space at NE 6th Street and 110th Avenue, in downtown Bellevue, will likely dramatically add to Bellevue's downtown transit-caused congestion.

Given this coming disaster, it is essential that the Washington State Department of Transportation, Sound Transit, Seattle Metro, and the City of Bellevue immediately step back from proceeding with the current Eastlink Plan for downtown Bellevue, and work together with the Puget Sound Regional Council to fashion a better solution now.

Failing to do so now will result in the abandonment of an investment of \$300 Million of scarce taxpayers' dollars long before the benefit of this investment will ever be realized.

Sincerely,

The Building A Better Bellevue Steering Committee
www.betterbellevue.org
info@betterbellevue.org

Begin forwarded message:

> From: Joseph Rosmann <joe@betterbellevue.org>
> Date: November 10, 2011 2:52:03 PM PST
> To: fta.trol0mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov
> Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years

>

> Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

>

> The purpose of this message is to provide you with critical information obtained from the Puget Sound Regional Council (PSRC), and its transportation planning staff, which shows that Sound Transit has seriously failed in understanding, and has also failed to properly address the extent to which its plan for linking a tunnel placement of its light rail line in Downtown Bellevue to the existing Bellevue Transit Center will cause major hardship to Bellevue downtown businesses, to the employees and customers of those businesses, and to the

neighborhood residents who live adjacent to downtown Bellevue, because of the massive traffic congestion that will be caused by the rapid growth in transit services into and from Downtown Bellevue in the near term.

>

> This expected downtown traffic congestion will likely lead the City of Bellevue to have to abandon Bellevue taxpayers', and Sound Transit's investment in the proposed downtown light rail tunnel and Transit Center interchange plan that is a central element of the Eastlink light rail plan. The City of Bellevue will be faced with this dire decision because transit-caused congestion will soon leave the City of Bellevue with no other choice but to invest in a different intermodal transportation interchange solution in Bellevue downtown that will effectively serve the City of Bellevue, its downtown businesses, and the adjacent neighborhoods for the next 100 years. The documentation provided by Sound Transit in its FEIS documents and its Request for a Federal Record of Decision on its Eastlink Plan totally completely fails to incorporate this newly available information.

>

> Building A Better Bellevue (BBB), which represents the interests and concerns of many thousands of homeowners with homes adjacent to downtown Bellevue, requests that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

>

> Prior to Building A Better Bellevue's presentation to the Bellevue City Council on November 7, 2011 regarding this new information on traffic congestion in downtown Bellevue, no public body has fully understood the facts identified by these recently released new PSRC data, nor analyzed the implications of these important data for Bellevue's coming downtown gridlock. Most specifically, Sound Transit has completely failed to properly assess this information which has also been available to the agency for nearly a year.

>

> BBB's findings and presentation were drawn solely from our region's primary public research entity charged with assessing regional transportation needs, the Puget Sound Regional Council. These PSRC data show that total transit demand for access to our Bellevue Downtown will grow to a five-fold level by 2040, from the present transit use level in downtown Bellevue. There is no way that the present downtown Bellevue Transit Center, and its nearby streets, can accommodate such a total volume of transit access each week day.

>

> BBB believes that the only intermodal transit interchange solution that will work for our City at that point must recognize the eastward growth of our downtown, take advantage of every available access and egress point to and from I-405, link to an elevated light rail line that runs adjacent to I-405, and that also provides for gaining the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

>

> BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

>

> A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

>

> Sincerely,

>

> Joe Rosmann

>

> for Building A Better Bellevue

> www.betterbellevue.org

> 425.417.0797

>

From: GeoffBidwell [mailto:geoffreybidwell@yahoo.com]

Sent: Friday, November 11, 2011 02:15 PM

To: fta.tro1@mail; LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Witmer, John (FTA)

Subject: Sound Transit Eastlink Project

To Transportation Officials

Sound Transit has chosen an alignment B2M for its East link Project. The reason for this alignment is to provide for Transit Oriented Development (TOD). The ARUP study conducted for the City of Bellevue has demonstrated that an alternative alignment B7R is a feasible and more desirable alignment with significantly less damage to the environment.

Federal Law 4(f) requires that a Section 4(f) project requiring the use of a publicly owned land of a park can only be used if :-

1) There is no prudent and feasible alternative to using the land.

- There is a prudent and feasible alternative to the B2M alignment namely the B7R alignment.

2) The project includes all possible planning to minimize harm of section 4(f) resources

- Sound Transit has failed to include all possible planning to minimize harm to the

Mercer Slough along Bellevue Way and along 112th Ave SE.

3) or, the FHWA makes a finding that the project has a de-minimis impact on the section

4(f) resource.

- Sound Transits FEIS has not demonstrated a de-minimis impact to the Mercer

Slough (see attachments B2M_MercerSlough.pdf and B2M_Environmental.pdf).

- B2M uses 3 acres of Mercer Slough

- B7R uses 0.9 acres and B7R gives back 11.5 acres from the Bellevue Way Park

and Ride facility that will no longer be required with the B7R alternative.

Clearly the B7R avoids many of the impacts that the B2M alignment has and the B7R provides an opportunity to enhance the Mercer Slough Nature Park by returning 11.5 acres of land.

These facts strongly support that the Record of Decision *should not be approved*.

Sincerely
Geoffrey Bidwell
Bellevue, WA



scaled simulation

proposed *B2M* guide way

Mercer Slough Nature Park

***Sound Transit* Light Rail *B2M* proposal turning North on Bellevue Way from I-90 at Mercer Slough**

2831
KWON

Preferred 112th SE Modified Alternative (B2M) would result in the highest permanent property impact to the 320-acre Mercer Slough Nature Park when compared with the other Segment B alternatives; it would not affect the other two parks in Segment B.

When connecting to *Preferred Alternative C11A*, 2.9 acres would be permanently impacted (1.5 acres at-grade and retained cut and 1.4 acres elevated) and 3.0 acres (1.6 acres at-grade and retained cut and 1.4 acres elevated) when connecting to *Preferred Alternative C9T* (Table 4.17-2). Exhibit 4.17-2 depicts the impacted park area. This alternative would acquire an approximately 30- to 50-foot section of the park's western boundary for a distance of approximately 3,200 feet and would remove shrubs and trees. The acquisition area would be less than 1 percent of the total park area.

TABLE 4.17-2
Segment B Parks and Open Spaces Permanent Impacts

Alternative		Mercer Slough Nature Park (acres)	Bellevue Way Greenbelt (acres)
<i>Preferred 112th SE Modified Alternative (B2M)</i>	To <i>Preferred Alternative C11A</i>	<u>2.9</u>	None
	To <i>Preferred Alternative C9T</i>	<u>3.0</u>	
Bellevue Way Alternative (B1)		0.5	0.4 (full acquisition)
112th SE At-Grade Alternative (B2A)		1.7	0.1
112th SE Elevated Alternative (B2E)		0.7	None
112th SE Bypass Alternative (B3)		1.7	0.1
B3 - 114th Extension Design Option		1.7	0.1
<i>BNSF Alternative (B7)</i>		<u>0.9</u>	None

From: Joseph Rosmann [<mailto:joe@betterbellevue.org>]

Sent: Friday, November 11, 2011 12:00 PM

To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey <jeff.harvey@mail.house.gov>; representative.reichert@mail.house.gov <representative.reichert@mail.house.gov>

Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.

Eastlink will serve only a very small portion of all these new transit trips into the Bellevue downtown core.

The reality in 2040 - focusing both rail transit (the Eastlink tunnel) and bus transit (the existing Bellevue Transit Center) into a constrained interchange space at NE 6th Street and 110th Avenue, in downtown Bellevue, will likely dramatically add to Bellevue's downtown transit-caused congestion.

Given this coming disaster, it is essential that the Washington State Department of Transportation, Sound Transit, Seattle Metro, and the City of Bellevue immediately step back from proceeding with the current Eastlink Plan for downtown Bellevue, and work together with the Puget Sound Regional Council to fashion a better solution now.

Failing to do so now will result in the abandonment of an investment of \$300 Million of scarce taxpayers' dollars long before the benefit of this investment will ever be realized.

Sincerely,

The Building A Better Bellevue Steering Committee

www.betterbellevue.org

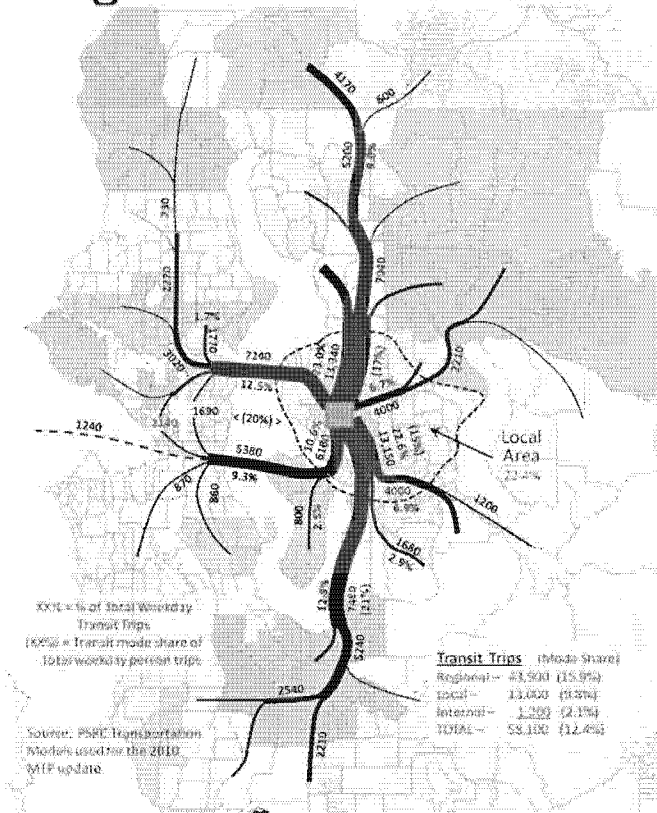
info@betterbellevue.org

Eastlink Light Rail Can Not Relieve Bellevue's Downtown Transit Congestion Disaster in 2040

A **5 – Fold increase** in total weekday transit trips in the City of Bellevue (COB) downtown core:

- From 11,550 person trips (2006)
- To 58,100 person trips (2040)
- **Eastlink light rail cannot serve the vast majority of the 2040 COB Downtown transit trips**

Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2040 Total Weekday Transit Trips

Ensor, Deborah (FTA)

From: Joseph Rosmann [joe@betterbellevue.org]
Sent: Friday, November 11, 2011 9:00 AM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; representative.reichert@mail.house.gov
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Attachments: Eastlink No Solution To CBD 2040 Transit Gridlock.pdf; ATT1519370.htm; BBB Presentation - Transit Center Challenges Require No MOU Now.pdf; ATT1519371.htm

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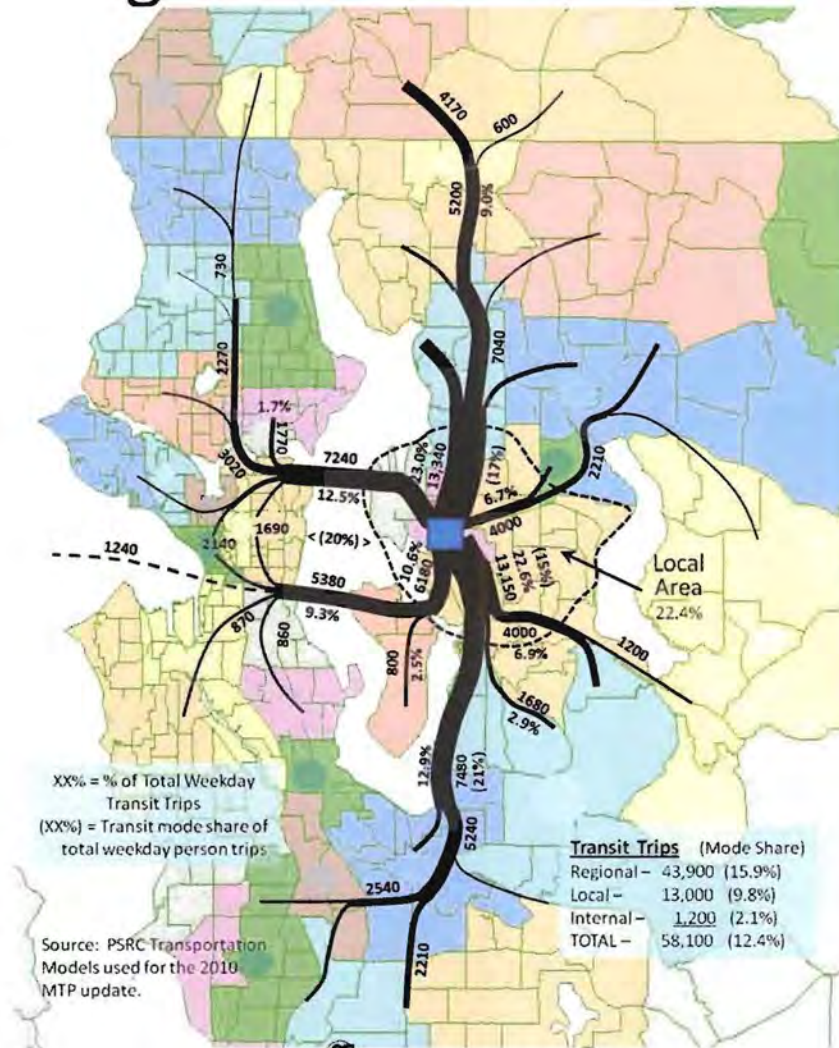
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DOWNTOWN BELLEVUE
2040 Total Weekday Transit Trips



What If.....

The Transit Center

And

The Tunnel

Do Not Work?

Building A Better Bellevue

www.betterbellevue.org

WHAT IF.....

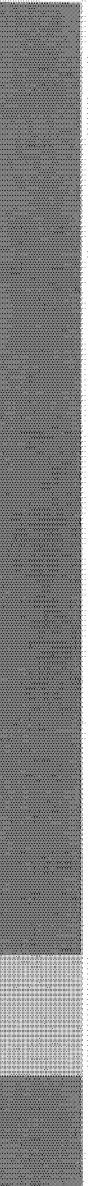
- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
- And:
 - Congestion In Our Downtown Core Increases
 - Downtown Core Traffic Spills Over To Other Downtown Access Corridors
 - Downtown Traffic Moves Into The Neighborhoods Adjacent To Our Downtown

Could This Happen?



What Are the Likely Downtown Congestion Causes?

- Personal Vehicles
- Commercial Traffic
 - Delivery Trucks
 - Construction Vehicles
 - Others
- Public Transit Vehicles



Private Traffic Can Be Modulated

- Personal Vehicle Traffic Reductions Via:

- Increased Transit Use
- Higher Parking Costs
- Time Lost Due To Congestion

- Commercial Traffic Reductions Via:

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- Other Measures



What About Transit-Caused Downtown Congestion

- Transit Growth – A Desired Public Policy
- Transit Use - A Desired Personal and Commercial Objective

What Do the Numbers Say About Transit Growth?

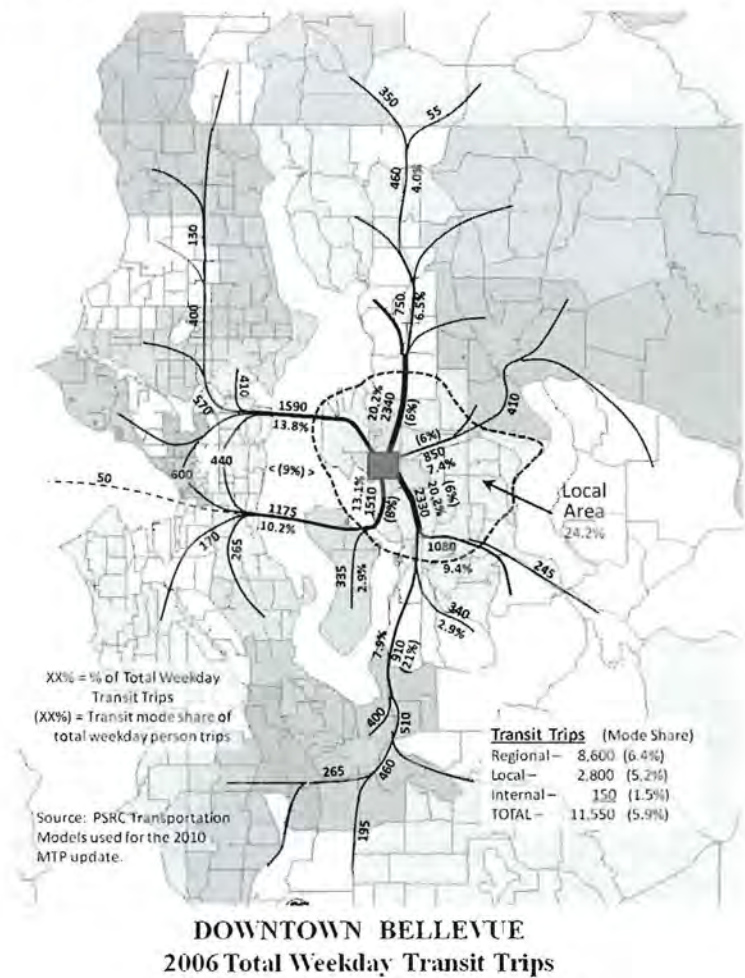


PSRC's Transit Measures: 2006

The Basis of COB's
Eastlink Light Rail/
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Design Preference

11,550 person trips

Source: PSRC
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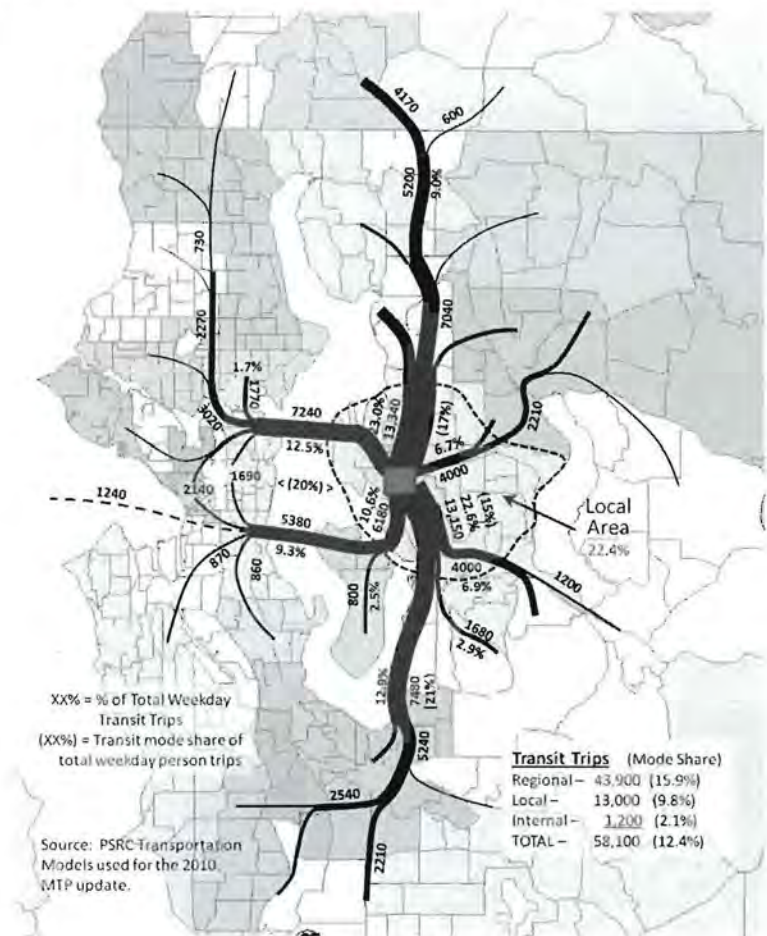


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 - Cannot Be Expanded To Accommodate More Buses
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What Best Serves Bellevue's Tax Payers and the Future Of Our City?

Before Proceeding With The **MOU** Our City Must Immediately:

- * Understand The Implications of the PSRC's Transit Growth Projections
- * Evaluate The Sunk Costs Of Investing In The Existing Transit Center By Adding A Light Rail Tunnel

Determine Whether Raising Property Taxes For A \$300 Million Downtown Tunnel, Whose Utility is Limited, Is A Wise Decision For Our Taxpayers

Evaluate Whether This Temporary Relief, At A Massive Taxpayer Cost, Is A Sound 100-Year Plan, When A Better Long Term Solution Is Available

OUR CITY MUST
NOT SIGN THE MOU NOW

Ensor, Deborah (FTA)

From: dimande@comcast.net
Sent: Saturday, November 12, 2011 3:35 PM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; representative reichert
Cc: ddaavidson@bellevuewa.gov; council@bellevuewa.gov
Subject: Eastside Light Rail

Dear concerned leaders,

The following is a letter I sent following a meeting at Bellevue City Hall based upon information presented to the public the night before.

It was addressed to the Mayor and also to Bellevue City Council. I did receive a response from one council member.

As a resident of Bellevue for almost 27 years I am baffled at what is being planned given information available both to the decision makers and to those who reside in Bellevue. Do we plow blindly ahead despite facts that give us pause to reconsider and redirect in a direction that is 'sound' in practice.

Please help to slow this light railwreck down.

Here's the letter, likely with information you've been appraised of. Thank You for your attention to this! Sincerely, Diana Mandell

November 8

Good Morning!

What an interesting and informative experience last night's meeting became for my husband and myself. I've been to several light rail focused sessions, though, this was most impressive. Thank you Mr. Mayor for your relaxed style and good nature in dealing with a large invested group of residents.

The presentations left me questioning what was driving a collaboration with Sound Transit which seems so not interested in hearing the people most affected. However this particular session also awakened me to the realization that the decision, if following the guidance of Sound Transit, will actually also heavily impact downtown business and downtown congestion.

The facts as presented also brought to light big questions about ridership as reflected in looking at this in a number of other locales, and how much of the Mercer Slough will be affected with Sound Transit plans.

Some folks were in strong favor of supporting Sound Transit, yet, it wasn't clear from their presentations why this was the case given another viable option. It seemed they want light rail, which many of us do, and see this as progress.

I appreciated the gentleman's presentation of Program Management 101. This really made me wonder what are we thinking about as these plans get so close to implementation and Yet, there see to be so much good sense and fact being dismissed.

Please, take a step back Mr. Mayor, and have our council do the same. What are the vested interests at play here? After last night we are left pondering this one.

Bring light rail to Bellevue. Consider the needs of the residents in forging a real compromise with Sound Transit. There is an inkling of a sense here, just an inkling, that Sound Transit's plan, once all facts are considered, may need us more than we need them.

Sincerely, Diana Mandell

Ensor, Deborah (FTA)

From: CBalducci@bellevuewa.gov
Sent: Saturday, November 12, 2011 3:34 PM
To: brianr53@comcast.net
Cc: Council@bellevuewa.gov; fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); jeff.harvey@mail.house.gov; representative.reichert@mail.house.gov
Subject: Re: Sound Transit Eastlink in Bellevue

Sent from my iPhone

On Nov 12, 2011, at 2:24 PM, "Brian Robertson" <brianr53@comcast.net> wrote:

> Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:
>
> It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.
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>
> Sincerely,
>
> Brian Robertson
> Brianr53@comcast.net<<mailto:Brianr53@comcast.net>>
> 10828 SE 14th ST
> Bellevue, WA 98004
>
>
> <BBB Presentation - Transit Center Challenges Require No MOU Now.pdf>
> <Eastlink No Solution To CBD 2040 Transit Gridlock.pdf>

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BBB Presentation Eastlink No
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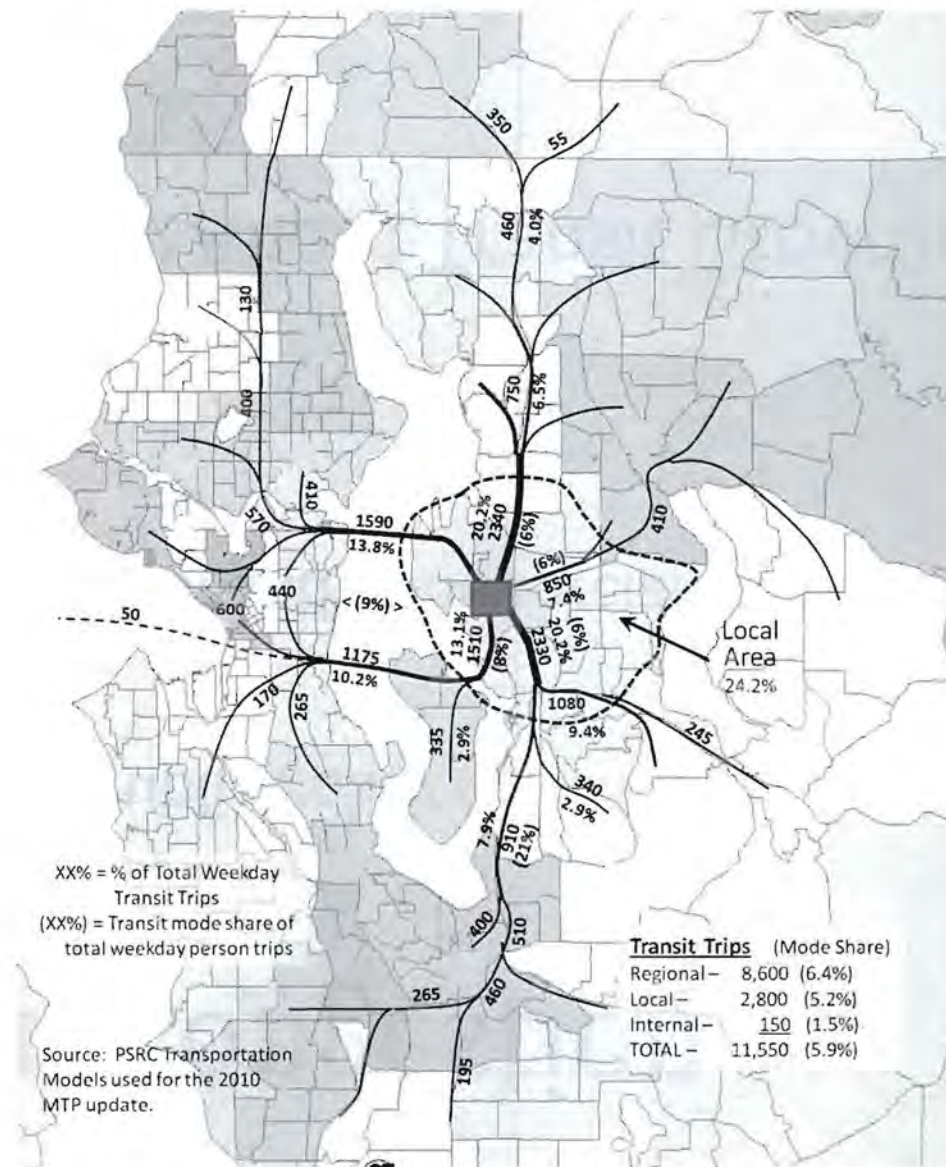
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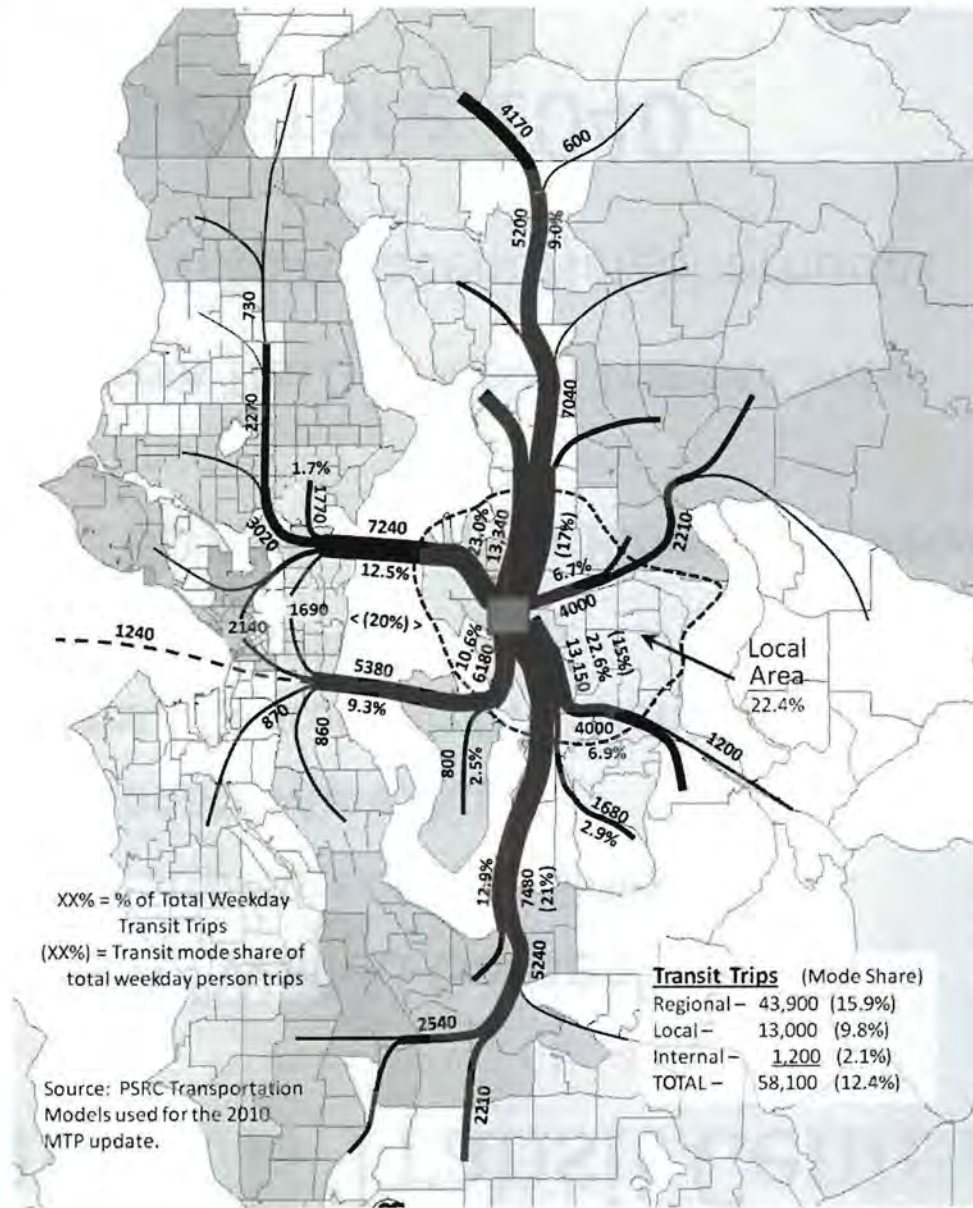
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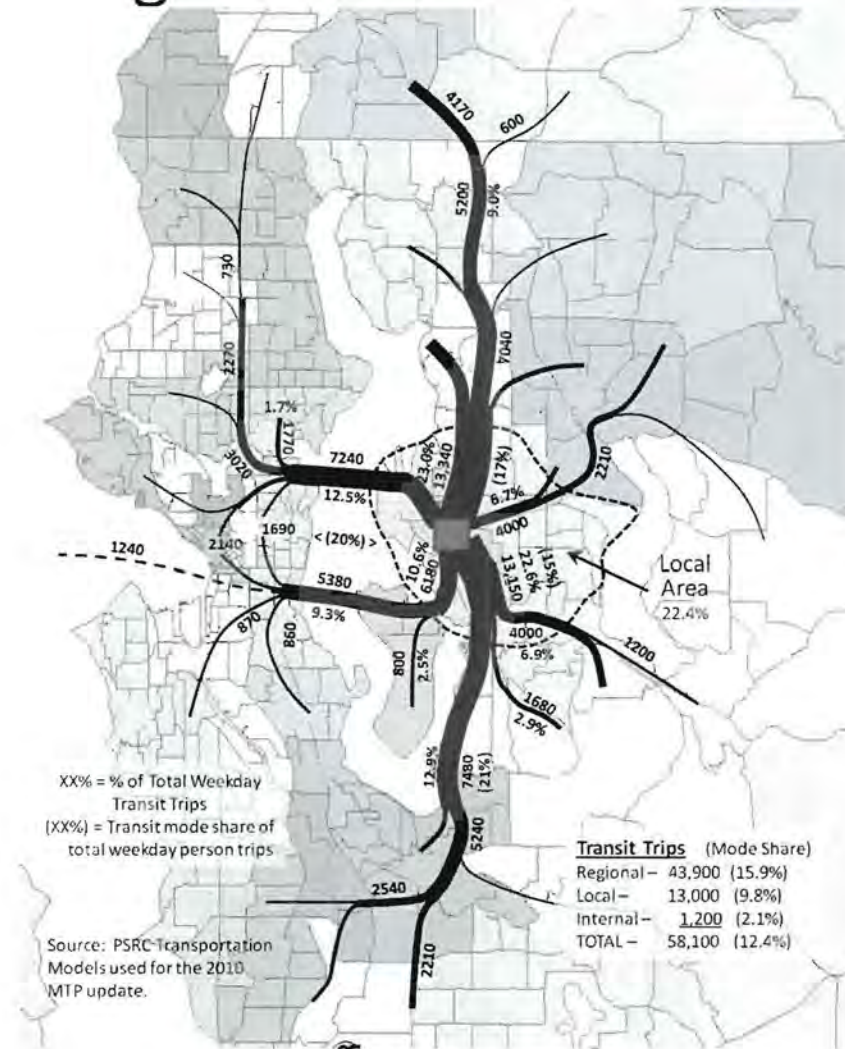
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From: ccarlson@nwlink.com
Sent: Saturday, November 12, 2011 12:04 PM
To: Mathis, Daniel (FHWA); representative.reichert@mail.house.gov; fta.tro10mail; jeff.harvey@mail.house.gov; Witmer, John (FTA); Rogoff, Peter (FTA); LaHood, Ray (OST); Krochalis, Rick (FTA); Mendez, Victor (FHWA)
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Attachments: Eastlink light rail BBBs No Solution to Downtown Bellevues 2040 transit gridlock - This must be changed.docx

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Please take immediate action to address the concerns of Bellevue citizens regarding the decision to allow Sound Transit to move forward on Eastlink/light rail through downtown Bellevue. New information has come to light that shows the failure of this costly transportation line to address the traffic patterns and congestion projected by the Puget Sound Regional Council (PSRC), and its transportation planning staff. Failure to factor in this new information will result in the enormous investment by Bellevue residents for a light rail line that only increases the traffic congestion and does not provide the promised "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

I, as a resident and taxpayer of the City of Bellevue, request that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

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2221 109th Ave SE
Bellevue, WA 98004

From: BetterBellevue <info@betterbellevue.org>
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Date: November 11, 2011 9:00:19 AM PST
To: fta.trol@mail.dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.

Eastlink will serve only a very small portion of all these new transit trips into the Bellevue downtown core.

The reality in 2040 - focusing both rail transit (the Eastlink tunnel) and bus transit (the existing Bellevue Transit Center) into a constrained interchange space at NE 6th Street and 110th Avenue, in downtown Bellevue, will likely dramatically add to Bellevue's downtown transit-caused congestion.

Given this coming disaster, it is essential that the Washington State Department of Transportation, Sound Transit, Seattle Metro, and the City of Bellevue immediately step back from proceeding with the current Eastlink Plan for downtown Bellevue, and work together with the Puget Sound Regional Council to fashion a better solution now.

Failing to do so now will result in the abandonment of an investment of \$300 Million of scarce taxpayers' dollars long before the benefit of this investment will ever be realized.

Sincerely,

The Building A Better Bellevue Steering Committee
www.betterbellevue.org
info@betterbellevue.org

Begin forwarded message:

> From: Joseph Rosmann <joe@betterbellevue.org>
> Date: November 10, 2011 2:52:03 PM PST
> To: fta.trol@mail.dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov
> Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years
>
> Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:
>
> The purpose of this message is to provide you with critical information obtained from the Puget Sound Regional Council (PSRC), and its transportation planning staff, which shows that Sound Transit has seriously failed in understanding, and has also failed to properly address the extent to which its plan for linking a tunnel placement of its light rail line in Downtown Bellevue to the existing Bellevue Transit Center will cause major hardship to Bellevue downtown businesses, to the employees and customers of those businesses, and to the

neighborhood residents who live adjacent to downtown Bellevue, because of the massive traffic congestion that will be caused by the rapid growth in transit services into and from Downtown Bellevue in the near term.

>

> This expected downtown traffic congestion will likely lead the City of Bellevue to have to abandon Bellevue taxpayers', and Sound Transit's investment in the proposed downtown light rail tunnel and Transit Center interchange plan that is a central element of the Eastlink light rail plan. The City of Bellevue will be faced with this dire decision because transit-caused congestion will soon leave the City of Bellevue with no other choice but to invest in a different intermodal transportation interchange solution in Bellevue downtown that will effectively serve the City of Bellevue, its downtown businesses, and the adjacent neighborhoods for the next 100 years. The documentation provided by Sound Transit in its FEIS documents and its Request for a Federal Record of Decision on its Eastlink Plan totally completely fails to incorporate this newly available information.

>

> Building A Better Bellevue (BBB), which represents the interests and concerns of many thousands of homeowners with homes adjacent to downtown Bellevue, requests that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

>

> Prior to Building A Better Bellevue's presentation to the Bellevue City Council on November 7, 2011 regarding this new information on traffic congestion in downtown Bellevue, no public body has fully understood the facts identified by these recently released new PSRC data, nor analyzed the implications of these important data for Bellevue's coming downtown gridlock. Most specifically, Sound Transit has completely failed to properly assess this information which has also been available to the agency for nearly a year.

>

> BBB's findings and presentation were drawn solely from our region's primary public research entity charged with assessing regional transportation needs, the Puget Sound Regional Council. These PSRC data show that total transit demand for access to our Bellevue Downtown will grow to a five-fold level by 2040, from the present transit use level in downtown Bellevue. There is no way that the present downtown Bellevue Transit Center, and its nearby streets, can accommodate such a total volume of transit access each week day.

>

> BBB believes that the only intermodal transit interchange solution that will work for our City at that point must recognize the eastward growth of our downtown, take advantage of every available access and egress point to and from I-405, link to an elevated light rail line that runs adjacent to I-405, and that also provides for gaining the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

>

> BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

>

> A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

>

> Sincerely,

>

> Joe Rosmann

>

> for Building A Better Bellevue

> www.betterbellevue.org

> 425.417.0797

>

From: dimande@comcast.net [mailto:dimande@comcast.net]

Sent: Saturday, November 12, 2011 06:34 PM

To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey <jeff.harvey@mail.house.gov>; representative reichert <representative.reichert@mail.house.gov>

Cc: ddavidson@bellevuewa.gov <ddavidson@bellevuewa.gov>; council@bellevuewa.gov <council@bellevuewa.gov>

Subject: Eastside Light Rail

Dear concerned leaders,

The following is a letter I sent following a meeting at Bellevue City Hall based upon information presented to the public the night before.

It was addressed to the Mayor and also to Bellevue City Council. I did receive a response from one council member.

As a resident of Bellevue for almost 27 years I am baffled at what is being planned given information available both to the decision makers and to those who reside in Bellevue. Do we plow blindly ahead despite facts that give us pause to reconsider and redirect in a direction that is 'sound' in practice.

Please help to slow this light railwreck down.

Here's the letter, likely with information you've been appraised of. Thank You for your attention to this! Sincerely, Diana Mandell

November 8

Good Morning!

What an interesting and informative experience last night's meeting became for my husband and myself. I've been to several light rail focused sessions, though, this was most impressive. Thank you Mr. Mayor for your relaxed style and good nature in dealing with a large invested group of residents.

The presentations left me questioning what was driving a collaboration with Sound Transit which seems so not interested in hearing the people most affected. However this particular session also awakened me to the realization that the decision, if following the guidance of Sound Transit, will actually also heavily impact downtown business and downtown congestion.

The facts as presented also brought to light big questions about ridership as reflected in looking at this in a number of other locales, and how much of the

Mercer Slough will be affected with Sound Transit plans.

Some folks were in strong favor of supporting Sound Transit, yet, it wasn't clear from their presentations why this was the case given another viable option. It seemed they want light rail, which many of us do, and see this as progress.

I appreciated the gentleman's presentation of Program Management 101. This really made me wonder what are we thinking about as these plans get so close to implementation and Yet, there seem to be so much good sense and fact being dismissed.

Please, take a step back Mr. Mayor, and have our council do the same. What are the vested interests at play here? After last night we are left pondering this one.

Bring light rail to Bellevue. Consider the needs of the residents in forging a real compromise with Sound Transit. There is an inkling of a sense here, just an inkling, that Sound Transit's plan, once all facts are considered, may need us more than we need them.

Sincerely, Diana Mandell

----- Original Message -----

From: Erskine Austin [<mailto:erskine.austin@comcast.net>]

Sent: Saturday, November 12, 2011 11:14 AM

To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey <jeff.harvey@mail.house.gov>; Congressman Dave Reichert <representative.reichert@mail.house.gov>

Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Below is my recent letter to the Bellevue City Council regarding emerging challenges on the light rail issue for the Eastside. It appears there is building momentum by Sound Transit to wrap up this deal without giving due consideration to a larger "system challenge" downstream relative to the light rail expansion further into east Bellevue and the city of Redmond (Microsoft). The current downtown transit station is woefully inadequate to accommodate any future expansion in supporting light rail eastward out of downtown Bellevue. There are plans to more fully develop the Bel-Red Corridor which must be factored in not to mention the demand that will come from the huge Microsoft campus in Redmond. To disregard these future needs and not make prudent accommodations in the current plan to support these needs is not an acceptable option in any respect and it would be wasteful expenditure of Bellevue and Sound Transit funds and hindsight would prove this to be true. Let's resist the temptation to do it now, finally, and figure out how to do it right the first time.

Thank you for your consideration also.

Erskine Austin

----- Original Message -----

From: ccarlson@nwlink.com [mailto:ccarlson@nwlink.com]

Sent: Saturday, November 12, 2011 03:04 PM

To: Mathis, Daniel (FHWA); representative.reichert@mail.house.gov

<representative.reichert@mail.house.gov>; fta.tro10mail; jeff.harvey@mail.house.gov

<jeff.harvey@mail.house.gov>; Witmer, John (FTA); Rogoff, Peter (FTA); LaHood, Ray (OST); Krochalis, Rick (FTA); Mendez, Victor (FHWA)

Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

Please take immediate action to address the concerns of Bellevue citizens regarding the decision to allow Sound Transit to move forward on Eastlink/light rail through downtown Bellevue. New information has come to light that shows the failure of this costly transportation line to address the traffic patterns and congestion projected by the Puget Sound Regional Council (PSRC), and its transportation planning staff. Failure to factor in this new information will result in the enormous investment by Bellevue residents for a light rail line that only increases the traffic congestion and does not provide the promised "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

I, as a resident and taxpayer of the City of Bellevue, request that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

Sincerely,
Cathy Carlson
2221 109th Ave SE
Bellevue, WA 98004

From: Brian Robertson [<mailto:brianr53@comcast.net>]

Sent: Saturday, November 12, 2011 05:24 PM

To: council@bellevuewa.gov <council@bellevuewa.gov>; fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); 'Jeff Harvey' <jeff.harvey@mail.house.gov>; representative.reichert@mail.house.gov <representative.reichert@mail.house.gov>

Subject: Sound Transit Eastlink in Bellevue

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.

Eastlink will serve only a very small portion of all these new transit trips into the Bellevue downtown core.

The reality in 2040 - focusing both rail transit (the Eastlink tunnel) and bus transit (the existing Bellevue Transit Center) into a constrained interchange space at NE 6th Street and 110th Avenue, in downtown Bellevue, will likely dramatically add to Bellevue's downtown transit-caused congestion.

Given this coming disaster, it is essential that the Washington State Department of Transportation, Sound Transit, Seattle Metro, and the City of Bellevue immediately step back from proceeding with the current Eastlink Plan for downtown Bellevue, and work together with the Puget Sound Regional Council to fashion a better solution now.

Failing to do so now will result in the abandonment of an investment of \$300 Million of scarce taxpayers' dollars long before the benefit of this investment will ever be realized.

Sincerely,

Brian Robertson

Brianr53@comcast.net

10828 SE 14th ST

Bellevue, WA 98004

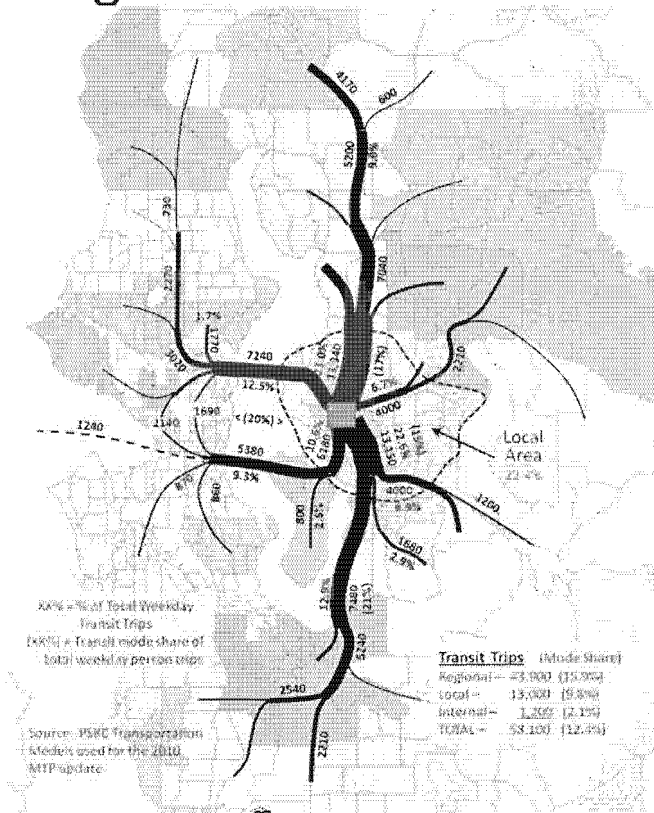
<<BBB Presentation - Transit Center Challenges Require No MOU Now.pdf>> <<Eastlink No Solution To CBD 2040 Transit Gridlock.pdf>>

Eastlink Light Rail Can Not Relieve Bellevue's Downtown Transit Congestion Disaster in 2040

A **5 – Fold increase** in total weekday transit trips in the City of Bellevue (COB) downtown core:

- From 11,550 person trips (2006)
- To 58,100 person trips (2040)
- **Eastlink light rail cannot serve the vast majority of the 2040 COB Downtown transit trips**

Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2040 Total Weekday Transit Trips

Ensor, Deborah (FTA)

From: Erskine Austin [erskin.e.austin@comcast.net]
Sent: Saturday, November 12, 2011 8:15 AM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; Congressman Dave Reichert
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Below is my recent letter to the Bellevue City Council regarding emerging challenges on the light rail issue for the Eastside. It appears there is building momentum by Sound Transit to wrap up this deal without giving due consideration to a larger "system challenge" downstream relative to the light rail expansion further into east Bellevue and the city of Redmond (Microsoft). The current downtown transit station is woefully inadequate to accommodate any future expansion in supporting light rail eastward out of downtown Bellevue. There are plans to more fully develop the Bel-Red Corridor which must be factored in not to mention the demand that will come from the huge Microsoft campus in Redmond. To disregard these future needs and not make prudent accommodations in the current plan to support these needs is not an acceptable option in any respect and it would be wasteful expenditure of Bellevue and Sound Transit funds and hindsight would prove this to be true. Let's resist the temptation to do it now, finally, and figure out how to do it right the first time.

Thank you for your consideration also.

Erskine Austin

> I am not convinced we have done our homework on envisioning the growth of light rail on the Eastside in designing our routes into and out of Bellevue and the transit hub that connects these lines. There will be an exponential growth of light rail through Bellevue to the greater Eastside especially eastward through the transportation corridors to Redmond and the Microsoft campuses along with a "to be developed" Bel-Red corridor. A sensitivity analysis would show a much greater utilization of traffic through the Bellevue transit facility to the Eastside communities and Microsoft and that facility will be significantly inadequate in accommodating this future surge of light rail usage. I doubt that multi-storied office buildings in downtown Bellevue would be leveled to expand the existing transit station and the real options are east of 405 in the NE 8th and 116th area. What studies have been developed to extrapolate the future ridership to the east of Bellevue? Why accept and design a route and transit station that is doomed to failing to meet forecast needs? It's a poor use of tax dollars and short sighted at best.

>

> The downtown area is fully developed with little or no room for expansion. Recommend we reassess the real and projected needs and locate our light rail traffic and transit station where it will be most effective now and for the future. Everything doesn't have to end up in downtown Bellevue and this only exposes a short sighted approach doomed for failure in meeting future needs. This envisioned light rail system has to be designed to meet the comprehensive needs of the entire Eastside. Broaden your visions of this program and don't enter into any agreements with Sound Transit that won't accommodate these needs.

>

> Thank you for your consideration.

>

- > Erskine Austin
- > 417 109th Avenue SE
- > Bellevue, WA 98004

From: Joseph Rosmann [mailto:joe@betterbellevue.org]
Sent: Saturday, November 12, 2011 6:42 AM
To: Mark Sussman
Subject: Fwd: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

fyi

Begin forwarded message:

From: Joseph Rosmann <joe@betterbellevue.org>
Date: November 12, 2011 6:41:30 AM PST
To: Better Bellevue Supporters
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Dear Better Bellevue Supporters:

Building A Better Bellevue has provided commentary and information to the U.S. Department of Transportation, and other Federal officials, and to Congressman Reichert's Office regarding the very recently understood data made available by the Puget Sound Regional Council showing the growth in transit trips into/from downtown Bellevue, and the implications of such transit growth for the City of Bellevue.

It is important that you be aware of this development.

Additional messages from Bellevue citizens to these persons will be helpful.

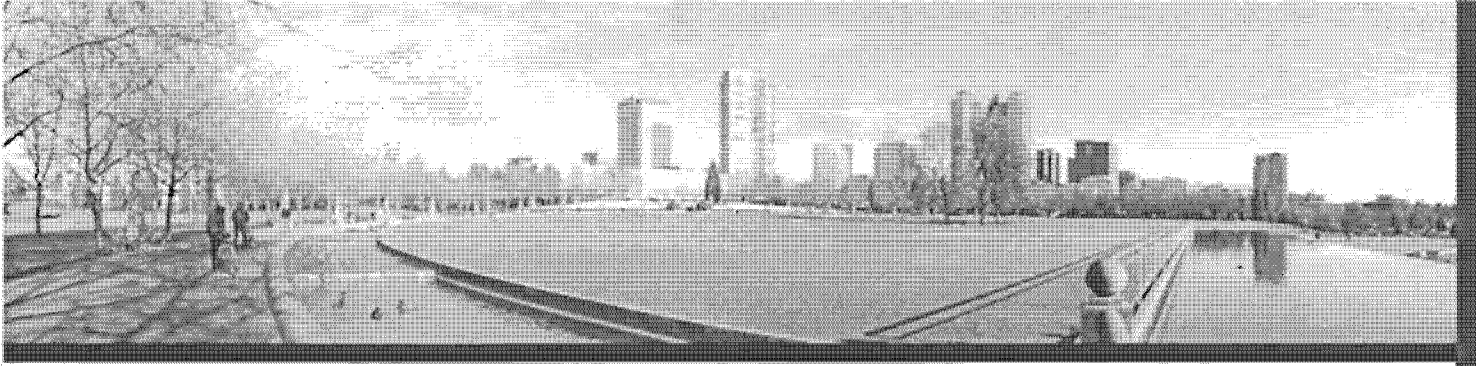
You may use the following email addresses:

fta.tro10mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov

Thank you for your consideration and assistance.

Best Regards,

The Building A Better Bellevue Steering Committee



What If.....

The Transit Center

And

The Tunnel

Do Not Work?

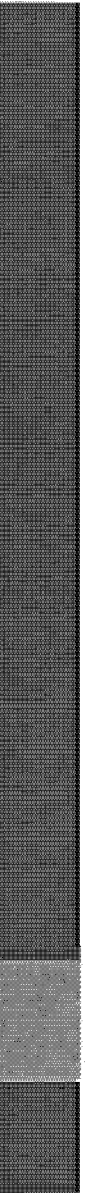
Building A Better Bellevue

www.betterbellevue.org

WHAT IF.....

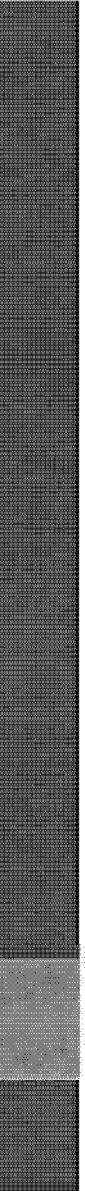
- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
- And:
 - Congestion In Our Downtown Core Increases
 - Downtown Core Traffic Spills Over To Other Downtown Access Corridors
 - Downtown Traffic Moves Into The Neighborhoods Adjacent To Our Downtown

Could This Happen?



What Are the Likely Downtown Congestion Causes?

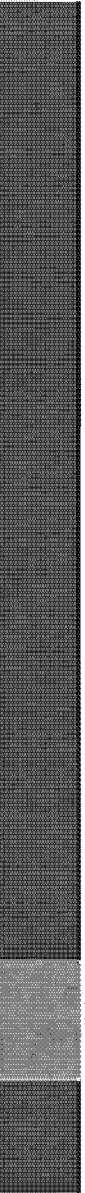
- Personal Vehicles
- Commercial Traffic
 - * Delivery Trucks
 - * Construction Vehicles
 - * Others
- Public Transit Vehicles



Private Traffic Can Be Modulated

- Personal Vehicle Traffic Reductions Via:
 - Increased Transit Use
 - Higher Parking Costs
 - Time Lost Due To Congestion

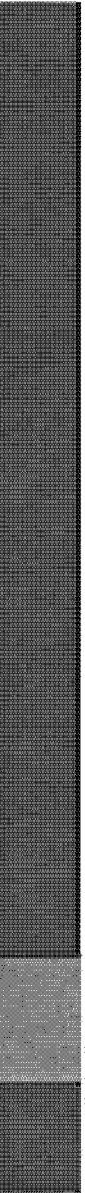
- Commercial Traffic Reductions Via:
 - Short Term Parking Restrictions
 - Time Of Day Limits
 - Other Measures



What About Transit-Caused Downtown Congestion

- Transit Growth – A Desired Public Policy
- Transit Use - A Desired Personal and Commercial Objective

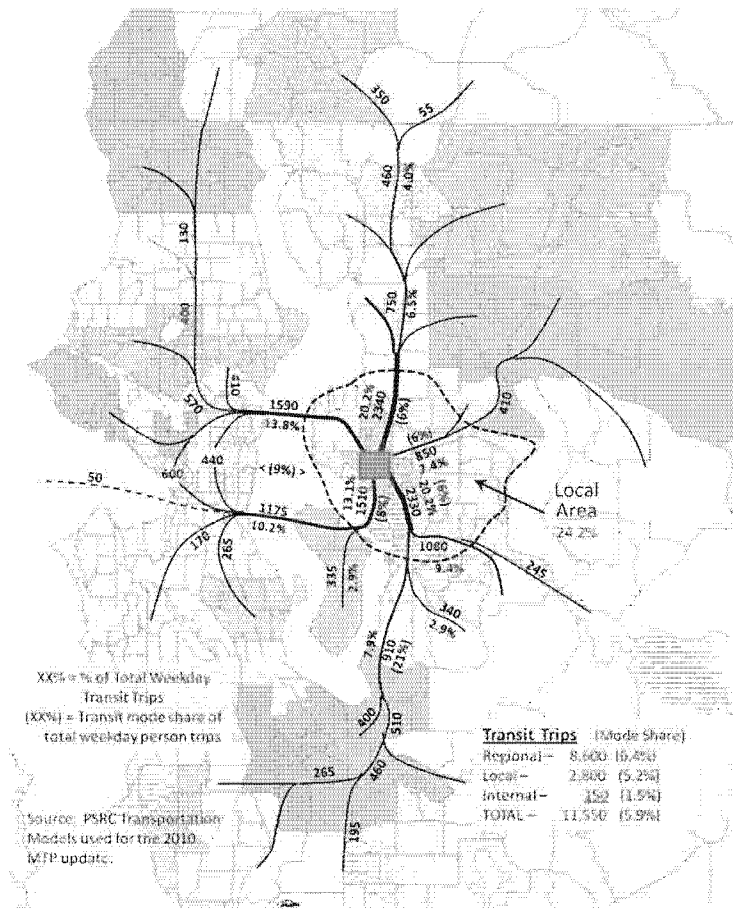
What Do the Numbers Say About Transit Growth?



PSRC's Transit Measures: 2006

- The Basis of COB's Eastlink Light Rail/ Transit Interchange Design Preference
 - 11,550 person trips

- Source: PSRC Transportation Models used for the 2010 MTP update

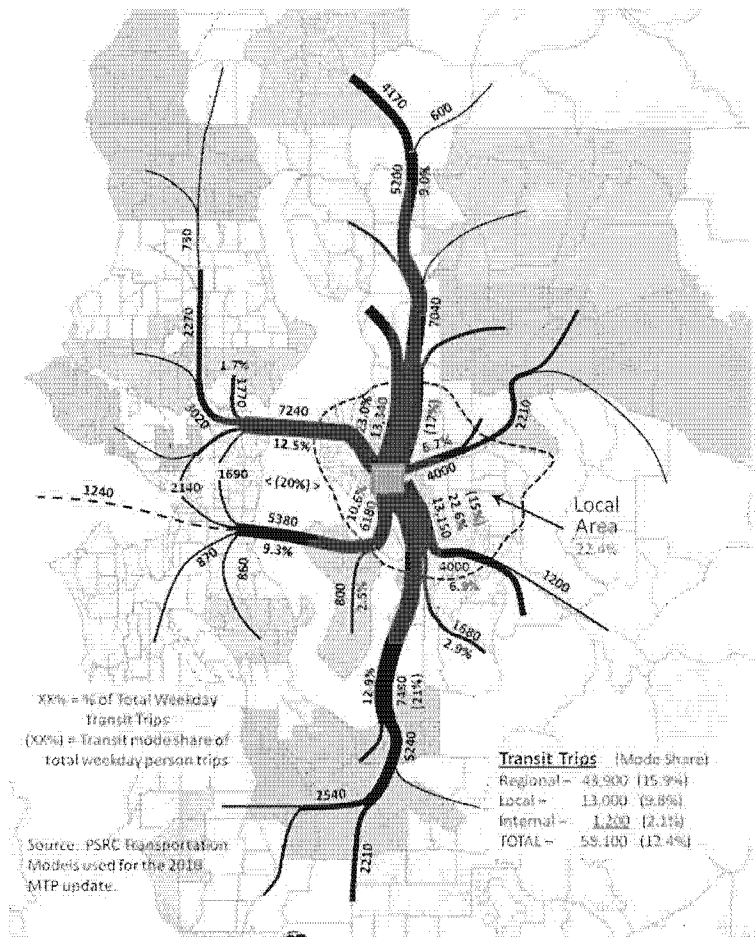


DOWNTOWN BELLEVUE
 2006 Total Weekday Transit Trips

PSRC's Transit Measures: 2040

- A **5 – Fold increase** in total weekday transit trips in our COB downtown core –
 - From 11,550 person trips
 - To 58,100 person trips

* Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
 2040 Total Weekday Transit Trips

The Reality Of Our COB Transit Center

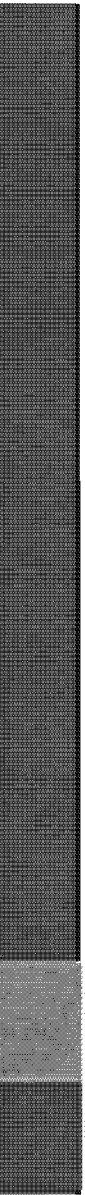
- The Bellevue Transit Center Is A “Walled Garden”
 - Surrounded By Massive High Rise Structures On All Sides
 - Cannot Be Expanded To Accommodate More Buses
 - The Tunnel Trains Below the Transit Center Can Only Handle A Small Portion Of This Increased Volume of Transit Users
- Massive Bus Congestion In The CBD As Bus Transit Ridership Grows
 - Between I-405 And The Transit Center
 - Along Major Thoroughfares To/From The Downtown Transit Center
- Massive Personal Vehicle Spillover Into Adjacent Neighborhoods
- And, All of This, Well Before 2040

The Reality Of 2040 Transit Demand

- Due To Constraints That Block Further Transit Center Utilization
 - The COB Will Have To Implement A New Intermodal Transportation Interchange Solution For Our Downtown
 - That Ties Together:
 - The North/South Bus Volumes On I-405, And The East/West Bus Volumes on I-90 and 520
 - The Eastward Expansion Of Our Downtown
 - The Need for Better CBD East/West Surface Traffic Flows
 - The Demand for Faster CBD East/West Ambulatory Modes

The Best Candidate for A New CBD Intermodal Transportation Interchange Facility: One That Integrates:

- Both Sides Of I-405
- The Top Of I-405
- With An Elevated Eastlink Train Interface At The Core Of This New Interchange
- With An East/West Personal Mobility Solution Across The Entire CBD



What Best Serves Bellevue's Tax Payers and the Future Of Our City?

Before Proceeding With The **MOU** Our City Must Immediately:

- * Understand The Implications of the PSRC's Transit Growth Projections
- * Evaluate The Sunk Costs Of Investing In The Existing Transit Center By Adding A Light Rail Tunnel
- * Determine Whether Raising Property Taxes For A \$300 Million Downtown Tunnel, Whose Utility is Limited, Is A Wise Decision For Our Taxpayers
- * Evaluate Whether This Temporary Relief, At A Massive Taxpayer Cost, Is A Sound 100-Year Plan, When A Better Long Term Solution Is Available

OUR CITY MUST
NOT SIGN THE MOU NOW

From: John Niles [<mailto:niles@globaltelematics.com>]
Sent: Sunday, November 13, 2011 08:51 AM
To: Krochalis, Rick (FTA); Mathis, Daniel (FHWA)
Cc: Witmer, John (FTA)
Subject: Addition to East Link environmental record demanded

Gentlemen of U.S. DOT:

This email is formal notification that significant information related to environmental impacts of East Link light rail on the I-90 corridor beyond what is revealed in the East Link Final EIS is contained in the emerging document record and associated public hearing for the SEPA administrative appeal launched in August by Mr. Will Knedlik, a citizen residing in the Sound Transit taxing district.

Since the SEPA FEIS and the NEPA FEIS for East Link are identical or nearly so, the substantive testimony that has been taken on the technical details of the former are relevant to the latter. I therefore demand that the document filings and transcripts from this SEPA appeal be made a part of the environmental record considered by the U.S. Government as it decides whether to issue Records of Decision for East Link, and what those RODs state. New details revealed in the SEPA appeal bear on the completeness and accuracy of the East Link FEIS as a NEPA document.

As part of this appeal, not yet concluded, two days of testimony were taken under oath in October by a Sound Transit hearing examiner. Sound Transit employees, consultants to Sound Transit who worked on the Final EIS, and transportation experts called by Mr. Knedlik all spoke in response to questions from him and the Sound Transit attorney.

In reviewing the transcripts of the hearing, I am struck by the Sound Transit consultant's reliance on Exhibit 5-6 on page 5-13 of the Transportation Technical Report contained in Appendix H of the East Link Final EIS. This evidence came up on the second day of hearings in discussions of why converting vehicle lanes of I-90 to light rail use is better for freight mobility than leaving the highway alone. This Exhibit purporting to show future mode shares on I-90 with light rail in place is not explained in enough detail in the FEIS text to permit understanding of the dramatic changes in mode share that it presents. There are cited references to models, but no detail behind the pie charts is presented. However, it's easy to show that the numbers in this chart are inconsistent with the forecasts of modest reductions in peak vehicle volumes for the same circumstances and time frames, shown in Table 5-4 on page 5-12 of the same Appendix.

Mr. Knedlik raises other new, substantive points on environmental impacts in his summation of the hearing, and I suspect Sound Transit's lawyers will do so as well. This new information is the reason for my demand that the record of the SEPA appeal covering substance in the same FEIS document that was prepared under NEPA be taken into close consideration by the U.S. Government in its forthcoming NEPA actions.

Thank you for your service.

Respectfully,

John Niles
4005 20th Ave West, Suite 111
Seattle, WA 98199
206-781-4475

Interstate 90 Users Coalition

November 14, 2011

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

✓ Scan

Re: Renewed request to deny ROD application for East Link and to make a criminal referral

Honorable Secretary:

This renewed request for the United States Department of Transportation to formally deny a Record of Decision for the East Link light-rail project as proposed in a nominal Final Environmental Impact Statement for desired railway use of the Interstate 90 corridor from Seattle, Washington to Bellevue, Washington (as issued on July 15, 2011 initially), and instead to officially make a criminal referral to the United States Department of Justice with respect to the Central Puget Sound Regional Transit Authority (doing business as Sound Transit and hereinafter the “agency”), follows on a previous request for the same relief made to you as to these matters three months ago, which is attached hereto and incorporated hereby for all purposes (without its exhibits), and also a later request made to you on September 1, 2011 for further relief through suspension of all consideration of a pending TIGER grant application due to \$1.313 billion in frauds against the United States Treasury as then identified therein, which is also attached hereto and incorporated hereby for all purposes (without its exhibits).

The primary reason for this renewed-and-expanded request for ROD denial and for criminal referral is further wrongdoing against the United States identified in six particulars implicating inadequacies as to the agency’s central responsibilities under the National Environmental Policy Act and related regulations – as well as under other federal statutory-and-administrative law – as well as its specific illegalities, as outlined at pages 7 through 12 of a certain Closing Argument *cum* Proposed Findings of Fact in the Matter of the Appeal of the Final Environmental Impact Statement for the East Link Light Rail Transit Project, which is attached hereto and incorporated hereby for every legal purpose.

Among six applicable matters discussed therein – as to separate-but-interrelated wrongdoing – three are of most significance, currently, *vis-à-vis* considerations quintessential for any valid issuance of a ROD for the pivotally essential Interstate 90 corridor between the Port of Seattle and Boston Harbor.

First, documentation attached hereto clearly identifies major wrongdoing by the agency (at page 7):

[B]because **any** use of the I-90 corridor constructed for “highway purposes,” and therefore protected by the 18th Amendment for “highway purposes” exclusively, renders **all** rail-related plans, programs or projects unconstitutional, as a matter of state law, this key reality means that Respondent is unable to obtain lawful control over **any** element of I-90 assets and it, therefore, cannot meet a central Federal Transportation Administration requirement, as to legally enforceable dominion thereof, in order to obtain a mandatory Record of Deci-

Interstate90UsersCoalition@gmail.com

wknedlik@gmail.com

sion from FTA for the I-90 corridor, for Full Funding Grant Agreement applications and for other federal transit-grant modalities (nor parallel Federal Highway Administration standards for its required ROD). Further, the 10th Amendment to the U.S. Constitution requires federal assent as to this state law.

Second, as the attached indicates (at pages 10-11), major planning-and-environmental irregularities have been squarely pointed out by one of the chairmen of the agency's own Expert Review Panel in statements by Prof. Scott Rutherford of the University of Washington about just what all it is, and has been, up to in present-and-prior environmental impact assessments, related planning materials and interrelated federal grant applications, *via* his discussion of "what people did was sort of low balled their cost estimates and goosed their forecasts," within his forthright reporting on his own major disappointments with intellectual dishonesty by the agency (and by other transit operators):

I always thought that, when I was out there watching this, that, you know, "someone's gonna go to jail, these people are robbing the federal government of a billion dollars." You know, they're defrauding the federal government basically. I mean what else could you say? They're cheating. But the thing was that if you didn't cheat, you got nothing. If you cheated, you might get a billion dollars. So what do you think people do? I mean, duh! (see <http://www.cts.pdx.edu/seminars> for ARCHIVES: Winter 2003 Transportation Seminars, for January 10th, entitled "Bus Rapid Transit: The New Mode of the Month").

Third, as the attached indicates (at page 12), sworn testimony at hearing on the nominal FEIS at issue, herein, by the agency's principal engineering expert, Craig Grandstrom, PE, has identified:

[A] clear fraud through which the nominal FEIS has been devised to mislead readers – including its co-lead agencies, all cooperating authorities, the press and members of the public – together with ineffectiveness of averredly professional functions supplied by CH2M Hill for gargantuan sums of public monies received for patently inadequate engineering services that also appear to violate the American Society of Civil Engineers' Code of Ethics pursuant to its "Fundamental Canons" section mandating, squarely, "zero-tolerance for bribery, fraud, and corruption," in a fashion that encompasses **knowing** violations of national, provincial and state constitutions within developed countries, inclusive of well-established and clearly stated constitutional law in our state as to **rail** usage of facilities financed for "highway purposes," at all times since 1969, every bit as certainly as such violations of international, national and subordinate-level laws in less-developed nations.

Each of these instances, as discussed in greater detail in the attached, provides additional cause for a withholding of any ROD authorizing use of the critical Interstate 90 corridor by East Link – with the quintessential precedent established, thereby, under circumstances of thus-patent unconstitutionality – and for a criminal referral as previously requested with an appropriate expansion as now indicated.

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

Attachments: Previous correspondence dated August 14, 2011
Previous correspondence dated September 1, 2011
Closing Argument *cum* Proposed Findings of Fact in the Matter of the Appeal of the
Final Environmental Impact Statement for the East Link Light Rail Transit Project

AUG 15 2011

Interstate 90 Users Coalition

August 14, 2011

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

AUG 15 2011

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

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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

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 Finia 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

BEFORE THE HONORABLE HEARING EXAMINER *PRO TEMPORE*

In the Matter of the Appeal of the Final Environmental Impact Statement for the East Link Light Rail Transit Project:)	
)	
)	
WILL KNEDLIK, <i>qua</i> an individual and <i>qua</i> an officer of Eastside Rail Now,)	APPELLANT'S CLOSING ARGUMENT <i>CUM</i> PROPOSED FINDINGS OF FACT (WITH RESERVATION OF ALL RIGHTS)
)	
Appellant,)	
)	(CORRECTED ON NOVEMBER 11, 2011)
v.)	
)	
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY dba Sound Transit,)	
)	
Respondent.)	
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COMES NOW Appellant Will Knedlik presenting his Closing Argument, in writing, for the appeal above identified as instructed by the Honorable Hearing Examiner, at the close of the hearing thereon conducted on October 24-25, 2011, *cum* proposed Findings of Fact, as likewise directed then, and reserving all constitutional, legal, procedural and other rights as to Respondent Central Puget Sound Regional Transit Authority's nominal Final Environmental Impact Statement for its patently unconstitutional East Link light-rail project and as to every related matter.

CLOSING ARGUMENT

Lawful disposition of the appeal herein requires the Honorable Hearing Examiner to find Respondent's nominal FEIS for its East Link Project to be lethally inadequate, in fact and in law, and to enter his determination of its factual-and-legal inadequacies as his formal decision herein.

For purposes both of clarity herein and hereafter, and also of completeness to the extent feasible in light of major deficiencies identified more fully below, reversible errors in respect to constitutional obligations of Respondent and with regard to civil rights of Appellant, as necessary and sufficient for any proper disposition of the pending appeal of Respondent's nominal FEIS, but as excluded by the Honorable Hearing Examiner from consideration herein, are set forth in a brief Introduction below, along with identifications of interactions with related errors at hearing.

Additional reversible errors as to the conduct of the hearing, in excluding issues properly before the tribunal based on the Administrative Record presented by Respondent's counsel, on his motions and on other matters giving the lie to his repeatedly absurd assertions of a "trial by ambush," *vis-à-vis* agency materials presented by him, are set out for a later Discussion section as to further factual-and-legal bases requiring determination of fatal legal inadequacies as matters of fact, of law, of logic and of other modalities constituting this state's jurisprudence as established by our state Supreme Court for proceedings in all legal-and-*quasi*-judicial matters, generally, and for appeals of environmental impact assessments under the State Environmental Policy Act, in particular, as necessary and sufficient for the Honorable Hearing Examiner to find the nominal FEIS to have multiple lethal inadequacies despite all reversible constitutional errors at hearing.

Introduction

Circumstances presented by Respondent's nominal FEIS appear unprecedented in state history – and, thus, in state jurisprudence – since **no** subordinate government as established here from the Oregon territorial legislature's formation of King and Pierce counties, on December 22, 1852, has ever before so egregiously disregarded organic law, up to statehood, or the Washington State Constitution, thereafter, or so casually defied the Washington State Supreme Court's power

APPELLANT'S CLOSING ARGUMENT *CUM* PROPOSED FINDINGS OF FACT - 2

to interpret organic-and-constitutional documents, authoritatively, including its completely clear explications of Article II, §40 of the Washington State Constitution, which are dispositive herein as to Respondent's patently unconstitutional rail-transit program precluded by a judicial holding that **no** bridges, highways, roads or streets financed with any state fuel tax dedicated by the 18th Amendment to "highway purposes," wholly, may thereafter be diverted to any "other modes of transportation, such as railways, waterways, or airways," in *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554, 559 (1969), as our state Attorney General earlier concluded *qua* this state's highest legal officer (before then filing a declaratory judgment action to ensure his correctness judicially), and which obligate the Honorable Hearing Examiner to honor it, fully, pursuant to his own oath to "support the constitution of the State of Washington and the constitution of the United States," rather than to disregard the state Constitution in making his rulings on Respondent's motions so as to prevent all consideration of the state Constitution to which undivided loyalty was sworn as a continuing legal duty undertaken in order to function as the initially and repeatedly self-identified "Sound Transit hearing examiner" herein (Transcript of Proceedings, Vol. 1, page 4, *inter alia*).

Less egregious -- but nonetheless unconstitutional -- are rulings entered at Respondent's instigation, through its legal counsel herein, in order to preclude due process necessary for basic fairness for Appellant at hearing on October 24-25, 2011 so as to deny all but one of four explicit requirements for administrative due process squarely stated by our state Supreme Court as minimum standards for any justice in *Cuddy v. Department of Public Assistance*, 74 Wn2d 17 (1968).

In particular, the Washington State Supreme Court stated squarely therein, at 19, that the "constitutional elements of procedural due process, and thus of a fair hearing, are: notice; an opportunity to be heard or defend before a competent tribunal in an orderly proceeding adapted

to the nature of the case; an opportunity to know the claims of opposing parties and to meet them; and a reasonable time for preparation of one's case," which inform, in turn, both all of this state's jurisprudence based upon "logic, common sense, justice, policy, and precedent," *King v. State*, 84 Wn.2d 239, 250 (1974), and also the primary "reasonableness" standard incumbent on *quasi-judicial* officers who oversee SEPA hearings respecting the natural-and-built environment in this state under statutes and regulations, initially, subject to judicial review on a proper record.

Consistent denials of Appellant's motions herein prior to hearing, in order to seek actual due process, and conduct of the hearing contrary to due process, on October 24-25, 2011, when taken together, have precluded a meaningful hearing in this SEPA appeal appearing to implicate constitutional and other legal issues of first impression, in this state, and have yielded an unfair hearing thus not conducted by a competent tribunal consistent with due-process rights and hence not sustainable on judicial appeal by an appellant thereby denied central constitutional rights.

To the extent that the Honorable Hearing Examiner herein was correct in concluding – as "the Sound Transit hearing examiner" appointed by that junior taxing district to oversee its administrative hearing process in order to determine the adequacy of its nominal FEIS for East Link light-rail plans pursuant to SEPA – that he could afford **none** of four central due process rights mandated by *Cuddy* as absolute requirements, judicially, in order for **any** administrative review to comport with minimum standards for fairness in this state, as identified by the Washington State Supreme Court, except for bare notice of the hearing to Appellant herein, then the correctness of that legal conclusion would itself document the unconstitutionality of the overall administrative process as devised by Respondent in order to deny **real due process** to all SEPA appellants by bogus rules invalid under core constitutional doctrine of our state's Supreme Court.

While the Honorable Hearing Examiner is entirely correct in determining a lack of lawful power to undertake constitutional interpretations on his own authority, in his legal capacity as a *quasi*-judicial officer operating pursuant to state law, that legal disability to render constitutional determinations, because of a lack of legitimate power to do so, cannot and does not free him as a *quasi*-judicial officer from submitting to our state Supreme Court's explicit interpretations of the Washington State Constitution, both as to quintessentials of due process quoted hereinabove and also as to legally controlling meaning for "highway purposes" dispositive as to the SEPA appeal herein, namely that bridges, highways, roads and streets, as specifically identified within the 18th Amendment, if funded with fuel taxes dedicated exclusively to "highway purposes," may **not** be diverted to **any** "other modes of transportation, such as railways, waterways, or airways," as was squarely decided by our state's highest court, over four decades ago, in *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554, 559 (1969), after our state Attorney General came to this conclusion, still earlier, whereupon he then filed declaratory judgment litigation in the Thurston County Superior Court in order to obtain final judicial approval for his opinion, as our state's highest legal officer, that **rail** facilities are constitutionally prohibited from any assets funded for "highway purposes."

Simply put, the Honorable Hearing Examiner **cannot** honor his lack of legal authority to make constitutional interpretations by disregarding constitutional determinations that have been squarely made by our state Supreme Court, which preclude the agency's project within the Interstate 90 corridor at issue herein because it is indisputably a **railway** facility to be operated within right-of-way and over roadbed funded with 18th Amendment fuel taxes that thus constitutionally preclude, explicitly, non-fuel-tax-paying "modes of transportation, such as railways, waterways, or airways," and, with respect, by persisting in **selective compliance** with controlling decisional

law, through repeated quotations from and direct reliance upon decisions to document provisions which shape SEPA administrative appeals, but through an effective defiance for the Washington State Supreme Court's pivotal holding that the I-90 center roadway and other major elements of Segment A at issue herein are constitutionally off limits, as to the agency's constitutionally void plan, because light rail is a form of "railways, waterways, or airways " patently prohibited since March 20, 1969, when our state Attorney General's yet-earlier constitutional reading was vindicated (despite a sworn oath to uphold the state Constitution incorporating that judicial decision).

In short, the Honorable Hearing Examiner has **no** need to interpret the Washington State Constitution in order to honor his own sworn duty to it, voluntarily undertaken, needing **only** to accept the interpretation of the state Constitution by the highest court in this state pursuant to its indisputable authority to interpret it for him, as was undeniably done based upon the opportunity brought forward by our state's highest legal officer in order thereby to clarify constitutional law, here, rather than to disregard it and thus to defy the state Supreme Court's plain explication of it.

Furthermore, the Honorable Hearing Examiner lacks authority to disregard either *Cuddy* as to due process requirements to ensure fair administrative hearings or *King* as to obligations to use "logic, common sense, justice, policy, and precedent" to avoid obviously absurd outcomes.

These administrative due process matters have been more fully briefed in submissions to the Honorable Hearing Examiner, which such previous documentation of this state's controlling law as to same is incorporated, herein, by this reference, thereto, rather than repeated needlessly.

However, these paramount constitutional violations by the Honorable Hearing Examiner interact, in turn, with follow-on errors during the course of the hearing on October 24-25, 2011, and these additive defects, in some instances, and multiplicative deficiencies, *vis-à-vis* other core

matters, radiate outward to yield a substantial variety of interrelated constitutional, statutory and administrative defects within the nominal FEIS, as more fully outlined and reviewed hereinafter.

For example, because **any** use of the I-90 corridor constructed for “highway purposes,” and therefore protected by the 18th Amendment for “highway purposes” exclusively, renders **all** rail-related plans, programs or projects unconstitutional, as a matter of state law, this key reality means that Respondent is unable to obtain lawful control over any element of I-90 assets and it, therefore, cannot meet a central Federal Transportation Administration requirement, as to legally enforceable dominion thereof, in order to obtain a mandatory Record of Decision from FTA for the I-90 corridor, for Full Funding Grant Agreement applications and for other federal transit-grant modalities (nor parallel Federal Highway Administration standards for its required ROD). Further, the 10th Amendment to the U.S. Constitution requires federal assent as to this state law.

Also, constitutional deficiencies at hearing translate into and interact with statutory-and-administrative errors since mandatory requirements for environmental impact documents to be found minimally adequate after a valid hearing cannot be met while key constitutional guarantees and core principles stated in *Cuddy*, squarely, are being suppressed preliminary to and at hearing.

Further, **no** unconstitutional project can meet **all** mandatory statutory provisions of SEPA and obligatory administrative code provisions thereunder, legally or logically, because our state law imposes requirements that **no** rogue governmental agency can meet under **any** circumstance, **while** it is operating in actual outlaw status, and both legality and logic are necessary elements of all actions under our state’s jurisprudence (as directly stated by *King* and as quoted hereinabove).

In this instance, however, Respondent’s nominal FEIS does not even **attempt** to comply with the most basic requirements of WAC 197-11-440, including but not limited to a mandatory

duty of “specifying” any and all “significant areas of controversy and uncertainty” (in 440[4]), since pivotal unconstitutionality of **any** rail use of Segment A is not **specified** as thus required.

In turn, parallel conundrums arise in critical fiscal and administrative circumstances due to the total absurdity of utter waste of millions and millions and millions of limited tax dollars on Draft Environmental Impact Statement materials, on Supplemental Environmental Impact Statement documents and on a nominal FEIS, within an enormously expensive SEPA review process, upon a **rail** project not merely precluded by our state Constitution as a **railway**, but also violative of Respondent’s cost-effectiveness *raison d’être* and its statutory cost-effectiveness obligations.

Also, when this partial list of major defects and of critical deficiencies is viewed together, gigantic inadequacies in the nominal FEIS that require examination of **cumulative** impacts under SEPA statutory law and related administrative regulations are patent based upon “logic, common sense, justice, policy, and precedent,” under *King*, and also thereby as to basic “reasonableness.”

Adding to these key **cumulative**-impact shortfalls are failures of the nominal FEIS to give sufficient consideration to adverse effects of light-rail usage of the pivotal I-90 corridor on King County Metro Transit’s regional bus services, as identified through examination of Respondent’s principal expert at hearing, including but not limited to differential impacts on its all-bus transit system in contrast to bus, light-rail and commuter-rail modes of high-capacity transit as operated by Respondent herein; to methodological inconsistencies within the nominal FEIS that render a reasonably adequate environmental impact assessment impossible at the current juncture without supplementation to correct defects through augmentation with essential information missing; and to complications created by subarea-equity obligations as to use of the Downtown Seattle Transit Tunnel to benefit residents of Bellevue and other Eastside cities in a manner fully proportional to

APPELLANT’S CLOSING ARGUMENT *CUM* PROPOSED FINDINGS OF FACT - 8

very substantial financial contributions made to King County Metro Transit's capital assets by taxpayers residing in the East King County subarea also wholly unconsidered therein, *inter alia*.

While this preliminary list would be much longer had the Honorable Hearing Examiner been able or willing to afford an administrative hearing consistent with due process obligations, these federal, state, regional, local and sublocal defects, and their **cumulative** impacts, are more than adequate to identify major deficiencies precluding any action other than denying adequacy of the nominal FEIS based on huge omissions noted above as well as misrepresentations below.

Discussion

Much as unconstitutional circumstances underlying Respondent's nominal FEIS appear to be unprecedented in territorial-and-state history – as identified in the Introduction hereinabove – that document itself appears likely to be unique in its foundation **not** on a genuine environmental impact assessment of major effects on the built-and-natural environment of our state, including mandatory reviews of “significant impacts [that] shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal” that “must be analyzed, if relevant” pursuant to WAC 197-11-440(6)(e), but on the vile *Große Lüge* propaganda methodology envisioned as capable of rendering the “Big Lie” more believable than “small lies,” since the thought processes of ordinary citizens are such that “[i]t would never come into their heads to fabricate colossal untruths, and they would not believe that others could have the impudence to distort the truth so infamously” (as Adolf Hitler stated in Volume I, chapter X of *Mein Kampf*), and since just such audacities yield the agency's repeated uses of its highway-lane-equivalency trope in its Newspeak-like “habit of impudently claiming that black is white, in contradiction of the plain facts” (as George Orwell explicated in *1984* through his close attention

to “[t]he key-word here is blackwhite,” with its “two mutually contradictory meanings,” yielding a highly useful absurdity for governmental agencies operating with bad-faith or worse purposes).

Such utter dishonesty by a junior taxing district authorized by the state legislature to fund various forms of high-capacity transit in the central Puget Sound basin, in its nominal FEIS, is in one sense simply an instance, here, of ongoing distortions *à la* a gigantic problem, worldwide, as identified by European scholars in *Megaproject and Risk: An Anatomy of Ambition* (Cambridge University Press, 2003), which Prof. Alan Altshuler of the Kennedy School of Government at Harvard University has identified as “the standard reference on this topic for years to come” *vis-à-vis* “the pervasiveness of misinformation in the planning of major construction projects and the systematic bias of such misinformation towards justifying project implementation”; but a crucial statement, therein, by Prof. Bent Flyvbjerg of St. Anne’s College at Oxford University, based on analyzing over seven decades of experience on five continents, that “megaproject development is currently a field where little can be trusted, not even – some would say especially not – numbers produced by analysts” (at 5), appears to understate as to Respondent’s intentional misfeasance, in its planning-and-environmental processes, as identified both by testimony of its principal expert at hearing herein and also by the chairman of the agency’s own Expert Review Panel, Prof. Scott Rutherford of the University of Washington, who has squarely identified what Respondent has been and is up to in this and prior environmental impact assessments, related planning materials and interrelated federal grant applications, in his discussion of “what people did was sort of low balled their cost estimates and goosed their forecasts,” wherein he has forthrightly reported his major disappointment with intellectual dishonesty by Respondent and by other transit agencies:

I always thought that, when I was out there watching this, that, you know, “someone’s gonna go to jail, these people are robbing the federal government of a billion dollars.”

You know, they're defrauding the federal government basically. I mean what else could you say? They're cheating. But the thing was that if you didn't cheat, you got nothing. If you cheated, you might get a billion dollars. So what do you think people do? I mean, duh! (see <http://www.cts.pdx.edu/seminars> for ARCHIVES: Winter 2003 Transportation Seminars, for January 10th, entitled "Bus Rapid Transit: The New Mode of the Month").

Respondent's senior staff have recommended that \$110 million of \$1.313 billion in Full Funding Grant Agreement monies received from the Federal Transit Administration by means of frauds on the United States government – by misrepresenting the agency's absolute \$800 million limit on its long-term debt capacity under its statutory contract with King, Pierce and Snohomish counties to gain access to voters to effectuate local-option sales tax authority through false claims over its Chief Executive Officer's signatures to represent, fraudulently, borrowing capacity three times beyond what is constitutionally available under that statutory contract – be **shifted** to light-rail facilities in Segment A, for a project that cannot meet FFGA requirements as to "new" transit riders, from two major federal grants for \$1.313 billion authorized for Central Link and for North Link, at its most recent Board meeting (on October 27, 2011), through its document entitled "East Link Action: Board Meeting 10/27/11," with this staff proposal for this further misuse of federal funds, as initially obtained through civil-and-criminal violations of the federal False Claims Act, now scheduled for a final action for adoption by its Board of Directors (on November 17, 2011).

While the Honorable Hearing Examiner has precluded consideration of every matter that has occurred since the nominal FEIS was issued – on July 15, 2011 – reality is that Respondent's civil-and-criminal wrongdoing both against this state's residents, as voters and as taxpayers, and also against all American citizens, as federal taxpayers, is part of a pattern of misconduct that has been identified at hearing, that has operated for over a full decade now and that is ongoing to this day, through at least \$1.313 billion in such violations of the federal False Claims Act, *inter alia*.

Testimony at hearing by Respondent's principal expert, Craig Grandstrom, PE, identifies a clear fraud through which the nominal FEIS has been devised to mislead readers – including its co-lead agencies, all cooperating authorities, the press and members of the public – together with ineffectiveness of averredly professional functions supplied by CH2M Hill for gargantuan sums of public monies received for patently inadequate engineering services that also appear to violate the American Society of Civil Engineers' Code of Ethics pursuant to its "Fundamental Canons" section mandating, squarely, "zero-tolerance for bribery, fraud, and corruption," in a fashion that encompasses **knowing** violations of national, provincial and state constitutions within developed countries, inclusive of well-established and clearly stated constitutional law in our state as to **rail** usage of facilities financed for "highway purposes," at all times since 1969, every bit as certainly as such violations of international, national and subordinate-level laws in less-developed nations.

What the Honorable Hearing Examiner observed was an expert witness who, both when called as an adverse witness by Appellant on October 24th and also when cross examined on the following day, readily accepted complete ownership of the drafting of the nominal FEIS but, in one instance after another, casually asserted that a central representation is irrelevant (when its "Big Lie" highway-lane-equivalency trope began to unravel); obviously obfuscated time after time after time (apparently in order to avoid answering pivotal questions respecting key freight-mobility issues and regarding pivotal-transit usage projections with truthful answers that would harm his company's long gravy train from conducting purportedly professional environmental reviews at taxpayer expense for the agency, on the one hand, or with untruthful answers, under oath, that would help its client's position at hearing, and its own finances overall, but that would constitute perjury after he had been sworn twice at hearing, on the other hand); and then refused,

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with utter steadfastness, to give straightforward answers to quintessential queries (even after the Honorable Hearing Examiner allowed such questions to be put to him over and over and over).

While Respondent would have its hearing examiner believe that the purpose for its “Big Lie” highway-lane-equivalency trope was merely in order to provide **helpful** context in an easily accessible form to assist casual readers of its nominal FEIS to understand something undefined (but not central to any substantive issue subject to any adequacy determination by the Honorable Hearing Examiner herein), and that identification of its gross distortions by comparing light-rail trains packed to “crush capacity” based on twice as many riders standing, as those seated, with a single occupancy vehicle with a seated driver and capacity for four more seated passengers (as well as potential carrying capacity for an additional 10 passengers if “crush capacity” on trains, which is largely a fantasy in the context of acceptable transport in America, were compared with “crush capacity” in cars, which suggests B-movie scripts often involving highly offensive ethnic stereotyping) is of no substantive significance, therefore, the exact opposite is the case, since the key **purpose** of its core *Große Lüge* propaganda was to mislead readers of its nominal FEIS (just as it was with equivalency claims of 12-lanes of traffic, in 1996, rather than seven-to-10 herein).

Indeed, Respondent’s attempt to discard its long-standing “Big Lie,” after transportation experts debunked it at hearing with facts about its intentional apples-to-oranges miscomparisons, **does not lessen**, but **heightens**, the agency’s fundamental dishonesties against its taxpayers in its so-called “Sound Move Plan,” in 1996, and against its own two co-lead agencies and every other reader of its nominal FEIS, today, as a part of its principal expert’s focus not on testing models in light of big red flags for any competent engineer, but on **lobbying** acceptance of a lack of testing by federal-and-state transportation officials through meeting after meeting, as he testified herein,

in order to cajole acceptance of its **untested** reliance on high-end modeling packages without any professional review (rather than conducting engineering analysis essential for basic competence).

More egregious still, in fundamental respects, is the revealing testimony of Respondent's principal expert who casually asserts, on oath, that simply constructing light rail adjusts behavior by drivers, and will thereby free up capacity in the crowded I-90 corridor, based not on any actual documentation but on the same confidence fairy that would encourage small children to believe in a "Field of Dreams" such that "If you build it, they will come" (although, in the *Shoelless Joe* novel underlying the film, W.P. Kinsella wrote "If you build it, he will come"), along with hopes that when that fallen star is urged to "Say it ain't so, Joe," he could answer as asked (with honesty and without obfuscations indicative of lack of candor clearly in evidence, repeatedly, at hearing).

While *naiveté* is not without its charms, the time and place for the audacity of such trust is **not** in an administrative hearing from a witness testifying as an expert, after swearing on oath, so as to manifest not just wisdom in Upton Sinclair's observation on paid expertise, namely, "It's difficult to get a man to understand something if his salary depends on him not understanding it," but also the insight of Mr. Orwell on the essence of the "Big Lie," namely, "To tell deliberate lies while genuinely believing in them, to forget any fact that has become inconvenient, and then[,] when it becomes necessary again, to draw it back from oblivion for just so long as it is needed" (although, in this instance, it is not clear whether there is any difference between the two herein).

Respondent's principal expert's failure to admit, and his persistence in refusing to admit, that he has **not** undertaken quintessential testing, as a principal engineering function, despite one question after another being put to him, and effectively seconded then by the Hearing Examiner, in requesting forthright responses as to the testing that he has done, or has failed to do, are telling

(though he did admit that he has **never** changed his mind, based on evidence from experts of any SEPA appellant, in his entire 13-year career, as an engineer involved in 20 environmental impact studies, in keeping fully with Messrs. Sinclair's and Orwell's prescient notices as to patent bias).

Testimony at hearing both by Respondent's principal expert witness and also by the three engineering-and-mathematical experts called by Appellant, when taken together, documents core deficiencies with respect to the agency's environmental review of pivotal-and-interrelated issues of freight mobility, of transit usage and of traffic congestion through Segment A that require the Honorable Hearing Examiner to find that inadequate alternatives analyses have been conducted.

The chief defect devolves from corruptive interactions between Respondent's core light-rail ridership model and its central VISSIM traffic-flow model, whereby documented corruptive inputs, in and from the former, create or exacerbate corrupted outputs, in and from the later, so as to destroy reliability for forecasting traffic congestion for trucks, cars and buses that will remain in use after the forecast horizon has been passed, in approximately 2030, as well as thereafter.

Several methodological problems derive from admixture of the two models, *sui generis*, as was suggested by testimony at hearing, but those somewhat technical issues do not need to be reached, here, in order for the Honorable Hearing Examiner to determine major inadequacies as to the nominal FEIS, herein, given highly substantial distortions obtaining from those two differing models being combined to support its conclusions, therein, by mixing and by matching at various points by different consultants for divergent purposes (but **all** corrupted by the now-documented unreliability of the ridership-forecast model through John Niles' careful mathematical charting).

In basic outline, results for truck-and-car volumes from the dynamic traffic-flow model depends on the numbers of vehicles entered into that traffic-flow model. Those vehicle figures

depend, in turn, upon an **assumed** mode split between motor vehicles and rail transit in the static ridership model (as reflected in rail-ridership forecasts) that does not alter in projections based on what is determined by the traffic model. In short, that pivotal mode split, in the ridership model, determines numbers of people riding trains and buses and still driving despite transit and resultant congestion from such traffic on reduced highway right-of-way for all motor vehicles using I-90.

Hence, the static but highly corrupt ridership model and its also corrupt mode-split input – which Mr. Niles calculates day-by-day to show actual Central Link ridership *versus* modeling projections thus documented as inaccurate and as unreliable because those train riders have been substantially fewer than forecast by utilizing the same defective static model – are thus integrated into the vehicle-input volume for the dynamic and thereby greatly corrupted traffic-flow model.

Since identical ridership modeling and forecasting methods utilized for Central Link, with highly substantial deficiencies now well documented, are the sources for East Link train usage in the I-90 corridor, those large and carefully demonstrated errors also implicate bad vehicle-volume numbers for rail ridership, freight mobility and traffic congestion on I-90 as presently projected.

Further large red flags that would trigger additional testing by any competent engineering entity are the fact that Respondent does **not** use the Puget Sound Regional Council's respected mode-split model for ridership forecasting (but a devised variant to PSRC's person-trip forecasts based on data from its existing bus operations with adjustments that have resulted in a substantial overestimate of train ridership now shown to be very unreliable by Mr. Niles' documentation), and the fact that the agency does **not** utilize the City of Bellevue's Bellevue-Kirkland-Redmond Model (BKR) forecast for the Bellevue end of Segment A (but a variant that reduces traffic on Bellevue Way by what appear *circa* 20 percent and thus cuts, conveniently, its mitigation costs).

This in turn has implications for professional competence, engineering integrity and vital interrelations between expertise and ethics, given an effective admission by Respondent's expert that he did **not** test the thereby-corrupted *formulae* that justify his freight-mobility boosterism for his client's desires in the nominal FEIS, despite a total about-face of gargantuan importance as to freight mobility through **total reversal of projected negative impacts**, in the Washington State Department of Transportation's Center Roadway Study using the same traffic-flow model, as is documented in the nominal FEIS' Appendix H, to a **much more rosy scenario of purportedly improved freight mobility** as rather obviously misrepresented by him within that nominal FEIS.

Specifically, Table H-1 "History of I-90 Agreements and Studies" in the nominal FEIS indicates a 13 percent increase in general-purpose travel times with "exclusive" light-rail use of the center roadway; but, using the same model with corruptive inputs from the above-identified ridership-forecasting model, Respondent claims the opposite: with light rail, general-purpose travel times by motor vehicles decrease by 15 percent. This huge change, without adequate explanation, requires a supplemental environmental study and denial of adequacy until fully done.

Analysis of major deficiencies in Respondent's entire light-rail system, as made after an extended review by Ron Tober as Respondent's Deputy Chief Executive Office, would add other elements that cannot be known now, since the agency has resisted public disclosure of the crucial report, as presented to its Chief Executive Officer, in order to cover up this essential information, and since the Honorable Hearing Officer has denied access to this report needed for due process.

Under **no** circumstances would complete and unthinking reliance on modeling meet even minimum standards for professional engineering practice in circumstances such as those at issue, herein, after a total reversal of a huge-and-central environmental impact, but such fully mindless

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acceptance of such modeling in circumstances wherein highway lanes in a major freight corridor are being greatly narrowed (from 12 to 11 feet), and wherein roadway shoulders would be pared even more substantially, is simply inept professionally, and is not made better when the principal expert witness of Respondent categorically refuses to answer central questions about his failures to conduct proper analysis entirely critical, given omissions little short of malpractice, if in fact at all shy thereof, especially when ridership modeling that is corrupting its key traffic-flow forecast modeling is now shown to be unreliable by Mr. Niles' detailed documentation of daily ridership.

In addition to such unprofessional failures to **test** under those circumstances, as discussed above, and as documented by Mr. Niles' testimony at hearing – as well as to absolute refusals to testify with candor about what was and was not done – in order for Respondent to meet minimal standards necessary for the Honorable Hearing Examiner to find the nominal FEIS adequate, as a matter of law and of fact, its pivotal claims of higher person throughput, higher speeds and better truck operations would require detailed analyses of R8A's reduced lane width, elimination of key shoulders and induced weaving into and out of High Occupancy Vehicle lanes to be utilized by a substantial variety of large buses, by vanpool-and-vanshare vehicles of various sizes, by carpools in smaller passenger vehicles and by motorcycles, *inter alia*, all of which **complicate** I-90 traffic!

Inquiries made and questions put by William Eager, PhD, and by James MacIsaac, PE, identify precisely the kinds of analyses necessary for adequate environmental review, especially after a complete 180-degree reversal in traffic projections (based on modeling **without** testing).

Given Respondent's Table 3F-1 for afternoon peak hours in 2030, in both directions, at Screenline #2 (*i.e.* mid-span on the I-90 floating bridge) with projections of vehicle volumes at:

No Build with Stages 1 and 2 of R8A: 12,035 vehicles (with 12-foot highway lanes),

No Build with Stages 1, 2 and 3 of R8A: 14,460 vehicles (with 11-foot highway lanes),

Build (with Stages 1, 2, 3): 13,533 vehicles (after people assumedly switch from driving to using light-rail train service according to Respondent's corruptive ridership model), greater volumes for the second No Build option strongly implicate that the agency's CH2M Hill agents did **not** consider much-reduced lane widths and shoulders, **nor** much-increased weaving after completion of R&A, so as thereby to constitute carelessness, lack of candor or both, which cannot be determined, at this juncture, because Respondent's principal expert refused to answer key questions put to him about these matters, over and over and over with leave of the Honorable Hearing Examiner, and effectively by the tribunal itself ultimately, in a fashion that would make imposition of monetary and/or other sanctions on that adverse witness for contempt appropriate (if authority exists to do so), as well as imposition of all possible sanctions on Respondent herein (including a wholly appropriate sanction of denial of FEIS adequacy for its gross stonewalling).

Legal authority that is indisputably within the inherent powers of the Honorable Hearing Examiner – evidenced by his past exercise of said prerogative, repeatedly, as “the Sound Transit hearing examiner” – is to determine the **credibility** of witnesses and, under the circumstances of the unconstitutional hearing herein, wherein and whereby Appellant was denied fundamental due process rights in numerous regards limiting his ability to examine witnesses reasonably, a formal finding should be entered to establish patent **lack of credibility** in Respondent's principal expert witness (based on his repeated refusals to answer key questions into his lack of essential testing).

These circumstances also comprise some but not all of a substantial evolution in the light-rail project at issue that requires supplemental environmental impact assessments of natural-and-built resources due to major **cumulative** effects that obligate the Honorable Hearing Examiner to find deficiency and to reject adequacy because Respondent's due-process-denying rules preclude him from ordering any supplementation and allow him only to **pass** or to **fail** its defective FEIS.

Taken together, major inadequacies in Respondent's purported environmental review in its nominal FEIS – as identified in a hearing patently lacking in administrative due process, here, as required by *Cuddy* – are nearly as remarkable as gigantic sums paid to CH2M Hill for mindless reliance on models without adequate testing of their assumptions despite huge red flags flapping in the breeze for any competent engineer to see who does not suffer from the blindness identified by Mr. Sinclair's justly famous notice of the main problem respecting the nominal FEIS herein:

It's difficult to get a man to understand something if his salary depends on him not understanding it.

Similarly notable is inability and/or unwillingness to provide essential results of pivotal testing necessary for reasonably reliable environmental impact assessments (despite all requests by Dr. Eager and by Mr. MacIsaac for those data necessary for any genuine analysis as testified to at hearing and by Appellant for similar reasons as necessary for due process), perhaps due to major failures to undertake competent engineering resultant in huge gaps in essential knowledge needed for any real analyses, as well as remarkable failures to test increasingly questionable and ever-more-suspect assumptions even after central conjectures as to light-rail ridership had begun to break down in the most fundamental manner possible, almost immediately, and then continued to fall behind over more-than-two years (as identified by Mr. Niles' tracking and his testimony).

Likewise erroneous is the Honorable Hearing Examiner's serious misreadings of factual- and-legal circumstances of the agency's programmatic *Final Supplemental Environmental Impact Statement on the Regional Transit Long-Range Plan*, as issued in July, 2005, to support severely flawed determinations that alternatives analysis for the I-90 corridor and for mode options within that highway corridor required appeal, in 2005, and thus cuts off all consideration under SEPA of vital follow-on actions preserved, directly, through standard terminology used therein repeatedly:

i.e. “Individual project decisions such as specific routes, locations, facilities, and operating characteristics are not determined in this analysis but will be addressed, as appropriate, in subsequent project-level environmental review” (FSEIS at 1-1), *e.g.*, **if** and **when** pivotal but therein—“not determined” geographical-and-mode decisions are made, thereafter, so as so to afford reasonable bases for discussions by the agency pursuant to SEPA and for comments by citizens thereupon.

Indeed, the seriousness of errors at issue, and the severity of flaws therein, are made even more translucent by the factual reality that one of Appellant’s witnesses, Mr. Niles, initially filed an appeal on that FSEIS during 2005; withdrew it because of the preliminary nature of plan-level environmental analyses at issue, then, and because that FSEIS document made clear, repeatedly, that project-level environmental studies would be required so as to yield a further opportunity to challenge major corridor, mode and other issues at a later point when more specificity would be and is now available; and has since waited for well over five full years to have the opportunity to challenge a follow-on project when greater particularly thus allows this more-meaningful SEPA challenge to the project-level FEIS under appeal herein (but for Respondent’s cover-up tactics).

Myriad issues exist both as to corridor options either in or adjacent to I-90 right-of-way, which include the agency’s uses of aerial, surface and subsurface alignments for light rail to date, and also as to mode options, which include both one fully constitutional high-capacity transit alternative in the I-90 corridor that is **not** violative due to any elements of “railways, waterways, or airways” prohibited by controlling law, and also one entirely unconstitutional high-capacity transit variant for the I-90 center roadbed (as is evident from terms of the adopted 2005 FSEIS).

The FSEIS’ pivotal statement that “Individual project decisions such as specific routes, locations, facilities, and operating characteristics are not determined in this analysis but will be

addressed, as appropriate, in subsequent project-level environmental review,” at FSEIS 1-1, is repeated with elaborations in a “Fact Sheet” at FSEIS i, in a “Scope of the SEIS” at FSEIS 3-5 (with side-by-side comparisons at FSEIS 3-5 and FSEIS 3-6), and in “SEIS and Future Phases” at FSEIS 3-11 (with its notice that technical analysis “will also potentially be used to narrow the range of alternatives considered in subsequent project-level environmental documents” at FSEIS 3-12), while further specifying that “Light rail, commuter rail, and regional express bus/BRT, which are the primary elements of the existing 1996 Long-Range Plan, are the technologies evaluated in the Plan Alternative” at FSEIS 3-14, all also subject to further reviews, *inter alia*.

Respondent’s counsel brought the FSEIS into this administrative appeal, in order thereby to prevent mode-and-route issues, and, thus, is not credible in claiming, after his introduction and reliance thereon, that its use by the other party at hearing constitutes “trial by ambush,” and denial of use by Appellant is reversible error as to preclusion of testimony by Mr. Niles as to this matter.

Further examples of **why** an SEPA challenge to the 2005 FSEIS was withdrawn then for a refiling as required by developments in “subsequent project-level environmental documents” can be multiplied, substantially, but a related point is more critical, since the FSEIS documents that **both** rail HCT and **also** bus HCT were selected for the I-90 corridor, in 2005, through that FSEIS, since the agency specified that in its various light-rail corridors, as tentatively designated therein subject to further studies, “regional express bus/BRT service could be implemented as the interim HCT mode for all or portions of each corridor until funding becomes available to construct a continuous light rail system in the corridor,” at FSEIS 3-15, as is the decision as actually made by the agency for the I-90 corridor, where its most-productive ridership has been upon its regional express buses for a full decade, so far, and where that fully constitutional HCT service

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will continue until our highest state court overturns its leading 18th Amendment decision, if ever, and “until funding becomes available to construct a continuous light rail system in the corridor.”

Obviously, when **both** HCT modes were thereby selected in 2005, one of which had then been operating for half a decade and is continuing to operate, and another one of which is wholly hypothetical until a constitutional prohibition is overcome, the 2005 selection of **both** cannot and does not preclude the alternatives analysis required by SEPA to select one option, or the other, in light of **all** constitutional, financial, legal, regulatory and statutory issues requiring analyses that were left undone by the 2005 FSEIS and that have been inadequately done by a nominal FEIS at issue in the pending SEPA appeal to challenge precisely that *lacuna* in key alternatives analysis.

Simply stated, the agency is obviously engaged in a cynical shell game, herein, by having **first represented** to the world, in 2005, that “Individual project decisions such as specific routes, locations, facilities, and operating characteristics are not determined in this analysis but will be addressed, as appropriate, in subsequent project-level environmental review” (FSEIS at 1-1), and by **now claiming** that, when thus-*sine qua non* but therein-“not determined” geographical-and-mode decisions are finally specified, with minimally adequate particularity to provide **any** semi-reasonable bases for discussions by the agency in its process at issue herein pursuant to SEPA and for rationale comments by citizens thereupon hereby, then it will disregard or hide its said pledge in order to pull the rug out from under an Appellant, who paid \$200 in good faith to file a SEPA appeal, as required, based on its representations that “this final EIS” is subject to appeal, thereby, without **any** notice of **any** kind that **any** major components of its nominal FEIS are **not** subject to appeal, much less **any** identification of which cards would be removed from the deck, after the fact, as it acts to deal out its latest hand of three-card *monte*, herein, under supervision by a *quasi-*
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judicial officer, who also allows its counsel to utilize that FSEIS but to prevent its use at hearing (which constitutes reversible error as to that document and as to examination of real alternatives analysis within the I-90 corridor even if the FSEIS had precluded same, in law, which it had not), particularly after Respondent's counsel had utilized the FSEIS so as to make it part of the record (which it was, even theretofore, by virtue of documents identified in its Administrative Record).

Conclusion

Hence, when taken together, the quintessential question is whether the multimillion-dollar environmental impact assessment process for the multibillion-dollar East Link light-rail plan is an excessively expensive eyewash **exercise** or whether there is authentic *bona fide* **examination**, and, thus, whether the Honorable Hearing Examiner is an actual examiner with genuine authority to examine or whether he is just an extra flow in, for a bit part, in a recurring charade on citizens to be orchestrated, in this instance, with **disregard** for the Washington State Constitution, with **defiance** for the Washington State Supreme Court, and with **disdain** for his unequivocal oath to "support the constitution of the State of Washington and the constitution of the United States," and for his equally unambiguous obligation to ensure genuine due process herein at the hearing?

While courtesy among, between and by each player on this stage has been estimable at all times and in every circumstance observed by Appellant herein, and while more could hardly be asked as to decorum, the fact is that a **fundamentally unfair hearing**, lacking in constitutionally guaranteed due process, has been conducted **on an unconstitutional plan** created at enormous expense to thereby-abused taxpayers, statewide, who pay Respondent's immense sales taxes on purchases made in King, Pierce and Snohomish counties and its separate taxes on motor vehicles registered in those three jurisdictions, with but one issue now remaining: whether the Honorable

Hearing Examiner will bring down the curtain on Respondent's latest tragicomical farce on state citizens through a nominal FEIS that starts with an intentional fraud on readers (through a "Big Lie" trope used by the agency against its taxpayers, repeatedly, since its formation in September, 1993), and that continues through willful misrepresentations by its expert actors (regarding both pivotal freight mobility problems created by the project and also crucial transit ridership issues), by finding and determining its inadequacy, in meeting minimal standard for any fully acceptable performance by an FEIS, as is his obligation on the facts before him (despite an unconstitutional administrative hearing woeful for lack of due process); or whether the decision will reflect those circumstances understood, for over four centuries, since Macbeth's soliloquy (in Act 5, scene 5):

*Tomorrow and tomorrow and tomorrow
Creeps in this petty pace from day to day
To the last syllable of recorded time,
And all our yesterdays have lighted fools
The way to dusty death. Out, out, brief candle!
Life's but a walking shadow, a poor player
That struts and frets his hour upon the stage
And then is heard no more: it is a tale
Told by an idiot, full of sound and fury,
Signifying nothing.*

Except in this instance, the significance for citizens is **far less than nothing**, since many millions of dollars have been **wasted** to reach the current juncture of a purported environmental impact assessment for a **rail** program that is patently unconstitutional *ab initio* for Segment A, in the vital I-90 corridor, because it is squarely one of those "other modes of transportation, such as railways, waterways, or airways," clearly prohibited by our state Supreme Court in *State ex rel. O'Connell v. Slavin* at 559 (except to the extent that insurance coverage, personal liability and/or some combination thereof yield cash recoveries for many torts of misfeasance in public office at common law and for major professional-and-ethical defects as to professional services as each is

outlined hereinabove), and since most-or-all public monies thus finally **wasted** through willful misconduct or negligence and finally unrecoverable are certain to be unavailable for “the cost of and effects on public services, such as utilities, roads, fire, and police protection” as specified by WAC 197-11-440(6)(e), which the agency is now unable to finance within taxpayer-authorized funding (in major part because of its intentional **waste** of millions of dollars unconstitutionally).

Thus, the “*to be or not to be*” moment in this cordial-but-unconstitutional hearing reduces to what Lady Macbeth’s doctor styles “slumbry agitation,” in Act V, scene 1, just before her cry:

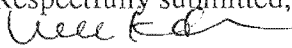
Out, damned spot! out, I say!—One: two: why, then, 'tis time to do't.—Hell is murky!—Fie, my lord, fie! a soldier, and afeard? What need we fear who knows it, when none can call our power to account?

But to reach the proper conclusion as required constitutionally, statutorily and administratively – as requested by Appellant in his initial SEPA appeal and as framed by the last sentence on page 1 *supra* – the Honorable Hearing Examiner **must** terminate, rightly, with fully as much nerve as that with which the Lady killed, wrongly, and the Scottish Play also provides famously, within its Act I, scene 7, the “*screw your courage to the sticking place*” standard for measuring steel of spine.

Incorporation by Reference

Appellant incorporates herein by this reference, as well as in the below-annexed Proposed Findings of Fact through this notice hereby, all earlier filings, including but not limited to all of his past briefing, prior citations and continuing reservation of all constitutional and other rights.

DATED this 9th day of November, 2011, and

Respectfully submitted,

Will Knedlik, *pro se*

PROPOSED FINDINGS OF FACT

1. Respondent Central Puget Sound Regional Transit Authority's nominal Final Environmental Impact Statement does not constitute, and is therefore not, a competent environmental analysis in pivotal respects, including but not limited to major failures to test central modeling relied on; is incomplete in numerous respects, including but not limited to its failure to analyze **cumulative** effects of mandatory requirements that are either only partially fulfilled or else more completely omitted; is therefore insufficient to meet minimal standards for adequacy under state statutory law and under related regulations; and must therefore be disallowed in its entirety;

2. Respondent's principal expert, Craig Grandstrom, PE, who is the chief author of its nominal FEIS, lacks credibility as a professional engineer due to his reliance upon third-party modeling without independent testing adequate to meet professional standards, particularly after evidence that core assumptions underlying such modeling were and are unreliable, and further lacks credibility as an expert witness due to lack of candor through obfuscations at hearing and through refusals to answer central questions about his lack of testing of modeling at issue herein;

3. Respondent's nominal FEIS is misleading in its assertion of a falsified equivalency between a light-rail line and seven-to-10 highway lanes so as to preclude its legal adequacy;

4. Respondent's nominal FEIS is misleading or inadequately documented as to effects claimed to improve freight mobility in the Interstate 90 corridor so as to preclude its adequacy;

5. Respondent's nominal FEIS is misleading or inadequately documented as to effects claimed to improve transit throughput in the Interstate 90 corridor so as to preclude its adequacy;

6. Interactions between Respondent's crucial ridership model and its critical traffic-flow model yield now-documentable corruptive inputs as to rail-transit usage, in and from the former,

so as to create or to exacerbate thereby-corrupted outputs, in and from the later, so as to destroy reliability of **both** static rail-ridership and dynamic VISSIM traffic-flow models for forecasting freight mobility, transit usage and traffic congestion and so as to preclude its legal adequacy; and

7. Respondent's nominal FEIS is misleading or inadequately documented, in multiple regards, that evidence the agency's representations therein, on a preponderance basis, to comprise thus-documented elements of a pattern of tortious misfeasance in public office, at common law, both by members of its Board of Directors, and also by members of its senior management team.

CERTIFICATE OF SERVICE

Appellant hereby certifies transmission of this document to the Honorable Hearing Examiner Greg Smith, at gsmith@spokanecity.org and at hearingexaminer@spokanecity.org, and to Respondent through its legal counsel, at tom@tebacker.com, on November 9, 2011, and retransmission of this document as corrected on November 11, 2011 to both said recipients on November 14, 2011.

(AS CORRECTED ON NOVEMBER 11, 2011)

Ensor, Deborah (FTA)

From: Mark Sussman [msuss@comcast.net]
Sent: Monday, November 14, 2011 1:46 PM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); 'Jeff Harvey'; representative.reichert@mail.house.gov
Cc: Joe Rosmann; council@bellevuewa.gov; Wendy Jones; Betsy Blackstock
Subject: FW: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Attachments: BBB Presentation - Transit Center Challenges Require No MOU Now.pdf; BBB Presentation - Transit Center Challenges Require No MOU Now.pdf

Ladies/Gentlemen:

I'd like to forward you some of my analysis which supports much of the work and conclusions of the Group, **BUILDING A BETTER BELLEVUE**, regarding Sound Transit's East Link Light rail adventure. A summary is contained here as part of a recent Petition sent to the Bellevue Council - - and in the **LINKED** Powerpoint slides below. The Petition simply asks for a more intensive education process for our Citizenry regarding the true costs and benefits of the East Link proposal. Any help toward this end that you might provide would be greatly welcome.

Mark Sussman
Bellevue, WA

PETITION COVER LETTER

TO: THE BELLEVUE CITY COUNCIL AND FELLOW BELLEVUE-ITES

This note contains a Petition asking the Bellevue City Council to defer signing a planning agreement (MOU) with Sound Transit regarding the EastLink proposed Light Rail extension to Bellevue and other Eastside locations. The voters approved such a plan in 2008. It is the contention here that most voters were not fully informed about the cost and intrusion of such a venture. The situation is not unique to Seattle and data from authoritative sources suggest that Seattle-Bellevue does not have sufficient population density for EastLink to do much beyond: drain citizen purses with further tax burdens, but result in no real congestion improvements.

Some critical factors to consider are these:

- New York City has an effective rail system because the population density is 6 times greater than Seattle. Moreover, many people in NYC can comfortably live /shop /attend theater etc., without owning a car.
- Some ideological urban planners have a vision of "smart growth" for America. This philosophy seeks to expand mass transit at the cost of personal autos. To be successful at this, people must gravitate from dispersed suburban homes toward higher population density by enticing/forcing more residents into tightly clustered high-rise buildings, to be more compatible with the inflexible outreach of a mass transit system. This accounts for the strong reluctance of some to generate any effort toward increasing roadway capacity.
- But mass transit systems in moderate-low population density regions, do not mitigate the need for personal autos for shopping, recreation, culture and commuting to work. Car commuting is still required since most people do not live at Transit Station A and work at Transit Station B. Rather, they must walk, drive, or be bussed at both ends of the rail commute. Moreover, many Citizens are not willing to abandon our lovely suburban homes, parks and neighborhoods for the doubtful pleasures of big city living.
- The introduction of Light Rail systems into already-developed suburban or small city environments has a very intrusive impact on residential areas and downtown businesses, where tunnel construction may

be required to mitigate the burden. A recent estimate (ref. 1) says that downtown Bellevue businesses will lose \$1.4B due to the tunnel construction effort alone. And Bellevue residents are estimated to be facing a 3% Property tax rise for 9 years to pay for just certain construction costs.

- Light Rail systems average 3 times the capital (“upfront”) cost of a high-quality bus system. Moreover, Light Rail systems are only fractionally funded by ridership fares. The bulk of the long-term funding goes to operating expenses and is generated via taxation of the entire population in the transit area. So even if a citizen never rides the Light Rail, he/she will have the doubtful pleasure of being taxed on it for a lifetime.
- Worse yet, most citizens find Light Rail seductive because they believe it will help reduce road traffic for motorists. This is fully disproven by experience (ref. 2) in many sizeable American cities. Traffic mitigation, except in high population-dense areas is often gaged in the tenths of 1% range.
- Moreover, Transit Agencies (mostly overseen by unelected officials) have the unenviable record of frequently coming up quite in error (toward Citizen disbenefit) on proposed cost, schedule and ridership targets, see also ref.3 .
- So, Citizens are seduced by the vision of sleek, modern trains whisking them effortlessly and cheaply through their daily lives. The truth is: the sleek modern trains and station stops quickly become dirty; on average, few riders actually use the train; cost to citizens is an ongoing outlay; neighborhoods and downtown businesses are heavily disrupted during the several years of construction; and even most of the riders of light rail soon learn that they incur even longer commute trips than in pre-rail modes.

Accordingly, the Petition below seeks your support to have the Bellevue City Council slow down the upcoming MOU decision until a more comprehensive effort is made to educate Citizens to a detailed, balanced, objective, cost-benefit analysis provided publicly and conveniently to the Citizens of Bellevue. Further references to some of these matters can be found here:

1. Hebert Research, Inc., “East Link Construction Economic Impact Research”, Oct 26, 2011
2. T. Balaker, The Reason Foundation, Policy Study #321, “Past Performance vs Future Hopes”

Pis also see the following charts also presented on Nov 7 to the Bellevue city Council.

www.slideshare.net/MarkS181/ce-charts-for-bvue-council-mou-nov-7-2011

Whether you agree that Light Rail is a costly mistake or not, PLEASE NOTE: this Petition does NOT ask you to make that judgment. The Petition simply requests that the Council make a concerted effort to inform Bellevue Citizens so more of us may intelligently advise the local, elected representatives based on an educated support or opposition. If you agree that more informed Citizen understanding is warranted by the expense and neighborhood burden of this project, please enter your Name, City and zip code below and email a copy of this Petition to the City Council at: Council@bellevuewa.gov. It’s a simple task, but you can greatly help many of your fellow Citizens by letting the Bellevue Council know that you’d like to hear more facts about the costs & benefits of East Link.

AN IMPORTANT PETITION BECAUSE WE CAN'T AFFORD TO BE WRONG

TO: THE BELLEVUE CITY COUNCIL

Many Bellevue Citizens are significantly concerned that we are being stampeded into a questionable venture by the Sound Transit management. This is a government entity that operates with very little direct accountability to Bellevue-ites.

This Petition to you, our elected Representatives, with a fiduciary responsibility to our fellow Citizens, requests that you defer signing the imminent Memorandum of Understanding with Sound Transit, until an extensive education Program is made available to the Citizens, structured to include: informed, expert, Citizen debates, with BellevueTV coverage plus live audience seating. Audience questions would comprise 15% of each Meeting. The Education Program could perhaps cover the following analyses in 5 separate 2-3 hour segments:

1. America's Light Rail history and cost-benefit analysis, at least covering half dozen cities with population densities in the range 3000 to 9000 people per square mile.
2. Sound Transit Light Rail project history showing : the legal relationship between specific Sound Transit responsibility and that of surrounding cities; the annual budgeted and then, actual, expenditures of Sound Transit since its inception; the annual specific cost and ridership projections, including initial projections prior to approval of Sound Transit as an entity; a history of any changes authorized from inception to now.
3. Cost & Ridership projection history as presented to area Citizens from prior to the Bellevue voter approval of 2008 through the present. This would include the various alignment options currently being discussed.
4. The annual capital and operating costs and funding sources of Sound transit, to include: current projections of EastLink and other envisioned Links; and, a description of all tax monies and all relevant City and County imposed tax increments from Sound Transit's inception until 30 years after projected EastLink introduction of service.
5. Any other indirect costs, which introduction of EastLink might reasonably be foreseen to inflict, upon Residents and Business Owners within Bellevue.

From: Joseph Rosmann [mailto:joe@betterbellevue.org]

Sent: Saturday, November 12, 2011 6:42 AM

To: Mark Sussman

Subject: Fwd: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

fyi

Begin forwarded message:

From: Joseph Rosmann <joe@betterbellevue.org>

Date: November 12, 2011 6:41:30 AM PST

To: Better Bellevue Supporters

Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Dear Better Bellevue Supporters:

Building A Better Bellevue has provided commentary and information to the U.S. Department of Transportation, and other Federal officials, and to Congressman Reichert's Office regarding the very recently understood data made available by the Puget Sound Regional Council showing the growth in transit trips into/from downtown Bellevue, and the implications of such transit growth for the City of Bellevue.

It is important that you be aware of this development.

Additional messages from Bellevue citizens to these persons will be helpful.

You may use the following email addresses:

fta.tro10mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov,
peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey
<jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov

Thank you for your consideration and assistance.

Best Regards,

The Building A Better Bellevue Steering Committee



What If.....

The Transit Center

And

The Tunnel

Do Not Work?

WHAT IF.....

- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
- And:
 - Congestion In Our Downtown Core Increases
 - Downtown Core Traffic Spills Over To Other Downtown Access Corridors
 - Downtown Traffic Moves Into The Neighborhoods Adjacent To Our Downtown

Could This Happen?



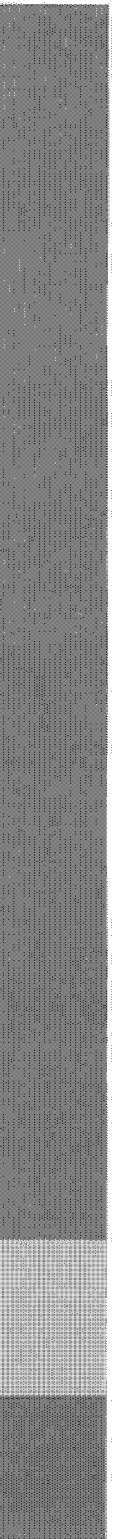
What Are the Likely Downtown Congestion Causes?

- Personal Vehicles
- Commercial Traffic
 - Delivery Trucks
 - Construction Vehicles
 - Others
- Public Transit Vehicles



Private Traffic Can Be Modulated

- Personal Vehicle Traffic Reductions Via:
 - Increased Transit Use
 - Higher Parking Costs
 - Time Lost Due To Congestion
- Commercial Traffic Reductions Via:
 - Short Term Parking Restrictions
 - Time Of Day Limits
 - Other Measures



What About Transit-Caused Downtown Congestion

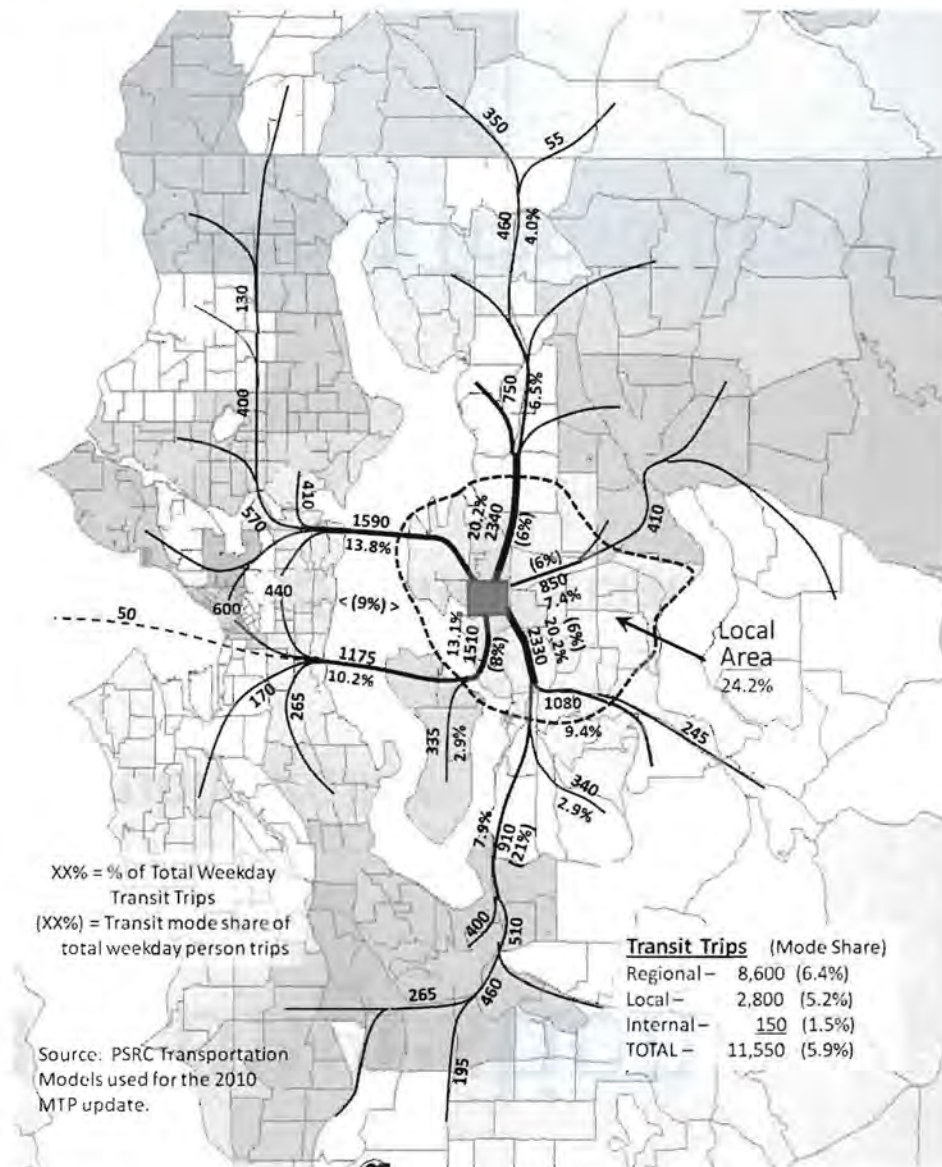
- Transit Growth – A Desired Public Policy
- Transit Use - A Desired Personal and Commercial Objective

What Do the Numbers Say About Transit Growth?



PSRC's Transit Measures: 2006

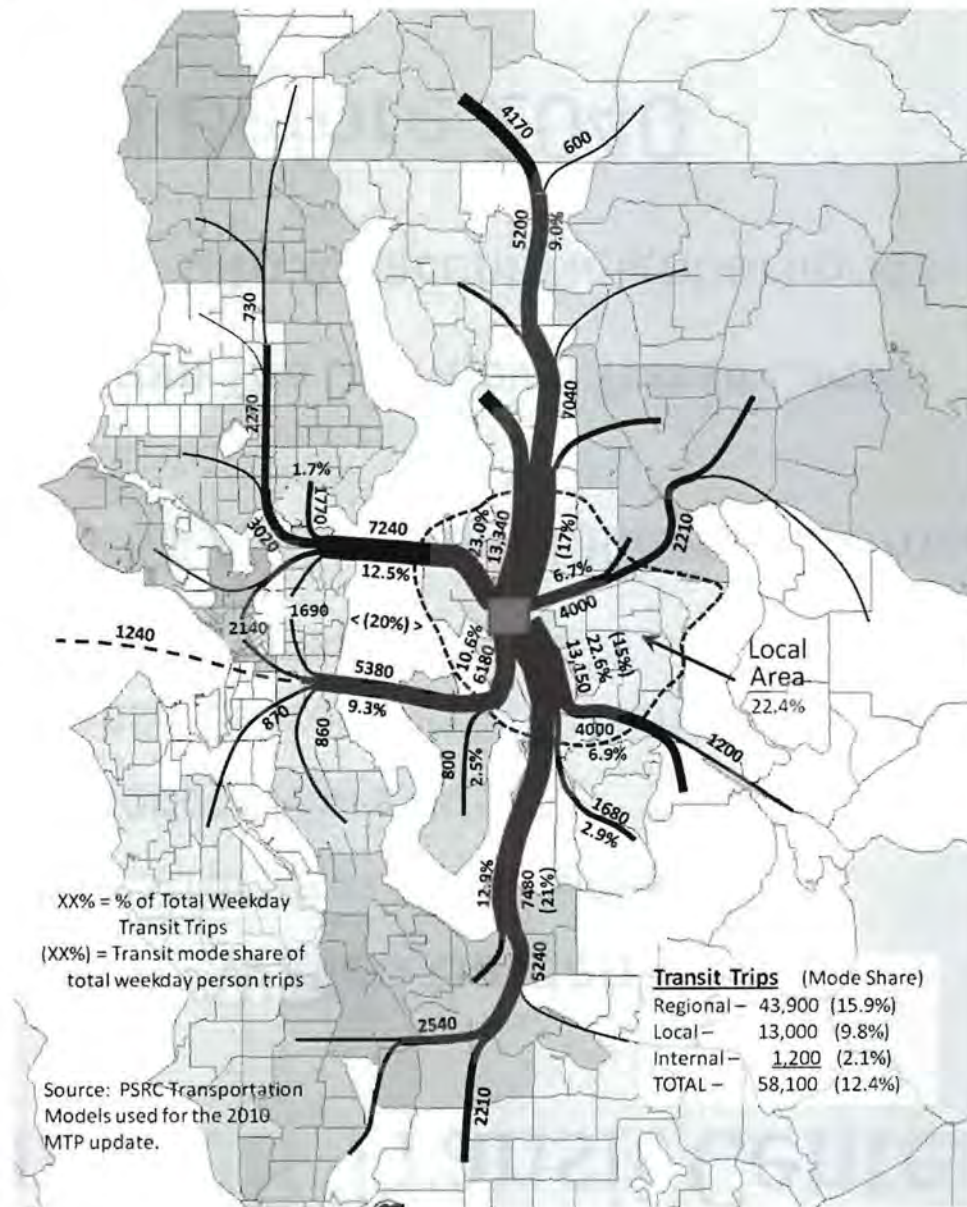
- The Basis of COB's Eastlink Light Rail/ Transit Interchange Design Preference
 - 11,550 person trips
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
 2006 Total Weekday Transit Trips

PSRC's Transit Measures: 2040

- A **5 – Fold increase** in total weekday transit trips in our COB downtown core –
 - From 11,550 person trips
 - To 58,100 person trips
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
 2040 Total Weekday Transit Trips

The Reality Of Our COB Transit Center

- The Bellevue Transit Center Is A “Walled Garden”
 - Surrounded By Massive High Rise Structures On All Sides
 - Cannot Be Expanded To Accommodate More Buses
 - The Tunnel Trains Below the Transit Center Can Only Handle A Small Portion Of This Increased Volume of Transit Users
- Massive Bus Congestion In The CBD As Bus Transit Ridership Grows
 - Between I-405 And The Transit Center
 - Along Major Thoroughfares To/From The Downtown Transit Center
- Massive Personal Vehicle Spillover Into Adjacent Neighborhoods
- **And, All of This, Well Before 2040**

The Reality Of 2040 Transit Demand

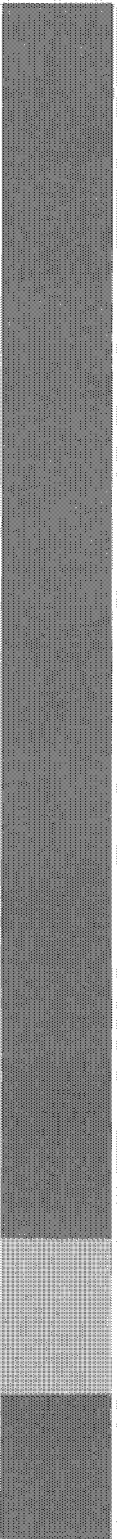
- Due To Constraints That Block Further Transit Center Utilization
 - The COB Will Have To Implement A New Intermodal Transportation Interchange Solution For Our Downtown

That Ties Together:

- The North/South Bus Volumes On I-405, And The East/West Bus Volumes on I-90 and 520
- The Eastward Expansion Of Our Downtown
- The Need for Better CBD East/West Surface Traffic Flows
- The Demand for Faster CBD East/West Ambulatory Modes

The Best Candidate for A New CBD Intermodal Transportation Interchange Facility: One That Integrates:

- Both Sides Of I-405
- The Top Of I-405
- With An Elevated Eastlink Train Interface At The Core Of This New Interchange
- With An East/West Personal Mobility Solution Across The Entire CBD



What Best Serves Bellevue's Tax Payers and the Future Of Our City?

- Before Proceeding With The **MOU** Our City Must Immediately:
 - Understand The Implications of the PSRC's Transit Growth Projections
 - Evaluate The Sunk Costs Of Investing In The Existing Transit Center By Adding A Light Rail Tunnel
 - Determine Whether Raising Property Taxes For A \$300 Million Downtown Tunnel, Whose Utility is Limited, Is A Wise Decision For Our Taxpayers
 - Evaluate Whether This Temporary Relief, At A Massive Taxpayer Cost, Is A Sound 100-Year Plan, When A Better Long Term Solution Is Available

**OUR CITY MUST
NOT SIGN THE MOU NOW**

Ensor, Deborah (FTA)

From: Anita Skoog [askoog@kiddermathews.com]
Sent: Monday, November 14, 2011 2:13 PM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; representative.reichert@mail.house.gov
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Attachments: Eastlink No Solution To CBD 2040 Transit Gridlock.pdf; BBB Presentation - Transit Center Challenges Require No MOU Now.pdf

Esteemed Representatives –

Please see my email to Bellevue City Council below, and supporting emails below.
What is happening is just plain wrong!

Anita Skoog Neil
(Never miss a chance to vote)

From: Anita Skoog
Sent: Monday, November 14, 2011 2:06 PM
To: 'council@bellevuewa.gov'
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Mayor Davidson and Council members –

Do NOT sign the Light Rail MOU – it is simply a “vehicle” to scam 30% more taxes out of taxpayers pockets - and to put the City in the position of raising the debt limit for the City, so that further taxes can be extracted from citizens.

A light rail that SERVES the citizens, as opposed to the contractors and unions, is fine.

That Light Rail would not destroy the very City it “intends” to serve; it would not slice through neighborhoods, and it certainly would NOT involve “partial takings”.

Do NOT sign the MOU – you’re being “railroaded”!

Anita Skoog Neil – moved here in 1952

See supporting emails below.

From: BetterBellevue <info@betterbellevue.org>
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Date: November 11, 2011 9:00:19 AM PST

To: fta.tro10mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

It is essential, as you consider the evidence provided yesterday (see copied below) with respect to the coming gridlock caused by transit growth in downtown Bellevue, that you also understand that Eastlink light rail will be of no help in solving this problem.

Eastlink will serve only a very small portion of all these new transit trips into the Bellevue downtown core.

The reality in 2040 - focusing both rail transit (the Eastlink tunnel) and bus transit (the existing Bellevue Transit Center) into a constrained interchange space at NE 6th Street and 110th Avenue, in downtown Bellevue, will likely dramatically add to Bellevue's downtown transit-caused congestion.

Given this coming disaster, it is essential that the Washington State Department of Transportation, Sound Transit, Seattle Metro, and the City of Bellevue immediately step back from proceeding with the current Eastlink Plan for downtown Bellevue, and work together with the Puget Sound Regional Council to fashion a better solution now.

Failing to do so now will result in the abandonment of an investment of \$300 Million of scarce taxpayers' dollars long before the benefit of this investment will ever be realized.

Sincerely,

The Building A Better Bellevue Steering Committee
www.betterbellevue.org
info@betterbellevue.org

Begin forwarded message:

From: Joseph Rosmann <joe@betterbellevue.org>
Date: November 10, 2011 2:52:03 PM PST
To: fta.tro10mail@dot.gov, john.witmer@dot.gov, Ray.LaHood@dot.gov, victor.mendez@dot.gov, peter.rogoff@dot.gov, daniel.mathis@dot.gov, rick.krochalis@dot.gov, Jeff Harvey <jeff.harvey@mail.house.gov>, representative.reichert@mail.house.gov
Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

The purpose of this message is to provide you with critical information obtained from the Puget Sound Regional Council (PSRC), and its transportation planning staff, which shows that Sound Transit has seriously failed in understanding, and has also failed to properly address the extent to which its plan for linking a tunnel placement of its light rail line in Downtown Bellevue to the existing Bellevue Transit Center will cause major hardship to Bellevue downtown businesses, to the employees and customers of those businesses, and to the neighborhood residents who live adjacent to downtown Bellevue, because of the massive traffic congestion that will be caused by the rapid growth in transit services into and from Downtown Bellevue in the near term.

This expected downtown traffic congestion will likely lead the City of Bellevue to have to abandon Bellevue taxpayers', and Sound Transit's investment in the proposed downtown light rail tunnel and Transit Center interchange plan that is a central element of the Eastlink light rail plan. The City of Bellevue will be faced with this dire decision because transit-caused congestion will soon leave the City of Bellevue with no other choice but to invest in a different intermodal transportation interchange solution in Bellevue downtown that will effectively serve the City of Bellevue, its downtown businesses, and the adjacent neighborhoods for the next 100 years. The documentation provided by Sound Transit in its FEIS documents and its Request for a Federal Record of Decision on its Eastlink Plan totally completely fails to incorporate this newly available information.

Building A Better Bellevue (BBB), which represents the interests and concerns of many thousands of homeowners with homes adjacent to downtown Bellevue, requests that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

Prior to Building A Better Bellevue's presentation to the Bellevue City Council on November 7, 2011 regarding this new information on traffic congestion in downtown Bellevue, no public body has fully understood the facts identified by these recently released new PSRC data, nor analyzed the implications of these important data for Bellevue's coming downtown gridlock. Most specifically, Sound Transit has completely failed to properly assess this information which has also been available to the agency for nearly a year.

BBB's findings and presentation were drawn solely from our region's primary public research entity charged with assessing regional transportation needs, the Puget Sound Regional Council. These PSRC data show that total transit demand for access to our Bellevue Downtown will grow to **a five-fold level by 2040**, from the present transit use level in downtown Bellevue. There is no way that the present downtown Bellevue Transit Center, and its nearby streets, can accommodate such a total volume of transit access each week day.

BBB believes that the only intermodal transit interchange solution that will work for our City at that point must recognize the eastward growth of our downtown, take advantage of every available access and egress point to and from I-405, link to an elevated light rail line that runs adjacent to I-405, and that also provides for gaining the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

Sincerely,

Joe Rosmann

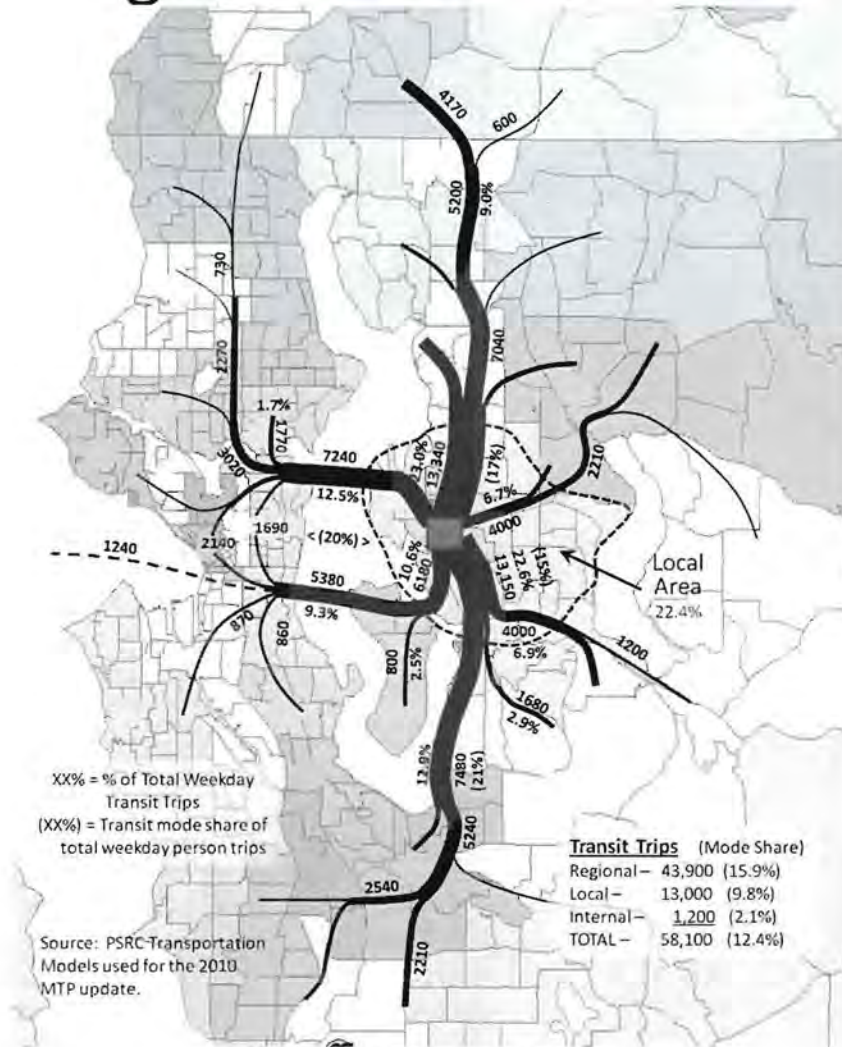
for Building A Better Bellevue
www.betterbellevue.org
425.417.0797

Eastlink Light Rail Can Not Relieve Bellevue's Downtown Transit Congestion Disaster in 2040

A **5 – Fold increase** in total weekday transit trips in the City of Bellevue (COB) downtown core:

- From 11,550 person trips (2006)
- To 58,100 person trips (2040)
- **Eastlink light rail cannot serve the vast majority of the 2040 COB Downtown transit trips**

Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2040 Total Weekday Transit Trips



What If.....

The Transit Center

And

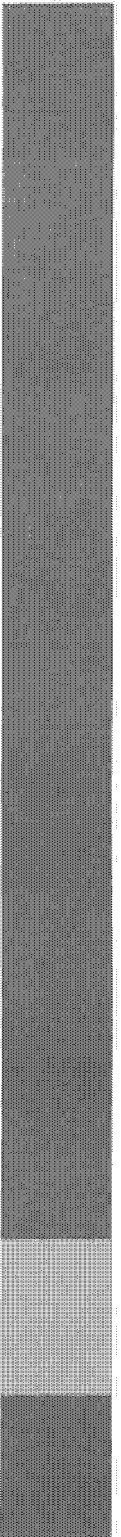
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- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
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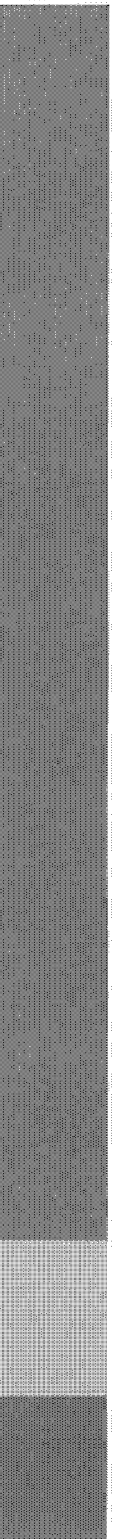
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What About Transit-Caused Downtown Congestion

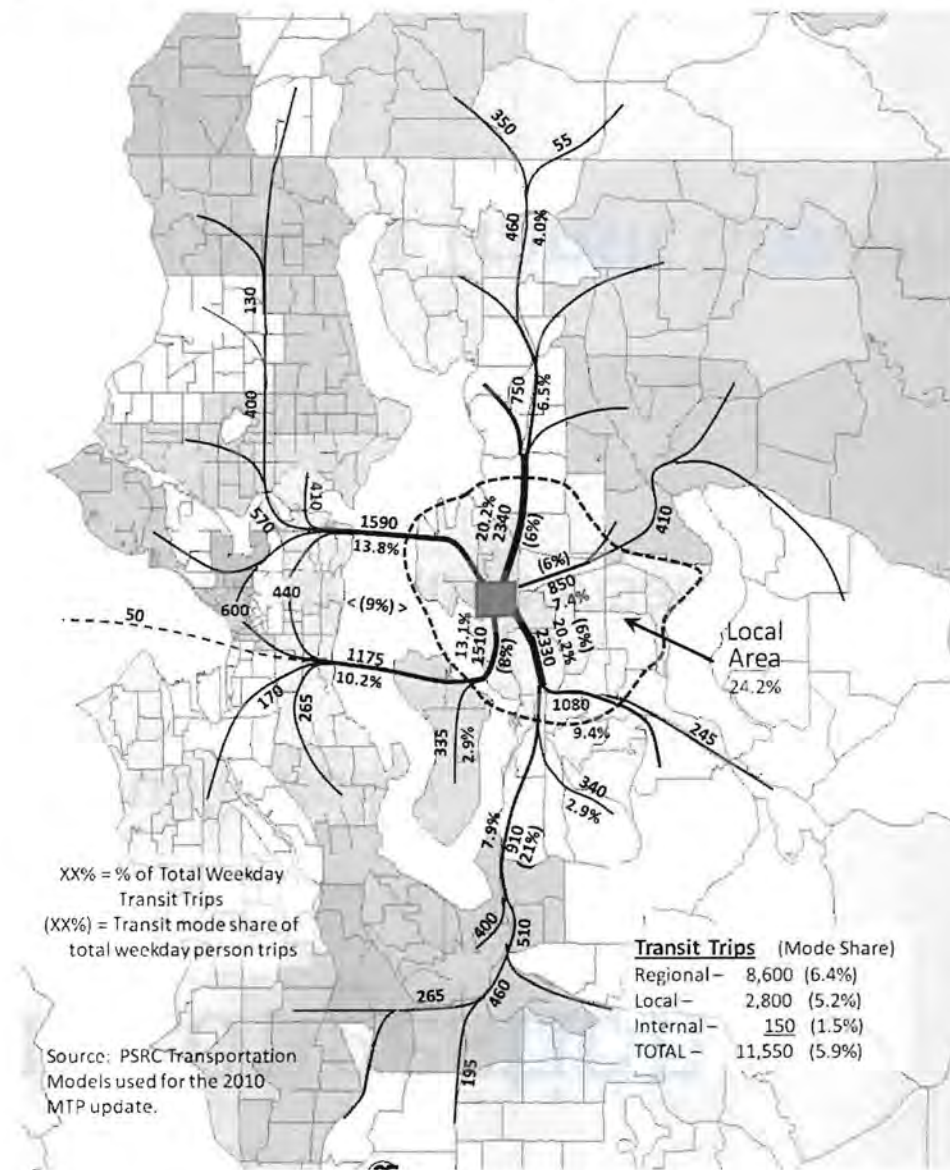
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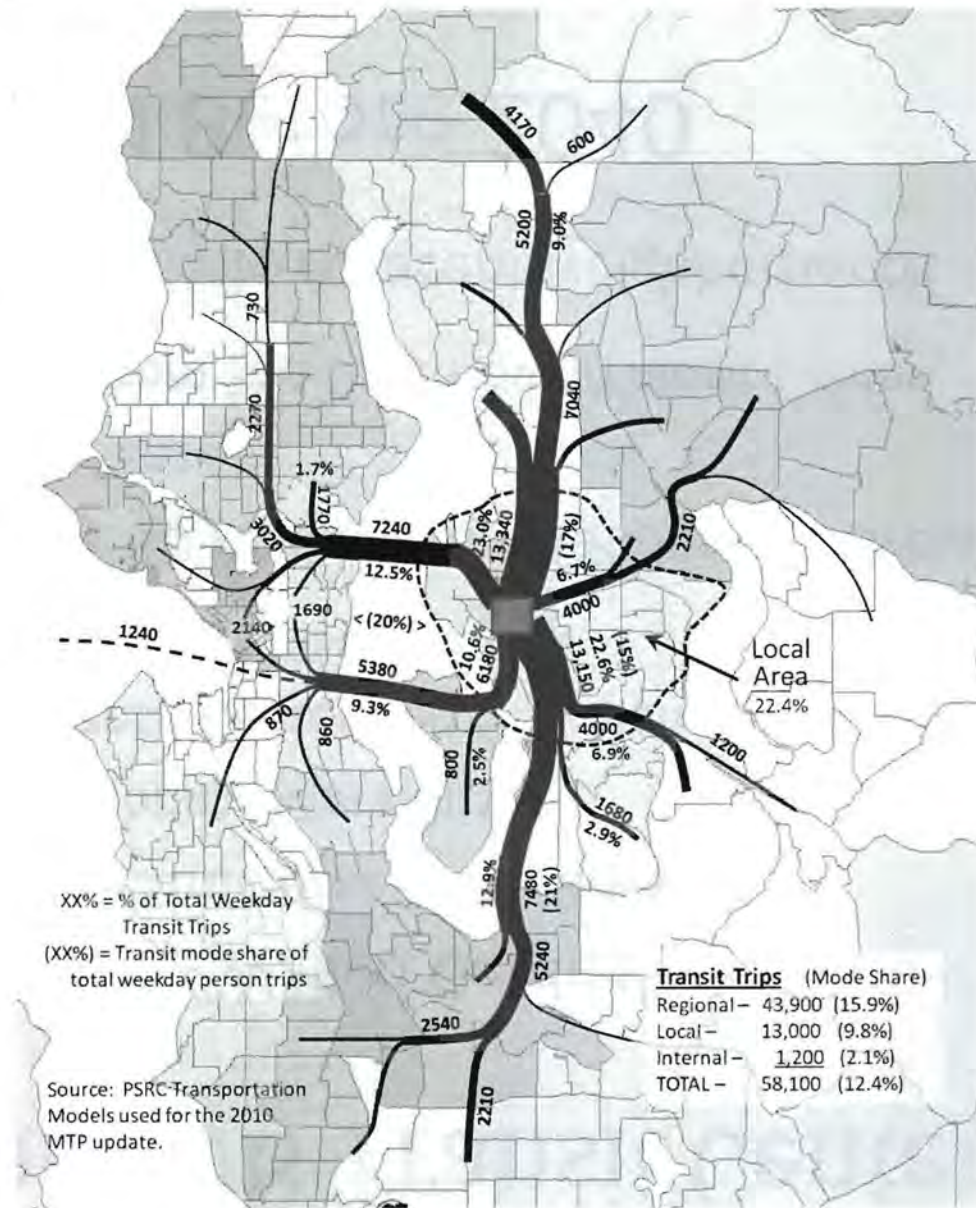
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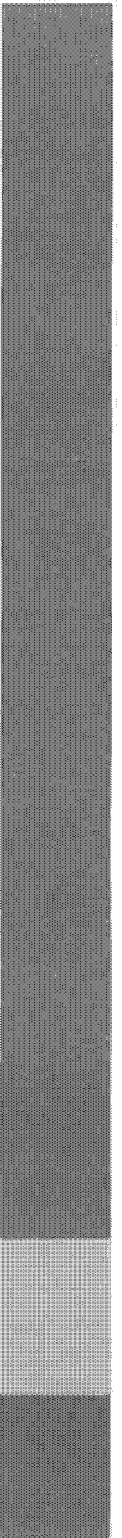
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- Due To Constraints That Block Further Transit Center Utilization
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Sent: Monday, November 14, 2011 1:46 PM

To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); 'Jeff Harvey'; representative.reichert@mail.house.gov

Cc: Joe Rosmann; council@bellevuewa.gov; Wendy Jones; Betsy Blackstock

Subject: FW: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

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Mark Sussman

Bellevue, WA

PETITION COVER LETTER

TO: THE BELLEVUE CITY COUNCIL AND FELLOW BELLEVUE-ITES

This note contains a Petition asking the Bellevue City Council to defer signing a planning agreement (MOU) with Sound Transit regarding the EastLink proposed Light Rail extension to Bellevue and other Eastside locations. The voters approved such a plan in 2008. It is the contention here that most voters were not fully informed about the cost and intrusion of such a venture. The situation is not unique to Seattle and data from authoritative sources suggest that Seattle-Bellevue does not have sufficient population density for EastLink to do much beyond: drain citizen purses with further tax burdens, but result in no real congestion improvements. Some critical factors to consider are these:

- New York City has an effective rail system because the population density is 6 times greater than Seattle. Moreover, many people in NYC can comfortably live /shop /attend theater etc., without owning a car.
- Some ideological urban planners have a vision of "smart growth" for America. This philosophy seeks to expand mass transit at the cost of personal autos. To be successful at this, people must gravitate from dispersed suburban homes toward higher population density by enticing/forcing more residents into tightly clustered high-rise buildings, to be more compatible with the inflexible outreach of a mass transit system. This accounts for the strong reluctance of some to generate any effort toward increasing roadway capacity.

- But mass transit systems in moderate-low population density regions, do not mitigate the need for personal autos for shopping, recreation, culture and commuting to work. Car commuting is still required since most people do not live at Transit Station A and work at Transit Station B. Rather, they must walk, drive, or be bussed at both ends of the rail commute. Moreover, many Citizens are not willing to abandon our lovely suburban homes, parks and neighborhoods for the doubtful pleasures of big city living.
- The introduction of Light Rail systems into already-developed suburban or small city environments has a very intrusive impact on residential areas and downtown businesses, where tunnel construction may be required to mitigate the burden. A recent estimate (ref. 1) says that downtown Bellevue businesses will lose \$1.4B due to the tunnel construction effort alone. And Bellevue residents are estimated to be facing a 3% Property tax rise for 9 years to pay for just certain construction costs.
- Light Rail systems average 3 times the capital (“upfront”) cost of a high-quality bus system. Moreover, Light Rail systems are only fractionally funded by ridership fares. The bulk of the long-term funding goes to operating expenses and is generated via taxation of the entire population in the transit area. So even if a citizen never rides the Light Rail, he/she will have the doubtful pleasure of being taxed on it for a lifetime.
- Worse yet, most citizens find Light Rail seductive because they believe it will help reduce road traffic for motorists. This is fully disproven by experience (ref. 2) in many sizeable American cities. Traffic mitigation, except in high population-dense areas is often gaged in the tenths of 1% range.
- Moreover, Transit Agencies (mostly overseen by unelected officials) have the unenviable record of frequently coming up quite in error (toward Citizen disbenefit) on proposed cost, schedule and ridership targets, see also ref.3 .
- So, Citizens are seduced by the vision of sleek, modern trains whisking them effortlessly and cheaply through their daily lives. The truth is: the sleek modern trains and station stops quickly become dirty; on average, few riders actually use the train; cost to citizens is an ongoing outlay; neighborhoods and downtown businesses are heavily disrupted during the several years of construction; and even most of the riders of light rail

soon learn that they incur even longer commute trips than in pre-rail modes.

Accordingly, the Petition below seeks your support to have the Bellevue City Council slow down the upcoming MOU decision until a more comprehensive effort is made to educate Citizens to a detailed, balanced, objective, cost-benefit analysis provided publicly and conveniently to the Citizens of Bellevue. Further references to some of these matters can be found here:

1. Hebert Research, Inc., "East Link Construction Economic Impact Research", Oct 26, 2011
2. T. Balaker, The Reason Foundation, Policy Study #321, "Past Performance vs Future Hopes"

Pls also see the following charts also presented on Nov 7 to the Bellevue city Council.

www.slideshare.net/MarkS181/ce-charts-for-bvue-council-mou-nov-7-2011

Whether you agree that Light Rail is a costly mistake or not, **PLEASE NOTE:** this Petition does NOT ask you to make that judgment. The Petition simply requests that the Council make a concerted effort to inform Bellevue Citizens so more of us may intelligently advise the local, elected representatives based on an educated support or opposition. If you agree that more informed Citizen understanding is warranted by the expense and neighborhood burden of this project, please enter your Name, City and zip code below and email a copy of this Petition to the City Council at: Council@bellevuewa.gov. It's a simple task, but you can greatly help many of your fellow Citizens by letting the Bellevue Council know that you'd like to hear more facts about the costs & benefits of East Link.

AN IMPORTANT PETITION BECAUSE WE CAN'T AFFORD TO BE WRONG

TO: THE BELLEVUE CITY COUNCIL

Many Bellevue Citizens are significantly concerned that we are being stampeded into a questionable venture by the Sound Transit management. This is a government entity that operates with very little direct accountability to Bellevue-ites.

This Petition to you, our elected Representatives, with a fiduciary responsibility to our fellow Citizens, requests that you defer signing the imminent Memorandum of Understanding with Sound Transit, until an extensive education Program is made available to the Citizens, structured to include: informed, expert, Citizen debates, with BellevueTV coverage plus live audience seating. Audience questions would comprise 15% of each Meeting. The Education Program could perhaps cover the following analyses in 5 separate 2-3 hour segments:

1. America's Light Rail history and cost-benefit analysis, at least covering half dozen cities with population densities in the range 3000 to 9000 people per square mile.
2. Sound Transit Light Rail project history showing : the legal relationship between specific Sound Transit responsibility and that of surrounding cities; the annual budgeted and then, actual, expenditures of Sound Transit since its inception; the annual specific cost and ridership projections, including initial projections prior to approval of Sound Transit as an entity; a history of any changes authorized from inception to now.
3. Cost & Ridership projection history as presented to area Citizens from prior to the Bellevue voter approval of 2008 through the present. This would include the various alignment options currently being discussed.
4. The annual capital and operating costs and funding sources of Sound transit, to include: current projections of EastLink and other envisioned Links; and, a description of all tax monies and all relevant City and County imposed tax increments from Sound Transit's inception until 30 years after projected EastLink introduction of service.
5. Any other indirect costs, which introduction of EastLink might reasonably be foreseen to inflict, upon Residents and Business Owners within Bellevue.



Via Facsimile and Regular Mail

November 15, 2011

Mr. Richard F. Krochalis, Regional Administrator
Federal Transit Administration
Jackson Federal Building
915 Second Avenue, Ste 3142
Seattle, WA 98174

Dear Mr. Krochalis:

The City of Bellevue appreciates the opportunity to clarify and update comments that the City has previously submitted regarding the Section 4(f) analysis included in the Draft EIS and Final EIS for the East Link Project. Since sending our letter of August 29, 2011 on this subject, the City has taken the opportunity to continue coordination with Sound Transit on these issues. This letter is intended to address the City's past comments submitted to FTA on 4(f) and historic resource impacts, and not other comment letters submitted by the City.

With incorporation of design modifications and park and historic resource impact mitigation commitments as described below, Sound Transit has shown that it is conducting "all possible planning... to minimize harm and mitigate for adverse impacts and effects" within the meaning of Section 4(f) [23 CFR 774.17]. The City now believes that the requirements of Section 4(f) have been met by the East Link Project with respect to the Mercer Slough Nature Park, Surrey Downs Park and the Winters' House. Further, these parks mitigation measures reduce the remaining harm to the recreational and other parks uses of the protected resources making the preferred alternative (B2M-C9T) a viable least-harm alternative compared to all other project alternatives.

Mercer Slough Nature Park

The City and Sound Transit have cooperatively identified context-sensitive modifications to the existing B2M project within Mercer Slough Park between the South Bellevue Park and Ride and Winters House. The concept that the parties will continue to refine as project design proceeds is attached to this letter. The City also understands that the current roadway design south of the park and ride preserves a left-hand turn from Bellevue Way to the Sweylocken Boat Launch. When combined with other parks 4(f) mitigation measures published in the FEIS for permanent and temporary impacts to the parks resources, incorporation of these design modifications resolves prior comments the City has submitted regarding vehicular access to the park as well as visual, noise, and proximity impacts to the 4(f) protected activities, features and attributes of Mercer Slough Nature Park.

Surrey Downs Park

Further coordination with Sound Transit has resulted in a commitment to provide compensation and/or replacement land for the property shown in the FEIS as removed from the park on a temporary and permanent basis as a result of the Preferred Alternative that meets the basic standard proposed by Section 4(f) regulation of land of "comparable value and function" [23 CFR 774.17]. This, combined with the other parks 4(f) mitigation measures published in the FEIS for permanent and temporary impacts to the parks resources, resolves prior comments the City has submitted in respect to this protected resource. Should alignments be modified in the future in a way that significantly changes the impact to the activities, features and attributes of this park, the City will fully participate in any addition review and comment opportunities necessary to meet Section 4(f) requirements.

These steps, conducted under 4(f)'s *all possible planning* requirement allow the City to change its opinion of the Least Overall Harm Analysis included in the FEIS. They show that East Link design does "put a 'thumb on the scale' in favor of protecting Section 4(f) properties." Specifically the inclusion of these design modifications and mitigation measures displays that:

- the adverse parks-related impacts caused by the Preferred Alternative can be mitigated and do not result in remaining harm to the protected resource (Least Harm Factors I and II);
- the relative significance of the protected resources is respected by the design (Factor III);
- the views expressed by the City of Bellevue, as an Official with Jurisdiction have been recognized and addressed (Factor IV)

Further, through additional discussions with Sound Transit and further consideration of when the 4(f) process occurs with respect to environmental review and project design, the City better understands the methodology that led Sound Transit and FTA to identify multiple "least harm" alternatives. The unique nature of this linear facility with a variety of segment options impacting different 4(f) resources was a challenge. The approach used by FTA allows for a reasonable comparison of alternatives to ensure that the intent of 4(f) is satisfied.

Finally, we have reviewed the final draft of the Memorandum of Agreement prepared under the Section 106 requirements for the historic Winters House. The City recognizes that the State Historic Preservation Officer is the designated Official with Jurisdiction to evaluate the historic impact protections under Section 4(f). However, within our role as the Official with Jurisdiction over possible recreational impacts under Section 4(f), the city finds that the MOA contains mitigation sufficient to meet concerns previously addressed by the City, and we look forward to continued work with Sound Transit and the State Historic Preservation Officer during and following construction to ensure that historic and recreational features and attributes of this resource are restored.

As stated in the August 29th letter, the City is appreciative of the commitment shown to date by Sound Transit toward resolving the City's concerns about the 4(f) analysis. The City supports Sound Transit's overall goals for the project and looks forward to continued collaboration. Please accept this letter as a revision to the City's prior comment letters.

Sincerely,



Steven R. Sarkozy
City Manager

Attached: Mercer Slough Nature Park Modified Design

Cc: Patrick Foran, Director, Parks and Community Services Department
Bernard Van de Kamp, East Link Project Manager
Joni Earl, Sound Transit



DRAFT CONCEPTUAL
 SOUND TRANSIT EAST CORRIDOR PROJECT - PE (PHASE 3)
 SEGMENT B - MERCER PARK MITIGATION SUPPORT
 AUGUST 22, 2011



CH2M HILL
 EAST LINK TEAM

Ensor, Deborah (FTA)

From: Krochalis, Rick (FTA)
Sent: Tuesday, November 15, 2011 10:46 AM
To: fta.tro10mail
Subject: FW: Addition to East Link environmental record demanded

From: John Niles [<mailto:niles@globaltelematics.com>]
Sent: Sunday, November 13, 2011 5:52 AM
To: Krochalis, Rick (FTA); Mathis, Daniel (FHWA)
Cc: Witmer, John (FTA)
Subject: Addition to East Link environmental record demanded

Gentlemen of U.S. DOT:

This email is formal notification that significant information related to environmental impacts of East Link light rail on the I-90 corridor beyond what is revealed in the East Link Final EIS is contained in the emerging document record and associated public hearing for the SEPA administrative appeal launched in August by Mr. Will Knedlik, a citizen residing in the Sound Transit taxing district.

Since the SEPA FEIS and the NEPA FEIS for East Link are identical or nearly so, the substantive testimony that has been taken on the technical details of the former are relevant to the latter. I therefore demand that the document filings and transcripts from this SEPA appeal be made a part of the environmental record considered by the U.S. Government as it decides whether to issue Records of Decision for East Link, and what those RODs state. New details revealed in the SEPA appeal bear on the completeness and accuracy of the East Link FEIS as a NEPA document.

As part of this appeal, not yet concluded, two days of testimony were taken under oath in October by a Sound Transit hearing examiner. Sound Transit employees, consultants to Sound Transit who worked on the Final EIS, and transportation experts called by Mr. Knedlik all spoke in response to questions from him and the Sound Transit attorney.

In reviewing the transcripts of the hearing, I am struck by the Sound Transit consultant's reliance on Exhibit 5-6 on page 5-13 of the Transportation Technical Report contained in Appendix H of the East Link Final EIS. This evidence came up on the second day of hearings in discussions of why converting vehicle lanes of I-90 to light rail use is better for freight mobility than leaving the highway alone. This Exhibit purporting to show future mode shares on I-90 with light rail in place is not explained in enough detail in the FEIS text to permit understanding of the dramatic changes in mode share that it presents. There are cited references to models, but no detail behind the pie charts is presented. However, it's easy to show that the numbers in this chart are inconsistent with the forecasts of modest reductions in peak vehicle volumes for the same circumstances and time frames, shown in Table 5-4 on page 5-12 of the same Appendix.

Mr. Knedlik raises other new, substantive points on environmental impacts in his summation of the hearing, and I suspect Sound Transit's lawyers will do so as well. This new information is the reason for my demand that the record of the SEPA appeal covering substance in the same FEIS document that was prepared under NEPA be taken into close consideration by the U.S. Government in its forthcoming NEPA actions.

Thank you for your service.

Respectfully,

John Niles
4005 20th Ave West, Suite 111
Seattle, WA 98199
206-781-4475

Ensor, Deborah (FTA)

From: Krochalis, Rick (FTA)
Sent: Wednesday, November 16, 2011 12:05 PM
To: fta.tro10mail; Ensor, Deborah (FTA)
Subject: FW: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed
Attachments: Eastlink light rail BBBs No Solution to Downtown Bellevues 2040 transit gridlock - This must be changed.docx

-----Original Message-----

From: ccarlson@nwlink.com [mailto:ccarlson@nwlink.com]
Sent: Saturday, November 12, 2011 12:04 PM
To: Mathis, Daniel (FHWA); representative.reichert@mail.house.gov; fta.tro10mail;
jeff.harvey@mail.house.gov; Witmer, John (FTA); Rogoff, Peter (FTA); LaHood, Ray (OST); Krochalis, Rick (FTA); Mendez, Victor (FHWA)
Subject: Eastlink No Solution to Downtown Bellevue's 2040 Transit Gridlock - The Tunnel/Transit Center Plan Must Be Changed

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

Please take immediate action to address the concerns of Bellevue citizens regarding the decision to allow Sound Transit to move forward on Eastlink/light rail through downtown Bellevue. New information has come to light that shows the failure of this costly transportation line to address the traffic patterns and congestion projected by the Puget Sound Regional Council (PSRC), and its transportation planning staff. Failure to factor in this new information will result in the enormous investment by Bellevue residents for a light rail line that only increases the traffic congestion and does not provide the promised "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

I, as a resident and taxpayer of the City of Bellevue, request that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

Sincerely,
Cathy Carlson
2221 109th Ave SE
Bellevue, WA 98004

Ensor, Deborah (FTA)

From: Joseph Rosmann [joe@betterbellevue.org]
Sent: Thursday, November 10, 2011 2:52 PM
To: fta.tro10mail; Witmer, John (FTA); LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Jeff Harvey; representative.reichert@mail.house.gov
Subject: Recent PSRC Data Shows That The City Of Bellevue Will Be Forced to Abandon the Downtown Eastlink Tunnel Due to Bus Transit-Caused Congestion Within 20 to 30 Years
Attachments: BBB Presentation - Transit Center Challenges Require No MOU Now.pdf, ATT1225300.htm

Dear FTA and Other Federal Officials Concerned With Transportation Services Planning and Finance in the City of Bellevue:

The purpose of this message is to provide you with critical information obtained from the Puget Sound Regional Council (PSRC), and its transportation planning staff, which shows that Sound Transit has seriously failed in understanding, and has also failed to properly address the extent to which its plan for linking a tunnel placement of its light rail line in Downtown Bellevue to the existing Bellevue Transit Center will cause major hardship to Bellevue downtown businesses, to the employees and customers of those businesses, and to the neighborhood residents who live adjacent to downtown Bellevue, because of the massive traffic congestion that will be caused by the rapid growth in transit services into and from Downtown Bellevue in the near term.

This expected downtown traffic congestion will likely lead the City of Bellevue to have to abandon Bellevue taxpayers', and Sound Transit's investment in the proposed downtown light rail tunnel and Transit Center interchange plan that is a central element of the Eastlink light rail plan. The City of Bellevue will be faced with this dire decision because transit-caused congestion will soon leave the City of Bellevue with no other choice but to invest in a different intermodal transportation interchange solution in Bellevue downtown that will effectively serve the City of Bellevue, its downtown businesses, and the adjacent neighborhoods for the next 100 years. The documentation provided by Sound Transit in its FEIS documents and its Request for a Federal Record of Decision on its Eastlink Plan totally completely fails to incorporate this newly available information.

Building A Better Bellevue (BBB), which represents the interests and concerns of many thousands of homeowners with homes adjacent to downtown Bellevue, requests that no Record of Decision be provided to Sound Transit for its Eastlink Plan until this recently understood and critical new problem is fully understood and properly assessed.

Prior to Building A Better Bellevue's presentation to the Bellevue City Council on November 7, 2011 regarding this new information on traffic congestion in downtown Bellevue, no public body has fully understood the facts identified by these recently released new PSRC data, nor analyzed the implications of these important data for Bellevue's coming downtown gridlock. Most specifically, Sound Transit has completely failed to properly assess this information which has also been available to the agency for nearly a year.

BBB's findings and presentation were drawn solely from our region's primary public research entity charged with assessing regional transportation needs, the Puget Sound Regional Council. These PSRC data show that total transit demand for access to our Bellevue Downtown will grow to **a five-fold level by 2040**, from the present transit use level in downtown Bellevue. There is no way that the present downtown Bellevue Transit Center, and its nearby streets, can accommodate such a total volume of transit access each week day.

BBB believes that the only intermodal transit interchange solution that will work for our City at that point must recognize the eastward growth of our downtown, take advantage of every available access and egress point to and from I-405, link to an elevated light rail line that runs adjacent to I-405, and that also provides for gaining

the use of the airspace over I-405. Such a facility would also argue strongly for running the light rail line along the West side of I-405, all the way from I-90, as this would provide the most efficient access route from all east/west light rail facilities along I-90 that reach to Seattle and, in the future, also to Issaquah and beyond.

BBB believes that anything less than a full understanding of these issues now is not in keeping with sound planning for a so called "100 year light rail transit plan" for the City of Bellevue, as Sound Transit claims it has accomplished in its FEIS and ROD request documents.

A copy of BBB's presentation to the Bellevue City Council on this issue is provided here for your consideration.

Sincerely,

Joe Rosmann

for Building A Better Bellevue

www.betterbellevue.org

425.417.0797



What If.....

The Transit Center

And

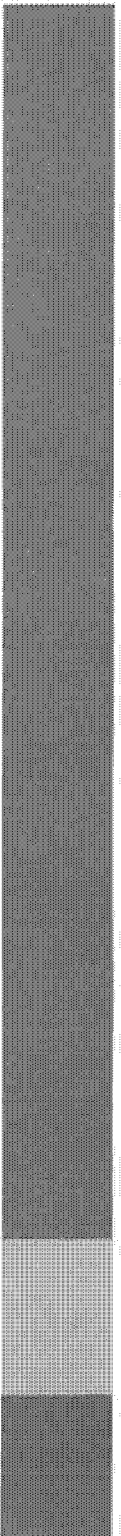
The Tunnel

Do Not Work?

WHAT IF.....

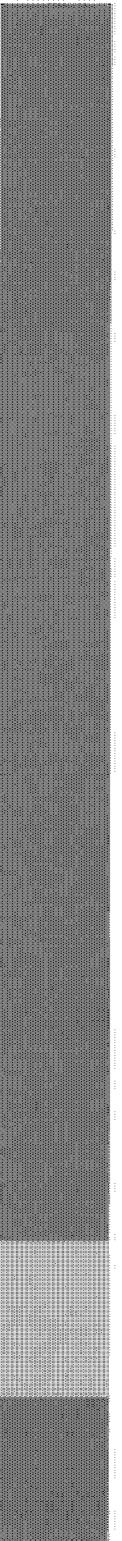
- Sound Transit And Bellevue Tax Payers Invest \$300+ Million In Our Downtown Transit Center And Tunnel Plan, Now
- And:
 - Congestion In Our Downtown Core Increases
 - Downtown Core Traffic Spills Over To Other Downtown Access Corridors
 - Downtown Traffic Moves Into The Neighborhoods Adjacent To Our Downtown

Could This Happen?



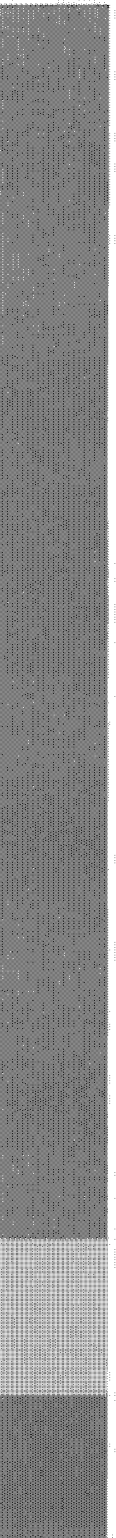
What Are the Likely Downtown Congestion Causes?

- Personal Vehicles
- Commercial Traffic
 - Delivery Trucks
 - Construction Vehicles
 - Others
- Public Transit Vehicles



Private Traffic Can Be Modulated

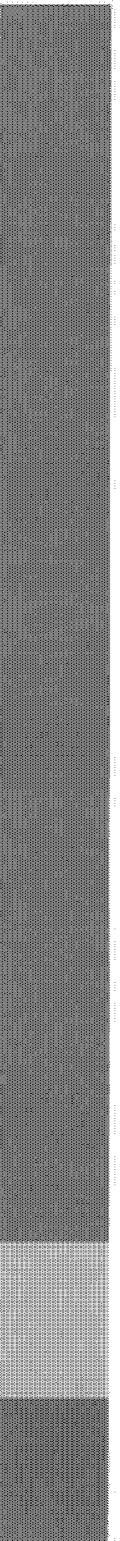
- Personal Vehicle Traffic Reductions Via:
 - Increased Transit Use
 - Higher Parking Costs
 - Time Lost Due To Congestion
- Commercial Traffic Reductions Via:
 - Short Term Parking Restrictions
 - Time Of Day Limits
 - Other Measures



What About Transit-Caused Downtown Congestion

- Transit Growth – A Desired Public Policy
- Transit Use - A Desired Personal and Commercial Objective

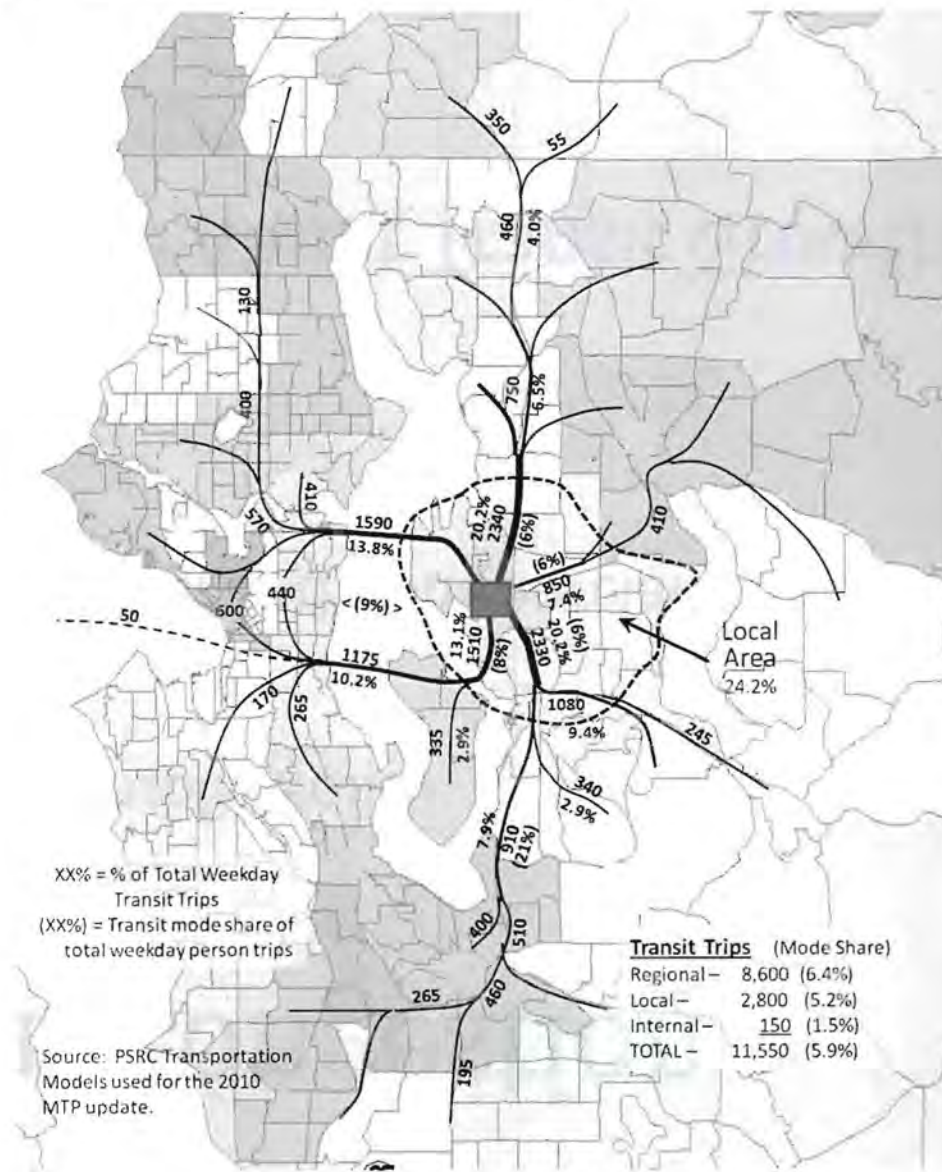
What Do the Numbers Say About Transit Growth?



PSRC's Transit Measures: 2006

- The Basis of COB's Eastlink Light Rail/ Transit Interchange Design Preference
 - 11,550 person trips

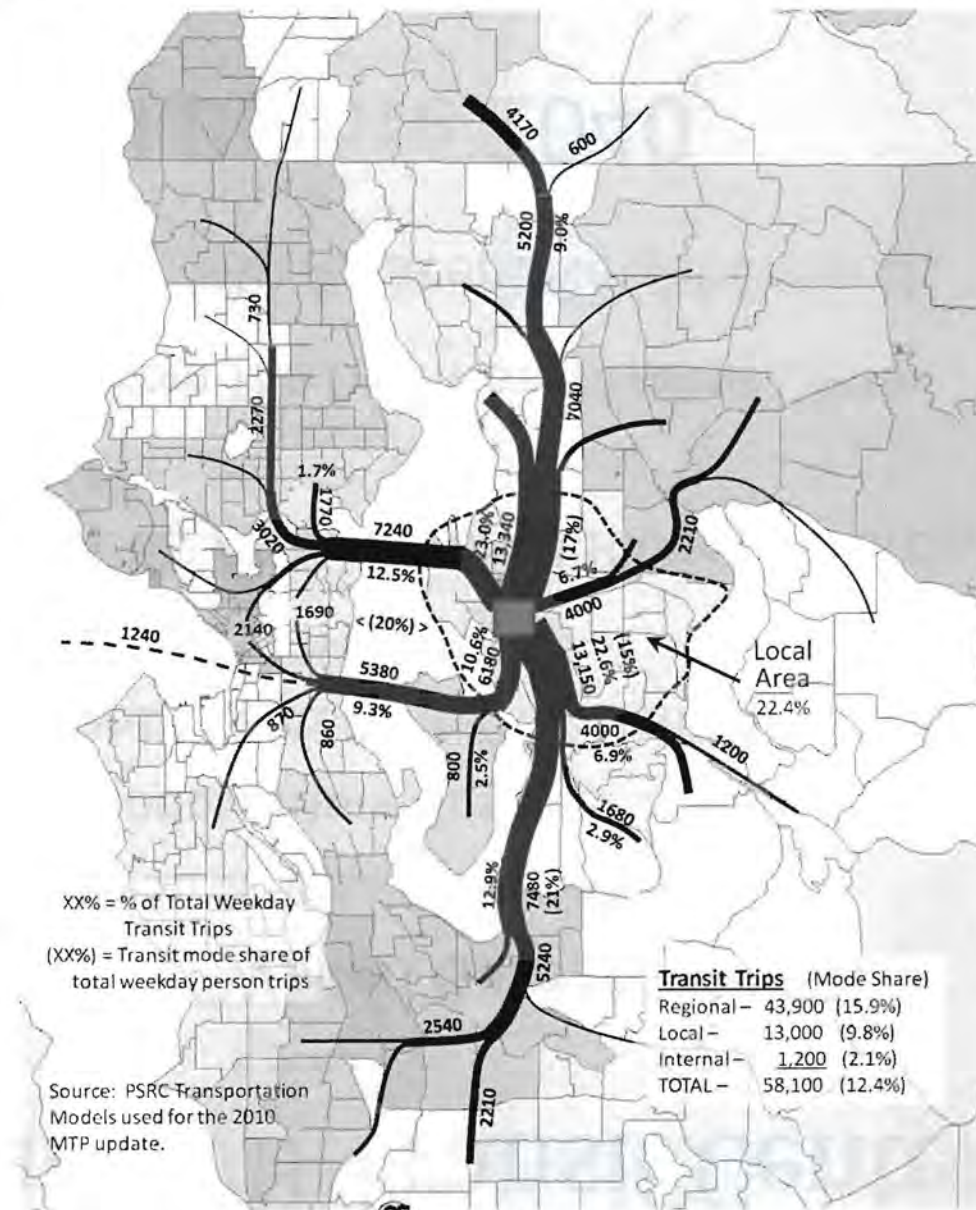
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
2006 Total Weekday Transit Trips

PSRC's Transit Measures: 2040

- A **5 – Fold increase** in total weekday transit trips in our COB downtown core –
 - From 11,550 person trips
 - To 58,100 person trips
- Source: PSRC Transportation Models used for the 2010 MTP update



DOWNTOWN BELLEVUE
 2040 Total Weekday Transit Trips

The Reality Of Our COB Transit Center

- The Bellevue Transit Center Is A “Walled Garden”
 - Surrounded By Massive High Rise Structures On All Sides
 - Cannot Be Expanded To Accommodate More Buses
 - The Tunnel Trains Below the Transit Center Can Only Handle A Small Portion Of This Increased Volume of Transit Users
- Massive Bus Congestion In The CBD As Bus Transit Ridership Grows
 - Between I-405 And The Transit Center
 - Along Major Thoroughfares To/From The Downtown Transit Center
- Massive Personal Vehicle Spillover Into Adjacent Neighborhoods
- **And, All of This, Well Before 2040**

The Reality Of 2040 Transit Demand

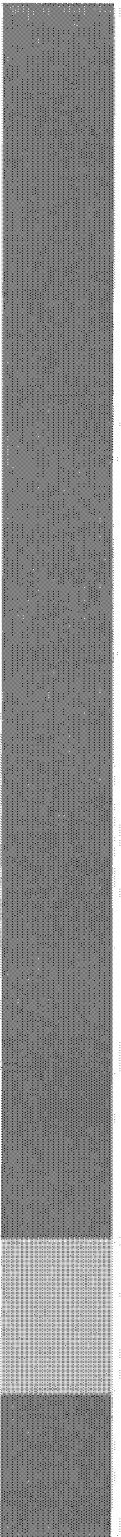
- Due To Constraints That Block Further Transit Center Utilization
 - The COB Will Have To Implement A New Intermodal Transportation Interchange Solution For Our Downtown

That Ties Together:

- The North/South Bus Volumes On I-405, And The East/West Bus Volumes on I-90 and 520
- The Eastward Expansion Of Our Downtown
- The Need for Better CBD East/West Surface Traffic Flows
- The Demand for Faster CBD East/West Ambulatory Modes

The Best Candidate for A New CBD Intermodal Transportation Interchange Facility: One That Integrates:

- Both Sides Of I-405
- The Top Of I-405
- With An Elevated Eastlink Train Interface At The Core Of This New Interchange
- With An East/West Personal Mobility Solution Across The Entire CBD



What Best Serves Bellevue's Tax Payers and the Future Of Our City?

- Before Proceeding With The **MOU** Our City Must Immediately:
 - Understand The Implications of the PSRC's Transit Growth Projections
 - Evaluate The Sunk Costs Of Investing In The Existing Transit Center By Adding A Light Rail Tunnel
 - Determine Whether Raising Property Taxes For A \$300 Million Downtown Tunnel, Whose Utility is Limited, Is A Wise Decision For Our Taxpayers
 - Evaluate Whether This Temporary Relief, At A Massive Taxpayer Cost, Is A Sound 100-Year Plan, When A Better Long Term Solution Is Available

**OUR CITY MUST
NOT SIGN THE MOU NOW**

Ensor, Deborah (FTA)

From: Krochalis, Rick (FTA)
Sent: Wednesday, November 16, 2011 12:06 PM
To: Ensor, Deborah (FTA)
Subject: FW: Sound Transit Eastlink Project
Attachments: B2M_MercerSlough.pdf; B2M_Environmental.pdf

From: GeoffBidwell [<mailto:geoffreybidwell@yahoo.com>]

Sent: Friday, November 11, 2011 11:16 AM

To: fta.tro10mail; LaHood, Ray (OST); Mendez, Victor (FHWA); Rogoff, Peter (FTA); Mathis, Daniel (FHWA); Krochalis, Rick (FTA); Witmer, John (FTA)

Subject: Sound Transit Eastlink Project

To Transportation Officials

Sound Transit has chosen an alignment B2M for its East link Project. The reason for this alignment is to provide for Transit Oriented Development (TOD). The ARUP study conducted for the City of Bellevue has demonstrated that an alternative alignment B7R is a feasible and more desirable alignment with significantly less damage to the environment.

Federal Law 4(f) requires that a Section 4(f) project requiring the use of a publicly owned land of a park can only be used if :-

- 1) There is no prudent and feasible alternative to using the land.
 - There is a prudent and feasible alternative to the B2M alignment namely the B7R alignment.
- 2) The project includes all possible planning to minimize harm of section 4(f) resources
 - Sound Transit has failed to include all possible planning to minimize harm to the Mercer Slough along Bellevue Way and along 112th Ave SE.
- 3) or, the FHWA makes a finding that the project has a de-minims impact on the section 4(f) resource.
 - Sound Transits FEIS has not demonstrated a de-minims impact to the Mercer Slough (see attachments B2M_MercerSlough.pdf and B2M_Environmental.pdf).
 - B2M uses 3 acres of Mercer Slough
 - B7R uses 0.9 acres and B7R gives back 11.5 acres from the Bellevue Way Park and Ride facility that will no longer be required with the B7R alternative.

Clearly the B7R avoids many of the impacts that the B2M alignment has and the B7R provides an opportunity to enhance the Mercer Slough Nature Park by returning 11.5 acres of land.

These facts strongly support that the Record of Decision ***should not be approved.***

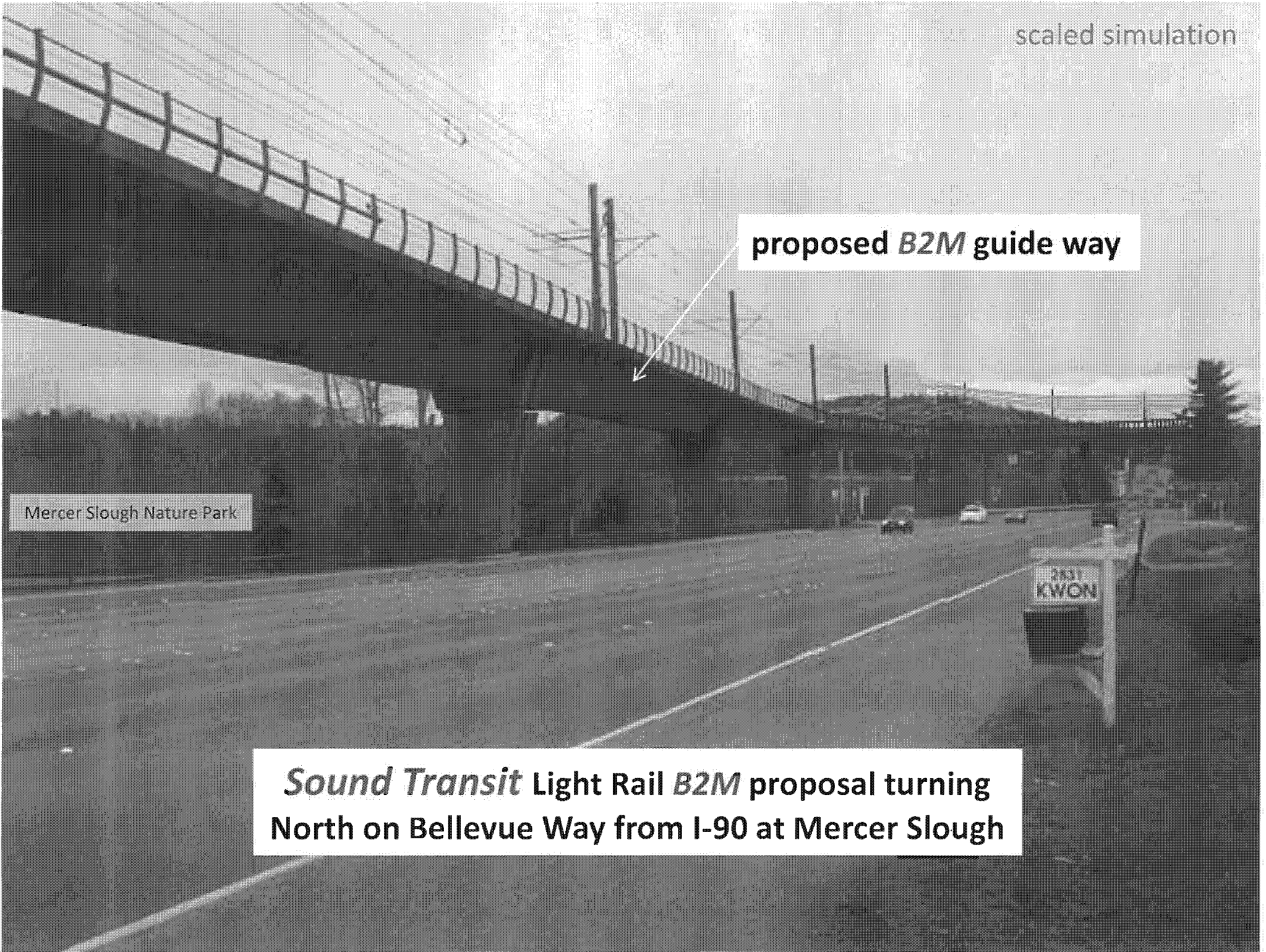
Sincerely
Geoffrey Bidwell
Bellevue, WA

scaled simulation

proposed *B2M* guide way

Mercer Slough Nature Park

Sound Transit Light Rail *B2M* proposal turning
North on Bellevue Way from I-90 at Mercer Slough



Preferred 112th SE Modified Alternative (B2M) would result in the highest permanent property impact to the 320-acre Mercer Slough Nature Park when compared with the other Segment B alternatives; it would not affect the other two parks in Segment B.

When connecting to *Preferred Alternative C11A*, 2.9 acres would be permanently impacted (1.5 acres at-grade and retained cut and 1.4 acres elevated) and 3.0 acres (1.6 acres at-grade and retained cut and 1.4 acres elevated) when connecting to *Preferred Alternative C9T* (Table 4.17-2). Exhibit 4.17-2 depicts the impacted park area. This alternative would acquire an approximately 30- to 50-foot section of the park's western boundary for a distance of approximately 3,200 feet and would remove shrubs and trees. The acquisition area would be less than 1 percent of the total park area.

TABLE 4.17-2
Segment B Parks and Open Spaces Permanent Impacts

Alternative		Mercer Slough Nature Park (acres)	Bellevue Way Greenbelt (acres)
<u>Preferred 112th SE Modified Alternative (B2M)</u>	To Preferred Alternative C11A	<u>2.9</u>	None
	To Preferred Alternative C9T	<u>3.0</u>	
Bellevue Way Alternative (B1)		0.5	0.4 (full acquisition)
112th SE At-Grade Alternative (B2A)		1.7	0.1
112th SE Elevated Alternative (B2E)		0.7	None
112th SE Bypass Alternative (B3)		1.7	0.1
B3 - 114th Extension Design Option		1.7	0.1
<u>BNSF Alternative (B7)</u>		<u>0.9</u>	None

ATTACHMENT E
Section 106 Memorandum of Agreement

MEMORANDUM OF AGREEMENT

AMONG

THE FEDERAL TRANSIT ADMINISTRATION,

WASHINGTON STATE HISTORIC PRESERVATION OFFICER,
AND THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY

Implementing

Section 106 of the National Historic Preservation Act

for the

**EAST LINK LIGHT RAIL TRANSIT PROJECT
IN THE STATE OF WASHINGTON**

WHEREAS, the Central Puget Sound Regional Transit Authority (Sound Transit) proposes to construct and operate the East Link Light Rail Transit Project (Project), an extension of its electric light rail transit system, that will connect the cities of Seattle, Mercer Island, Bellevue, and Redmond, crossing Lake Washington in the center lanes of Interstate 90 (I-90) and operating in a dedicated right-of-way between Seattle and Redmond; and

WHEREAS, the Federal Transit Administration (FTA), the responsible Federal agency, has determined that the Project is an undertaking, as defined in Title 36 Code of Federal Regulations (CFR) §800.16(y), and thus is subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. §470 (Section 106) and its implementing regulations, 36 CFR Part 800; and

WHEREAS, Sound Transit is the designated applicant responsible for obtaining the necessary approvals and permits to undertake the Project; and

WHEREAS, FTA and Sound Transit have consulted with the Washington State Historic Preservation Officer (SHPO), interested and affected Indian tribes, and other parties with a demonstrated interest in the effects of the Project on historic properties in accordance with Section 106 and its implementing regulations; and

WHEREAS, FTA and Sound Transit, in consultation with SHPO, have determined the appropriate area of potential effects (APE) for the Project and have conducted cultural resource studies constituting a reasonable and good faith effort to identify historic properties and archaeological resources within the APE pursuant to 36 CFR §800.4; and

WHEREAS, the APE and potential historic properties within the APE are described in the Sound Transit 2011 East Link Project Final Environmental Impact Statement (FEIS) and Historic

and Archaeological Resources Technical Report (Technical Report), along with a description and map of the Project; and

WHEREAS, the Technical Report resulted in the identification of 16 properties within the APE listed in or eligible for listing in the National Register of Historic Places (NRHP), including the Winters House that is listed in the NRHP; and

WHEREAS, as federally recognized tribes, the Muckleshoot Indian Tribe, the Snoqualmie Indian Tribe, the Suquamish Indian Tribe, the Tulalip Tribes of the Tulalip Reservations, and the Confederated Bands and Tribes of the Yakama Nation (the Tribes) have been consulted about the Project and have been invited to concur with this Agreement; and

WHEREAS, the Duwamish Tribal Services (a non-profit organization) has been consulted about the Project and has been invited to concur with this Agreement; and

WHEREAS, FTA and Sound Transit have completed a traditional cultural properties (TCP) archival inventory of the APE using secondary sources and information available in the public domain, and identified no recorded traditional cultural properties; and

WHEREAS, FTA and Sound Transit have consulted with the cities of Seattle, Mercer Island, Bellevue, and Redmond, King County, Washington State Department of Transportation, Federal Highway Administration, and US Army Corps of Engineers about the Project and have invited those entities to concur with this Agreement; and

WHEREAS, the Eastside Heritage Center (EHC), which is a non-profit organization, has been consulted about the Project and has been invited to concur with this Agreement; and

WHEREAS, FTA and Sound Transit have coordinated the investigations, studies and consultations described above as required under Section 106; and

WHEREAS, FTA and Sound Transit have determined that the Project will have an adverse effect, which results from a potential impact on the Winters House; and

WHEREAS, FTA and Sound Transit carried out consultations with SHPO, interested and affected Indian tribes, and other consulting parties to identify measures to resolve impacts pursuant to 36 CFR §800.6, resulting in the development of this Agreement; and

NOW, THEREFORE, FTA, SHPO, and Sound Transit agree that the Project shall be implemented in accordance with the following stipulations to satisfy FTA's Section 106 responsibilities, and they further agree that FTA shall require that the following terms and conditions be carried out.

STIPULATIONS

FTA and Sound Transit shall implement the following terms and conditions in a timely manner and with adequate resources in compliance with Section 106.

During the environmental review for this Project, conceptual engineering plans and conceptual station designs were reviewed for potential impacts on identified historic properties. These

conceptual plans and designs, and the potential impacts they describe, are included in the FEIS and the Technical Report to the FEIS. The following stipulations will govern future design, construction, and operation of the Project.

I. WINTERS HOUSE

- A. Sound Transit will perform a conditions assessment of the Winters House building to establish existing conditions, including exterior and interior inspection.
- B. Sound Transit will install vibration and settlement monitoring devices before undertaking ground-disturbing construction sufficient to provide the necessary monitoring and measurements to alert Sound Transit. Where called for, Sound Transit will adjust construction methods as needed based on monitoring results.
- C. Sound Transit will use specific vibration and settlement-reducing construction methods, to be determined by Sound Transit during final design and construction.
- D. If warranted, Sound Transit will build a construction barrier around the Winters House building to minimize damage and minimize dust during construction. This will be determined by Sound Transit during final design and construction.
- E. Sound Transit will apply dust control measures during construction to minimize dust. After construction, in consultation with SHPO, Sound Transit will clean the outside of the Winters House building and windows in a manner sensitive to the historic property.
- F. The Winters House will be closed during construction and Sound Transit will temporarily relocate the EHC consistent with provisions specified in Sound Transit's adopted Real Estate Property Acquisition and Relocation Policy, Procedures, and Guidelines (Resolution #R98-20-1); the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (CFR Title 49, Part 24), as amended; and the State of Washington's relocation and property acquisition regulations (WAC 468-100 and RCW 8.26). Sound Transit will work with EHC to find options for a temporary relocation site and reimburse them for allowable moving expenses. Allowable expenses associated with a second move back to the Winters House will also be reimbursed. For the duration of the time the Winters House is closed, Sound Transit will provide information to the public regarding how to access EHC during construction.
- G. If any physical damage occurs to the Winters House building as a result of the Project, Sound Transit, in consultation with SHPO, will make any necessary repairs consistent with *U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- H. Sound Transit will install standard methods of vibration reduction, such as resilient fasteners or ballast mats, to reduce groundborne noise below FTA impact criteria. A floating slab will be incorporated in the project, if necessary, to eliminate groundborne noise and vibration impacts. This will be determined by Sound Transit, in consultation with FTA, during final design and construction. Sound Transit will conduct vibration and groundborne noise monitoring and assessment at the Winters House within one year after light rail service opens to evaluate the operational performance of the Project

related to FTA impact criteria. If the assessment indicates that vibration or groundborne noise levels are higher than the FTA impact criteria, Sound Transit will consult with SHPO and FTA to develop a remedy.

- I. Any changes to character-defining features of the Winters House resulting from the Project (including, but not limited to: setting, landscaping, access, etc.) proposed to take place within the Winters House National Register designation boundary plus an additional 50-foot buffer, shall be developed in consultation with SHPO, City of Bellevue, and EHC. These changes shall be designed to meet as closely as feasible, the *U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties*. In its response to consultations, the SHPO shall be afforded an opportunity to review and approve any pertinent documents (i.e. plans, drawings, concepts, specifications, etc.). Upon Project completion and prior to the re-occupancy of the Winters House, or at a time mutually agreed to by the parties, Sound Transit will complete the approved changes within the National Register boundary area.
- J. Sound Transit will preserve, as practical, historic period plants in the Winters House National Register boundary that will be affected by Project construction.
- K. Sound Transit will design, manufacture, and install one new interpretive sign. Said sign shall include information related to the history of the Winters House and will be located on or near the Winters House property, in consultation with the City of Bellevue, SHPO, and EHC.

II. ARCHAEOLOGY

- A. On behalf of FTA, project archaeologists who meet the Secretary of Interior's professional standards, shall prepare an Archaeological Resources Treatment Plan (Treatment Plan). The Treatment Plan will guide the actions of cultural resources professionals during project implementation. The Treatment Plan shall be developed, in consultation with SHPO, interested and affected tribes, and other consulting parties. The plan shall:
 - a. Describe Project actions based on review of the design plans and discussions with Project engineers (to clarify the extent of ground-disturbing actions and design parameters that could affect archaeological resources); and
 - b. Summarize the environmental setting based on and with reference to the Technical Report, which includes area-specific subsurface testing results; and
 - c. Describe and implement a pre-construction subsurface testing program. The pre-construction archaeological survey will target locations that are of higher sensitivity but currently inaccessible (due to paved surfaces or other factors) or are currently privately owned; and
 - d. Based on the results of pre-construction subsurface testing and review of the project design, including tunneling excavation, refine probability zones and develop appropriate levels of archaeological monitoring during construction; and

- e. Describe methods that will be used to recover and process archaeological materials and information that may be deemed eligible or not eligible for listing in the NRHP. Identify relevant research domains or questions that pertain directly to the history and prehistory of the Project area, which would be reviewed as part of determining the eligibility of any site(s) encountered during construction; and
 - f. Develop an approach to communicate project updates; review of plans, or reporting of fieldwork activities with FTA, SHPO and consulting parties, depending on the nature and extent of recovered archaeological information; and
 - g. Establish opportunities for interested and affected tribes to review and comment on the draft Treatment Plan within 30 days and offering to meet individually, or facilitating a meeting with multiple tribes, if appropriate. SHPO shall be invited to all meetings between FTA, Sound Transit and tribes; and
 - h. Identify requirements and procedures for final curation of artifacts and information associated with any data recovery actions; and
 - i. Discuss measures that will be taken to disseminate findings to the general public, depending on the nature of the findings.
- B. FTA, in consultation with SHPO, interested and affected tribes, and other consulting parties, shall prepare an Unanticipated Discovery Plan (UDP) that addresses resources other than those identified by previous studies that are found during construction activities. The UDP will be attached to the Treatment Plan and will be the basis for the construction specifications of the Project. The UDP will include:
- a. Archaeological resources not previously identified in the Treatment Plan. This part will describe procedures to be followed by the construction contractors and Project staff, which ensure appropriate consideration of archaeological resources if encountered during construction. It will establish the formal process and notification responsibilities of relevant parties; and
 - b. Treatment of human remains, if discovered. This part will describe actions that shall be taken in the event that human skeletal remains are discovered during construction. The plan will inform Project personnel about the requirements implementing the State law relating to the inadvertent discovery of Human Skeletal Remains under RCW 27.44.055 and RCW 68.60.55 and will provide Project personnel with a clear understanding of the subsequent process.

III. DISPUTE RESOLUTION

- A. FTA, Sound Transit, and SHPO are signatories to this Agreement and are the parties who are authorized to address and informally resolve disagreements concerning the implementation of this Agreement.
- B. If informal resolution cannot be achieved, any signatory to this Agreement may object in writing to FTA or Sound Transit regarding any action carried out or proposed with

respect to implementation of this Agreement. The agency receiving the objection shall, within ten working days, initiate consultation with the objecting party to resolve the objection.

- C. If after initiating such consultation FTA or Sound Transit determines that the objection cannot be resolved through consultation, FTA shall forward all documentation relevant to the objection to the Advisory Council on Historic Preservation (ACHP), including the agency's proposed response to the objection.
- D. Within thirty calendar days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:
 - a) Advise FTA that ACHP concurs in the agency's proposed response to the objection, whereupon FTA will respond to the objection accordingly; or
 - b) Provide FTA with recommendations, which the agency shall take into account in reaching a final decision regarding its response to the objection; or
 - c) Notify FTA that the objection will be referred for comment pursuant to 36 CFR §800.7(a)(4), and proceed to refer the objection and comment.
- E. FTA shall take the resulting comment into account in accordance with 36 CFR §800.7(c)(4), with reference only to the subject of the specified dispute; FTA's responsibility to ensure that all actions under this Agreement that are not the subjects of the dispute are carried out will remain unchanged.

IV. AMENDMENT AND TERMINATION

- A. FTA, Sound Transit, and SHPO are signatories to this agreement and are the parties who are authorized to terminate it by providing 30 calendar days written notice to the other parties. If requested by a signatory, the signatories may meet during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.
- B. In the event of termination, FTA shall comply with 36 CFR 800 with regard to all remaining actions under this Agreement.
- C. If FTA or Sound Transit proposes to modify this Agreement in a manner that alters the resolution of adverse effects of historic properties, the modified Agreement must be signed by all signatories.

V. CONSULTATION UNDER SECTION 106

- A. FTA notified the ACHP of a potential adverse effect of the Project on properties listed in or eligible for listing in NRHP, affording ACHP an opportunity to comment and/or participate in resolving adverse effects. ACHP has declined to participate in the consultation to resolve adverse effects. The executed MOA will be filed with the ACHP, pursuant to 36 CFR 800.6(b)(1)(iv), when signed by the parties below.

- B. Execution and implementation of this Agreement is evidence that FTA and Sound Transit have taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects, and is evidence that FTA and Sound Transit have complied with the consultation requirements under Section 106.

VI. EXECUTION

- A. Unless terminated, this MOA shall remain in effect from the date of execution until FTA determines that the terms of this MOA have been satisfactorily fulfilled. Upon such determination, this MOA shall terminate, and FTA shall provide SHPO with written notice of the determination and termination.
- B. The undersigned official representatives of the parties affirm and concur with the agreement and enter into this agreement on behalf of their respective parties. Each party represents that the person executing this agreement on its behalf is duly authorized to execute this agreement.

VII. MISCELLANEOUS

This MOA creates no right of action for any signatory to this agreement or any other party.

Signatories:

FEDERAL TRANSIT ADMINISTRATION

By:  Date: 11/21/11

R.F. Krochalis, Regional Administrator

WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

By:  Date: 10/29/11

Allyson Brooks, Ph.D., State Historic Preservation Officer

SOUND TRANSIT

By:  Date: 10-20-11

Joni Earl, Chief Executive Officer