

REVIEW DRAFT

I-5 Columbia River Crossing Partnership: Technical Analysis

Environmental Justice Plan

Task 13.1

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Introduction

The purpose of this task is: to ensure that work under contract to ODOT meets the intent of the Federal Environmental Justice Executive Order and that ODOT's contractors effectively consider EJ in every aspect of the project; to provide ongoing oversight to the integrated EJ activities; and to prepare a final report to demonstrate satisfaction of the federal EJ Executive Order.

Appropriately and effectively meeting federal requirements with regards to Environmental Justice (EJ) requires that EJ considerations be integrated into all of the major project activity areas through a cooperative effort of all the consultants as well as the Agency and WSDOT staff working on the project.

The Primary responsibility for implementation of Environmental Justice for this project rests with the Communications Team under contract to WSDOT. This Environmental Justice Plan (Task 13.1) provides the fundamental framework for the work by ODOT technical contractors to meet the intent of the Federal Environmental Justice Executive Order.

1. Background: Federal and State Requirements

Federal

There are four key federal statutes and regulations that apply to environmental justice:

- Title VI of the Civil Rights Act of 1964
- Presidential Executive Order 12898 on Federal Actions to Address Environmental Justice in Minority and Low-income Populations
- National Environmental Policy Act (NEPA), 42 USC Section 4231
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

Title VI of the Civil Rights Act of 1964 is the main federal law instituted to prohibit discrimination. If federal money is involved in a transportation project, the federal agencies will provide oversight of environmental justice compliance. Consideration of environmental justice begins at the early planning stage and continues through construction.

Presidential Executive Order (12898) was instituted in 1994 directing Federal agencies (including USDOT) to include environmental justice in its mission. Environmental justice is defined as: *“The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.”* (Executive Order 12898)

1997 USDOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations was issued to provide more guidance for Environmental Justice compliance, including three fundamental principles:

- “To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.

- "To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- "To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations."

The effects stated in the first bullet above *"may include, but are not limited to: air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and service; vibration; adverse employment effects; displacement of person, businesses, farms, or nonprofit organization; increased traffic congestion; isolation, exclusion or separation of minority or low-income individuals from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities."* (USDOT)

Washington

Washington currently follows the federal statutes and regulations stated above for environmental justice compliance with some additional considerations:

- The State Environmental Policy Act (SEPA), RCW 43.21C requires similar procedure to NEPA.
- WSDOT advocates context sensitive solutions (CSS). The WSDOT executive order on context sensitive solutions states *"that a proposed transportation project must be planned not only for its physical aspects as a facility serving specific transportation objectives, but also for its effects on the aesthetic, social, economic and environmental values, needs, constraints and opportunities in a larger community setting"*.
- American with Disabilities Act (ADA) mandates protection for people with disabilities. Disabled persons need to be identified either in the social impacts study or the EJ study.
- EJ analysis needs to consider any Tribal impacts (Section 4(f) 49 U.S.C. 303 and Section 106 of National Historic Preservation Act 16 U.S.C. 470f). EJ analysis should also reference any cultural resources identified and their relationship to EJ populations.

Oregon

Oregon currently follows the federal statutes and regulations stated above for environmental justice compliance.

2. ODOT Technical Contractor Responsibilities

Work completed under contract to ODOT shall meet the intent of the Federal Environmental Justice Executive Order. Work for this project is in a preliminary pre-scoping phase and consists of data collection/confirmation and development of some preliminary concepts. The technical contractors shall effectively consider EJ in aspects of the project where applicable and The Underhill Company shall provide ongoing oversight to the integrated EJ activities.

Although the project is in a preliminary stage, technical contractors must understand the definition of an "adverse effect" (as defined in Section 1). These effects may not be identified at this stage of the project, however technical contractors should be aware of their implications. As the Columbia River Crossing Project moves into the EIS process, disproportionately high and adverse effects to EJ

communities must then be identified and analyzed in comparison to the entire project area. A disproportionate adverse effect would be one that is:

- Predominately borne by a minority population and/or low-income population; or
- Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and non-low-income population.

- 1) At a team meeting of technical contract leads The Underhill Company shall discuss how technical contractors shall integrate the intent of the Federal Environmental Justice Executive Order into their pre-scoping work. Agenda must include:
 - a) Overview of Environmental Justice Executive Order
 - b) Distribution of the EJ analysis maps developed after the I-5 Transportation and Trade Partnership Recommendations were released, *DRAFT Analysis of Low-Income and Minority Communities – July 2003*. Discussion will not focus on the methodology used, rather the results from the mapping exercise.
 - c) Discussion of examples of environmental effects that should be considered in the technical analysis.
- 2) Technical contractors, in collaboration with communications contractor will eventually need to define the EJ study area. This area will be refined as the project moves forward. The communications contractor is responsible for providing updated demographic analysis of low-income and minority populations within the corridor and developing a specific outreach plan and reporting strategy. Completion of this work is anticipated later this year (2004). Until the analysis is updated and approved, technical contractors shall refer to the July 2003 DRAFT maps for minority and low-income areas.

3. Technical Contractor Oversight (The Underhill Company)

- 1) The Underhill Company shall review technical contractors' work scopes and work orders for general compliance with the EJ Executive Order and shall document this review, in brief memoranda to each technical contractor.
- 2) As technical products are produced, The Underhill Company shall review the products in the context of the EJ Executive Order and offer qualitative feedback, documented in brief memoranda to each technical contractor. If multiple products from the same technical contractor are prepared and submitted simultaneously, The Underhill Company shall provide one memoranda for the products.
- 3) In performing the oversight function The Underhill Company shall coordinate work with the Public Communications activities.

4. EJ Technical Work Report

The Underhill Company shall prepare a final report at the conclusion of the project to demonstrate satisfaction of the federal EJ Executive Order. This final report shall detail how technical contractors have considered environmental justice in their work.