



June 23, 2008

CRC Task Force
c/o Heather Gundersen, Environmental Mgr
700 Washington Street, Suite 300
Vancouver, WA 98660

SUBJECT: Comments by Diversified Marine, Inc. in response to
Acquisitions Technical Report

Dear Task Force members:

B-059-001 I file the following comments in response to Acquisitions Technical ("AT") Report on behalf of Diversified Marine, Inc. ("DMI"), one of the businesses that will be significantly adversely affected by each of the CRC project transit alternatives.

In the following comments, I quote relevant text from the AT Report in bold typeface.

B-059-002 1. One of the purposes of the AT Report was stated as follows:

Are there comparable business and housing opportunities in the area to accommodate these [i.e., displaced] businesses and/or households? (p. 1-1)

COMMENT: However the report never discusses the availability of comparable business opportunities. If it had done so, the report would have confirmed that there are no private North Portland Harbor locations similar in character to those needed by DMI. That is, DMI's existing site has, and any replacement site, requires the following characteristics to function:

- (a) It must have an adequate upland area for its shipyard and room for in-water equipment.
- (b) The adjoining harbor must be deep to allow for the sinking and raising of drydocks;
- (c) The adjoining water must be calm and protected from wakes and other influences to enable exacting work to combine vessel sections.
- (d) The shoreline must be relatively narrow so that cranes on the shore can reach over the bank to convey vessel sections from the shipyard into a drydock in the water below.

Therefore the AT Report is incomplete and completely fails to fulfill one of the very purposes for which it was intended to be prepared. As a result Task Force members and constituent governments and agencies will take action on the project alternatives without being fully informed about the foreseeable consequences of their choices.

B-059-001

Thank you for taking the time to submit your comments on the I-5 CRC DEIS.

B-059-002

The Acquisitions Technical Report drafted for the DEIS used vacancy rates for retail, office, and industrial space to address the potential for business relocation. Potentially displaced businesses were not addressed individually, though the Acquisitions Technical Report drafted for the FEIS contains more detail for certain displaced businesses that may prove challenging to relocated. It is not expected that Diversified Marine would be displaced by the CRC project improvements, and therefore, a discussion about potential relocation of Diversified Marine is not included. It is unlikely that the relocation potential of a single business would have altered the choices made by project decision-makers.

B-059-003 2. The report characterizes its contents as follows:

This report identifies the likely impacts from those alternatives and identifies potential measures to reduce the impacts, including possible options for avoiding, minimizing or mitigating impacts.(p. 1-1)

COMMENT: DMI respectfully disagrees with this characterization. One likely impact of each of the transit alternatives will be the loss of DMI; not just the acquisition of right of way.

The AT Report does not describe any measures to avoid that impact. There are no measures that will reduce the impact in a manner that permits DMI to operate based on the conceptual plans for transit routes, all of which are virtually identical in that they terminate at the EXPO Center Max Station. No evaluation is made of the potential for relocating or supplanting that station, which would reduce and, potentially, avoid impacts to DMI.

The AT Report also fails to accurately characterize the impact of right of way acquisition in terms of lost businesses, lost profits, increased costs or uncompensated costs.

Therefore the AT Report is incomplete, inaccurate and biased by failing to characterize its contents honestly. That is, its contents identify the number of acres that need to be acquired for right of way without identifying the number of acres that will be lost due to secondary effects (such as where the acquired right of way splits an otherwise continuous business parcel), and it fails to thoroughly and accurately identify impacts to businesses.

B-059-004 3. The AT Report assumes that BRT and LRT lines would terminate at the Expo Center Max Station. For instance it provides as follows:

Two types of HCT are being considered – bus rapid transit and light rail transit. Both would operate in an exclusive right-of-way through the project area, and are being evaluated for the same alignments and station locations. ... The LRT would use one- and two-car trains in an extension of the MAX line that currently ends at the Expo Center in Portland. (p. 1-2)

COMMENT: As with Comment 2 above, this discussion assumes the result rather than analyzing alternatives: that BRT and LRT lines will terminate at the Expo Center Max Station. In fact nothing dictates such a result. If the South Marine Drive Realignment occurs, the lines could terminate in excess property in what now is the land extensive I-5/Marine Drive cloverleaf.

B-059-005 4. The AT Report provides as follows:

In Segment A1 [which includes the North Portland Harbor], the transit alignments would require between 2.3 and 4.2 acres of additional right-of-

B-059-003

The purpose of the Acquisitions Technical Report drafted for the DEIS was to provide a comparison of the potential right-of-way acquisitions between the build alternatives. Every effort was made to identify the necessary property acquisitions and business displacements that would occur with each alternative. The Economics Technical Report, not the Acquisitions Technical Report, describes the loss of profits from displaced businesses. Since the publication of the DEIS, additional work has been done to minimize impacts to properties and avoid displacing businesses where possible, including Diversified Marine, as described in the above response. Additional efforts to minimize property impacts will continue through final design.

B-059-004

The light rail alignment included with the CRC project will extend the MAX Yellow Line from its present terminus at Expo Center. There are no plans to relocate this station as a part of this project.

B-059-005

The Acquisitions Technical Report identified the number of buildings and businesses displaced, and did not analyze each displacement in detail. As described above, the purpose of the report was to compare the impacts of the build alternatives to inform the selection of the LPA. Impacts to Diversified Marine would have been the same with all build alternatives, and therefore would not have acted as a differentiating characteristic between alternatives. As appropriate, more detailed analysis of specific property acquisitions and business displacements occurred after the selection of the LPA and development of the FEIS.

B-059-005

way and would affect 14 to 23 parcels. Up to eight buildings would be affected under the different transit scenarios. (p. 1-8)

COMMENT: The AT Report fails to characterize the affected properties except in such general terms. To say that "[u]p to eight building would be affected" is to gloss over the fact that more than buildings are involved here. There are businesses, jobs and secondary and tertiary market effects, none of which are discussed. DMI is one of two businesses of its kind in the region, grosses millions of dollars, and has a payroll in the hundreds of thousands of dollars. Therefore the report is incomplete and inaccurate.

B-059-006

5. In discussing mitigating measures for impacts of acquisitions, the AT Report states the following:

Where property acquisition and residential or business building impacts are unavoidable, mitigation measures will apply. These mitigation measures are addressed by federal and state regulations, which require that property be purchased at fair market value...

Eligibility for relocation benefits would be determined during the final design phase of the project. Relocation ... benefits for businesses can include moving costs, site search expenses, and business reestablishment expenses.
(p. 1-9)

COMMENT: In the foregoing, the AT Report implicitly makes DMI's case, and the first paragraph undercuts the second paragraph.

Based on the first paragraph, the only thing that the project will mitigate will be DMI's "building impacts." No mitigation and no compensation will be provided except for those impacts. Although the second paragraph says that moving costs, site search expenses and business reestablishment expenses "can be included, there is no certainty that they will be included. In fact, according to DMI's lawyers (who are experienced in such matters), DMI will not be compensated for the following:

- (a) The loss of its leased storage yard;
- (b) Lost income during the move to and refitting of another site;
- (c) The cost of in-water facilities that would have to be abandoned and rebuilt elsewhere;
- (d) Disruption to and loss of work during the move;
- (e) The cost to obtain permits at the new site; or
- (f) The loss of the key technical personnel and physical and proximity relationships on which the business depends.

B-059-006

The Acquisitions Technical Report does not specifically state the compensation provided to each displaced business as this is something that is negotiated following an appraisal and during the property acquisition and business relocation process.

B-059-006 | It is inaccurate and misleading for the AT Report to suggest that affected businesses can expect to be compensated for the foregoing losses.

B-059-007 | 6. In what passes for its discussion of potential relocation sites, the AT Report provides as follows:

Vacancy and rental rates of residential, commercial and industrial properties are an indication of the potential for finding viable sites for relocating displaced residents and businesses. (p. 4-1)

All build alternatives will likely require commercial and industrial property. Office space is more available than either retail or industrial space in the CRC project area, as illustrated in Exhibit 4-3. (p. 4-2)

COMMENT: This is the extent of the discussion of potential relocation sites. There is no discussion of more specific needs of some businesses, such as DMI. There is no discussion of escalating land or building costs. Based on Exhibit 4-3 at p. 4-3, the 2007 vacancy rate of industrial land in the Portland-Vancouver metropolitan area generally is 5.7% and on the south shore of the Columbia River from its confluence with the Sandy River to the Willamette River is 6.9%. This is such a broad measure of land availability for relocation that it is meaningless.

B-059-008 | 7. The AT Report finally talks about alternatives that would protect North Portland Harbor businesses, such as DMI, in Chapter 5, where it provides as follows:

The Southern and Diagonal Marine Drive interchange options could require additional acquisitions. The Southern realignment of Marine Drive could require the acquisition of two buildings that are used by a warehouse distributing business on the corner of Marine Drive and Force Avenue. The Diagonal realignment of Marine Drive would divide the Expo Center Complex by removing about 3 acres of land on the north side of the complex. The northern building of the Expo Center would be removed to provide right of way for Marine Drive. (p. 5-4)

COMMENT: This discussion mischaracterizes the so-called Southern Marine Drive Realignment. The Southern Marine Drive Realignment is, in fact, a series of possible alternatives, only one of which involves removal of Expo Center building and only one of which involves impacts to two warehouse buildings. Another alternative involves an impact to the corner of one warehouse building. Three others involve no impacts to buildings. Therefore the discussion of these alternatives in the AT Report is inaccurate and misleading. It reflects the authors' bias against the South Marine Drive Realignment to exaggerate the impacts of such a realignment.

B-059-007

Please see response to comment -002.

B-059-008

At the time of publication of the DEIS and Acquisitions Technical Report there were only three alternatives for the Marine Drive Interchange: the Standard, Southern, and Diagonal alignments. At the time of publication, the design of the Southern alignment would have required the acquisitions as described in your comment. Following the publication of the DEIS, more alignment options for the Marine Drive Interchange, such as the series of Southern alignments mentioned in your comment, were developed for evaluation by the Marine Drive Stakeholders Group.

B-059-009 8. COMMENT: Exhibit 5-7: "Right of way Requirements for Transit Options' Segment A1" (p. 5-10) shows only right of way. It does not show the full extent of the properties affected and does not show the effects on leased and submerged lands.

B-059-010 9. The AT Report states the following about transit alignments:

The adjacent transit alignment would require between 2.3 and 3.5 acres of right-of-way (including 0.1 to 0.7 acres of ODOT-owned land) acquisition in Oregon, primarily on Hayden Island... (p. 5-11, emphasis added)

In Oregon, the offset transit alignment options would be associated with 2.6 and 3.7 acres of right-of-way acquisitions, primarily on Hayden Island (p. 5-12, emphasis added).

COMMENT: DMI respectfully objects to the characterization that transit alignments primarily would affect land on Hayden Island. Once again, this appears to reflect a bias on the part of the authors against the impacts to DMI, which is severely affected by situated on the south shore of the North Portland Harbor.

B-059-011 10. COMMENT: There is consistently more discussion of floating homes than on water-dependent businesses.

B-059-012 11. It is interested to note the following discussion in the AT Report:

During the planning and project selection process, the project designers attempt to avoid and minimize potential acquisition impacts by modifying alignments, shifting alignments or moving transit stations as possible. These shifts will be conducted to minimize acquisition needs and to avoid undesirable building and access impacts. (p. 7-1, emphasis added)

COMMENT: The emphasized phrase above anticipates that moving transit stations is one means of avoiding or mitigating adverse impacts of the project. Moving the terminus of the BHT or LRT lines from the Expo Center Max Station to a station situated further east (i.e., in the excess property formerly used by the I-5/Marine Drive cloverleaf) would avoid impacts to DMI and will reduce land acquisition for the project. Therefore it is a reasonable alternative.

B-059-013 12. Section 7.2 of the AT Report is entitled as follows:

7.2 Relocation: Availability of Business Properties

COMMENT: But this section of the report does not discuss availability of business properties at all; it only discusses their loss and focuses on Hayden Island.

B-059-009

The purpose of this exhibit was to show the amount of private property that would need to be acquired by project improvements. The designs were intersected with the property boundaries provided by the County Property Assessor, which did not always include submerged leases.

B-059-010

The Acquisitions Technical report did not disregard impacts that would occur in North Portland, but accurately characterized that a majority of property acquisitions and business displacements required by the build alternatives in Oregon would occur on Hayden Island.

B-059-011

The displacement of floating homes provided a differentiating characteristic between build alternatives, and was therefore discussed in greater detail in the DEIS and Acquisitions Technical Report prepared for the DEIS.

B-059-012

In an effort to minimize impacts to Diversified Marine, the transit designers have shifted the light rail alignment to the west to avoid bisecting the property. Moving the Expo Center transit station was not necessary to avoid impacting this property.

B-059-013

This section addressed the potential for relocating businesses based on vacancy rates and future land use plans. This discussion was kept general as many of the businesses potentially displaced by the DEIS alternatives would have been avoided by the eventual selection of the LPA. The Acquisitions Technical Report drafted for the FEIS contains more detail for certain displaced businesses that may prove challenging to relocated.

B-059-014 13. Lastly regarding permits, the AT Report states the following:

No permits related to acquisitions, other than temporary street vacations or easements, are anticipated for this project. (g-1)

COMMENT: It is not clear what this section of the report is intended to address. Of course acquisition of land does not require a permit. However the relocation of homes and businesses obviously will require permits. DMI spent months working to obtain storm water and other permits for its site, and, no doubt, would have to do the same at a relocated site. Therefore the AT Report ignores the need for relocated businesses to obtain permits for their new locations, which is a major cost in money and time of relocating.

B-059-015 In short, based on the foregoing, DMI is disappointed that the AT Report does not present a more thorough, accurate and balanced discussion of the impacts of the project. Given the importance of this subject to the project decision makers, the omissions, mischaracterizations and biases in the report will be perpetuated unless remedied in the FEIS or a SEIS.

Thank you for your attention.

For Diversified Marine, Inc.

/s/

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B-059-014

Permits would not be required for property acquisitions. At the time of the publication of the DEIS, no permits were identified as being needed for business relocation. The identification of such permits would not be made until the property acquisition and business relocation process, as the acquiring agency would wait to determine whether assistance with obtaining such permits would be provided as part of the relocation package until that time. A general statement about the potential for needing permits to relocate certain businesses has been added to the FEIS Technical Report.

B-059-015

Thank you for providing your comments on the Acquisitions Technical Report prepared for the DEIS. As described above, the purpose of this report was to provide a comparison of the property requirements needed for each build alternative to inform project decision-makers. The Acquisitions Technical Report developed for the FEIS provides more detail on individual property impacts, but much of the detail that is requested in this comment will likely not be available until the property acquisition and relocation process.