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April 15, 2010

Sent Via E-Mail to: SR520Bridge_SDEIS@wsdot.wa.gov

Washington State Department of Transportation
Jennifer Young, Environmental Manager
SR 520 Program Office
600 Stewart St., Suite 520
Seattle WA 98101

Subject: SR-520, I-5 to Medina: Bridge Replacement and HOV Project
Supplemental Draft EIS

Dear Ms. Young:

R-003-001 Thank you for the opportunity to comment on the SR-520 Supplemental Draft Environmental Impact Statement (SDEIS). Puget Sound Energy (PSE) believes WSDOT is legally obligated to ensure that PSE's activities related to this project are adequately addressed in the NEPA/SEPA processes. While we do not think it is prudent to suggest specific deficiencies in the SDEIS, we would like to bring the following to your attention for incorporation by reference into the SDEIS and/or future SEPA/NEPA decision(s):

- 1. In Exhibit 2 of the Agency Coordination and Public Involvement Discipline Report under "Federal, State, and Local Agencies and Tribes Involved in the SR-520, I-5 to Medina: Bridge Replacement and HOV Project" it lists several cooperating agencies that about the project and notes that the cooperating agencies do not have "Regulatory Authority". Many of PSE's relocation activities required by WSDOT's proposed improvements will require permits from these cooperating agencies.
- R-003-002** 2. PSE requests inclusion in the Regulatory Agency Coordination Process and Technical Working Groups forums.
- R-003-003** 3. WSDOT will need to accommodate multiple utilities crossings which may be located above or below ground as well as through conduit in the lids.
- R-003-004** 4. PSE will require compensation for work that is not expressly incorporated into the existing Franchise Agreements between PSE and WSDOT.
- R-003-005** 5. On page 37 of Chapter 6 it states: "WSDOT will notify service providers of construction schedules, street closures, and utility interruptions in advance." PSE is highly regulated and has an obligation to provide safe reliable electric and gas service to our customers. WSDOT will need to coordinate with PSE in advance of requested interruptions. PSE will provide best efforts to accommodate the WSDOT's needs but will not be held liable for claims if we are unable to fulfill specific outage requests.

R-003-006 The proposed WSDOT improvements will necessitate relocation of PSE gas and electric facilities both within WSDOT's proposed construction footprint and outside WSDOT's proposed construction footprint. PSE maintains gas and electric systems both within and adjacent to the entire length of the SR-520 corridor. As such, any impacts to PSE facilities are considered direct impacts for any improvement to SR-520. As WSDOT continues to segment/phase/redesign SR-520 improvements, including the subject Supplemental to the 2006 DEIS, impacts to PSE facilities are required to be identified and mitigated.

R-003-001

A new sentence has been added to the Agency Coordination and Public Involvement Discipline Report Addendum (Attachment 7 to the Final EIS) to address permitting. Page 11 of the SDEIS Agency Coordination and Public Involvement Discipline Report stated, "In 2004, agencies and tribes with special expertise or permitting authority with respect to any environmental effects associated with the project or alternatives were invited to serve as cooperating agencies (40 CFR 1508.5)." WSDOT noted that cooperating agencies often do have regulatory authority and acknowledges that cooperating agencies may also regulate and/or permit utility relocations required as a result of the project.

R-003-002

The Regulatory Agency Coordination Process and Technical Working Groups are intended to engage agencies that regulate and permit activities that affect elements of the natural and built environment as acknowledged under NEPA and SEPA. In these forums project discussions are not at level of detail to adequately inform conversations with utilities provider regarding utility conflicts.

PSE will be invited to participate more fully during review of project plans after the environmental planning process is complete. WSDOT's utilities engineers, who have reviewed and commented on the project's environmental documents, have initiated the coordination process with PSE and Seattle Public Utilities, and will continue to coordinate with utility providers as the project design advances.

R-003-003

Detailed engineering design and construction planning would address issues such as specific utility crossings and relocations. WSDOT will work to address utility conflicts as described in the WSDOT Utilities Manual (Publication M22-87) and provide accommodation as described in WSDOT's Utilities Accommodation Policy (Publication M22-86). Any

R-003-007

As part of our ongoing coordination efforts with WSDOT, PSE identified probable adverse impacts to its gas and electric facilities for the SR-520, Medina to SR-202: Eastside Transit and HOV Project and provided a synopsis of anticipated relocation efforts that would be required to WSDOT on October 30, 2009. Subsequent coordination efforts were documented in a letter to WSDOT dated April 15, 2010, emphasizing PSE's need to utilize "Fish Passage A" as a permanent crossing to mitigate disruptions to our customers. The letter also included a narrative describing our anticipated construction activities as well as detailed construction plans.

The purpose of our correspondence was PSE's request to be included within the project description portion of the Environmental Assessment (EA) and an understanding that required PSE activity would therefore be evaluated in a single environmental document as required by WAC. We also requested that our narrative and plans be included in WSDOT's RFP for the Design-Build team. A description of PSE's required involvement in WSDOT'S project was not included in the EA per our request and it is not included in the subject SDEIS. PSE continues to request inclusion within the project description portion of EA's, EIS's, and other NEPA/SEPA documentation.

R-003-008

Federal regulations (40 CFR 1502.16, 1508.7, 1508.8) require that indirect and cumulative effects be considered in an EIS. PSE anticipates that WSDOT will adopt the subject SDEIS and 2008 DEIS pursuant to Washington Administrative Code (WAC) 197-11-610. The State Environmental Policy Act (SEPA) requires the consideration of all direct, indirect, and cumulative environmental impacts including both short and long term impacts (Washington Administrative Code (WAC) 197-11-060). SEPA requires that utility relocation resulting from this project be included otherwise "(f) it would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document." WAC 197-11-060(5)(d)(iii).

R-003-009

It is PSE's understanding that WSDOT will contract with a Design-Build team to complete the design and construction in the near future. It is also PSE's understanding that the Design-Build team could deviate from the conceptual plans upon approval by WSDOT. In order to accurately identify all gas and electric conflicts and minimize environmental impacts associated with relocation, PSE must be included in all design plan change discussions throughout the project as well as development of construction plans, schedules and sequencing. Proactively engaging PSE in these activities will improve WSDOT's ability (as it relates to PSE's utilities) to avoid construction delays, contractor claims, and eliminate disruption to the gas and electric service of surrounding communities.

Finally, we expect that WSDOT will fully support PSE, as needed, in discussions with local jurisdictions regarding necessary permits, authorizations, etc., resulting from utility relocation required by this project along with any future NEPA or SEPA processes.

We look forward to working with WSDOT as a stakeholder and impacted party throughout all the development phases of this project. Please feel free to contact me at (425) 462-3351 or angela.wingate@pse.com if you should have any questions.

Sincerely,



Angela Wingate
Municipal Liaison Manager

Cc: Karl Volkle, PSE
Chris Listfeld, PSE
Lorna Luebke, PSE

special accommodations would be negotiated with utility providers as circumstances arise during design and construction.

R-003-004

For utilities with WSDOT franchise agreements, relocation details, including cost responsibility and compensation, would be addressed according to the provisions in each provider's agreement and in alignment with WSDOT policy as defined by the authorities of the RCW and WAC. If there are utilities on SR 520 right-of-way that have not been included in an existing permit or franchise agreement, by law, WSDOT may require them to be removed. The law requires any utility that is on WSDOT right-of-way to be there by permit or franchise. As a courtesy for those non-permitted facilities found on the right-of-way for the SR 520, Medina to SR 202 project, WSDOT has asked for those utilities to apply for a franchise or permit. Unless there is a determination of a compensable property interest, the utility will be required to relocate at their own expense.

R-003-005

WSDOT is developing a Utility Relocation Plan to identify utility conflicts associated with the SR 520, I-5 to Medina project, and outline goals and strategies for resolving those conflicts. WSDOT will keep all known utility providers informed as the project advances, and will include the utility providers as necessary during project development to resolve utility conflicts. Typically, WSDOT coordinates with utility providers to develop Memoranda of Understanding regarding advance notice of utility disruption, outage durations, etc. WSDOT will follow guidelines outlined by the WSDOT Utilities Manual, which explicitly outlines coordination efforts, roles and responsibilities, and relocation processes. WSDOT and WSDOT contractors will cooperate with PSE regarding any service disruptions.

R-003-006

Comment noted. Utilities are granted permission to occupy public right-of-way for delivering their service to the communities they service. There is legal obligation of the utility to vacate the right-of-way whenever a public entity needs to utilize the right-of-way for its proscribed purpose. WSDOT has initiated coordination efforts with known public utilities within the SR 520, I-5 to Medina project corridor, and will coordinate with utility providers to address utility conflicts.

R-003-007

Chapter 4 of the SDEIS identified Puget Sound Energy as a utilities provider in the project area. Utilities relocation was discussed in the Social Elements Discipline Report.

The comment about the exchange that took place regarding the SR 520 Medina to SR 202 project is noted. The Request for Proposal (RFP) for the Medina to SR 202 project explicitly requires the contractor to work with PSE to resolve the issues described in the comment. The proposal included notification requirements for outages, coordination for preparation of relocation plans and agreements, and the narrative and plans described in the comment were included as exhibits to a draft MOU provided as an appendix to the RFP.

WSDOT has initiated coordination efforts with PSE and other utility providers to begin addressing utility conflicts associated with the SR 520, I-5 to Medina project. WSDOT will coordinate and cooperate with utility providers located on WSDOT right-of-way in a manner consistent with procedures outlined in the WSDOT Utilities Manual (Publication M22-87), and WSDOT's Utilities Accommodation Policy (Publication M22-86). These manuals explicitly define the roles and responsibilities for WSDOT and the utility provider. This Final EIS will disclose the anticipated effects to known utilities within the project footprint, as described in the WSDOT Environmental Procedures Manual, and as required by SEPA.

R-003-008

Section 5.3, Social Elements, of the SDEIS discussed operational direct effects on utilities. This discussion is updated for the Preferred Alternative in Section 5.3 of the Final EIS, which also includes a discussion of indirect effects. Section 6.3 of the SDEIS and Final EIS describe construction effects on utilities. As described in Chapter 7 of the Final EIS, the proposed project would not result in any long-term adverse effect on public service providers. Therefore, the project would not contribute to a cumulative effect on social elements.

Section 6.18 of the Final EIS describes concurrent construction effects resulting from the project in association with other major construction projects in the vicinity. However, this assessment has not addressed utilities because WSDOT has seen no indication that future development projects in the central Puget Sound region would adversely affect utilities or be limited by the availability of utilities, or that construction of the SR 520, I-5 to Medina project would place a burden on the supply of utilities large enough to present a risk to the general utility supplies if other development projects were to use the same utilities concurrently.

R-003-009

WSDOT will continue to coordinate with utilities providers, including Puget Sound Energy, as the project continues and will fully support PSE, as needed, in discussions with local jurisdictions.