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September 14, 2006

Ms. Kate Stenberg
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Alaskan Way Viaduct Project Office
999 Third Avenue, Suite 2424
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Re: Comments on Behalf of Waterfront Landings Condominium Regarding Draft Supplemental EIS (DSEIS)

Dear Ms. Stenberg:

WATERFRONT LANDINGS

C-048-001 These comments are submitted on behalf of Waterfront Landings Condominium. It is a 232-unit residential condominium community with an aggregate value of over $125 million, located on Alaskan Way between Pike and Lenora Streets, immediately adjacent on three sides to the Alaskan Way Viaduct and Seawall Replacement Project ("Project"). The Waterfront Landings community includes 376 residents who call the waterfront their home. They have chosen to live there because of its scenic beauty, the amenity of its pedestrian environment, and its easy access to downtown Seattle. As with most people, the owners' investment in their homes is one of their largest and most important financial assets. Over 10% of the homes in Waterfront Landings are sold each year, and each of the residents would be at severe risk if the marketability of their home was destroyed or its value severely depressed for several years.

C-048-002 Either of the alternatives discussed in the DSEIS will destroy the qualities that drew the homeowners to Waterfront Landings, for a minimum of 7, and perhaps 10 or more years. The environmental impacts of the construction process risk subjecting them to loss of quiet enjoyment of their homes, interminable nights of lost sleep, and potential adverse health impacts. Each of the alternatives is likely to severely depress, and perhaps destroy, the market for their homes during much of that period. The fundamental environmental issue for them – which they find the DSEIS unable to answer – is whether the construction process will have such severe environmental impacts that their homes become uninhabitable.

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C-048-001

FHWA, WSDOT, and the City of Seattle appreciate receiving your comments and recognize the owners' concern for their property's value.

C-048-002

The specific mitigation measures presented in the Final EIS address many of the concerns raised in your letter. Specific to noise impacts, the project will be subject to the City of Seattle's noise variance process prior to nighttime construction activity. The noise variance, if granted by the City, will establish clear limits for nighttime construction noise and required mitigation measures for the contractor to follow.

Impacts to properties will be evaluated in accordance with the state and federal requirements for property acquisition, after considering the implementation of mitigation measures to minimize project-related impacts as discussed in the noise, air quality, transportation, and other pertinent sections of the Final EIS. At that time, a determination will be made whether it is necessary to acquire a particular property, or an interest in property, for the project.

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GENERAL COMMENTS

C-048-003

In light of the comments submitted by Waterfront Landings Condominium and others on the March 2004 Draft EIS, Waterfront Landings is extremely disappointed in the DSEIS. It continues to fail to provide sufficient information about the impacts of the construction of the Project to permit either the public or decision makers to accurately understand the Project's environmental consequences. While in a more typical highway construction project the impacts of construction may be just one of those things that the public needs to endure in order to reap the benefits of the completed Project, here, where the construction process will disrupt much of the city for upwards of a decade, the environmental consequences of the construction process are the most significant impacts to be considered. High quality information that can be subjected to public scrutiny and comment are essential if the public and decision makers are to be able to make the sort of informed decisions that NEPA and SEPA mandate. Unfortunately, the DSEIS continues to be sadly lacking.

C-048-004

The DSEIS appears to have been drafted based on one or all of three false assumptions:

False Assumption One: *The only significant impact of the construction of this major highway through the heart of a major urban area is the impact on the users of the road.*

Except for discussion of the impacts of construction on the users of SR 99, discussion of construction impacts continues to be vague, general, and lacking in any detail or analysis. No support is provided for key conclusions. Contrary to this first false assumption, however, the construction of the Project will have profound and adverse impacts on not just the users of SR 99, but on all of downtown Seattle, and of course specifically on the waterfront neighborhoods. To provide meaningful information the EIS needs to recognize that the impacts of construction are not generic to the entire route, but will vary, block by block. Detailed information, specific to the various impacted neighborhoods, is required in order for the public and decision makers to understand the impact of the Project.

C-048-005

False Assumption Two: *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. The EIS should not be expected to identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. The EIS need not include appropriate mitigation measures that are part of the proposal. The description of the affected environment can be general and need not allow the reader to understand the Project's impacts. 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.*

C-048-003

The description of construction impacts provided in the 2006 Supplemental Draft EIS accurately disclosed potential impacts with sufficient detail and accuracy to inform the public and decision-makers, as required by both NEPA and SEPA. The project has since changed, as described in Chapter 2 of the Final EIS. Please refer to the Final EIS for complete current information.

C-048-004

Construction impacts to areas adjacent to the project are described in Chapter 6 of the Final EIS, with specific discussion of how impacts will vary by location. More detailed descriptions of construction effects are provided in the technical appendices.

C-048-005

The description of operation and construction effects of the project, and associated mitigation measures, fully meets NEPA and SEPA requirements. Additional detail would not alter the fundamental conclusions and statements of fact provided but would be speculative.

C-048-005

Each of those false assumptions is in direct conflict with NEPA and SEPA. See, e.g., 40 CFR § 1501.2(a) and (b), 1502.14(f), 1502.15, WAC 197-11-440(6). To the contrary, the magnitude and severity of the impacts of construction of the Project make it particularly important that NEPA and SEPA be complied with to the fullest for this Project.

C-048-006

False Assumption Three: *The DEIS and DSEIS at most need to provide a list of possible mitigation measures, with the actual mitigation plan to be determined later through a separate series of processes. The actual mitigation to be provided need only be disclosed in the Final EIS.*

This assumption again is in direct conflict with the NEPA and SEPA rules and governing judicial decisions. See, e.g., 40 CFR § 1502.9(a), 1502.14(f), 1502.16(h), WAC 197-11-440(6), *Neighbors of Cuddy Mountain v. United States Forest Service*, 137 F.3d 1372, 1380 (9th Cir. 1998). To the contrary, there are at least three compelling reasons why NEPA and SEPA require that proposed mitigation and its effects on the impacts of the Project be spelled out in the draft EIS.

First, the detailed statement required by NEPA and SEPA provides a practical, and therefore functional, means to obtain meaningful public input to decision makers. NEPA and SEPA presume that through their requirement of a "detailed statement" of the environmental impacts, members of the public can go to a single document, determine the impacts, see the proposed mitigation, and make meaningful comments about the adequacy of the mitigation, or about whether, in light of the significant adverse environmental impacts that cannot be mitigated, it is essential that other alternatives be developed. But here instead of providing one central place for the public to reference in order to understand what mitigation is being proposed, the Project team says it will later develop a construction mitigation plan (DSEIS at 103), later develop a construction transportation management plan (DSEIS at 104), later develop a noise mitigation plan (Id.) and later develop a Residential Mitigation Plan (Id.). For each of these mitigation plans the DSEIS promises "an extensive public review and involvement process." (Id.) While the Project proponents can apparently afford to hire consultants to attend an infinite number of public meetings and "public review processes," members of the public cannot. They have jobs and families to attend to, and they do not have unlimited time or tax money to pay for their own consultants. As a result, the endless public process that the Project proposes to substitute for disclosure of the mitigation in the EIS will effectively deprive much of the public of meaningful opportunity for input. Residents of Waterfront Landings have already attended numerous meetings with Project staff, none of which have resulted in any substantive commitments concerning mitigation. They should not be expected to go to meeting after meeting, each time in the vain hope that real mitigation will finally be discussed.

C-048-006

Mitigation, like project plans, evolve and are refined though the development process. The 2004 Draft and 2006 and 2010 Supplemental Draft EISs have each described mitigation at a level of detail appropriate to the design at that time. Continued analysis and work with affected parties like the waterfront businesses has led from the general types of mitigation discussion contained in the Draft EIS to the more specific measures contained in the Final EIS. Mitigation commitments will be described in the Record of Decision, per NEPA regulations.

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C-048-006

Second, the requirement of NEPA and SEPA that the proposed mitigation be set forth in the draft EIS means that all affected members of the public can comment on the mitigation. It is inevitable that when the undisclosed mitigation plans are developed, the mitigation itself may have significant adverse environmental impact on people who didn't realize they would be impacted and thus did not participate in these separate mitigation processes the Project contemplates. Because the actual mitigation will only be disclosed in a document to which all members of the public have equal access in the Final EIS, and because by the time the FEIS is issued, key decisions about the Project will already have been made, members of the public who do not happen to have been clued into the particular public process that ends up impacting them will be denied any opportunity for meaningful comment.

Third, one of the most important functions of NEPA and SEPA is to insure that before there is an irretrievable commitment of resources to a proposal, the significant adverse impacts that cannot be mitigated have been disclosed. The correlative function of NEPA and SEPA are to insure that reasonable alternatives are considered that could feasibly attain or approximate the proposal's objectives but at a lower environmental cost. None of that can happen, however, until the impacts of the Project with the proposed mitigation have been disclosed. As discussed below, the DSEIS is seriously inadequate in its disclosure of the construction impacts on Waterfront Landings. But – the impacts without mitigation and the impacts with mitigation may be two quite different things. Without knowing the mitigation, there is no way to know whether the construction process will be difficult but survivable for the residents of the Waterfront Landings, or whether it will be devastating to them. Similarly, there is no way to know whether in light of the impacts of construction it is imperative that another alternative be pursued. In short, the absence of real mitigation proposals causes the DSEIS to fail to achieve its most basic purposes of providing a foundation for critical decision-making.

SPECIFIC COMMENTS

C-048-007

NOISE

In a marvel of imprecision, the DSEIS says "noise during construction would be bothersome and annoying to nearby residents, … because it would make it unpleasant to be outside and hard to hold conversations. DSEIS at 32. The DSEIS says construction could occur 24/7 and that the maximum sound levels would reach 100 dBA, but will "vary considerably" over time. Id. Mitigation will be determined through a variance process, which will not be completed until after the FEIS is issued. Id. at 104.

That provides completely inadequate information for Waterfront Landings Condominium. It needs to know what the noise levels will be for its residents, at their units and in their common areas, over what period of time. While we can assume that noise levels will "vary," it is essential

C-048-007

The construction plans evaluated for noise and vibration are described in the Final EIS Appendix B, Alternatives Description and Construction Methods Discipline Report. While actual construction plans and activity sequencing could differ from this evaluation, the locations and types of activities would be similar under the final sequence.

Construction of the project will require nighttime construction activities, and the City requires a Major Public Project Noise Variance. Construction noise mitigation requirements would be developed and specified in the noise variance. The Major Public Project Noise Variance will be presented for public comment. Mitigation measures for noise effects are described in the Final EIS and Appendix F, Noise Discipline Report.

C-048-007 to understand whether the peak noise levels will be occasional and planned for, with noise levels during the bulk of the time being consistent with residential use of their homes, or whether noise levels in the 65-95 dBA range will be continuous or repeated, and over what period of time. That is the sort of information that will make the difference between the construction noise being endurable, or the homes in Waterfront Landings being uninhabitable. There is simply not enough information provided in the DSEIS to know the significance of the impacts.

C-048-008 The DSEIS shows that the triangular parcel immediately to the south of Waterfront Landings, including the extension of Pike Street abutting Waterfront Landings, will be acquired under any alternative considered, and Piers 62 and 63 will be acquired under the stacked tunnel alternative. DSEIS, Appendix K, Exhibits A-2, A-5 and A-8. The DSEIS does not disclose the use to be made of either parcel, and there is therefore no basis to guess at the noise that will be generated on those parcels. Waterfront Landings must assume, therefore, that construction activity will be going on 24/7 immediately outside the bedroom and living room windows of residents. Construction of the Aquarium addition demonstrated that noise from activity on Piers 62 and 63 is extremely disruptive to residents along much of Waterfront Landings. A full and accurate characterization of the activity and the noise to be generated on those two properties is essential. It is simply not adequate to say "the amount of construction activity would quantify how often construction noise would occur …." DEIS, Appendix F, at 64. That discloses nothing at all.

C-048-009 The DEIS mischaracterizes the existing noise environment of Waterfront Landings as a residential property. It is important to accurately characterize the existing environment as it is experienced by Waterfront Landings residents, because by overstating the noise in the existing environment, the DEIS masks the extent of the impact of construction noise. The 2004 Noise and Vibration Discipline Report (Noise Report) describes the existing L_{dn} and the loudest hour L_{eq} of Waterfront Landings as 80. DEIS, Appendix F, at 31. The Noise Report shows that the measurement was taken at the rear of the Waterfront Landings building, where the train tunnel and the viaduct cross – the noisiest possible location. It should come as no surprise, however, that the developer of Waterfront Landings invested in substantial sound insulation on the rear face of the building.[1] The rear face of the building has no windows, and no units are on that face; the common hallway is the only thing along the east face of the building, and it is insulated so that neither the train nor the viaduct are audible from inside the building. The residential units face to the south, west and north, where the environment is far quieter. Were the only construction activities at the rear of the building, the noise impacts on Waterfront Landing might not be significant. But construction activities are slated to occur to the south and the west of

[1] The DSEIS describes 80 dBA as the equivalent of a vacuum cleaner at 3 feet, obviously not a noise level that would be tolerable in a residential situation on a continuous basis.

C-048-008

The Final EIS contains the current information about proposed parcel acquisitions and their construction use for all the build alternatives, including the preferred Bored Tunnel Alternative. Note that the Bored Tunnel Alternative minimizes construction noise along the waterfront.

C-048-009

Since the publication of the 2006 Supplemental Draft EIS, an additional noise measurement was taken at the Waterfront Landing Condominiums and will be used to calculate the noise levels limits for the construction noise variance application. Please see the Final EIS Appendix F, Noise Discipline Report, for the current information.

C-048-009 Waterfront Landings, where viaduct noise impact is now minimal and where the existing noise environment is typical of urban residential areas. In order to determine the magnitude of the construction impact the EIS must first establish the level of noise in the area actually being impacted. For that, it is essential to measure the existing environment where the residents actually experience noise.

C-048-010 Once the nature and magnitude of the impact is established, the EIS must also address potential health effects of prolonged exposure to the projected noise, including the potential health impacts of years of sleep disruption. The Noise Report makes it clear that noise may be at levels where hearing loss occurs with prolonged exposure. DSEIS at 97, DEIS Noise Report at 64-65. We doubt that the loudest noise will be sufficiently prolonged to result in hearing loss. But, being subjected to high levels of noise for 7 to 10 years, particularly all night long, will lead to stress and sleep deprivation, which themselves can have serious health impacts. The EIS should disclose the health impacts of being forced to live for years in the noise environment that will exist during construction.

C-048-011 Finally, once the nature and magnitude of the noise impacts on the Waterfront Landings residents is disclosed, the Project must come forward with a real mitigation plan that makes those homes habitable, or which discloses honestly that they will not be habitable and assures the residents just compensation. In developing that mitigation plan, the Project should take into account that (1) a significant portion of the Waterfront Landings homes are not air conditioned, and therefore must be able to open their windows for ventilation, and (2) even in the air conditioned units, outdoor noises on the waterfront (i.e., Piers 62 and 63) are readily transmitted through the windows. Any noise mitigation plan must also be enforceable by the residents, with real penalties for violation, providing them with real compensation. Although until there is disclosure of the actual noise impacts of the Project it is impossible to tell what mitigation may be adequate, the laundry list of potential mitigation listed in the Noise Report is unlikely to make the homes habitable.

C-048-012 **LIGHT AND GLARE**

Light and glare are elements of the environment that must be discussed in an EIS, WAC 197-11-444(2)(b)(iii), but neither the DSEIS nor the DEIS discuss the impacts of light and glare on adjacent residents. In order to safely permit 24/7 construction, the Project area will need to be lighted 24/7. "Shielding" the light to direct it downwards will be of very little benefit because the ground itself will reflect the light back into the atmosphere. The potential impact will be that residents will be deprived of the darkness homeowners expect, particularly for sleeping. The EIS must describe the light and glare impact on adjacent residents and come forward with effective mitigation for that impact.

C-048-010

Please see the response to comment C-048-007. Also, the Final EIS does not consider the potential noise indirect effect of poor health due to sleep deprivation. Construction for any alternative would be phased so one area along the viaduct alignment would not be subjected to, say, 7 years of constant construction noise. With the preferred Bored Tunnel Alternative, the main construction noise in the vicinity of the Waterfront Landings would be during the demolition of the old viaduct, which would take about 9 months.

C-048-011

Please see the response to comment C-048-007.

The project's public involvement process will continue through project construction. During project construction the public will be able to contact the project with construction-related complaints. This process will include a mechanism for tracking, evaluating, and resolving public complaints by taking appropriate corrective measures. The complaint resolution procedure will be submitted during the public hearing process as part of the Technical Noise Variance application.

C-048-012

Light and glare impacts and proposed mitigation measures are discussed in the Final EIS and in Appendix D, Visual Quality Discipline Report, as an element of the visual environment. Lighting on the existing viaduct and arterial lighting on surface streets, including Alaskan Way, generates a high level of ambient light. For the Waterfront Landing homes between Pine Street and Lenora Street, an additional source of light is the Port of Seattle Pier 66 Bell Harbor marina. Residents have likely already made provision for high urban ambient light levels in the area through various window shade treatments. Impacts of light and glare on sleeping residents are not expected from any of the build alternatives during operation or construction.

GRAHAM & DUNN PC

Ms. Kate Stenberg
September 14, 2006
Page 7

C-048-013

VIBRATION

The DSEIS is also inadequate in failing to recognize the significant adverse impacts of vibration on residences such as Waterfront Landings. In response to question 12 on page 98 of the DSEIS, the DSEIS identifies five generalized construction impacts on neighborhoods: traffic detours, traffic congestion, noise, air pollution, and light and glare. None of those impacts are quantified or described in a manner that allows the reader to assess their significance. Vibration is not mentioned. The only other mention of vibration is on page 97 of the DSEIS, which says that vibration impacts will be the same as disclosed in the DEIS. The DEIS, at page 147, made clear that only potential structural damage from vibration was of concern to the Project.

The Noise Report, at 18, discloses the criteria for assessing human sensitivity to vibration adopted by the International Organization for Standardization (ISO) and the American National Standards Institute (ANSI), as shown below:

Criteria for Annoyance Caused by Ground-borne Vibration

Building Use Category	Maximum Vibration Velocity (inches/second)	Comments
Hospital and critical areas	0.005	
Residential (nighttime)	0.007	
Residential (daytime)	0.01	Criterion also applies to churches, schools, hotels, and theaters
Office	0.02	Criterion applies to commercial establishments
Factory	0.03	Criterion applies to Industrial establishments

Source: ISO Standard 2631 (1974) and ANSI Standard S3.29-2001.

The Noise Report goes on to state, however, that, "the primary concern with regard to construction vibration is building damage," (Noise Report at 18) and proceeds to discuss the vibration levels that risk structural damage to sensitive buildings. It then says:

> **2.10.4 Vibration Criteria Adopted for this Project**
>
> Because FHWA, WSDOT, and the City of Seattle do not have specific vibration impact criteria, a vibration impact criterion of 0.12 inches/second PPV has been adopted for extremely fragile structures and 0.50 inches/second for all other occupied buildings.

C-048-013

Impact pile driving would be the most significant source of vibration for this project. Several potential mitigation measures to reduce vibration from impact pile driving that can be used by the contractor, when appropriate for specific site conditions, are outlined in the Final EIS Appendix F, Noise Discipline Report.

The contractor would be required to monitor vibration at the nearest historic structure or sensitive receiver to the construction activities. The monitored data would be compared to the project's vibration criteria to ensure that ground vibration levels do not exceed the damage risk criteria for historic and non-historic buildings. The project's vibration criteria would likely be coordinated with the City of Seattle.

Vibration from other construction activities can be reduced by either restricting their operation to predetermined distances from historic structures or other sensitive receivers, or using alternative equipment or construction methods. An example would be the use of saws or rotary rock cutting heads to cut bridge decks or concrete slabs instead of a hoe ram.

C-048-013

Those are the levels above which structural damage is possible. In short, the Noise Report sets the vibration criteria for the Project at 50 times the accepted level at which vibration is annoying to residential uses during the daytime and more than 70 times the level at which vibration is annoying to residential uses at night. The Noise Report discloses that Project activities such as impact pile driving may exceed the level that risks structural damage to buildings. Noise Report at 71, see also DEIS at 147. Nonetheless, the EIS discloses no adverse impacts from vibration on residential uses, and provides no analysis of the impact of vibration on residents of Waterfront Landings.

A detailed analysis of vibration impacts on the residents of Waterfront Landings is required in order to allow any assessment of whether their homes will remain habitable during construction. Waterfront Landings is built on pilings that reach into competent soils. The loose soils the pilings pass through seem to transmit vibration exceptionally well, so that residents feel vibration from trains or trucks on the street, even when they don't hear them. With the Project making no effort to limit vibration more than 70 times the recognized level at which nighttime vibration is annoying, Waterfront Landings residents must assume they are facing years of sleep deprivation from vibration. But, with no data or analysis presented concerning the expected impacts on Waterfront Landings, there is simply no way to know. It is critical information in order to judge the extent of the adverse impact of construction upon them.

Once that analysis is provided, then a mitigation plan must be developed. Because the EIS does not recognize the adverse impact vibration may have on nearby residences, it makes no provision for mitigation.[2] Finally, as with noise, there must be an honest assessment of whether the Waterfront Landings residences will remain habitable. If not, just compensation must be provided.

C-048-014

[2] The DSEIS acknowledges the potential for significant adverse impacts of vibration on animal life, because on page 105 in discussing potential mitigation of construction effects on parks and recreation facilities it proposes relocating parts of the Seattle Aquarium animal collection during times or seasons when animals are especially sensitive, or during the periods of highest construction noise and vibration. If vibration impacts are expected to be sufficiently serious so that animals in the Aquarium need to be relocated, at the very least the EIS needs to fully disclose the impacts on humans who are similarly situated.

C-048-014

The Final EIS describes the operational and construction noise and vibration effects on the people who work or reside in the project area.

C-048-015

CLOSURE OF ALASKAN WAY[3]

Today Waterfront Landings residents have two routes to access their homes or the rest of Seattle – from the south or the north on Alaskan Way. The route to the north is frequently highly congested by loading, unloading and provisioning of cruise ships at Pier 66, or blocked by trains at all east-west intersections. On those occasions, however, residents can use Alaskan Way to the south.

The DSEIS discloses that, assuming the seawall is not rebuilt north of Pike Street, Project construction will restrict Alaskan Way south of the Seattle Aquarium to one lane for a minimum of three and a half years and potential close it for from three and a half to six and a quarter years.[4] DSEIS at 84. It provides no analysis or discussions, however, about the impact that closure will have on congestion of Alaskan Way north of Pike Street, or how the Project will mitigate the loss of access to Waterfront Landings.

C-048-016

The DSEIS also states that if the long construction plan for the elevated structure were chosen, the Project would further reduce the capacity of Alaskan Way north of Pike Street by constructing a temporary viaduct in front of Waterfront Landings and at Broad Street to use as a detour route for traffic on SR 99. That would consume lane space on Alaskan Way taken up by the temporary viaduct, and put tens of thousands of additional trips per day on Alaskan Way north of Pike Street.[5] The DSEIS does not disclose how many trips the Broad Street detour would add to Alaskan Way.

C-048-017

[3] The DEIS and DSEIS sometimes treat Alaskan Way and SR 99 as if they are the same road. They are not. In these comments, "Alaskan Way" is the city surface street that runs along the waterfront from SR 519 to Broad Street. SR 99 is the state highway running the full width of the state, which roughly parallels Alaskan Way with an elevated structure along Seattle's Central Waterfront. The residents of Waterfront Landings at most use SR 99 occasionally. They are entirely dependent upon Alaskan Way.

[4] Seawall reconstruction north of Pike Street is discussed below.

C-048-018

[5] In its comments on the DEIS Waterfront Landings made clear its inalterable opposition to the Broad Street detour. It will not repeat those comments here, although they are unchanged. The proposed temporary viaduct in front of Waterfront Landings would have all the noise impacts of the existing viaduct, but this time from the west, where Waterfront Landings units are most vulnerable to noise. It would completely destroy the primary amenity of residents' homes – the view. There is no clearer illustration of the statement at the beginning of this letter that the EIS has been drafted on the false assumption that the only significant adverse impacts of construction are the impacts on users of SR 99 than the EIS's total failure to discuss the adverse impacts of the Broad Street detour.

C-048-015

Access to Waterfront Landings will be maintained during construction. Impacts to traffic during construction have been updated and are summarized in the Final EIS and discussed in more detail in Appendix C, Transportation Discipline Report. Strategies for mitigating impacts from project construction can also be found in these documents.

C-048-016

The Broad Street detour proposed under the Elevated Structure Alternative is expected to carry southbound traffic during portions of construction. Approximately 2,600 southbound vehicles currently travel through the Battery Street Tunnel during the PM peak hour, typically the most congested hour during the day. The Broad Street detour would provide an alternate route for these travelers during construction. However, the Broad Street detour follows surface arterials as it exits southbound SR 99. Therefore, traffic capacity on these dedicated lanes may not be equal to the current capacity of two lanes of SR 99. The capacity Broad Street detour is expected to be between 800 and 1,200 vehicles per hour, in additional to local traffic already traveling along these roadways. The remainder of the detoured traffic is expected to divert to use City streets in the downtown area to reach their final destinations. Updated analysis of the traffic impacts during construction have been conducted for the Elevated Structure Alternative as part of Appendix C, Transportation Discipline Report, of the Final EIS.

C-048-017

The lead agencies understand that the Waterfront Landing residents utilize Alaskan Way extensively. The analysis in the EIS does not treat the Alaskan Way surface street and the Alaskan Way Viaduct as the same roadway except for in the 2004 Draft EIS Surface Alternative. The Surface Alternative would have placed SR 99 traffic on a widened Alaskan Way surface street through the central waterfront, which could

C-048-019 The DSEIS does not disclose the other congestion impact on Alaskan Way North of closing Alaskan Way south of Pike Street. That is that the dozens of buses that bring children to the Seattle Aquarium daily and bring passengers from Sea-Tac Airport to Pier 66, and the semi-trailer trucks that bring provisions to the cruise ships, will be operating in a dead end street, with nowhere to turn around. They all create significant congestion on Alaskan Way North in the existing condition. If they must attempt to turn around on Alaskan Way, or attempt to back out, Alaskan Way North will be even more gridlocked than it already is.

The Project must describe how it expects to mitigate the impact of closure of Alaskan Way on the Aquarium and the cruise ship terminal, in light of the blockages created by the railroad, the need to park and turn numerous buses and trucks around on what will become a dead end street, and the additional traffic created by the Broad Street detour if it is to be implemented. Once those issues have been addressed, it must describe the impact on access to Waterfront Landings.

PARKING

C-048-020 The DSEIS states that all parking will be removed from Alaskan Way North during construction. DSEIS at 100. It also implies, although that cannot be determined from the DSEIS, that the parking will be eliminated on the triangular parcel south of Waterfront Landings. If true, that will eliminate all visitor and service provider parking for the residents of Waterfront Landings. It is essential that the EIS disclose how that visitor and service provider parking will be replaced or the loss of all such visitor parking will be mitigated. In considering mitigation it is also important to remember that guests of Waterfront Landings include elderly friends and parents of residents who cannot be expected to walk several blocks from where they park.

C-048-021 The DSEIS also implies, although again that cannot be determined because the DSEIS does not disclose what use will be made of the parcel, that by taking the extension of Pine Street immediately to the south of Waterfront Landings, the Project may block the southern access to Waterfront Landings' parking garage. That would severely compromise its utility and is unacceptable to Waterfront Landings. The EIS must disclose any impact on the Waterfront Landings parking garage access.

C-048-022 Finally, SDEIS, Appendix C, at p. 99, suggests that the Project may believe that it can mitigate the loss of parking by "increased utilization of existing parking." It bases that on a 2004 inventory of parking utilization conducted by the PSRC. We have reviewed that study. It provides no information as to where the surveyors found unutilized parking. It does say that surveyors counted vacant spaces twice at each location they surveyed – once between 9:30 and 11:30 and again between 1:30 and 3:30 on a Monday through Thursday, sometime between March and June 2004. Parking demand along the waterfront is seasonal and parking space along the waterfront is not used by commuters. We have no doubt that there is ample parking available

have caused the terminology confusion. That alternative is no longer being considered.

C-048-018

The Broad Street Detour described in the Final EIS is only for the Elevated Structure Alternative. The detour would construct a temporary trestle structure from approximately Alaskan Way and Vine Street to the intersection of Broad Street and Western Avenue. The Broad Street Detour would be in place for approximately 27 months while the improvements to the Battery Street Tunnel are completed. An updated description of the alternatives and of construction-related effects is provided in the Final EIS and supporting discipline reports.

C-048-019

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 Final EIS Appendix C, Transportation Discipline Report, includes strategies for addressing loading/unloading that takes place north of Pike Street on Alaskan Way. The project recognizes that loading zones for waterfront piers and businesses will be affected. Clear signage and route maps will be developed to direct delivery vehicles to the appropriate locations. Bus and taxi turnaround zones would be accommodated close to the Colman Dock and Aquarium to accommodate passenger drop-off/pick-up. Delivery trucks also could use the turnaround zones as

C-048-022 along the waterfront during the middle of the work day in March, because that is when no one is there. Those vacant parking spaces provide no potential for mitigating the loss of visitor parking when Waterfront Landings residents need it, however: in the evenings, on weekends, and particularly during the summer. Because the PSRC report gives no indication of what properties were surveyed, we do not know if the Waterfront Landings parking garage was surveyed. If it was, we would expect the Waterfront Landings parking garage to have been largely vacant between 9:30 and 11:30 or 1:30 and 3:30 on a Monday through Thursday, when a majority of the residents are at work. The Waterfront Landings garage is not available to mitigate the Project's removal of on-street parking, however. All parking spots are privately and legally owned as part of each owner's condominium unit. In addition, the security of the parking garage is integral to the security of the building as a whole and the safety of its residents. Providing public access to the garage is not an option, and the Waterfront Landings owners and Board of Directors will not and cannot permit it.

SEAWALL RECONSTRUCTION

C-048-023 We understand that reconstruction of the seawall north of the Aquarium is likely to be "Phase II" of the Project, and put on hold until additional funding is secured. Waterfront Landings urges the City to use that hiatus to re-think its approach to the seawall entirely.

We recognize that it has been, or should have been, clear since the mid-1950s that the design of the seawall was flawed, allowing gribbles 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 more than $350 million to replace the seawall north of Pike Street. Putting aside for the moment the disruption that the current design for the north seawall replacement will cause, it clearly is not appropriate to spend $350 million to avoid a $200,000 per year maintenance expense with periodic $2 million infusions.

C-048-024 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. We understand that Project staff decided that all Project construction would be to a 2500-year earthquake standard. No current codes require that standard. Current building codes, by contrast, require buildings to be designed to avoid loss of life in a 500-year earthquake, although the building may not be habitable once people have escaped from it. We do not know what alternatives may be foreclosed by the Project's 2500-year standard for the seawall reconstruction but might be available with a 500-year standard. As currently proposed, the reconstruction of the northern seawall will be nearly as disruptive to

needed. Detailed access plans will be developed for the central and north waterfront as the project progresses.

C-048-020

Parking at the triangular lot south of the Waterfront Landings would be impacted by the project. Mitigation strategies are aimed at reducing the demand for parking and accommodating short-term parkers. Visitor parking for the Waterfront Landings is not specifically being addressed by the project. If there are visitors who need to be accommodated with parking spaces close to the Waterfront Landings, they would likely be best served by using existing parking spaces in the Waterfront Landings garage. Please refer to the Final EIS Appendix C, Transportation Discipline Report, for additional information on overall parking mitigation strategies.

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

GRAHAM & DUNN PC

C-048-024 properties along Alaskan Way North as failure of the seawall would likely be. In light of that, the City must develop alternatives for the seawall reconstruction that can feasibly attain or approximate the benefits of the Project's proposed approach but at lower environmental cost. If there are alternative approaches that would be less disruptive but would not achieve the 2500-year standard, then those trade-offs must be disclosed in the EIS so that a reasoned decision can be made.[6] It is not appropriate for alternatives to be foreclosed by arbitrary staff decisions, which should instead be the subject of public decision-making based on full information.

Once the alternatives for replacement of the north seawall are determined, the EIS must disclose the noise, vibration and access impacts of those alternatives and identify mitigation for those impacts.

EMERGENCY SERVICES

C-048-025 The DSEIS states at 101: "Roadway restrictions and closures of SR 99 would cause increased traffic delays and congestion on roads both in and near the Project area, potentially increasing response times for emergency services like police, fire crews, and medical aid." The proposed restriction and then closure of Alaskan Way south of Pike Street would potentially cut off access for or delay emergency medical and fire response from Fire Station No. 5. With the only route from Waterfront Landings to a hospital during construction being along Alaskan Way to the north, either a train or congestion at the cruise ship terminal could add 20 minutes or more to the time it takes to reach a hospital from Waterfront Landings. The EIS must disclose how the Project will prevent degradation of emergency services to Waterfront Landings and other locations along Alaskan Way North.

UTILITIES

C-048-026 The Project will be relocating all the major utilities serving Waterfront Landings at least twice. The EIS should disclose the Project's backup plans should that process result in utility service being cut, as happened with Waterfront Landings' gas service during construction of the Marriott Hotel.

C-048-027 [6] We would note that the Seattle Art Museum recently replaced about 1,000 feet of the seawall for approximately $1.5 million, with essentially no disruption to anyone. We have no idea what, if any, seismic standards the Museum's approach may meet. Nor do we suggest their approach would be appropriate elsewhere. But it illustrates the possibility that there may be far less disruptive approaches than the single alternative provided in the EIS. With the north seawall replacement disconnected from the viaduct replacement, there is no reason why the current plan must be arbitrarily driven forward.

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 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.

C-048-021

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.

C-048-022

The project does not intend to pursue use of any parking spaces in the Waterfront Landings garage. The strategy to increase utilization of existing parking garage spaces would be most suited to garages that currently offer public parking and want to attract more customers through marketing, signage, and an electronic parking guidance system.

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STRUCTURAL DAMAGE

C-048-028 The project will be doing major construction activities immediately adjacent to Waterfront Landings' rear wall. It will also be causing vibration that may exceed the threshold for structural damage. The EIS should disclose what recourse adjacent property owners have if their buildings are damaged by construction activity.

ECONOMIC IMPACT

C-048-029 The DSEIS claims that construction "will be tough" for businesses located near the construction area. DSEIS at 99. It claims construction will benefit the economy of the region as a whole through the addition of $67 to $112 million per year in construction wages. DSEIS at 100. It does not disclose the potentially devastating impact over as much as a 10 year period on the value of residences such as Waterfront Landings that abut the Project. If, as seems likely from what is disclosed in the EIS, at least some of the units in Waterfront landings are rendered uninhabitable during construction, the market value of those units will be severely impacted, as the only potential buyers will be speculators hoping the value will rise once construction is completed. Most Waterfront Landings residents, like most people generally, are not in a financial position to have two homes for the duration of construction – a home somewhere else that is habitable and the Waterfront Landings unit to move back to when construction is completed. The Residential Mitigation Plan which the DSEIS promises, at 104, must include a mechanism that allows residents to sell their units for fair market value as if the Project had not occurred.[7]

A REVISED DRAFT EIS IS REQUIRED

C-048-030 Reasonable minds might very well differ as to whether NEPA and SEPA lead to efficient decision making, but that debate has no place here. They are the law. They require that the draft

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[7] Whatever may be the case for properties now east of the viaduct, Waterfront Landings does not expect any significant benefit to its property values from completion of construction. The market currently recognizes the amenity value of its location, and the viaduct does not significantly detract from the value of its units. Their value will continue to be limited by their size, views and quality of finishes after construction is completed. Thus for Waterfront Landings residents the Project offers a decade of severe disruption and loss of habitability, with at most marginal benefit at the conclusion of construction. There is no legitimate argument that residents of Waterfront Landings should be expected to "tough it out" for a decade of hell because of some benefit they will reap at the end of the process.

C-048-023

The seawall is part of the Cut-and-Cover Tunnel and Elevated Structure Alternatives but is a separate project led by the City of Seattle under the Bored Tunnel Alternative. 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 predicting seawall movement increases, which are our best means of advance warning of a failure.

The new seawall design, whether included as part of the Alaskan Way Viaduct Replacement Project or as a separate project, 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.

C-048-024

Please note that the preferred Bored Tunnel Alternative would not include constructing a new seawall. For the Elevated Structure Alternative, the seawall along the waterfront would support the ground surrounding the footings of an elevated structure alternative, so they are being designed to the same earthquake standard as the elevated structure. It bears pointing out that the difference between a 500-year and 2,500-year earthquake in terms of load on a structure is in the range of 10 to 20 percent. This is generally not sufficient to preclude an alternative, nor would there be any appreciable difference in terms of the construction impacts. The project has evolved since the 2006

GRAHAM & DUNN PC

Ms. Kate Stenberg
September 14, 2006
Page 14

C-048-030

EIS provide a far more disciplined and detailed disclosure of the impacts of the project than is provided here, that it describe the mitigation that will be provided in enough detail so that the effect of the mitigation can be understood, and that the significant adverse impacts that cannot be mitigated be clearly disclosed. If those adverse impacts are sufficiently serious they may require that alternatives that could feasibly attain or approximate the proposal's objectives but at lower environmental cost be fully explored. All of that must be accomplished before there is any irretrievable commitment of resources.

40 CFR § 1502.9 provides:

> The draft statement must fulfill and satisfy to the fullest extend possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion.

Here at a minimum, a revised draft is required that adequately describes the noise, light and glare and vibration impacts on residences abutting the Project, which discloses the mitigation that will be provided for all of the impacts discussed above, with enough detail and analysis to allow the public and decision makers to evaluate the likely effectiveness of that mitigation, and which clearly identifies the significant adverse impacts that cannot be mitigated. It may also require the development of alternatives that may attain or approximate the objectives of the Project at lower environmental cost.

Sincerely,

GRAHAM & DUNN PC

Elaine L. Spencer

ELS/log
cc: Waterfront Landings Board of Directors
m35039-760765.doc

Supplemental Draft EIS, so please see the Final EIS for current information about the proposed build alternatives.

C-048-025

As discussed in the Supplemental Draft EIS Appendix O, the Public Services and Utilities Technical Memorandum, the City of Seattle standard for emergency response time is four minutes.

The lead agencies will continue coordination with the City of Seattle and Port of Seattle police and fire departments, regional transportation agencies, and other related agencies during the final design of the selected alternative. The objectives of this coordination are to provide reliable emergency access and alternative plans or routes to avoid delays in response times, and to ensure that general emergency management services are not compromised. Early notice of detours and lane restrictions will be provided to emergency and nonemergency public service providers.

C-048-026

Please see the Final EIS for current information on utility relocations for the Bored Tunnel Alternative, which is the preferred alternative, as well as for the other proposed build alternatives analyzed in the document. In general, construction contractors are responsible for maintaining services during construction. If utility service is inadvertently disrupted during construction, emergency repairs will be performed in accordance with the requirements of the utility provider.

C-048-027

Comment noted. Current standards for the design of major construction projects such as the Alaskan Way Viaduct Replacement Project require that no collapse should occur under what are termed "rare earthquakes" (those with a 2,500-year return period). The amount of disruption due to

the construction activity could be reduced by staging the work so that one section is done at a time before moving on to the next one.

With the preferred Bored Tunnel Alternative, the seawall would be replaced under a separate project led by the City of Seattle.

C-048-028

It is highly unlikely that vibration resulting from work in the immediate vicinity of the Waterfront Landings Condominiums will cause structure damage to the condos. The project will, however, monitor vibration at adjacent structures along the alignment, including Waterfront Landings. In the unlikely event that vibration impacts from the project result in damage to the condominium complex, the costs of repairs will be borne by the project.

C-048-029

Construction activities, especially along the central waterfront and to a lesser extent the north waterfront, would affect businesses and properties adjacent to the project on either side of the right-of-way. The project team met numerous times with the businesses and property owners in the central and north waterfront to prepare them for the upcoming construction and to solicit input on a variety of mitigation strategies. These mitigation strategies are presented in the Final EIS, Chapter 8, as well as Appendix L, Economics Discipline Report.

If provisions of the Uniform Relocation Act are met, then relocation assistance would be provided. The project will not compensate any property owner for reduced property values except where the project has determined that adequate access cannot be maintained. The project will not guarantee sale at fair market value.

C-048-030

The information provided by the 2006 Supplemental Draft EIS (main volumes and appendices) does meet NEPA and SEPA requirements for disclosing potential impacts and mitigation measures. The level of detail requested by this letter is not necessary to understand the effects of the project and how they might be mitigated. Such a detailed description would inaccurately convey an ability to precisely predict how large and very complex projects are built. Instead, greater detail would mislead the reader and provide grounds for future claims against the project. Further, the public and nearby residents, businesses, and property owners (including this commenter) have been directly involved in a meaningful way in developing mitigation measures and programs for this project. In addition, analysis for the Bored Tunnel Alternative was presented in the 2010 Supplemental Draft EIS. Please see the Final EIS for the current information on effects and mitigation.