

Appendix C

Agency Scoping Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

February 13, 2009

Reply To: EPTA – 088

08-039-FHW

Ms. Wendy L. McAbee
Federal Highway Administration
711 S. Capitol Way, Suite 501
Olympia, Washington 98507

Dear Ms. McAbee:

The U.S. Environmental Protection Agency (EPA) has received the Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project on **State Route (SR) 302 from Key Peninsula Highway to SR 16 in Pierce County, Washington**. We are submitting scoping comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. We also wish to accept your invitation to be a participating agency pursuant to Section 6002 of SAFETEA-LU. As such, we are submitting comment, as requested, on the project Purpose and Need and Range of Alternatives as well.

The proposed project is to address existing and long-term safety and congestion on the SR 302 corridor from Key Peninsula Highway to SR 16. The corridor is approximately 7.6 miles long, and is located between milepost 10.55 and milepost 16.87 on SR 302, and milepost 15.85 and milepost 17.13 on SR 302 Spur. Currently, there are four action alternatives being considered (Alternatives 4, 6, 7, and 10) and a No Action alternative. Alternatives 4 and 10 would construct a new bridge across Burley Lagoon. Alternatives 6 and 7 are routed around the north end of Burley Lagoon and head southward near the northeastern shore of the Lagoon.

We're grateful for the opportunity to participate early in the NEPA process for this project and appreciate the helpful visit to the project area with WSDOT and HDR staff on February 4. Our enclosed scoping comments include specific preliminary concerns and recommendations based on that site visit and discussions with project staff, as well as general scoping comments that include additional issues that we believe should be addressed in the EIS. If you have questions or would like to discuss any of these comments, please do not hesitate to contact me at (206) 553-2966 or by electronic mail at somers.elaine@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine L. Somers", is written over a faint, larger signature.

Elaine L. Somers
Environmental Review and
Sediment Management Unit

Enclosure

cc: John P. Donahue, PE, WSDOT Olympic Region

**U.S. Environmental Protection Agency
Scoping Comments for
SR 302 from Key Peninsula Highway to SR 16 in Pierce County, WA**

Specific Scoping Comments

Purpose and Need

As general guidance, the EIS should include a clear and concise statement of the underlying purpose and need for the proposed action, in accordance with NEPA implementing regulations at 40 CFR 1502.13. The Purpose and Need serves to generate a range of reasonable alternatives and to establish the basis for their analysis. The Purpose and Need should not be excessively constrained so as to eliminate reasonable alternatives from consideration and analysis in the EIS or unduly influence the decision making process.

Background information for the Purpose and Need should be included that presents supporting data and other information to explain why the project is needed. It is helpful for this background information to include project-specific goals that reflect desired outcomes. Along with the transportation-related goals, these goals should identify competing needs, concerns, or constraints as well, such as those voiced by the affected community, which should be considered in the development and analysis of alternatives.

The Purpose of the SR 302 Project is to provide an efficient and functional transportation route in the SR 302 corridor between SR 302 at Key Peninsula Highway and SR 16 in Pierce County. The Needs (paraphrased) are to increase safety and, for average weekday peak hours, reduce travel time and meet or exceed intersection and highway level of service (LOS) standards. Also, to comply with WSDOT policies, accommodation of non-motorized transportation modes will be considered.

We have the following recommendations specific to this Purpose and Need:

- It would be helpful to include in the background information the WSDOT policies that are being referred to in the Purpose and Need.
- Discuss whether and to what extent the proposed project would comply with the Puget Sound Regional Council (PSRC) Vision 2040 Regional growth plan, the PSRC Multi-County planning policies, and the Kitsap and Pierce County-wide planning policies, as well as the Counties' Comprehensive Land Use Plans.
- Along with non-motorized modes, also seriously consider incorporating public transit, transportation demand management and transportation system management (TDM and TSM) into the proposed project, which could augment the efficiency and longevity of the project with respect to meeting the stated needs.
- Include in the background information the results of any Origin/Destination studies that could inform the development or modification of alternatives, including the potential for transit and other modes.

Project setting and range of alternatives

The proposed project lies within an area that is both rural and historic in nature. The project area contains important and sensitive natural features, including Burley Lagoon, a saltwater marsh, rare within south Puget Sound, which is recovering nicely since environmental clean-up of the Strandley-Manning hazardous materials site approximately twenty years ago. There are also wetlands, riparian areas, and streams, including Minter Creek that flows to Minter Bay, and Burley and Purdy Creeks, which feed the

Burley Lagoon. Some residents and land owners are fourth or fifth generation inhabitants with close ties to the land and the environment.

While affected communities in the project area appear generally supportive of the project, there is also controversy regarding the various proposed routes. We commend FHWA and WSDOT for including additional alternatives suggested by the affected public and we encourage ongoing communication and interaction with the public to derive an acceptable solution.

From an environmental perspective, we offer preliminary comments regarding the existing alternatives. We expect to refine these comments and recommendations as the project develops and more information becomes available.

Aquatic resources. In order to avoid highly sensitive aquatic resources, including the Burley Lagoon/saltwater marsh area and associated wetland, riparian, and stream habitats, we would recommend that viable upland alternatives be developed, which we understand is being done. In order to be permitted under Section 404 of the Clean Water Act, analysis would need to show that the preferred alternative is the least damaging, practicable alternative, according to the 404(b)(1) Guidelines.

Wherever possible, we recommend maximizing the use of existing infrastructure to avoid and minimize further habitat loss and fragmentation. The upland Alternative 7 would follow existing right-of-way (ROW). A portion of the upland Alternative 6 would follow existing ROW, but it appears that a portion would be new alignment that could potentially cause additional fragmentation. Where fragmentation is unavoidable, where there is existing habitat fragmentation, and/or where a proposed project could exacerbate fragmentation, such as by widening an existing road and/or increasing traffic speed and volumes, we recommend minimizing and mitigating the impacts by providing safe wildlife crossings in appropriate locations to accommodate species movement. We also recommend maintaining/restoring hydrological connectivity to support aquatic ecosystem functions and fish passage. Using appropriate structure design, both needs can often be accommodated at the same locations.

While Alternatives 6 and 7 avoid bridging Burley Lagoon, we do have concerns about their potential impacts to aquatic resources. Both alignments are located adjacent to the northeastern shore of Burley Lagoon. To avoid potential impacts to the Lagoon, we recommend that these alignments be further examined to discern ways to move them further away from Burley Lagoon. It may be feasible to route them eastward to connect with SR 16 at a location further north of where they are currently shown to merge.

There are also multiple stream crossings associated with these alternatives. For any impacts that cannot be avoided through siting and design, it is important to work closely with resource agencies, affected tribes, and other stakeholders to adequately avoid, minimize, and otherwise mitigate impacts.

Historic and existing hazardous materials and site contamination. The NEPA document should discuss the historic contamination, clean-up and restoration of the Strandley-Manning site and its effect on Burley Lagoon and associated habitats. Any residual contaminants or vulnerabilities of concern that could potentially become a problem with site disturbance resulting from any proposed alternative should be analyzed and disclosed.

TDM, TSM, and public transit. See the comments above under Purpose and Need regarding the inclusion of these features in the alternatives.

General Scoping Comments

Air toxics

There is heightened concern for human health from projects that result in air toxics emissions and particulate matter from mobile sources, particularly diesel exhaust. The *National Air Toxics Assessment*, <http://www.epa.gov/ttn/atw/nata>, asserts that a large number of human epidemiology studies show increased lung cancer associated with diesel exhaust and significant potential for non-cancer health effects. Also, the Control of Emissions of Hazardous Air Pollutants from Mobile Sources Final Rule (66 FR 17230, March 29, 2001) lists 21 compounds emitted from motor vehicles that are known or suspect to cause cancer or other serious health effects.

EPA recommends that the EIS disclose whether vehicular air toxics emissions would result from project construction and operations, discuss the health effects associated with air toxics and diesel particulate matter, and identify sensitive receptor populations and individuals that are likely to be exposed to these emissions.

For each alternative, EPA recommends:

- Disclosure of all locations at which emissions would increase near sensitive receptors because of project construction, intersections, increased traffic, including increased diesel traffic, increased loads on engines (higher speeds, climbs, etc.).
- An assessment or accounting (qualitative or modeled depending on the severity of existing and projected conditions) of all the factors that could influence the degree of adverse impact on the population because of the activities listed above (e.g., distances to human activity centers and sensitive receptor locations, particularly parks, schools, hospitals, etc; amount, duration, and location of emissions from construction, diesel, and other vehicles, etc.)
- For receptor locations, we recommend that hotspot analysis be conducted for air toxics and particulate matter, and that construction mitigation measures be included. We have enclosed two lists of potential mitigation measures that could reduce emissions during construction (Enclosure I).

For more information about conformity requirements and air toxics, please contact Wayne Elson of our Air Program office at (206) 553-1463.

Aquatic resources – direct impacts

Project area aquatic resources would potentially experience varying degrees of encroachment and alteration of their hydrologic functions, and project encroachment may degrade the habitat for fish and other aquatic biota. For any impacts that cannot be avoided through siting and design, the NEPA document should describe the types, location, and estimated effectiveness of best management practices (BMPs) applied to minimize and mitigate impacts to aquatic resources.

The NEPA document should describe aquatic habitats in the affected environment (e.g., habitat type, plant and animal species, functional values, and integrity) and the environmental consequences of the proposed alternatives on these resources. Impacts to aquatic resources should be evaluated in terms of the aerial (acreage) or linear extent to be impacted and by the functions they perform.

The proposed activities may require a Clean Water Act Section 404 permit from the Army Corps of Engineers (ACOE). For wetlands and other special aquatic sites, the Section 404(b) (1) guidelines establish a presumption that upland alternatives are available for non-water dependent activities. The 404(b) (1) guidelines require that impacts to aquatic resources be (1) avoided, (2) minimized, and (3) mitigated, in that sequence. The NEPA document should discuss in detail how planning efforts (and

alternative selection) conform with Section 404(b) (1) guidelines sequencing and criteria. In other words, FHWA must show that they have avoided impacts to wetlands and other special aquatic sites to the maximum extent practicable. The NEPA document should discuss alternatives that would avoid wetlands and aquatic resource impacts from fill placement, water impoundment, construction, and other activities before proceeding to minimization/mitigation measures.

To meet the requirements of the Clean Water Act, the NEPA document must identify all water bodies likely to be impacted by the project, the nature of the potential impacts, and the specific pollutants likely to impact these waters. If there are 303(d) listed water bodies in the project area, the NEPA document must additionally disclose information regarding the TMDLs, the water bodies to which they apply, and pollutants of concern. Provisions for antidegradation of water quality apply to water bodies where water quality standards are presently being met.

Source Water Protection Areas for Drinking Water

Public drinking water supplies and/or their source areas often exist near projects receiving federal funding. Construction activities associated with road building, maintenance and related actions may adversely affect waters that serve as sources of drinking water for communities, including public and private groundwater wells. The 1996 amendments to the Safe Drinking Water Act (SDWA) require federal agencies that manage lands that serve as drinking water sources to protect these source water areas. Source Water is untreated water from streams, rivers, lakes, springs, and aquifers that is used as a supply of drinking water. Source Water Areas are the sources of drinking water delineated and mapped by the states for each federally-regulated public water system.

State agencies have been delegated responsibility to conduct source water assessments and provide a database of information about the watersheds and aquifers that supply public water systems. We recommend that FHWA contact the Department of Ecology to help identify source water protection areas within or downstream of the project area. Databases may contain GIS and Access information for the watersheds and aquifer recharge areas, the most sensitive zones within those areas, and the numbers and types of potential contaminant sources identified for each system.

Implementing protective actions and land use decisions, such as wellhead protection plans, can be effective in providing clean source water to public intakes and wells. This will preserve the use of public funds that would otherwise be spent to upgrade treatment facilities to remove contaminants. To address source water protection, EPA recommends that the NEPA document:

- Identify all federally-regulated source water protection areas and state-regulated source water protection areas, if the state agency maintains that list, within or downstream of the project area;
- Identify all activities that could potentially affect source water areas;
- Identify all potential contaminants that may result from the proposed project;
- Identify all measures that would be taken to protect the source water protection areas in the NEPA document.

Ecological connectivity

The EIS should analyze and disclose the extent to which the various alternatives bisect and fragment wildlife habitat and movement routes. At this time, we are aware that the current proposed alternatives could potentially bisect farmland, undeveloped and under developed land. Thus, it will be important to include means to make the roadway permeable to wildlife movements, such as, by providing wildlife crossing structures of appropriate number, size, and locations to adequately accommodate wildlife movement. These mitigation measures prevent vehicular-wildlife collisions, which is important for both human and wildlife safety.

Ecological connectivity is a broader concept, however, than wildlife movement in the landscape. It includes the connections and interactions between land and water, the transfer of water, wood, soil, nutrients, genes, species, and so on. For example, ecological connectivity is impaired when a stream is channelized and separated from its flood plain; when shoreline structures or bank armoring block sediment flows and shoreline enrichment processes; when dams are built or culvert installation block fish passage; when wetland fills or impervious surface prevent ground water aquifer recharge; when hillslope cuts breach seepage areas, springs, or underground aquifers; when aquatic habitat hydrological alterations and development interfere with surface water/ground water interactions and riverine hyporheic zones; and so on. Environmental impact assessments need to focus much more on identifying these connections and the consequences of severing them; project design should incorporate the means to preserve them.

Secondary and cumulative effects

The secondary and cumulative impacts that would result from induced travel and growth are among the most significant environmental impacts from proposed transportation improvements. We understand induced travel to be any increase in travel resulting from improved travel conditions (Hunt, 2002). In most contexts, "improved travel conditions" refers to reduced travel times or improved reliability of travel times. There are both short term effects (more trips, longer trips), and long term effects (land use change).

The EIS should analyze and disclose induced travel and growth that would potentially occur, and the potential environmental effects upon air quality, water quality and quantity, terrestrial and aquatic habitats, ecological connectivity and ecosystem processes, communities, cultural/historical resources [see Cultural resources section below] of that growth in travel and development. There are a variety of methodologies available for conducting these analyses listed on the FHWA website.

As mitigation for project induced development, we encourage the project proponents to work collaboratively with local land use planning entities to ensure that the land resource is used wisely and that environmental protections are incorporated prior to stimulating new growth. As part of the secondary and cumulative effects analysis, we recommend analyzing alternative future land use scenarios that, to varying degrees, do or do not integrate transportation plans, land use plans, and environmental protections to achieve desired outcomes; do or do not incorporate smart growth and low impact development strategies to protect environmentally sensitive areas, control runoff, preserve habitat and open space; and that do or do not foster pedestrian, bicycle, and transit friendly communities that reduce travel demand on area roadways. Such an analysis would inform the land use planning effort, assist local decision making in support of healthy, livable communities and ecosystems, and potentially lead to effective mitigation for the secondary and cumulative effects of the proposed action.

Endangered, threatened, candidate, sensitive species

If the proposed project activities could affect species listed under the Endangered Species Act, the NEPA document should include the Biological Assessment and the associated USFWS or NOAA Fisheries Biological Opinion or formal concurrence.

In addition to federally listed species, there may also be state listed species, candidate state or federal species, and other sensitive or declining plant and animal species and their habitats in the project area. The EIS should disclose these sensitive species and habitats, and the alternatives presented should reflect all possible measures to avoid and minimize disturbance or harm to them.

Any potential impacts to essential fish habitat must be analyzed and disclosed, and should include a description of measures proposed to avoid, mitigate, or offset the impacts of proposed activities on the essential fish habitat.

Climate change

We recommend that the EIS include analysis of greenhouse gas emissions. While we do not recommend that project proponents provide global-level analyses, we believe it is feasible to either quantitatively or qualitatively compare alternatives with respect to their relative expected contributions to atmospheric greenhouse gases. For example, we anticipate that there would be a difference in emissions when comparing alternatives that emphasize increased roadway capacity for single occupant vehicles vs. alternatives that emphasize significant transit, multi-modal and TDM components. We think that travel models using vehicle miles traveled, levels of service, anticipated vehicular emissions, and other appropriate factors could be used to compare the relative differences among alternatives.

Community impact assessment

We recommend conducting community impact assessments for communities that would potentially be most affected by the proposed project. These usually include communities adjacent to or bisected by a proposed project, although a more in-depth analysis of the direct, secondary, and cumulative effects of proposed alternatives may reveal additional affected populations/communities. The Federal Highway Administration (FHWA) publication, *Community Impact Assessment: A Quick Reference for Transportation* [publication No. FHWA-PD-96-036, HEP-30/8-96(10M) P], is available as guidance, and pertinent websites can also provide information.

Environmental Justice

In compliance with NEPA and with E.O. 12898 on Environmental Justice, actions should be taken to conduct adequate public outreach and participation that ensures the public and Native American tribes truly understand the possible impacts to their communities and trust resources. Minority and/or low income communities and tribes must be effectively informed, heard, and responded to regarding the project impacts and issues affecting their communities and natural and cultural resources. The information gathered from the public participation process and how this information is factored into decision-making should be disclosed in the EIS.

EPA considers, at a minimum, the following information when reviewing EISs to determine the adequacy of analysis:

- describe the efforts that have/will be taken to inform the communities about the impacts of the project and to ensure "meaningful public participation" by the potentially affected communities/individuals;
- identify low income and people of color (minority) communities in the impact area(s) of the project;
- disclose in the EIS what was heard from the community about the project during the public participation sessions by listing the impacts identified by the project proponent and the communities (perceived and real);
- address whether these impacts are likely to occur and to whom, and evaluate all impacts for their potential to disproportionately impact low income and/or people of color (minority) communities;
- describe how what was heard from the public was/will be incorporated into the decisions made about the project (such as the development of alternatives or choice of alternatives);
- propose mitigation for the impacts that will or are likely to occur.

Tribal consultation

Government-to-government consultation with federally recognized Indian tribal governments is legally required. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, and the President's executive memorandum of September 22, 2004 are the latest iterations of federal government policy; the latter directed that:

Each executive department and agency ... shall continue to ensure to the greatest extent practicable and as permitted by United States law that the agency's working relationship with federally recognized tribal governments fully respects the rights of self-government and self-determination due tribal governments.

Executive Order 12898 on Environmental Justice is also relevant to Indian tribes, including both federally recognized tribes and tribes that are not formally recognized but that comprise minority and/or low-income populations. Special efforts must be taken to avoid disproportionate adverse environmental impacts on such tribes, and to eliminate barriers to their full participation in the NEPA process and related processes of environmental review.

The lead federal agency responsible for a NEPA analysis is responsible for consulting government-to-government with the governments of federally recognized tribes, and for consulting, though not necessarily on a formal government-to-government basis, with non-recognized tribes. In all cases, efforts must be made to respect tribal cultural interests, values, and modes of expression, and to overcome language, economic, and other barriers to tribal participation.

Special attention should be paid to environmental impacts on resources held in trust or treaty resources. Trust resources include those resources held in trust by the U.S. government on a tribe's behalf (such as tribal lands, minerals, and timber). They also include resources in which a tribe has rights that the U.S. government is obligated to protect. However, there is a rule of treaty construction, established long ago by the Supreme Court, that a right not explicitly ceded by a tribe was reserved, so tribes may have a basis for arguing for consideration of a wide range of traditional land rights, such as the right to use religious places and the right to protect the remains of their ancestors.

For a NEPA analysis this means that very close consideration should be given to all types of resources and aspects of the environment that tribes regard as significant, and that this consideration be carried out in consultation with tribes. Consultation should begin at the earliest stages of NEPA review, when the purpose and need for the action are considered, alternatives are formulated, and approaches to scoping are established. It should continue through the remainder of the NEPA analysis, documentation, and review process and be documented in Environmental Impact Statements (EISs) and Records of Decision (RODs), Environmental Assessments (EAs) and Findings of No Significant Impact (FONSI), and the recordkeeping supporting the application of categorical exclusions.

EPA recommends that FHWA consult with the potentially affected tribes specific to their interests and concerns. Among the issues that in EPA's experience are often of concern to tribes are

- Reservation lands;
- Formally identified trust and treaty resources;
- Grave and burial sites;
- Off-reservation sacred sites;
- Traditional cultural properties or landscapes;
- Hunting, fishing, and gathering areas (including impacts to ecosystems that support animals and plants that are or once were part of the Tribes and tribal descendants' traditional resource areas);
- Access to traditional and current hunting, fishing and gathering areas and species;
- Changes in hydrology or ecological composition of springs, seeps, wetlands and streams, that could be considered sacred or have traditional resource use associations;
- Water quality in streams, springs, wetlands and aquifers;
- Travel routes that were historically used, and travel routes that may be currently used; and

- Historic properties and other cultural resources.

Since the responsibility for government-to-government consultation with tribes is vested by law in the federal government, we recommend that a lead federal agency not delegate its tribal consultation responsibilities to the State or local government unless it has a formal agreement to such delegation with the pertinent tribal government or governments permitting such delegation, as well as a formal agreement with the State or local government as to how such consultation responsibilities will be carried out.

Cultural resources

Impacts on cultural resources are often of concern to Indian tribes, both recognized and non-recognized, but they are also of concern to other groups as well. The NEPA regulations, at 40 CFR 1508.27(b) (3) and (8), require that effects on cultural resources be considered in judging the significance of environmental impacts. A variety of specific federal laws, as well as the laws of many states, Indian tribes, and other jurisdictions and a number of international conventions and recommendations, apply to the management of impacts on different kinds of cultural resources, such as:

- Historic buildings, structures, sites, districts, and landscapes;
- Religious practices, beliefs, and places;
- Traditional uses of land and resources;
- Ancestral human remains and burial sites; and
- Traditional ways of life.

The lead federal agency conducting a NEPA analysis should ensure that all such impacts are considered in an orderly and systematic manner, in full consultation with all concerned parties, especially those who may ascribe cultural importance to such resources. Such parties should be contacted early in the scoping process and consulted throughout the analysis, documentation, and review process.

Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) outlines specific procedures to be used in examining potential impacts on historic places. These procedures should be carefully followed in the course of any NEPA analysis, but agencies must be careful not to allow attention to Section 106 review to cause analysts to give insufficient consideration to other kinds of cultural resources. Not all cultural resources are "historic properties" as defined in the National Historic Preservation Act (that is, places included in or eligible for the National Register of Historic Places); hence they cannot all be addressed through Section 106 review, but this does not mean that they do not need to be addressed under NEPA.

EPA recommends that no Finding of No Significant Impact (FONSI) or Record of Decision (ROD) be completed until the processes of consultation, analysis, review and documentation required by Section 106 of NHPA have been fully completed. If adverse effects to historic properties are identified, any Memorandum of Agreement (MOA) developed to resolve these concerns under Section 106 of NHPA should be referenced in the FONSI or ROD. Unless there is some compelling reason to do otherwise, the Section 106 MOA should be fully executed before a FONSI or ROD is issued, and the FONSI or ROD should provide for implementation of the MOA's terms.

Useful references include:

- <http://www.npl.org/nepa/index.html> regarding NEPA and cultural resources;
- http://www.epa.gov/compliance/resources/publications/edtips_consultation_guide.pdf includes the document, *Guide on Consultation and Collaboration with Indian Tribal Governments and the Public Participation of Indigenous Groups and Tribal Members in Environmental Decision Making*.
- Executive Orders:

E.O. 13175, Consultation and Coordination with Tribes;
 E.O. 13007, Indian Sacred Sites;
 E.O. 12898, Environmental Justice.

Invasive Species

Ground disturbing activities create opportunity for establishment of non-native invasive species. In compliance with NEPA and with the Executive Order 13112, analysis and disclosure of these actions and their effects, as well as any mitigation to prevent or control such outbreaks should be included. We urge that disturbed areas be revegetated using native species and that there be ongoing maintenance (wholly or primarily non-chemical means) to prevent establishment of invasives in areas disturbed by project activities.

Mitigation Measures to Reduce Emissions During Construction

- Properly maintain construction equipment.
- Evaluate the use of available alternative engines and diesel fuels:
 - Engines using fuel cell technology
 - Electric engines
 - Engines using liquefied or compressed natural gas
 - Diesel engines that meet the proposed EPA 2007 regulation of 0.01 g/bhp-hr (grams per brake horsepower hour)
 - Diesel engines outfitted with catalyzed diesel particulate filters and fueled with low sulfur (less than 15 ppm sulfur) fuel
 - Diesel engines fueled with biodiesel (diesel generated from plants rather than petroleum)
 - Fueling on-site equipment, e.g., mining equipment, with lower sulfur highway diesel instead of off-road diesel fuel
- Reduce construction-related traffic trips and unnecessary idling of equipment.
- Use newer, “cleaner” construction equipment.
- Install control equipment on diesel construction equipment (particulate filters/traps (DPTs), oxidizing soot filter, oxidation catalysts, and other appropriate control devices to the greatest extent that is technically feasible.) A particulate filter (“P-trap” or oxidizing soot filter) may control approximately 80% of diesel PM emissions. An oxidation catalyst reduces PM emissions by only 20%, but can reduce CO emissions by 40%, and hydrocarbon emissions by 50%. Different control devices may be used simultaneously.
- Reroute the diesel truck traffic away from communities and schools.
- Adopt a “Construction Emissions Mitigation Plan (CEMP). A CEMP would help to ensure that the procedures for implementing all proposed mitigation measures are sufficiently defined to ensure a reduction in the environmental impact from diesel PM and NOx due to the project’s construction. CEMP inclusions:
 - All construction-related engines are tuned to the engine manufacturer’s specifications in accordance with the timeframe recommended by the engine manufacturer; not idle for more than 5 minutes; not tampered with in order to increase engine horsepower; include particulate traps, oxidation catalysts and other suitable control devices on all construction equipment used at the construction site; and use diesel fuel having a sulfur content of 15 ppm or less, or other suitable alternative diesel fuel. Minimize construction-related traffic trips through appropriate policies and implementation measures.
 - Implement an adaptive mitigation measure program over the project’s construction phase.

**Construction Mitigation Measures
Adopted for Several Major Projects in California**

A. Administrative

1. Have a Mitigation Plan that is included in the FEIS and committed to in the ROD.
2. Require reporting.
 - a. Prepare inventory of all equipment prior to construction.
 - b. Report on suitability of add-on controls for each piece of equipment before groundbreaking.
 - c. Evaluate other engine alternatives: electric, CNG, LNG, fuel cell, alternative diesel.
 - d. Monthly, public reports by Environmental Coordinator regarding fulfillment of requirements.
3. Have suitability report subject to review by Air District, USDOT, State DOT, EPA and the public.

B. Equipment

1. Use add-on controls such as catalysts and particulate traps where suitable.
2. Use fuel with 15 ppm of sulfur or less unless unavailable.
3. Establish idling limit (e.g., 5-10 minutes per hour).
4. Tune to manufacturers' specs and do so at manufacturers' recommended frequency.
5. Prohibit any tampering with engines and require continuing adherence to manufacturers' recommendations.
6. Require that leased equipment be 1996 model or newer unless cost exceeds 110% of average lease cost.
7. Require 75% of total horsepower of owned equipment to be used to be 1996 or newer models.

C. Work limitations

1. Establish a cap on daily emissions and/or hours of work.
2. Use no more than 2 pieces of equipment simultaneously near or upwind from sensitive receptors.
3. Establish additional emissions limits within 1000 feet of any K-12 school.
4. Provide notification to all schools within 1000 feet.
5. Reduce truck trips and/or restrict hours of driving through communities to minimize risk.

* Suitability of control devices is based on whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused by the construction equipment engine, or whether there may be a significant risk to nearby workers or the public. Such determination is to be made by the Contract Project Manager (CPM) in consultation with the appropriate vendor.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6347

February 13, 2009

Mr. John Donahue, SR 302 Project Manager
Washington State Department of Transportation
PO Box 47440
Olympia WA 98504-7440

Dear Mr. Donahue:

The Department of Ecology appreciates this opportunity to comment on the SR-302 Corridor Study project. The Department of Transportation (WSDOT) has requested Environmental Impact Statement (EIS) scoping comments, along with comments on the project's Purpose and Need and Range of Alternatives.

The project's Purpose and Need Statement is well-stated, and we have no comments on that phase of the Corridor Study. We recognize that you have spent considerable time working through all of the original alternatives, and you have concluded that five of them, including "no action," are appropriate for further consideration in the EIS. Ecology has no objection to the project's Range of Alternatives, but we do have several comments about impacts from those alternatives as well as some general comments. The following comments are based on the limited environmental information that is available at this stage of the Study:

County Jurisdiction and Shoreline Management: As you know, two of the alternatives cross Pierce and Kitsap Counties. Those local governments' Shoreline Master Programs may vary significantly in certain areas, and each County will apply its own standards and regulations when reviewing any future permit applications. Ecology has different shoreline reviewers and wetlands biologists who will be working with each County as two department regions are involved: the Southwest (Pierce) and the Northwest (Kitsap). However, regional staff are working together to reduce confusion or inconsistency.

Wetlands: Ecology evaluates projects employing "mitigation sequencing" wherein one must first avoid, then minimize, and finally mitigate for unavoidable impacts to critical areas, including wetlands. We noted in your Wetlands Impacts Table that you ranked the alternatives, but we could not determine if the ranking meant amount of impacts in acres. If that is the case, then Alternative 7 has the most wetlands impacts, followed by 4, then 10, and finally 6. We will need clarification on what you mean by "Rank" as the project moves forward, and it would be

Mr. John Donahue
February 13, 2009
Page 2

helpful to include a wetlands classification. You may have included the information elsewhere, but the public should be able to easily find that information.

Additionally, because the shoreline in the vicinity of Burley Bay landward of 66th Avenue is quite steep, it appears likely that the road would expand waterward of the current 66th Avenue. This expansion undoubtedly would create additional impacts to Burley Bay's nearshore environment. Burley Bay is a Category I estuarine/lagoon wetland with special characteristics and, as a rule, Category I wetlands are considered difficult or impossible to create or replace, which may be required for mitigation. Taking into account the significant impacts this estuarine wetland has experienced to date, we recommend that WSDOT avoid additional and cumulative impacts to this sensitive estuarine environment.

One design solution might be to join SR-16 north of Burley Bay in the vicinity of Pine Road. This may eliminate most impacts to Burley Bay and provide a more straightforward connection to the remainder of Alternative 7. We recognize, however, that creating a junction with SR-16 in this area may pose problems with the SE Burley-Olalla Interchange. Nonetheless, we wonder whether this problem could be mitigated through future project design.

In-Water Work: Alternatives 6 and 7 appear to involve less in-water work and thus less in-water impacts to the area's streams and other water bodies. Alternatives 4 and 10's bridges would require more in-water work and possibly greater impacts to the aquatic environment. However, those latter alternatives are shorter routes, which involve fewer impacts to the rural environment. Again, as the alternatives are in such an early evaluation stage, we cannot now say that one is preferred over another.

Shorelines: As stated above, the two Counties have different Shoreline Master Programs (SMP) and different shoreline designations for those "shorelines of the state" within their jurisdictions. WSDOT must consult with the Counties and review the local SMPs to determine the shoreline designations and what policies and regulations apply. Ecology plays a reviewing and assisting role, and, in the case of Conditional Use or Variance Permits, Ecology must approve or deny such a County-issued permit.

Permitting: Based on the information available, we cannot precisely predict which permits will be necessary for any one alternative. However, it is likely that Shoreline permits will be necessary for several of the alternatives. An Army Corps of Engineers Section 404 permit may be required, depending on in-water impacts, including wetlands, and the Coast Guard issues a Section 9 permit for bridges. Both those federal actions trigger an Ecology response under Section 401 of the Clean Water Act. Additionally, it is likely that a Section 402 National Pollutant Discharge Elimination Permit (NPDES) will be needed.

Mr. John Donahue
February 13, 2009
Page 3

I would like to leave you with the names and contact information for Ecology staff who will be working on the SR-302 project: The NWRO shorelines contact for Kitsap County is Joe Burcar (425.649.7145; jobu461@ecy.wa.gov); NWRO wetlands contact is Caroline Corcoran (425.649.7004; caco461@ecy.wa.gov); The SWRO shorelines/wetlands contact is Alex Callendar (360.407.6167; acal461@ecy.wa.gov); Penny Kelley, who is an Ecology-WSDOT liaison, is coordinating among the regions and serves as my back-up (360.407.7298 or pkel461@ecy.wa.gov).

As Ecology's SAFETEA-LU/SAGES representative, I serve as the primary contact for the project, but I encourage you to contact staff directly should you have specific questions or remarks about our technical comments. As always, please do not hesitate to contact me directly should you need assistance. I can be reached at 360.407.6789 or tswa461@ecy.wa.gov. I look forward to working with you, Yvette, and the rest of the team.

Sincerely,



Therese M. Swanson
Ecology Transportation Team Lead



Kitsap County Department of Public Works

614 Division Street (MS-26), Port Orchard, WA 98366-4699

R. W. Casfeef, P.E., Director

February 13, 2009

John Donahue
Project Manager
WSDOT Olympic Region Planning Office
PO Box 47440
Olympia, WA. 98504

RE: SR 302 Environmental Impact Statement Scoping Comments

Dear Mr. Donahue:

In response to the Washington State Department of Transportation (WSDOT) having issued a Determination of Significance (DS), and request for comments on the scope for the Environmental Impact Statement (EIS) for the State Route (SR) 302 Corridor Study, Kitsap County, as a cooperating agency, would like to provide the following comments for your consideration.

In addition to those areas already outlined in the January 12th agency scoping meeting for review:

1. We would like the EIS to address any tidal flow impacts should an additional bridge be built. Burley Lagoon already has a restricted tidal flow due to the current bridge, limiting how much the area is flushed of sediment, pollutants and other debris.
2. Some of the alternatives being reviewed route into Kitsap County and have potentially high social impacts to the community of Burley, as well as other existing neighborhoods. These impacts need to be well vetted.
3. The EIS should include a discussion of how the alternatives would affect the land use and transportation goals and policies outlined in the Kitsap County Comprehensive Plan, such as potential shifts in growth and traffic patterns as a result of route realignment. This becomes even more critical should the alternative include the construction of a new interchange on SR 16.
4. Traffic forecast modeling for this study should be coordinated with the Kitsap County traffic forecast model.

5. With the need to reduce vehicle miles traveled, reduce green house gases, promote healthy living and provide alternative modes of transportation, there should be some discussion of how a new alignment would impact non-motorized transportation planning efforts.

We look forward to working with you throughout this environmental review process. Please contact Jim Rogers, Senior Transportation Planner, at 360-337-4921 if you have any questions.

Sincerely,



Greg Cloc
Transportation Planning Manager

cc: Jeff Sawyer, WSDOT Olympic Region Environmental Manager
Wendy McAbee, Federal Highway Administration
Randy Casteel, Public Works Director
Jon Brand, County Engineer
Larry Keeton, DCD Director
Chip Faver, Parks & Recreation Director
Jeff Shea, Traffic Engineer
Kathleen Barnhart, Environmental Programs



Pierce County

Public Works and Utilities

Brian J. Ziegler, P.E.

Director

Brian.Ziegler@co.pierce.wa.us

Transportation Services

2102 South 42nd Street, Suite 201
Tacoma, Washington 98409-7322
(253) 790-7250 • FAX (253) 790-2740

February 13, 2009

John Donahue
Project Manager, Olympic Region
Washington State Department of Transportation
5720 Capitol Boulevard SE
P.O. Box 47440
Olympia, WA 98504-7440

RE: Scoping Comments for SR-302 Environmental Study

Dear Mr. Donahue:

It is our understanding that the Washington State Department of Transportation (WSDOT) has issued a Determination of Significance (DS) to request comments on the scope for the Environmental Impact Statement (EIS) for the State Route 302 (SR-302) corridor project between Key Peninsula Highway KPN and State Route 16 (SR-16) in Pierce County. Pierce County would like to offer the following comments for your consideration:

- 1) The EIS should recognize that Pierce County has agreed to serve as a cooperating agency for this environmental study.
- 2) Since the preliminary analysis of trip origins and destinations at the Purdy Bridge indicates that most of the SR-302 traffic is bound for SR-16 in order to travel to Gig Harbor, Tacoma, and other destinations within and beyond Pierce County, the purpose and need for this project should be expanded to "improve traffic flow or circulation between SR-302 and SR-16". By separating the regional through traffic from the local trips destined to Purdy residences, businesses, and schools, the project can also improve both local and regional traffic circulation.
- 3) Some of the project alternatives that will be analyzed in the EIS may involve the construction of a new interchange on SR-16. Therefore, in addition to improvements to the SR-302 mainline and the SR-302 Spur (Purdy Drive NW), it should be clarified in the EIS that the scope and limits of this project may also include improvements to SR-16. Any improvements or modifications to County roadways and intersections should also be identified and analyzed in the EIS.
- 4) The EIS should address the potential impacts of the various alternatives on the local (Pierce County) roadway network. The EIS should identify any roadway level of service (LOS) impacts as well as the related mitigation measures and their potential costs.

February 13, 2009
Scoping Comments for SR-302 Environmental Study
Page 2

- 5) In addition to potential impacts to existing land uses, the analysis of land use and social impacts/relocations should address the potential impacts to the planned land uses identified in the Key Peninsula Community Plan and the Gig Harbor Peninsula Community Plan. The Key Peninsula Community Plan was adopted by the Pierce County Council on October 23, 2007 and went into effect on June 1, 2008. The Gig Harbor Peninsula Community Plan was adopted by the Pierce County Council on March 12, 2002 and went into effect on December 1, 2002.
- 6) The EIS should include a discussion of the transportation policies in the Key Peninsula Community Plan pertaining to SR-302. In particular, Standard 51.1.1 requests that WSDOT investigate alternatives that utilize existing roadway and utility corridors in order to minimize impacts to existing and planned land uses and the environment and requests that WSDOT avoid alternatives in South Kitsap County that will significantly increase travel time and distance for Key Peninsula commuters traveling to and from SR-16 and the Gig Harbor Peninsula.
- 6) Pierce County is currently preparing a Transportation Plan Update (TPU) to identify its transportation needs over the next twenty years. The County is developing travel demand forecasts as part of the TPU work effort. It is recommended that any travel demand modeling work for this EIS be coordinated with the Pierce County Public Works and Utilities Department/Transportation Planning and Programming Division.
- 7) To accommodate safe nonmotorized travel along the SR-302 corridor, the project scope should consider the inclusion of a shared use path (regional multi-use trail) as recommended in the Key Peninsula Community Plan (Standard 52.4.1 and Appendix A). The Scott Pierson Trail is a recent example of a shared use path completed by WSDOT along SR-16 in Tacoma. A proposed shared use path would improve safety by separating pedestrians, bicyclists, and other users from the high-speed, heavy-volume vehicular traffic on SR-302. While the County will explore other potential trail alignments (e.g. Cushman utility corridor), it should be recognized that the SR-302 corridor may serve as the only realistic and feasible link between the Key and Gig Harbor peninsulas (and the future Cushman Trail extension). A shared use path along SR-302 would further the goals of Pierce County, the Key Peninsula Metropolitan Park District, and the ForeverGreen Council in developing a countywide interconnected trail system.
- 8) The analysis of Section 4(f) impacts should address any potential impacts to existing park sites, including the Purdy Sand Spit, and planned park sites such as the "360 Park"/Horseshoe Lake property, which is scheduled within the next few years to be transferred from the Washington Department of Natural Resources to the Key Peninsula Metropolitan Park District.

February 13, 2009
Scoping Comments for SR-302 Environmental Study
Page 3

- 9) If a new alignment of any portion of SR-302 is selected by WSDOT, the EIS should address the disposition and any possible reuses (e.g. nonmotorized trail, mitigation site) of the existing SR-302 alignment that will be replaced by any new alignment.
- 10) The EIS should indicate this project must comply with Pierce County's shoreline management use regulations and will likely require the approval of a shoreline substantial development permit and a site development permit from the Pierce County Planning and Land Services Department. In addition, this project must comply with Pierce County's regulations for critical areas such as wetlands, floodplains, and fish and wildlife habitat areas.

We look forward to working with WSDOT staff on this environmental review process. If you have any questions or require additional information, please contact Mike Galizio, Senior Transportation Planner, at (253) 798-2865. Thank you.

Sincerely,



Gary N. Predochl, P.E.
Transportation Planning & Programming Manager

MG

cc: Wendy McAbee, FHWA
Jeff Sawyer, WSDOT Environmental Services
Brian Stacy, P.E., County Engineer
Adonais Clark, PALS Resource Management
Skip Ferrucci, Parks & Recreation
File

Key Pen Parks

PO Box 70
Lakebay, WA 98349

ph: 253-884-9240
fax: 253-884-9249



The key to your next adventure!

February 13, 2009

John Donahue
Project Manager, Olympic Region
Washington State Department of Transportation
5720 Capitol Boulevard SE
P.O. Box 47440
Olympia, WA 98504-7440

RE: SR-302 Environmental Study

Dear Mr. Donahue:

I understand that Washington State Department of Transportation (WSDOT) has issued a Determination of Significance (DS) to request comments on the scope for the Environmental Impact Statement (EIS) for the State Route 302 (SR-302) corridor project between Key Peninsula Highway KPN and State Route 16 (SR-16) in Pierce County. Key Peninsula Metro Park District (dba Key Pen Parks) would like to offer the following comments for your consideration:

1. The EIS should recognize that Key Pen Parks has agreed to serve as a participating agency.
2. We ask that the analysis of land use and social impacts/relocations should address the potential impacts to the planned land uses identified in the Key Peninsula Community Plan, a component of Pierce County's Comprehensive Plan. The Key Peninsula Community Plan was adopted by the Pierce County Council on October 23, 2007 and went into effect on June 1, 2008.
3. To accommodate safe non-motorized travel along the SR-302 corridor, the project scope should consider the inclusion of a shared use path (regional multi-use trail) as recommended in the Key Peninsula Community Plan (Standard 52.4.1 and Appendix A). The Scott Pierson Trail is a recent example of a shared use path completed by WSDOT along SR-16 in Tacoma. A proposed shared use path would improve safety by separating pedestrians, bicyclists, and other users from the high-speed, heavy-volume vehicular traffic on SR-302. While the Key Pen Parks and Pierce County will explore other

Key Pen Parks

PO Box 70
Lakebay, WA 98349

ph: 253-884-9240
fax: 253-884-9249



The key to your next adventure!

potential trail alignments (e.g. Cushman utility corridor), it should be recognized that the SR-302 corridor may serve as the only realistic and feasible link between the Key and Gig Harbor peninsulas (and the future Cushman Trail extension). A shared use path along SR-302 would further the goals of Key Pen Parks, Pierce County and Forever Green Council in developing a regional wide interconnected trail system.

4. The analysis of Section 4(f) impacts should address any potential impacts to existing park sites, including the Purdy Sand Spit, and planned park sites such as the "360 Park"/Horseshoe Lake property, which is scheduled to be transferred from the Washington Department of Natural Resources to Key Pen Parks during the 2007-2009 biennium.
5. We ask that the Key Pen Parks Comprehensive Plan 2007-2013 be addressed for non-motorized trail issues as well.

Key Pen Parks will work with WSDOT staff on this environmental review process and if there are questions or require additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Gallacher".

Scott Gallacher,
Executive Director

From: Ryan_McReynolds@fws.gov
Sent: Friday, March 06, 2009 6:22 PM
To: Liufau, Yvette
Cc: Donahue, John; McNamara, Cheryl; McAbee, Wendy (FHWA); Sharon Love; Teachout, Emily
Subject: SR302, Elgin Clifton Rd to SR16 Corridor EIS; Re: EIS Scoping

Yvette,

I understand that the EIS scoping period has closed and that it may be too late to formally enter FWS comments. I apologize that with respect to this step-along-the-way my 3 week February vacation couldn't have come at a worse time.

Nevertheless, I thought it important to relate as quickly as possible a potential concern which a member of the public has brought to our attention.

While I'm still collecting information with respect to this potential conflict, it seems that one of the alternatives under consideration (Alt. 10, "short bridge over Burley lagoon") could present some issues with regard to compliance with the Bald and Golden Eagle Protection Act. As best as I can tell at this point, it appears there may be an established, productive bald eagle nest in close proximity to the Alt. 10 alignment.

I hope you have at least received a response from this office with regard to our designation as a "cooperating" agency; as is typical of most of this office's SAFETEA-LU involvement, we would prefer designation and participation as a "participating" agency.

I also hope that over the weeks immediately ahead, I'll have a chance to catch-up on my work backlog, and will have an opportunity to revisit the EIS scoping docs you've provided. I fully expect this office will provide additional feedback regarding the EIS alternatives, including what information is available about compliance with the Bald and Golden Eagle Protection Act.

Thank you for your patience. Please feel free to call or email if there's anything you'd like to discuss in the near-term.

Regards - Ryan -

Ryan McReynolds
Transportation Liaison
U.S. Fish & Wildlife Service - WFWO (Lacey)
Consultation & Technical Assistance Division
ryan_mcreynolds@fws.gov
360.753.6047 (Phone)
360.753.9008 (Fax)