GRAHAM & DUNN PC

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September 22, 2006

WSDOT
Attn: Kate Stenberg, AWV Environmental Manager
AWV Project Office (Wells Fargo Building)
999 Third Avenue, Ste 2424
Seattle, WA 98104-4019

Re: Comments of the Seattle Historic Waterfront Association on the Draft Supplemental EIS

Dear Ms. Stenberg:

B-019-001

These comments on the Draft Supplemental EIS ("DSEIS") for the Alaskan Way Viaduct and Seawall Replacement Project ("Project") are submitted on behalf of the Seattle Historic Waterfront Association ("Historic Waterfront"). Historic Waterfront's members are the owners of historic piers and of businesses within and alongside those piers, along Seattle's Central Waterfront. Most have been part of the Seattle Waterfront for decades – in some instances since the Alaskan Way Viaduct was built, and in one instance since the Seattle Waterfront was at First Avenue. They are home-grown, locally-owned businesses and would hope and expect to be part of Seattle's future, as well as its past.

But, they are at Ground Zero for the Project's adverse construction impacts. Their survival depends upon those impacts being fully understood and adequately mitigated. It is essential to them that the purposes and the requirements of the National Environmental Policy Act ("NEPA") and the State Environmental Policy Act ("SEPA") be fully implemented here.

Unfortunately they have not been. In commenting on the March 2004 Draft EIS ("DEIS"), members of Historic Waterfront emphasized the need for the EIS to fully disclose the significant adverse environmental impacts of the construction process. Instead, the DSEIS focuses almost entirely on the impacts of construction on the users of SR 99. Its discussion of the impacts on the Central Waterfront and the rest of downtown Seattle are vague, general, and inadequate to apprise the public or decision-makers of the consequences of the decisions before them. The DSEIS continues to fail to achieve the most basic objectives of NEPA and SEPA.

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The 2004 Draft EIS and 2006 Supplemental Draft EIS discuss potential impacts during construction for the entire project area, which includes the central waterfront. Additional information has been presented in the 2010 Supplemental Draft EIS and in the Final EIS. Effects on the businesses and activities in this area during construction, such as rerouting pedestrian access and increasing traffic congestion, are described in the main volumes and technical appendices. Mitigation measures will include minimizing obstructions and maintaining access during important business seasons. Pedestrian access will be maintained during construction activities. At times, it will be necessary to reroute pedestrians using temporary facilities/detours, but these detours will be designed to minimize any inconvenience. Transportation mitigation measures described in Chapter 8 of the Final EIS will also be important to mitigate effects to businesses.

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1. The DSEIS fails to accurately describe the existing environment that will suffer significant adverse impacts from the construction of the Project.

The Project proposes to thread a major freeway, perhaps partly in a tunnel, through the heart of a great city. The construction itself will pass through at least seven distinct neighborhoods,[1] in each of which the construction impacts will be unique. Construction will cut off the major artery providing regional and downtown access for West Seattle, Ballard and Magnolia and will displace some or all of the traffic currently on that freeway, sending it through the heart of downtown Seattle and First Hill.

NEPA and SEPA require analysis that begins with a description of the affected environment that the proposal will impact. 40 CFR § 1502.15, WAC 197-11-440(6). Unless the affected environment is understood, it is impossible to adequately understand the proposal's impacts. Contrary to the requirements of NEPA and SEPA, the EIS treats the path of construction as being as homogenous and generic as might be the case if a freeway were being built through the wheat fields of eastern Washington.

Nowhere will the impact of construction be more devastating than on the Central Waterfront, and nowhere is the EIS's failure to accurately characterize the existing environment clearer. Neither the DEIS nor the DSEIS follow the format specified by 40 CFR §1502.10 or WAC 197-11-440. Neither contains any explicit description of the affected environment. The only attempt to characterize of the Central Waterfront is found at page 105 of Appendix C to the DEIS, where the preparers counted pedestrians along the Central Waterfront during the afternoon peak hour in the winter, the least busy season of the year. As anyone familiar with Seattle could have told whoever chose to count pedestrians then, you would not expect many pedestrians on the Central Waterfront during the winter p.m. peak hour; nor did they find many.

What the EIS fails to recognize is that the Central Waterfront, along with the Pike Place Market, Pioneer Square and the Space Needle, is one of the great tourist destinations of Seattle. It is a highly seasonal attraction, with more than 2.5 million annual visitors, most of whom visit from

[1] The industrial area south of the stadiums, the stadium area and Terminal 46, Pioneer Square, the Central Waterfront, the Pike Place Market, Belltown, and lower Queen Anne Hill.

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The description of existing conditions provided in the 2004 Draft EIS and 2006 Supplemental Draft EIS has been updated in the 2010 Supplemental EIS and Final EIS, as well as their appendices. The parks, facilities, and businesses along the central waterfront are acknowledged as an important tourist destination.

Updated pedestrian volumes were collected by video along Alaskan Way in downtown Seattle in August 2006. The purpose of these counts was to quantify pedestrian activity in the summer season along the waterfront for use by the Alaskan Way Viaduct Replacement Project team in assessing transportation conditions, developing mitigation measures, completing a Final EIS and furthering project design. Data collected for this effort confirms that pedestrian activity on the waterfront promenade is substantially higher in the summer, particularly during summer weekends. The updated pedestrian counts have been included in the Final EIS.

We agree that the Central Waterfront is an important recreational destination. Pedestrian access will be maintained during construction activities. At times, it will be necessary to reroute pedestrians using temporary facilities/detours, but these detours will be designed to minimize any inconvenience. Any pedestrian facility (e.g., sidewalk, bridge, path, etc.) that may be removed to accommodate construction activities will be replaced to the extent practicable with a temporary facility in a nearby location with equal capacity. Further information on how the project will address pedestrian access and safety during construction activities can be found in the Final EIS. Mitigation measures for the project are described in Chapter 8 of the Final EIS.

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April through October, and visitors peaking in the summer. The DSEIS treats the sidewalks of the Central Waterfront as if they are simply a generic transportation corridor. *See*, e.g., DSEIS at 92, where it says that during construction bicycles will be routed to other city streets but pedestrian connections would be provided so that people on foot could still make their way to and from businesses on the waterfront. To the contrary, the sidewalks of the Central Waterfront are themselves the recreational destination. The businesses in and alongside the piers are the "furnishings" of that destination, but people stroll the Central Waterfront as a recreational destination in and of itself, not just as a route from one place to another.

Historic Waterfront did its own pedestrian counts on August 4, 2006, during the peak tourist season for the Central Waterfront. The results are shown below, and contrasted with the pedestrian counts the EIS relied on to characterize the existing environment. The data collected on August 4 is attached as Exhibit A.

Alaskan Way Traffic Counts

	Pier 66 West	Pike Hill Climb W	Spring Street East	Spring Street West	Seneca Street East	Seneca Street West	Total Counts
August 4 Peak Hour	2,061	459	613	2,474	1,013	1,988	8,097
August 4 Avg. Hour	1,537	301	469	1,864	768	1,401	6,400
WsDOT winter pm	Not counted	135	46	300	86	Not counted	

In short, pedestrian traffic during a period of peak usage is eight to ten times what the EIS assumed.

By failing to recognize the nature of the existing environment – that the Central Waterfront is a major tourist attraction, currently vibrant and successful, albeit noisy – the EIS ignores the consequences of eliminating the parking, removing the sidewalks, and making it challenging and unpleasant to come to the Central Waterfront. The EIS fails to recognize that the Project will destroy one of the major tourist attractions of Seattle for upwards of a decade, with the same economic impacts as if San Francisco were to shut down Fisherman's Wharf. Similarly, by failing to recognize the nature of the environment the Project is damaging – a major tourist destination – the DSEIS fails to recognize the nature of the mitigation that would be necessary if the construction were to do anything other than destroy the Central Waterfront and its businesses. In order to begin to mitigate the impacts of construction, it would be necessary to not only replace the parking, replace the sidewalks, and maintain the pedestrian and vehicular connections, but take extraordinary steps to make the Central Waterfront an inviting tourist destination in the midst of the noise, disruption and visual clutter of a major construction site.

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2. The EIS fails to provide an adequate description of the impacts of construction to allow the informed decision making that NEPA and SEPA require.

NEPA and SEPA require a detailed statement of the significant environmental impacts of a proposal in order to "ensure that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast. *Robertson v. Methow Valley Citizen Council*, 490 U.S. at 349. To do that, "environmental impact statements must be concise, clear and to the point, and must be supported by evidence that agencies have made the necessary environmental analysis." 40 CFR § 1500.2(b). "The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." 40 CFR § 1500.1(b).

By contrast, the EIS here describes the impacts of construction in the same generic terms as would describe virtually any highway construction project. It is so vague, so general and so non-specific that it does not fairly apprise either the public or public officials of the consequences of this Project. Members of Historic Waterfront can attest to the inadequacy of the DEIS in achieving its basic purpose. It was only after a series of meetings with Project staff that they realized what neither the DEIS nor the DSEIS allow them to understand – that the environmental impacts of the Project will make it impossible for their businesses to continue.

Chapter 7 of the DSEIS purports to disclose the impacts of construction. It says "pedestrian and bicycle access on Alaskan Way would be limited during construction." *Id.* at 92. "Transportation through the corridor will be difficult during construction." *Id.* at 95-96. "Noise during the construction period would be bothersome and annoying . . . because it would make it unpleasant to be outside and hard to hold conversations." *Id.* at 97. "[V]iews in the project area would be affected by staging areas, heavy equipment, drill rigs, scaffolding, fencing, cranes, dust and dirt, noise barriers or curtains, and storage of construction materials. Distant views of water and mountains might be somewhat cluttered by construction activities, and views up and down the corridor would be cluttered or obstructed by construction materials, equipment, and activities." *Id.* at 97-98. "Construction would make it more difficult for people to make their way to parks and recreation facilities along the waterfront and to move around once they got there. . . . [C]onstruction-related disruptions could keep some people away, and facilities that rely on an admission fee, such as the Seattle Aquarium, might be affected financially." *Id.* at 98. "Construction effects would include traffic detours, traffic congestion, noise and air pollution, and other less direct impacts. Construction along the corridor would temporarily increase the barrier – both perceived and physical – created by SR 99." *Id.* "Construction activities, especially along the central waterfront, would interfere with access to businesses and properties adjacent to the project on both sides of the right-of-way. A primary goal of construction planning is to maintain adequate access to all businesses so they can continue to operate." *Id.* at 99. "The Pioneer Square, central waterfront and commercial core business districts rely upon

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FHWA, WSDOT, and the City of Seattle appreciate receiving your comments. As a result of the comments received on the 2006 Supplemental Draft EIS, additional planning and analysis was conducted and presented in the 2010 Supplemental Draft EIS.

After the 2006 Supplemental Draft EIS was published, there was not a consensus on how to replace the viaduct along the central waterfront. In March 2007, Governor Gregoire, former King County Executive Sims, and former City of Seattle Mayor Nickels initiated a public process called the Partnership Process to develop a solution for replacing the viaduct along the central waterfront. Details about the project history are described in Chapter 2 of the Final EIS. Because the project has evolved since comments were submitted in 2006, please refer to this Final EIS for the current information.

In January 2009, Governor Gregoire, former King County Executive Sims, and former Seattle Mayor Nickels recommended replacing the central waterfront portion of the Alaskan Way Viaduct with a single, large-diameter bored tunnel. After the recommendation was made, the Bored Tunnel Alternative was analyzed and compared to the Viaduct Closed (No Build Alternative), Cut-and-Cover Tunnel, and Elevated Structure Alternatives in the 2010 Supplemental Draft EIS. The comments received on the 2006 Supplemental Draft EIS, subsequent Partnership Process, and the analysis presented in the 2010 Supplemental Draft EIS led to the lead agencies' decision to identify the Bored Tunnel Alternative as the preferred alternative for replacing the viaduct along the central waterfront.

In the Final EIS, Chapter 6 discusses the construction activities, durations, and detours in detail. Construction for the preferred Bored Tunnel Alternative is expected to begin in August 2011 and last about 5.4 years. A primary detour used during construction of the bored tunnel

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short term metered parking, so the loss of close parking and increase in traffic congestion could deter customers and cause a loss of business." *Id.* at 100.

These are generic comments, equally true of the most minor of roadway repairs. They disclose that the construction process will be difficult and unpleasant, but provide no warning that it is any different from highway construction projects that businesses endure and survive on a regular basis. The reality, as described by Project staff in meetings with Historic Waterfront members, is quite different.

From those discussions with staff we learn that on day one of construction, the Project will close Alaskan Way except for one lane in each direction, potentially remove some or all of the limited on-street parking and remove all parking under the viaduct. It will then dig a trench the length of the Central Waterfront deep and wide enough to relocate a six-foot diameter sewer line, the major natural gas line serving Seattle, a 21-inch water line and the major power line serving downtown Seattle, along with other utilities. Pedestrians coming to the Central Waterfront from downtown hotels will have to cross that trench. Buses bringing visitors will have to compete with delivery trucks and other north-south traffic for use of the single lane in each direction to find a place to pull over and drop off passengers, and will have no place to park. Visitors who now drive to the Central Waterfront will have no place to park. At the same time, the Project will also be building temporary "bridges" from Western Avenue to one or more of the individual piers, to provide their only access during later stages of construction. They will also build bridges between one or more of the piers, which may cut pedestrian and other traffic through the middle of businesses.

After 30 months of the initial phase, "real" construction begins with the closure of all north-south use of Alaskan Way. The Project will physically remove the sidewalk in front of the piers – the sidewalk that in August 2006 held upwards of 2,400 people at a single location during its peak hour. The DSEIS says they will drive sheet piling along the entire waterfront where the sidewalks were removed, although that may be substituted with repairs along the existing seawall. Then if the tunnel is constructed, the Project will place up to four of the largest cranes in the world along the Waterfront, each supported by two auxiliary cranes. (We now understand that the Project may do all the work south of Spring Street first, then three years later do all the work north of Spring Street. If that is the plan, then it is likely that only two of the largest cranes in the world, each supported by two auxiliary cranes, will be used.) The large cranes will spend months drilling 4-foot diameter interlocking pilings to form the outer wall of the tunnel, after which the Project will dig a hole 60 feet deep and 80 feet wide that people coming to the historic piers may again have to cross. If the elevated structure is built the Project will have major construction along the entire viaduct. As with the tunnel, it will remove the sidewalk, dig a hole 40 feet wide by 15 feet deep in the street, but then spend months with heavy equipment forcing grout into the soil along the seawall.

would be located on the WOSCA property west of Qwest Field. SR 99 traffic would use the WOSCA detour during the first 4.5 years of construction. Please see the Final EIS for addition roadway restrictions and closures.

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All of that process will continue for from four to seven years. The active construction in front of any particular property may be a matter of months, but lulls while construction is elsewhere on the waterfront will be followed by subsequent bursts of intense activity, which will make it impossible to do business within the piers, if one were to assume any customers would come to the piers. The lulls may matter little to the members of Historic Waterfront. Their accessibility will be destroyed and the amenity values of the Central Waterfront will be damaged in Stage One of construction, and the character of the pedestrian environment will only deteriorate from there. There is no reason to expect any of them to be in business eighteen months after the start of construction.

Visitors to the Central Waterfront come there during their leisure time for its recreational value. They make discretionary visits, motivated by the pleasant experience of strolling the Central Waterfront. While there may be occasional visitors who will brave a lack of parking, noise, dust, smells and frightening visual character to cross the largest construction site in the state's history and reach the piers during construction, it is unlikely that many will do so. Now that they understand the environmental impacts, members of Historic Seattle expect their business to drop by 80-95% during the construction process. No business can survive that sort of drop for a period of years.

The purpose of an EIS is to provide an adequate description of the impacts of the proposal to allow for informed decision making. The EIS so understates the magnitude of the construction impacts that it does not allow the reader to understand that the proposed action is to destroy the Central Waterfront, putting all of its existing businesses out of business, and eliminate one of the major tourist destinations of Seattle for the duration of construction. That is information that the public and decision makers need to have in considering the choices before them.

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3. The DSEIS does not adequately address the traffic impacts on the rest of downtown Seattle from the partial or complete closure of SR 99 during construction.

The DEIS, DSEIS and the Transportation appendices to each spend a great deal of space discussing the transportation benefits of the Project once completed, but largely relegate the transportation impacts of the construction process to a "Construction Transportation Management Plan" which is yet to be developed. DSEIS at 95. Those potential mitigations that are discussed in the EIS focus primarily on mitigating the impact on the users of SR 99, getting commuters into and out of Seattle, or getting trips through downtown Seattle which begin and end somewhere else. The DEIS and DSEIS fail to consider, or recognize the need to mitigate, the impacts of the construction process on neighborhoods of Downtown Seattle that are not simply commuter destinations and for which increased congestion can be deadly.

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One component of the project's purpose is to avoid major disruption of traffic patterns. When selecting the preferred alternative, the lead agencies considered the amount of time SR 99 would be closed during construction. The preferred Bored Tunnel Alternative would close SR 99 for a few weeks to construct the WOSCA detour and connect the existing facility to the new tunnel portals. The Cut-and-Cover Tunnel Alternative would close SR 99 for 39 months in the northbound direction and 42 months in the southbound direction. The Elevated Structure Alternative would close SR 99 to all traffic for 2 to 4 months midway through construction and again for 3 months at the end of the construction period.

Further modeling and analysis of the traffic impacts in the area during construction have been conducted and are described in Chapter 6 of the Final EIS and Appendix C, Transportation Discipline Report. Construction impacts on neighborhoods are described in Appendix H, Social Discipline Report, and construction impacts on businesses are described in Appendix L, Economics Discipline Report. Both appendices describe mitigation measures for these impacts. In addition, mitigation measures associated with construction of the Alaskan Way Viaduct Replacement Project are presented in Chapter 8 of the Final EIS.

B-019-004 Regardless of the alternative chosen, for three and a half to seven years or more Project construction will displace between half and all of the 119,000 vehicles that currently use SR 99. Some of that displaced traffic will disappear. Some will be diverted onto I-5, which because it is currently at or near capacity cannot accept much additional traffic. The largest increases will be on the streets of downtown Seattle and on First Hill.[2] It is essential that the EIS fully describe the impacts of that construction traffic, because beyond the Project's destruction of the existing waterfront, congestion from that traffic may have the largest overall adverse impact on the City and the region.

It is essential that not just the Project proponents' conclusions but also the underlying data and analysis be made available to the public, so that the public and decision makers can fully understand the impacts on the rest of downtown of diverting the traffic from SR 99. Neither the DSEIS, nor its appendices, provide any of the data or analysis to support the EIS's conclusory statements. (*See* 40 CFR § 1502.18(b), providing that appendices to an EIS "normally consist of material which substantiates any analysis fundamental to the impact statement;" here by contrast, the Transportation appendix simply repeats the same conclusions found in the text without any of the supporting data or analysis.) The DSEIS lists "Traffic Modeling and Transit" as an issue that remains to be resolved, raising questions about whether the rather sparse conclusions in the EIS should be treated as reliable at this juncture. DSEIS at 39. The estimated daily traffic volumes shown on pp. 93-95 of the DSEIS cannot be reconciled with the data on pp. A-9 to A-20 of "Assessment of AWV Construction Approaches: Closed Viaduct or Partially Open Viaduct," Parsons Brinkerhoff (2005) ("Closed Or Partially Open Assessment"), which is the only analysis of the impacts of construction that has been previously made available. It is unclear whether the DSEIS is based on new data, different analysis, an updated model, or some variation on all of the above.

It is also critical that the EIS disclose the impacts on the specific neighborhoods within downtown Seattle, rather than addressing only the number of north-south trips at three screenlines – Mercer Street, Madison Street and Spokane Street. DSEIS at 94. Although there is no way to reconcile the vehicle trip counts between the totals shown on pp. 86 and 93-95 of the DSEIS and those shown in the Closed Or Partially Open Assessment, the trip distribution diagrams in the Closed Or Partially Open Assessment drive home a critical point: the "average" increase in traffic in downtown Seattle is misleading because while some streets are barely affected or will have less traffic as a result of the increase in general congestion, some streets

[2] The DSEIS states that the Project will increase peak congestion on I-5 from its current 5 to 8 hours per day to 8 to 12 hours per day when SR 99 is partially closed and 9 to 14 hours per day when SR 99 is closed. DSEIS at 94. It says that peak congestion on downtown streets would go from its current 3 to 4 hours per day to 5 to 10 hours per day when SR 99 is partially closed and 10 to 13 hours per day when SR 99 is closed. *Id.* at 93-94.

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will experience dramatically more than the "average" increase in traffic. Attached as Exhibit B are the trip distribution sheets from the Closed Or Partially Open Assessment showing the change in daily traffic volume under "Scenario 1" (SR 99 open but limited to one or two lanes) and "Scenario 3" (SR 99 closed). The traffic increases for selected locations are shown below.

INCREASES IN DAILY TRAFFIC

	Scenario 1	Scenario 3
Mercer north of Seattle Center	+34%	+45%
Mercer between 5th and Aurora	+231%	+236%
Westlake at Valley	+427%	+437%
Broad at Seattle Center	+134%	Traffic decreased because the Broad Street detour is not included
First Ave. between Pike and Pine	+27%	+60%
Second Ave. between Pike and Pine	+69%	+75%
Third Ave. between Pike and Pine	+25%	+45%
Fourth Ave. between Pike and Pine	+4%	+23%
Fifth Ave. between Pike and Pine	+11%	+18%
First Ave. north of Yesler	+81%	+279%
First Ave. south of Yesler	+119%	+366%
Second Ave. between Yesler and Fourth	+6%	+28%

If these increases are in fact what will be experienced, they will result in very significant adverse impacts to three areas that are particularly sensitive to increased congestion: Seattle Center, the retail core and Pioneer Square. A strategy which focuses on improved transit and getting more trips through Seattle will do nothing to mitigate the impacts of increased congestion on these areas, because they are not now transit dependent and they rely for their success on the ability of people to drive to them and park at them.

- Seattle Center is home to some of the cultural treasures of the region – Pacific Northwest Ballet, Seattle Opera, Seattle Repertory Theater, Intiman, Book-It Repertory Theater, Pacific Science Center. Each of these non-profits depends upon maintaining ticket sales, and their stability would be threatened if increased congestion leading to Seattle Center

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dissuaded patrons from renewing subscriptions or buying single tickets. Mercer Street in particular is key to access to Seattle Center, and the increases shown for Mercer Street suggest very severe impacts on Seattle Center.

- The retail core is a second Seattle treasure – one of the few urban retail cores that has thrived while most retail has abandoned city cores. But Seattle's retail core is in constant competition for regional shoppers. Increasing traffic from 11% to 75% in the retail core would have very severe impacts on the retail core's ability to be competitive.

- Pioneer Square is a key neighborhood for Seattle, having been resurrected in the 1970s from decades of decay, but facing current challenges to its stability. Increasing traffic through its main street by 81% to 366% would significantly hinder efforts to preserve its livability.

Because we cannot reconcile the data in the Closed Or Partially Open Assessment with the data in the DSEIS, we do not know if the projections in the Closed Or Partially Open Assessment are likely to be correct. It is simply the only detailed data so far produced to the public by the Project proponents. The EIS must present an assessment, supported by verifiable data and analysis, of the probable traffic impact on the specific areas within downtown Seattle that will be most affected. Before there is any irreversible commitment of resources, the public and decision-makers need to understand the impacts of congestion the Project will cause on Seattle Center, the retail core and Pioneer Square for three and a half to seven years or more.

It is also essential before there is any irretrievable commitment of resources to have an analysis of the expected impact of the various mitigation measures that the DSEIS suggests may be included in a construction traffic mitigation plan. The mitigation plan must recognize and address the unique needs of the neighborhoods that are being affected. The DSEIS proposes mitigation such as removing on-street parking to allow more vehicle trips to pass on the streets of the area. While that may mitigate the impact on users of SR 99, it may increase the adverse impacts on areas such as Pioneer Square. The DSEIS proposes improving transit as a primary mitigation method. That may have little or no benefit for areas such as Seattle Center and the retail core, which depend upon patrons and customers being able to drive to and park at their destinations. The EIS cannot simply treat the area where traffic will be diverted as homogenous and able to rely on transit instead of automobiles, because critical parts of the affected environment will suffer unique impacts from the increased congestion caused by the Project and have unique needs that must be addressed.

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4. The EIS must fully evaluate the air quality impacts of the congestion resulting from construction.

The City of Seattle has recently committed itself to leadership in the area of reduction of greenhouse gases and global warming. The City has also recently become a "maintenance area" for carbon monoxide, one of the deadliest air pollutants. Being a maintenance area means that the region has recently attained compliance with the National Ambient Air Quality Standards (NAAQS). DSEIS at 68. Motor vehicles are the source of over 90 percent of the carbon monoxide emissions that cause the NAAQS to be exceeded. DEIS App. Q, at 7. Motor vehicles are also the major source of greenhouse gases. *Id.* at 12. The highest CO emissions occur when vehicles are at speeds below 10 miles per hour – in other words, when they are stuck in congestion. *Id.* at 21.

As with much of the EIS, the analysis of air quality impacts thus far is focused primarily on the impacts of the finished Project. On a much less intense scale, there is some consideration of air quality impacts in the immediate construction corridor during construction. There is no analysis at all of the air quality impacts that the congestion of the construction process will cause elsewhere in downtown Seattle. In the Air Quality Discipline Report appendix to the 2004 DEIS the proponent went through a detailed analysis of congested intersections expected as of 2030, and the air quality impacts of the congested intersections that will exist as a result of the normal expected growth in traffic. It is exactly that analysis which is required for the congestion that will occur as a result of the closure or partial closure of SR 99 during construction. In addition, since during partial closure of SR 99 it is likely that traffic on SR 99 will itself be highly congested, there needs to be air quality modeling for the traffic that remains on SR 99, at crawl speeds. The Air Quality Discipline Report suggests that no analysis of the air quality impacts is contemplated except as necessary to prove that the Project meets the requirements to receive federal funding. The analysis of air quality impacts, based on intersection analysis throughout downtown in the face of the closure or partial closure of SR 99, is required in the EIS because air quality degradation caused by the congestion of construction is potentially a significant adverse impact. It is unacceptable that the air quality impact of construction be disclosed only in some separate document, submitted only to the Federal Highway Authority.

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5. The Project must fully mitigate its impact on parking. At least on the Central Waterfront, and probably in some other neighborhoods of downtown Seattle, "increased utilization of existing parking" is not a mitigation option. New parking must be built to replace the parking that is eliminated.

Members of Historic Waterfront regularly survey their customers, to understand who they are, where they came from and how they got to the Waterfront. Depending on the business, those surveys consistently show that from 60-75% of the customers drove automobiles and parked

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A mobile source analysis has been conducted to estimate the potential air quality effects from the traffic conditions anticipated during construction and operation of the project.These analyses are described in the Final EIS and Appendix M, Air Discipline Report. Mitigation measures for traffic during construction are also described in the Final EIS and Appendix C, Transportation Discipline Report.

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The lead agencies recognize that businesses along the central waterfront, Western Avenue, and Pioneer Square rely on the short-term parking in the area. The City of Seattle Department of Transportation (SDOT), in coordination with the project, has conducted parking studies as part of the process to develop mitigation strategies and better manage the city's parking resources. SDOT's studies identified a number of strategies to offset the loss of short-term parking in this area, including new or leased parking and the increased utilization of existing parking. Although the mitigation measures would be most needed during construction, many of them could be retained and provide benefits over the longer term. Specific parking mitigation strategies have not yet been determined, but the project has allocated $30 million for parking mitigation. The parking mitigation strategies will continue to evolve in coordination with the project and community partners. Parking measures under consideration and refinement include:

- Encourage shift from long-term parking to short-term parking
- Provide short-term parking (off-street), especially serving waterfront piers, downtown retail, and other heavy retail/commercial corridors
- Implement electronic parking guidance system
- Provide alternate opportunities to facilitate commercial loading activities
- Develop a Center City parking marketing program
- Use existing and new social media and blog outlets to provide

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within a block or two of the Waterfront, primarily using the limited parking on Alaskan Way, the parking under the viaduct, the two surface lots on Western north of Madison and University, or the surface lot on Alaskan Way east of the Seattle Aquarium. Use of the Central Waterfront, and therefore parking demand, is highly seasonal and will remain so after the Project is completed. In the summer, the peak season, lack of available parking is currently the primary factor restricting business for Historic Waterfront members.

The DSEIS says that at the beginning of Stage One the Project will remove all parking under the viaduct and reduce Alaskan Way to one lane in each direction. DSEIS at 84. We assume that will also eliminate the parking on Alaskan Way. Appendix K to the DSEIS shows the Project acquiring the surface lots north of Madison and east of the Aquarium, although it does not state when or for what purpose they will be acquired. It appears that this Project will eliminate a substantial portion, and perhaps almost all of the parking upon which Historic Waterfront's members depend.

The Project must mitigate that loss of parking by providing new, conveniently located parking on a one-for-one ratio. Unless, the Project intends to put Historic Waterfront's members out of business – in which case it should state that clearly so that the public and decision makers understand its intended impact – the replacement parking must be in place before existing parking is removed.

In considering mitigation of parking impacts several points must be kept in mind.

- The region has, and is improving, a transit system designed to get commuters to and from major employment centers. It does not have, and has no plans to build, a transit system designed to carry visitors to major tourist and retail destinations, particularly the Central Waterfront. Therefore, automobile access and parking remain critical to their survival, much less their success.

- Visitors to recreational destinations such as the Central Waterfront do not necessarily have the same intrepid flexibility as urban commuters. They often come as families, including children or grandparents who cannot easily walk long distances. They are often out of town visitors and are not comfortable "getting around" in the heart of the city. That means that while some sort of remote parking at Seattle Center or Safeco Field's parking lot with a shuttle might work to mitigate loss of downtown commuter parking, it will provide no mitigation for loss of parking on the Central Waterfront. Central Waterfront customers will simply not come if they cannot drive and park within a block or two of the Waterfront.

frequent parking updates
- Establish a construction worker parking policy that is implemented by the Contractor

Refer to the Parking Mitigation during Construction section in Chapter 6 of the Transportation Discipline Report (Appendix C of the Final EIS) for additional information.

B-019-006

- The DSEIS proposes to "increase the use of other parking facilities in the area." DSEIS at 106. The Transportation Discipline Report, DSEIS App. C at 99, bases the ability to mitigate parking loss through increased utilization of existing facilities on a 2004 PSRC parking inventory, which purported to show only 66.4 percent utilization of central waterfront parking, and 500 unutilized spaces. We have reviewed that study. Although it may suggest that modern technology and signage could help mitigate removal of on-street parking in the downtown office core, it provides no basis for mitigation along the Central Waterfront. The study does not disclose where the vacant parking spaces were found, but it does disclose that each parking facility was surveyed twice – once between 9:30 and 11:30 a.m. and a second time between 1:30 and 3:30 the same afternoon on a Monday through Thursday between March and June of 2004. There is plenty of extra parking on the Central Waterfront during the midst of the business week in March or April, or even perhaps May or June. Parking demand on the Central Waterfront is highly seasonal. None of the businesses could survive, however, if lack of parking capped their businesses at their off-season level. Like retailers, who depend on sales between Thanksgiving and Christmas, Central Waterfront businesses must have parking to accommodate peak season demand. During the peak season, there is currently a shortage of parking, which restricts the growth of Central Waterfront businesses. Any loss of existing parking will exacerbate that problem and must be mitigated.

- Construction workers must be prohibited from parking downtown. The DSEIS states that construction workers could require up to 2000 parking spaces. DSEIS at 100. At a time when the Project is placing maximum stress on all parking-dependent businesses Downtown, the least the Project can do is provide construction parking well outside of Downtown and bus workers to the site.

B-019-007

6. **The discussion of construction noise impacts is too vague to provide a meaningful assessment of the magnitude of the noise impact.**

The DSEIS says that "typical noise levels from construction equipment range from 69 to 106 dBA at 50 feet from the source." DSEIS at 97. On the other hand, it says that "The majority of construction activities would fall within the range of 75 to 85 dBA at 50 feet …," with some activities reaching 100 dBA. It further states that current noise levels range from 57 to 81 dBA, DSEIS at 104. *Id.* In short, the area is currently noisy; some noise during construction will be similar to what currently exists; other noise will be much louder. There is no way to tell from that description whether construction noise will be an annoyance or so severe as to make it painful to be at the Central Waterfront. A construction noise mitigation plan will be developed later – so there is no way to assess what effect it may have on the magnitude of the noise impact. This is simply inadequate to fulfill the purposes of NEPA and SEPA.

B-019-007

Removing the viaduct would be the loudest construction activity for businesses and residents near the viaduct. Although viaduct demolition would take approximately 9 months, demolition of individual two-block segments is expected to last no more than 4 weeks. Extremely loud activities, such as pile driving, are no longer anticipated in the Central Waterfront area. Current analysis and discussion of construction noise is provided in the Final EIS and Appendix F, Noise Discipline Report.

B-019-008

7. The economic impact analysis is one-sided and inadequate.

It is not clear that the EIS was required to provide an economic analysis of the impacts of construction. It chose to do so, however, DSEIS at 99-100. Having done so, it was required to do so a balanced way.

Instead, it patronizingly dismisses the adverse impacts of construction on businesses along the Project corridor. ("Some businesses may be periodically disturbed … while others … may suffer a decline in revenue …" "The project partners recognize that construction will be tough for many businesses located near the construction area. Construction effects to businesses in the project area are important considerations for the project partners as we work to determine how the project will be built."[3]) DSEIS at 99. It ignored the economic impacts on any place more than 50 feet from the Project's construction limits, in spite of the probable significant adverse impact on much of downtown Seattle, the Port of Seattle, and the Ballard/Interbay industrial areas. It then claims that construction will have significant economic benefits for the region by adding from 1,085 to 1,125 construction jobs and $112 million in construction wages per year for the tunnel or 670 jobs and $67 million for the elevated structure.

It is entirely misleading to claim the "benefit" of construction jobs without deducting the lost jobs and lost wages of the businesses that will close along the waterfront, the lost hotel and convention business from years of maximum congestion in Seattle, the losses to arts organizations at Seattle Center, the losses to the retail core and Pioneer Square, and the losses of the Port of Seattle.

The Economics Appendix claims that although businesses in downtown Seattle may suffer during construction due to the perception that it requires too much hassle to get into or out of downtown, the regional economy would not be affected because regional customers would simply shop closer to home or elsewhere in the region. DSEIS App. at 47. While it is true that Bellevue Square and Redmond Town Center may be major beneficiaries of the Project, it is not true that Seattle's loss will be cancelled by gains elsewhere in the region. Conventions that would have come to the Seattle Convention Center will not necessarily go to the Bellevue or Everett Convention Centers; they are much more likely to go to Portland or Vancouver. Cruise ships that find it too difficult to provision their vessels or to get passengers from SeaTac to

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[3] This final comment is most annoying to Historic Waterfront members. The Project has summarily refused to consider several alternatives that would have less impact on them and on other Downtown businesses. It has provided no mitigation plan. Historic Waterfront members have had at least seven extended meetings with Project staff ostensibly to discuss mitigation, but to date no mitigation has been proposed that would begin to allow the businesses to survive.

B-019-008

Because the project has evolved, please see the Final EIS for current project information. The economic analysis presented in the Final EIS has been supplemented with a discussion of the cost of increased congestion during construction. The level of specificity of the cost of congestion analysis was wholly dependent upon the detail generated from the traffic modeling.

The lead agencies plan to maintain access to businesses and residences throughout construction. Temporary limitations and any required changes to access during construction will be mitigated to the extent practicable. Mitigation measures for parking, pedestrian and vehicle access, and business assistance are discussed in Chapter 8 of the Final EIS. The project team will continue their coordination and mitigation activities with local businesses and residents, freight/delivery companies, the Port of Seattle, neighborhood groups, and other affected groups.

The project team acknowledges that there will be difficult economic times for businesses within the immediate impact area and that the City of Seattle will absorb a certain loss in productivity due to increases in congestion. The project does not intend for businesses along the waterfront to close. The indirect economic effects (such as the diversion of tourists to other destinations within the Puget Sound Region and the relocation of businesses) are subject to many variables that cannot be quantified as a result of the direct impacts due to construction. These indirect effects are expected to be balanced by the influx of construction dollars into the regional economy.

The losses that may or may not materialize for businesses outside of the area of immediate impact would be subject to economic forces beyond the control of this project and cannot be calculated without speculation.

B-019-008 dockside will not relocate to Bellevue; they will relocate to Vancouver, B.C. Tourists who might have come to Seattle to vacation will not necessarily come to the Eastside instead; they are much more likely to vacation elsewhere. Businesses that would have located in Seattle are not necessarily going to locate in one of the suburban cities; they are at least as likely to locate in Boise or Denver. Seattle is the economic heart of the Central Puget Sound region. While it is true that the impacts of construction may cause Seattle to cede that role to the Eastside, there is simply no basis to assert that making the heart of the region too much hassle to get into and out of for years will not have adverse impact on the regional economy.

The economic impact analysis must be redone, and must provide an analysis of the economic and civic impacts of shutting down the Central Waterfront, greatly increasing congestion for congestion-sensitive areas such as Seattle Center, the retail core and Pioneer Square, obstruction of the Port of Seattle, and of making Seattle "too difficult (hassle factor)," DSEIS App. at 47, for the period of construction when SR 99 is partially or completely closed. DSEIS at 84.

B-019-009 8. **If the elevated alternative is selected, the approach to the seawall reconstruction should be reconsidered and a new alternative developed that does not close the Central Waterfront.**

We recognize that it has been, or should have been, clear since the mid-1950s that the design of the seawall was flawed, allowing marine life to damage the relieving platform. In a presentation to Waterfront property owners, however, the City made it clear that it is vigorously monitoring the seawall, and it is not moving. Maintenance is costing the City roughly $200,000 per year, and the Nisqually earthquake required $2 million in repairs of the settlement of the loose fill behind the seawall. The Project appears to have budgeted upwards of $400 million to replace the seawall south of Pike Street. It is obviously not appropriate to spend $400 million to avoid a $200,000-per-year maintenance expense with periodic $2 million infusions.

We also recognize that there is another component to the seawall replacement, which is to increase its seismic performance. While that is undoubtedly a valid objective, it must be pursued with judgment and common sense. The proposed replacement of the seawall will be as disruptive of the Central Waterfront as failure of the seawall in an earthquake would be. The Project must develop a seawall replacement strategy that is less disruptive and less costly.

We understand that the Project staff has decided that all components of the Project must be designed to withstand a 2500 year earthquake. That standard may be appropriate for SR 99. Since no building codes require that standard for buildings, it is an appropriate standard for the seawall only if it does not cause less disruptive alternatives to be ruled out. At the very least NEPA and SEPA require that less disruptive alternatives be disclosed, so that the public and

B-019-009

The seawall is part of the Cut-and-Cover Tunnel and Elevated Structure Alternatives, but is a separate project under the Bored Tunnel Alternative. Because the seawall is not integral to the bored tunnel, this allows for less construction disruption along the central waterfront.

The decision to replace the seawall is not based on the desire to avoid regular maintenance costs and periodic capital repairs. The maintenance and repairs are the minimum needed to keep the seawall functioning, though the seawall is already past its design life. Test probing indicated 37 percent of the seawall had timber relieving platform damage. This maintenance work will increase in frequency and expense as the seawall continues to age. Typical marine structures built in the 1930s were designed to last up to 50 years. The seawall is over 70 years old. An expanded monitoring program is essential to better predict seawall movement increases, which are our best means of advance warning of a failure.

The new seawall design will meet current seismic design criteria that the existing seawall does not meet. Analysis of the existing seawall indicates it will not withstand a large earthquake, even if it were in like-new condition. Planning for the needed replacement is the prudent and fiscally responsible approach.

B-019-009 decision-makers can evaluate the trade-offs they require, rather than the choice being made unilaterally by staff and presented as final.

Finally, if the elevated alternative is selected, it will presumably include pilings that are founded on competent soils, and thus not dependent upon the seawall holding the loose fill in place. If that is true, then a seawall replacement need not happen in one mammoth project. Alternatives should be considered which replace the seawall over time, during the waterfront's off-season. Considering such alternatives may result in more creative ways to allow the meeting of land and water, that are more beneficial to business, to people and to the marine environment than the current seawall or the proposed replacement could possibly be.

B-019-010 **9. The draft EIS must include the project's mitigation plans.**

Vague and general though the DSEIS's description of the Project construction impacts may be, it is clear from Historic Waterfront's discussions with Project staff that construction will destroy the Central Waterfront businesses, and will substantially increase congestion in and through Downtown Seattle for years. The DSEIS commits to NO mitigation. At most it suggests some approaches that may be included in mitigation plans yet to be developed. Because there are as yet no mitigation plans, the DSEIS provides no analysis of the effectiveness of the mitigation, nor of the significant adverse environmental impacts which the mitigation itself may have.[4]

The DEIS says that a Construction Transportation Mitigation Plan, a Noise Plan, and a Business and Residential Mitigation Plan will be developed through separate "extensive public review and involvement process[es]," DSEIS at 104, but will only be included in the Final EIS. That fails to meet the basic requirements of SEPA and NEPA, which require that mitigation be included in the draft EIS. *See*, 40 CFR § 1502.9(a). It is also unworkable for the public.

Until the impacts of the project are fully disclosed, including the effects of mitigation, no assessment of the Project can be made by the public or decision-makers. In this case, by the time the FEIS is issued there may well have been an irretrievable commitment of resources. The public is entitled to comment on the mitigation, as well as the Project. But none of the public is able to follow a marathon of multiple mitigation plans being developed in multiple "extensive public process[es]." NEPA and SEPA contemplate a practical process, within the means of

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[4] Some of the proposals to mitigate the impacts on users of SR 99 may have very significant adverse impacts on others. For instance, the Project proposes to "remove on-street parking along First, Second and Fourth Avenues in downtown Seattle and convert these areas to traffic lanes." DSEIS at 96. That parking may be particularly essential to the vitality of Pioneer Square and restaurants and retail in Belltown, and may provide the only visitor parking for thousands of residents of Belltown. Those impacts must be disclosed as well.

B-019-010

We believe potential mitigation discussed in both the 2004 Draft EIS and 2006 Supplemental Draft EIS was appropriate for those documents. Mitigation, like project plans, evolve and are refined though the development process. Continuing analysis and work with affected parties, like the waterfront businesses, helps to further develop mitigation measures. Chapter 8 of the Final EIS discusses the current mitigation measures for the project. The lead agencies will continue to refine mitigation measures and work with affected businesses and residents throughout the project's design and construction process.

B-019-010 affected citizens to have meaningful input. Members of Historic Waterfront have to date attended dozens of public meetings about the viaduct. They have been interviewed by Project consultants. They have had seven extended meetings with Project staff to discuss how they might survive construction -- to date yielding no commitments for mitigation. While the Project may have an infinite budget for "process," members of Historic Waterfront have limited resources and have businesses to run. They cannot participate in infinite public process in the hope that someday they will learn of real mitigation. Thus the process which SEPA and NEPA require cannot be replaced by "extensive public process" without excluding them from meaningful input.

B-019-011 **10. The EIS must include a full assessment of alternatives that may feasibly attain or approximate the proposal's objectives, but at a lower environmental cost.**

Where a proposal's adverse impacts are insignificant, or where its impacts can be fully mitigated, there may be little need to explore alternatives to a proposed course of action. Where as here, however, the environmental impacts are great, NEPA and SEPA both require that there be a serious consideration of all reasonable alternatives. 40 CFR § 1502.14(a); WAC 197-11-440(5). That consideration must be objective, and not simply designed to provide a rationale for dismissing ideas that did not originate with the project proponent.

Here, by contrast, there was an early decision that only the two alternatives described in the DSEIS would be seriously considered. Other alternatives that could achieve the project's core objectives at lower environmental cost have been summarily dismissed, including alternatives that could be built without closing down the Central Waterfront, and with a much shorter closure of SR 99 than the alternatives the DSEIS considers, but which would in some fashion fail to meet the engineering design specifications that the Project staff has set for the project.

- The alternative of taking the tunnel up Western Avenue was dismissed because for the northern 1,000 feet the posted speed limit would only be 35 mph, not 50 mph, which is the Project's specifications, and because it would not fix the seawall.[5] On

[5] The Project team also refused to consider redesigning the life-safety existing system, which made the tunnel too wide to fit into the Western right-of-way, ostensibly because the fire marshal had already approved its proposed life-safety system. Project staff freely admitted that the life-safety system could be re-designed so that the tunnel would fit within the right-of-way. The Project is at something like 5% design. It is inexcusable under NEPA and SEPA to subject either the Central Waterfront or the rest of the region to the consequences of the proposed alternatives because the Project team is not willing to do more design work. The DSEIS also says the Western Alternative would be "steep, which could further reduce travel speeds for drivers." At a meeting where staff claimed the grade of the Western Alternative would be too steep, proponents offered to assist staff in solving that alleged difficulty. Staff never responded to that offer. The proponents subsequently determined, however, that the maximum grade of the Western Alternative would be 4.8%. By contrast, the maximum grade of the tunnel alternative described in the

B-019-011

The alternatives presented in the 2004 Draft EIS and the 2006 and 2010 Supplemental Draft EISs represent a reasonable range of approaches that can meet the purpose and need for the project. Many options were looked at during the initial phases of the project's screening process. The screening process involved early analysis by the project team and discussions with community groups at more than 140 community meetings and community interviews, including businesses along the corridor. A total of 76 initial viaduct replacement concepts and seven seawall concepts were considered, and concepts that were not feasible, or were outside the purpose of the project were dropped from further consideration. The most workable ideas were shaped into the alternatives analyzed in the 2004 Draft EIS. Further screening and analyses were conducted for the 2006 Supplemental Draft EIS. In 2010, a second Supplemental Draft EIS was prepared to analyze the Bored Tunnel Alternative. The Final EIS contains descriptions and analysis of the current project alternatives.

As you state in your letter, NEPA and SEPA require agencies to evaluate reasonable alternatives; however, these same regulations allow agencies to eliminate alternatives. If agencies drop concepts or alternatives from further evaluation, they are required to briefly discuss the reasons why they were dropped. Some of the concepts/alternatives you have listed have been considered and the reasons why they have been dropped were stated in the 2006 Supplemental Draft EIS, as well as project screening documents included as references to the 2004 Draft EIS and 2006 Supplemental Draft EIS documents.

The lead agencies have evaluated several possible retrofit concepts over the years and have also submitted some of these proposals to other engineers for independent review. In all these cases, the conclusion has been the same--feasible retrofitting options cost almost as much as

B-019-011

the other hand the Project team admitted the Western Alternative could keep the waterfront open during construction if the seawall were not included, that the impact of construction on any particular property owner on the Western route could be a matter of months, not years, and that closure of SR 99 could be limited to two to six months, not three and a half to seven years. If given a choice, the public and elected officials might choose destruction of the waterfront and years of traffic congestion as the price to pay for getting the seawall fixed now and being able to drive 50 mph – before slowing down to 35 at the Battery Street Tunnel, which is already signed for lower speeds. Or they might not. NEPA and SEPA require that the choices be presented for the public and decision-makers to consider, and not unilaterally made by the project proponents.

- Project staff rejected a deep bore tunnel because it might cause building settlement of as much as 1 ½ inches, without any discussion with structural engineers who are familiar with the affected buildings. Current bored tunnel technology is being used in California at costs far below the projected cost of any alternative considered in the EIS. A deep bore tunnel could have minimal construction impacts. Nonetheless Project staff has stood by a decision made years ago, before current technology existed, that a deep bore tunnel would be too expensive and too risky.

- Project staff has recently given more consideration to a retrofit proposal, but also dismisses it as not meeting the project's seismic standards. The staff's analysis of the retrofit shows that the retrofit would survive but be damaged by the 500-year earthquake, and the columns could potentially fail in a 2500-year earthquake. *See*, Evaluation of Gray's Retrofit Proposal, TY Lin (2006), at 21-22. Again, the public and elected officials might choose destruction of the Central Waterfront and years of congestion in order to have a finished viaduct that meets the 2500-year earthquake standard. Or they might not. NEPA and SEPA require that those choices be presented for them to consider, not decided by staff without a public vetting of the choices.

These are reasonable alternatives under NEPA and SEPA that must receive objective analysis and a fair comparison to the alternatives being offered by the project proponents. "Objective" analysis is key. It is clear that Project proponents have focused on finding potential flaws in any other alternative, at the same time that they minimize the potential risks and flaws of their own

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DSEIS is 7%. Again it was apparent from the minimal level of design work that Staff invested in the Western Alternative that their conclusion that its grades would be too steep was simply because they weren't willing to spend any time trying to make it work.

replacing the structure, but a new structure would be safer, far more reliable, and would last much longer.

B-019-011 alternatives.[6] There is no way to thread a major freeway through a great city without both risks and impacts, and none of the alternatives are without their risks and impacts. But NEPA and SEPA do not exist to validate previous decisions, made without public scrutiny. They exist to ensure that decisions are made based on full information. The risks and benefits of all reasonable alternatives must be set forth in the EIS, so that the public and elected officials have the information to make the decisions that are properly theirs, not the private domain of consultants and staff.

B-019-012 **11. A revised draft EIS must be issued that meets the requirements of NEPA and SEPA.**

In their comments on the 2004 DEIS a number of members of Historic Waterfront said that the DEIS was inadequate and required supplementation because:

> The DEIS does not disclose the impacts of construction on the people who must live and work in its midst; the DEIS does a disservice to thousands of people who must live through years of disruptions by saying nothing more than this "could" drive customers away.
>
> The DEIS fails in its obligation to disclose mitigation that may reduce the primary adverse impacts of the project; it is simply not good enough to disclose potential mitigation later.

That remains true. The EIS must contain all the elements required by NEPA and SEPA. On its face it does not. A new draft EIS is required. 40 CFR § 1502.9(a). The alternatives that are now being considered to shorten construction will themselves visit such extraordinary adverse impacts on the City that alternatives other than simply shortening construction must be considered.

The DSEIS appears to falsely assume that because the scope of the construction and its adverse impacts are so extraordinary, the normal requirements of NEPA and SEPA can't be expected to apply to the Project. It assumes that the EIS should not be expected to identify environmental

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[6] In addition to the EIS's failure to adequately describe the impacts discussed earlier in this letter, the EIS does not state that Project staff has identified as risks of their proposal that construction may conflict with BNSF's ability to operate the railroad, that there may be excessive ground settlement, that the seawall could fail during the construction, that there could be "excessive water inflow through wall joints," that their proposed soil improvement may not result in adequate shear strength, and that there is a risk of grout getting into Puget Sound. *See*, work papers for 2005 CEVP cost estimate. We cannot assess how great any of these risks may be – they are simply risks the Project staff has identified for their alternatives and built into their cost estimates, but not told the public about in the EIS.

B-019-012

The environmental documents for this project meet the NEPA regulations set forth in the Code of Federal Regulations (40 CFR 1502) and the SEPA regulations in the Washington Administrative Code (WAC 197-11). The 2004 Draft EIS and 2006 Supplemental Draft EIS provided an appropriate evaluation of the proposed project at that time. In 2010, the project prepared a second Supplemental Draft EIS to analyze the Bored Tunnel Alternative. Please see the Final EIS for updated project information.

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effects and values in adequate detail so they can be compared to economic and technical analyses. It assumes the EIS need not include appropriate mitigation measures that are part of the proposal. It assumes the description of the affected environment can be general and need not allow the reader to understand the Project's impacts. It assumes the EIS need only analyze those alternatives that the Project proponent has previously determined will be considered, and need not analyze other alternatives that might feasibly attain or approximate the goals of the project but at lower environmental cost. None of those assumptions is supportable.

Only when an adequate EIS is issued can the Project move forward. If the Project is difficult and complex, with multiple adverse impacts, as it is, that is a reason why thorough environmental analysis is required early, not an excuse to put off environmental analysis until later. The EIS must include the actual mitigation to be provided, and where the impacts that cannot be mitigated are as serious as are likely to be the case here, all reasonable alternatives must be fully considered.

Sincerely,

GRAHAM & DUNN PC

Elaine L. Spencer

cc: Ivar's
Argosy, L.P.
Pier 57, Inc.
Martin Smith Inc.
Ye Olde Curiosity Shop
Elliott's Oyster House

ELS/alb

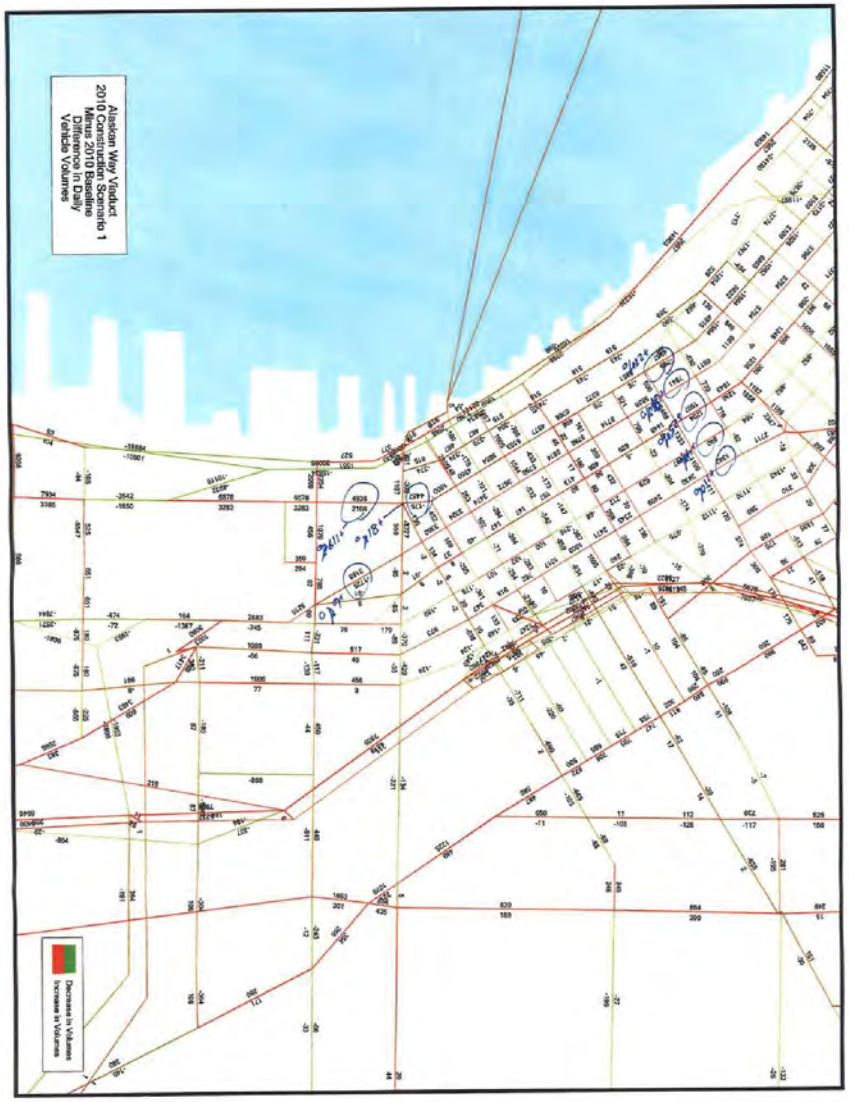
m21512-768363.doc

Exhibit A

Alaskan Way Traffic Counts
4-Aug-06

	Pier 66 West	Pike Hill Climb W	Spring Street East	Spring Street West	Seneca Street East	Seneca Street West	Total Counts
11:00 AM	-	-	22	69	-	-	91
11:15 AM	245	140	78	316	114	299	1,192
11:30 AM	237	175	88	318	187	303	1,308
11:45 AM	311	92	84	329	196	538	1,550
12:00 PM	286	80	151	407	230	278	1,432
12:15 PM	340	103	133	474	135	326	1,511
12:30 PM	443	72	149	517	243	361	1,785
12:45 PM	508	88	180	571	259	619	2,225
1:00 PM	517	96	136	569	253	511	2,082
1:15 PM	391	113	117	521	279	443	1,864
1:30 PM	469	142	143	543	214	415	1,926
1:45 PM	406	108	131	411	267	460	1,783
2:00 PM	467	74	152	491	224	516	1,924
2:15 PM	462	98	134	464	248	482	1,883
2:30 PM	307	85	165	523	223	342	1,645
2:45 PM	450	90	163	681	196	347	1,927
3:00 PM	470	104	141	542	235	333	1,825
3:15 PM	454	69	62	504	181	544	1,814
3:30 PM	387	52	109	586	259	455	1,848
3:45 PM	258	60	136	593	190	373	1,610
4:00 PM	376	63	173	661	171	367	1,810
4:15 PM	375	57	117	633	228	392	1,802
4:30 PM	384	62	117	406	206	315	1,490
4:45 PM	443	70	129	520	172	381	1,715
5:00 PM	357	86	123	460	154	472	1,652
5:15 PM	391	77	148	563	193	593	1,965
5:30 PM	349	49	104	401	210	417	1,530
5:45 PM	881	64	90	374	243	281	1,933
6:00 PM	375	45	101	452	142	291	1,406
6:15 PM	456	33	146	505	182	304	1,626
6:30 PM	354	56	135	483	170	208	1,406
6:45 PM	399	54	75	481	146	146	1,301
7:00 PM	349	38	102	523	113	224	1,349
7:15 PM	323	43	90	321	134	181	1,097
7:30 PM	246	60	69	462	139	292	1,268
7:45 PM	239	53	52	353	98	216	1,013
8:00 PM	357	55	109	422	145	168	1,257
8:15 PM	293	40	99	399	155	144	1,130
8:30 PM	213	37	84	316	129	99	878
8:45 PM	215	25	111	299	122	109	884
9:00 PM	208	20	43	174	101	116	662
	14,989	2,932	4,692	18,637	7,486	15,663	62,399
Peak Hour	**2,061**	**459**	**613**	**2,473**	**1,013**	**1,988**	**8,097**
Ave Hour	**1,537**	**301**	**469**	**1,864**	**758**	**1,401**	**6,400**
WsDOT winter pm	**not counted**	**135**	**46**	**300**	**86**	**not counted**	
					At Madison St		

Red Bold is average slot during day, applied to this daypart when counter took a break
Blue is the four peak counted 15-minute segments



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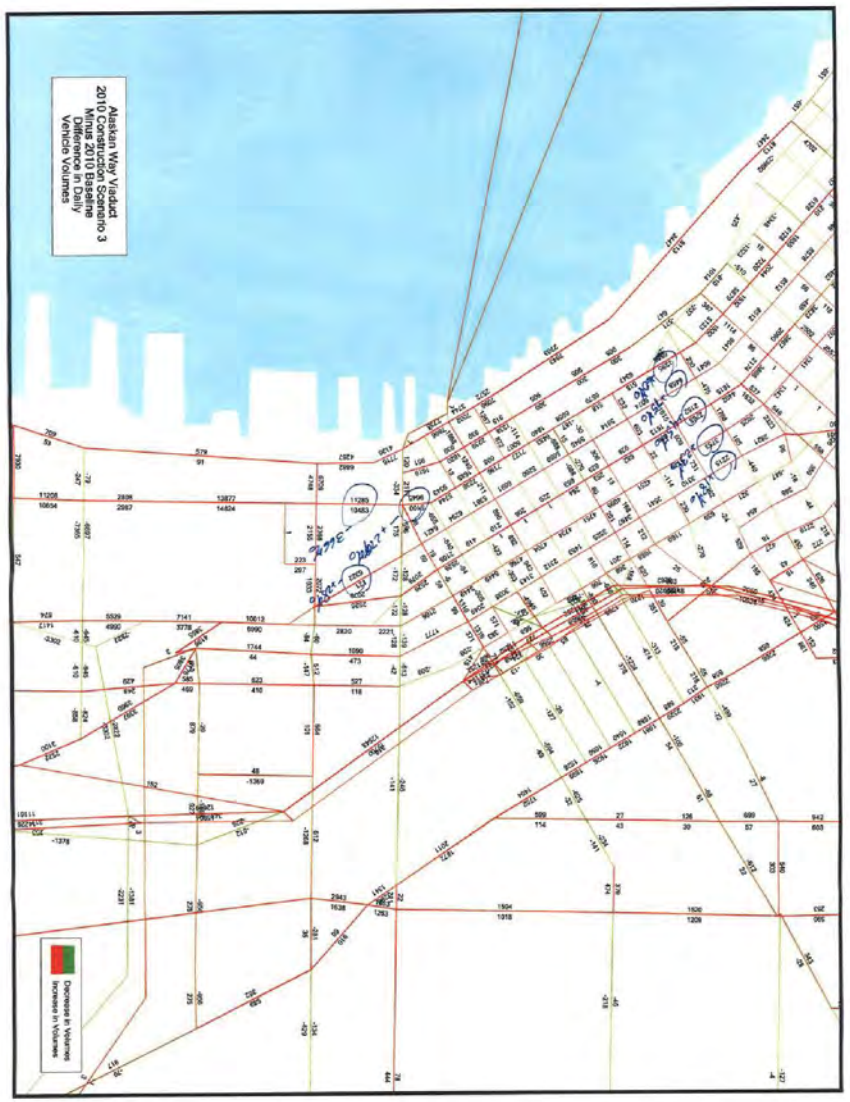

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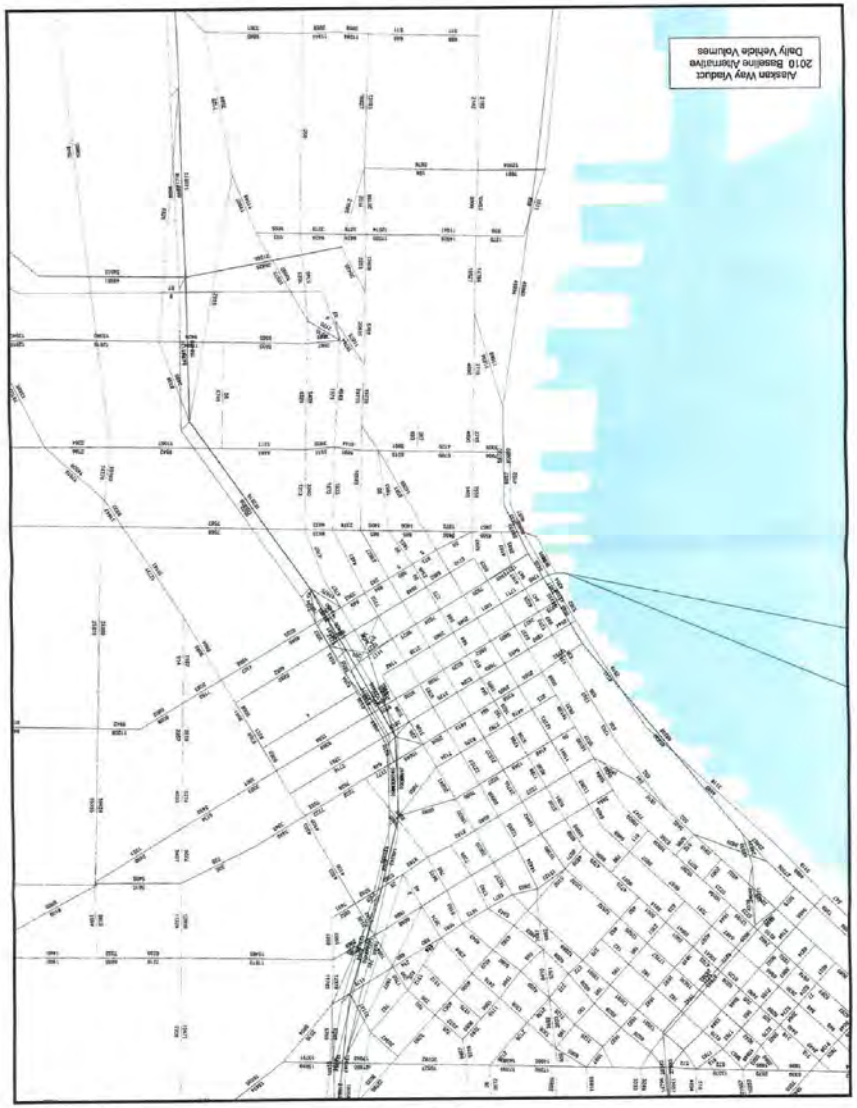

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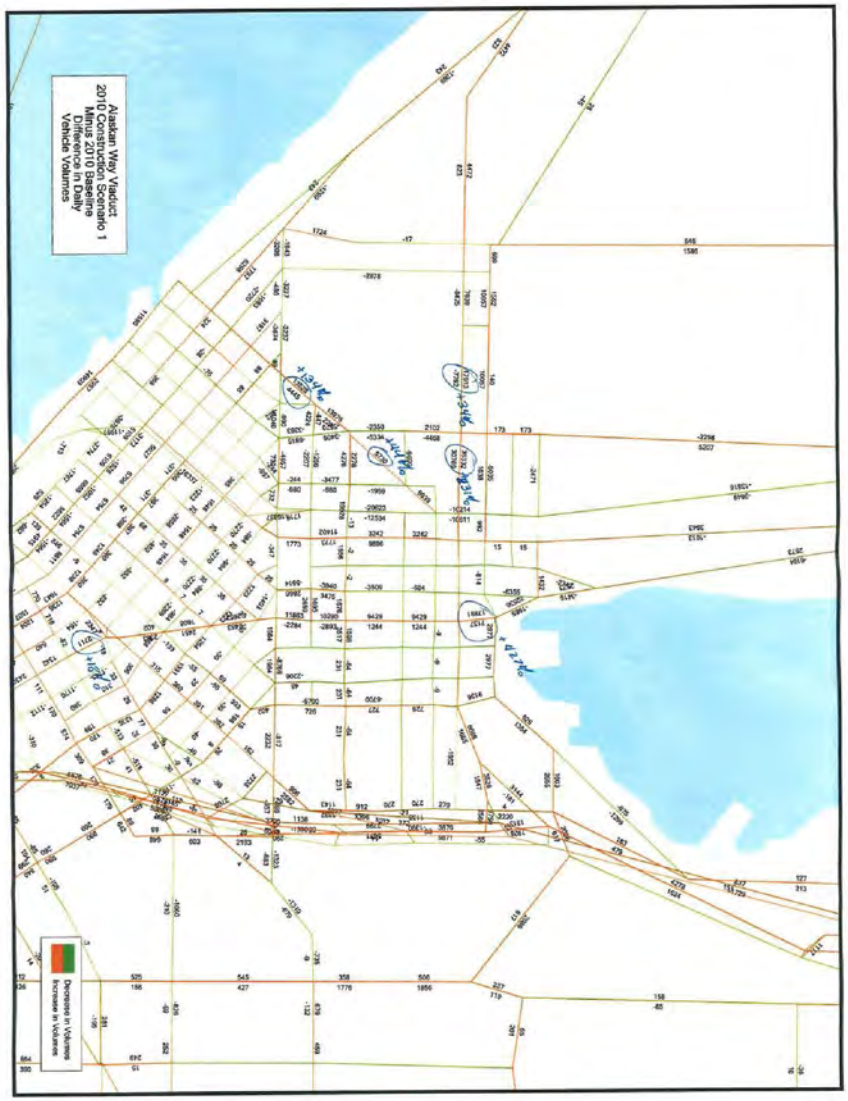

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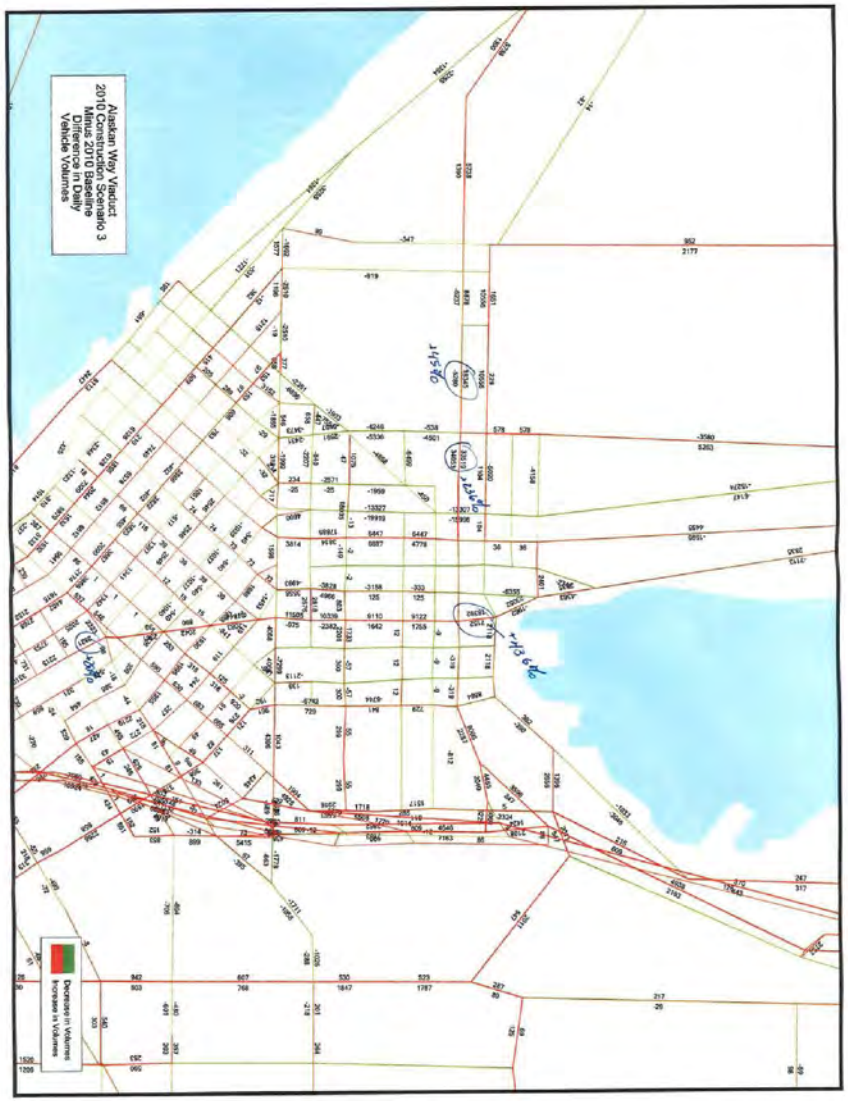

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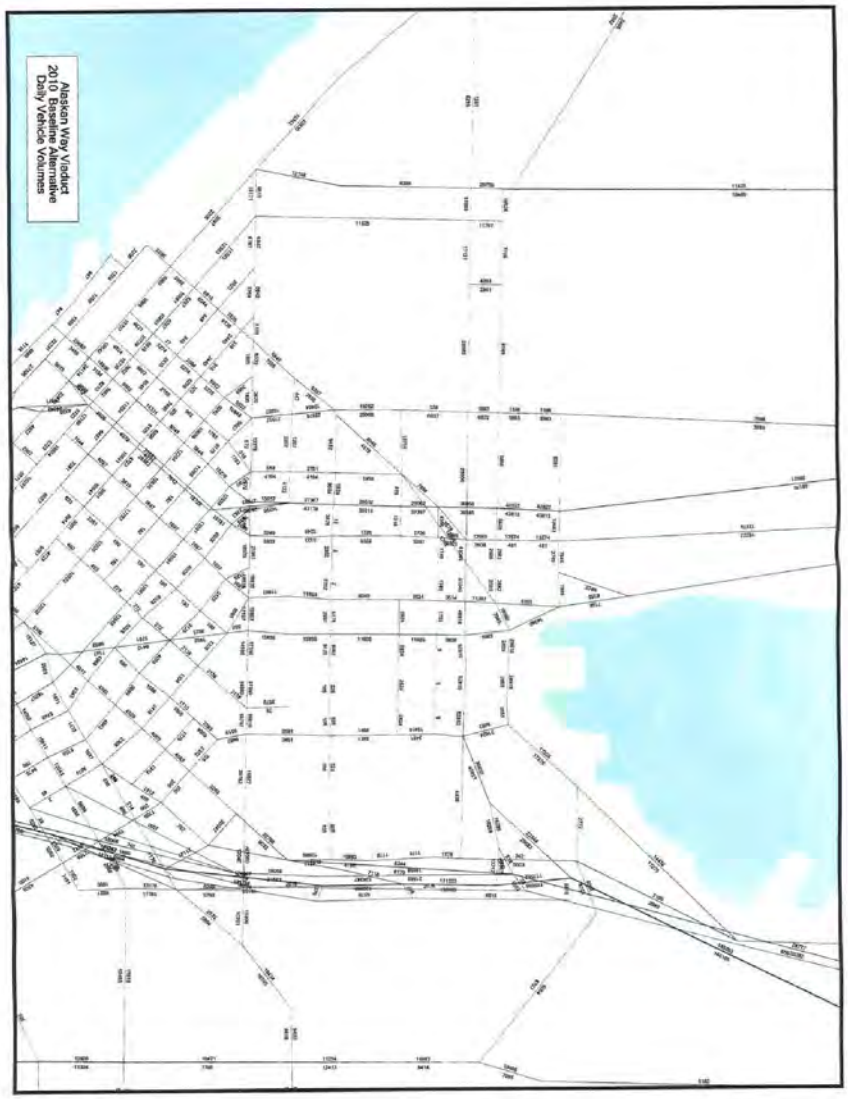

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