



MAYOR'S OFFICE

Dan Devine  
Mayor

August 7, 2009

Mr. James Liptack, P.E.  
WisDOT, SE Transportation Region  
P.O. Box 798  
Waukesha WI 53187-0798

Re: Comments on the Draft Environmental Impact Statement (DEIS)

Dear Mr. Liptack:

The City of West Allis would like to offer the following comments on the Draft EIS document for the Zoo Interchange project.

**Eight Lane Alternatives**

The City is cautiously recommending the construction of the 8-lane alternative if the impacts to adjacent homes and businesses can be minimized. The City is cognizant of the fact that the state legislature has placed responsibility for "coordinating of transit and commuter rail programs in the region" on the regional transit authority rather than WisDOT (Wis. Stat. 59.58(6) and 85.064). The City is generally supportive of efforts to expand mass transit in this region as well but understands that the I-94 right of way corridor has never been identified as an ideal location for mass transit. SEWRPC has identified other existing corridors for mass transit that would have less negative impacts to adjacent properties. The City would also point out that the Hank Aaron Bike Trail corridor, which runs parallel to the I-94 corridor, is part of the Rails to Trails program and therefore must be preserved for future rail use. The City concurs with the Draft EIS discussion on transit:

*"SEWRPC's regional transportation plan assumes a 100 percent increase in public transit (in terms of revenue vehicle-miles of service), including rapid and express transit systems and substantial expansion of local bus systems where development density is sufficient to generate ridership. One of these recommended transit systems is a potential commuter rail system between Oconomowoc and downtown Milwaukee's Intermodal Station operating on existing Canadian Pacific Railway tracks. Another recommended transit system consists of a potential light rail/bus guideway from Waukesha to downtown Milwaukee on an exclusive guideway route. The plan also recommends on-street express bus services as well as freeway and non-freeway bus routes. None of the transit routes included in the regional plan would utilize freeway medians.*

*Even with the proposed increase in public transit, traffic volumes on the study-area freeway system are expected to increase 18 percent by 2035....the study-area freeway system is already carrying more traffic than it was designed to carry."*

The City is concerned that higher levels of congestion would occur under the 6-lane alternative, where several segments would even operate at level of service F. The City does not want congestion on the freeway to inhibit our efforts to redevelop several brownfield sites within the City. Our easy access and close proximity to downtown Milwaukee are some of the greatest selling points for our location in the region. The City agrees with these conclusions stated in the DEIS:

*"The freeway is highly interconnected with local land use, and the reconstruction of the freeway could either hinder or facilitate local economic development depending on the alternative selected".... "The 8-lane alternative is most likely to facilitate planned economic development within the APE [area of potential effects] because the additional travel lanes more effectively addresses traffic congestion compared to the other alternatives."*

*"The lack of capacity on the freeway system places greater pressure on local arterial roads to carry regional traffic, which indirectly affects local traffic operations and the quality of the local business environment along arterials...The 6-lane alternative is likely to provide some operational improvements along the freeway, but traffic break downs (level of service F) would continue, encouraging drivers to continue to use local arterial streets as alternative routes. The 8-lane alternative would add new capacity to the study-area freeway system and make operational improvements that would maintain a level of service D or better on the freeway during peak travel times. As a result, this alternative would provide the most relief to the local arterial road system by encouraging regional traffic to stay on the freeway system."*

The City supports efforts to reduce trips made on local roads. The Draft EIS points out that several local arterial streets would see a decline in traffic under the 8-lane alternatives:

- "• Traffic volumes on Highway 100 would be 12 percent lower under the 8-lane Modernization Alternatives than the No-Build and 6-lane Modernization Alternatives.*
- Traffic volumes on 84th Street would be 17 percent lower under the 8-lane Modernization Alternatives than the No-Build and 6-lane Modernization Alternatives.*
- Only Greenfield Avenue would see an increase in traffic under the 8-lane Modernization Alternative compared to the No-Build Alternative (7 percent)."*

The City is optimistic that the 8-lane alternative would also reduce accidents:

*"The 8-lane alternatives may further reduce crashes by reducing the level of congestion compared to the 6-lane alternatives. Research suggests that the crash rate on a roadway may vary based on the level of congestion, and that increased congestion leads to increased crash rates (Lord et al., 2003; Zhou and Sisiopiku, 1997). The reduction in crash rate corresponds to the level of service, with a 10 percent reduction in crash rate for each letter grade improvement in level of service."*

The City is optimistic that the 8-lane alternative would reduce pollution as well:

*"The major way to reduce emissions of greenhouse gases from transportation is to reduce the amount of fuel consumed, which can be accomplished by reducing congestion (more efficient driving conditions)."*

#### **South 76<sup>th</sup> Street**

The City is still concerned about the affect that potentially relocated freeway ramps will have on our City street system. The City believes that traffic volumes will increase significantly on S. 76<sup>th</sup> Street under the Alternative E1. The potential relocation of the eastbound exit ramp and westbound entrance ramps to the east side of S. 84<sup>th</sup> Street (STH 181) would undoubtedly encourage more motorists to use S. 76<sup>th</sup> Street to

**Mayor – City of West Allis Response**

1. While the SDEIS continues to consider E1 and E1/E3 Hybrid viable, the substantial number of comments received during the DEIS comment period, along with direct coordination with the Cities of West Allis, Milwaukee, and neighborhood stakeholders along 76<sup>th</sup> Street and adjacent streets led to the development of the Modified E3 alternative (see Section 2.5.2), which would mimic the existing access and travel patterns in-place today – ramps directly to/from 84<sup>th</sup> Street, and Kearney and O’Connor streets remaining in-place as one-way service drives providing connections between 84<sup>th</sup> Street and 76<sup>th</sup> Street. Little or no traffic diversion to 76<sup>th</sup> Street, beyond that noted with the current configuration, is anticipated as part of this alternative’s implementation. No widening of 76<sup>th</sup> Street is therefore anticipated.

access the freeway. We do not believe all motorists will choose to use the Texas U-turn because it will potentially add up to a mile to their trip. The City believes the Draft EIS understates the impact to S 76 St.: 1

*"76th Street would see an increase in traffic under Alternative E1 compared to the E1/E3 Hybrid Alternative. In 2035, traffic volumes on 76th Street between I-94 and Greenfield Avenue would increase 14 percent (from 14,000 vpd to 16,000 vpd) under Alternative E1 compared to the No-Build and would decrease 14 percent (14,000 vpd to 12,000 vpd) under the E1/E3 Hybrid Alternative."*

*"However, this effect is not expected to be substantial. Residences along 76th Street are already affected by a relatively higher traffic volume because the street is a main arterial and it is adjacent to State Fair Park. Also, access to 76th Street from I-94 by the proposed service roads under E1 would be similar to exiting conditions. The street currently has access to I-94 by way of frontage roads and local roads that connect with the 84th Street and 70th Street interchanges with I-94."*

The Draft EIS should mention that the increased volumes on 76<sup>th</sup> Street may necessitate widening the road through this residential neighborhood, which will create a substantial impact. The City is eager to see the SEWRPC traffic forecasts on 76<sup>th</sup> St. for the E1/E3 hybrid alternative as well. The City shares the concern of many residents that additional traffic on local streets may lead to additional property acquisitions, including on 76<sup>th</sup> St.: 2

*"Traffic patterns on local streets could change as a result of the reconstruction of the Zoo Interchange. Specifically, the reduced access to/from I-94 and Bluemound Road to/from US 45 would increase traffic on other local arterials such as 84<sup>th</sup> Street, Highway 100, and Watertown Plank Road. As discussed previously, participants at the September 2008 focus group were concerned this could cause a need to expand local roads. Local roadway expansion could lead to property acquisitions, as well as local land use changes, which could be offset by the modernization of the freeway. The increased capacity under the 8-lane alternative would improve traffic flow through the study-area freeway system and decrease regional traffic volumes on local streets in comparison to the No-Build Alternative. The increase in traffic along 76th Street associated with alternative E1 could indirectly affect the quality of life for residents, which could lead to decreased property investment over time."*

The City has received 80% funding for the resurfacing of S. 76<sup>th</sup> Street (ID 2160-14-00) but based on the following Draft EIS recommendations, we would expect additional help from WisDOT if widening of the roadway were necessary: 3

*"WisDOT will work with local communities to implement mitigation measures to address potential traffic increases that may occur during and after construction. Measures may include improved signal timing and signing, improved signal hardware, removing on-street parking, and other minor operational improvements to local roads."*

#### **West Greenfield Avenue**

The City would also prefer to keep access to Greenfield Avenue available from all directions on the freeway, including from I-94. This access would allow for additional routes to State Fair Park as well as the numerous commercial opportunities along STH 59 and STH 100. This access will facilitate additional economic development in these areas. We would encourage WisDOT to minimize the acquisition of property to accommodate this access though:

*"If access to Greenfield Avenue from eastbound I-94 is provided, there would be a loss of approximately \$2.29 million to West Allis' tax base for the 6-lane Alternative and \$2.35 million for the 8-lane S2*

2. Should either E1 or the E1/E3 Hybrid be selected as part of the preferred alternative, WisDOT and FHWA will coordinate with the cities of Milwaukee and West Allis regarding required improvements to 76<sup>th</sup> Street. Should the Reduced Impacts Alternative be selected as part of the preferred alternative, no freeway-related improvements would be required to 76<sup>th</sup> Street.
3. Should either E1 or the E1/E3 Hybrid be selected as part of the preferred alternative, WisDOT and FHWA will coordinate with the cities of Milwaukee and West Allis regarding required improvements to 76<sup>th</sup> Street. Should the Reduced Impacts Alternative be selected as part of the preferred alternative, no freeway-related improvements would be required to 76<sup>th</sup> Street.

*Alternative. These totals are approximately .05 percent of West Allis' full value tax base. The S2 6- and 8-lane Alternatives with eastbound I-94 access to Greenfield Avenue would result in an annual property tax revenue loss of approximately \$20,200 and \$20,700, respectively, for West Allis. Rebuilding the core of the Zoo Interchange would result in a tax base loss of \$980,000 for West Allis and a property tax revenue loss of \$8,600."*

The City currently has underdeveloped properties (including several trailer home parks) along STH 59 immediately west of I-894 that have enormous potential for redevelopment but they will require direct access to the freeway in order to reach this potential.

### **Storm Water Quality**

The majority of storm water from the Zoo Interchange drains through a large 96" trunk storm sewer with an outfall into **Underwood Creek**. The City's own NR 216 report concurs with the finding of the Draft EIS:

*Between 2003 and 2005, MMSD began water quality monitoring at seven sites along Underwood Creek and the south branch. This monitoring noted that conventional pollutants, including fecal Coliform bacteria, total phosphorus, soluble phosphorous, total Kjeldahl nitrogen, and to a lesser extent, dissolved oxygen, exceeded State of Wisconsin criteria or recommended maximums.*

*Toxic pollutants were also present in Underwood Creek, but at no time did the levels exceed State of Wisconsin chronic criteria. MMSD developed a water quality index used to evaluate river and creek water quality. This measurement is based on nationally recognized indices and established water quality criteria. The water quality in Underwood Creek was regularly classified as either "fair" or "bad", with 2005 providing the worst year for water quality, on average. The study also noted that the concentrations of suspended solids, log fecal coliform, copper, and zinc in Underwood Creek increased with rainfall (MMSD, 2008).*

The City of West Allis supports WisDOT's efforts to take responsibility for this pollution and is eager to see what specific actions WisDOT will take to reduce this pollution in Underwood Creek:

*"To comply with State Statute 87.30 and NR 216 and to address concerns raised by MMSD and the City of West Allis, WisDOT and FHWA are also investigating retention/detention basins to manage stormwater from the proposed improvements. The retention/detention ponds would also improve water quality by allowing solid pollutants (sand, grit, etc.) to settle out of the water before it flows into storm sewers or streams. If these retention/detention ponds are built, WisDOT will provide landscaping around the pond.*

*Potential locations for retention/detention basins include:*

- West Leg—Along the Underwood Creek Parkway south of I-94. Stormwater runoff from the south and west legs would be stored at this location. The Oak Leaf Trail is routed along a little-used roadway that currently occupies the potential pond location. WisDOT would remove the roadway and relocate the Oak Leaf Trail to a location suitable to the Milwaukee County Parks Department if a pond were built at this location.*
- East Leg—In the northwest quadrant of the I-94/84th Street interchange. A retention/detention basin in this location may require relocating the Honey Creek stream bed further east of its current location. The basin would provide storage for stormwater runoff from the east leg of the study-area freeway system. Some adjacent residents oppose a pond at this location."*

The City would not object to these possible locations for retention/detention basins.



**Noise**

The City concurs with the recommendation to provide noise abatement at all current locations but would like to discuss the requirements for prohibiting development within new setback limits:

*"The 66 dBA Leq(1h) setback distance along undeveloped areas abutting the study-area freeway system would be 385 feet. The setback distance indicates that noise levels within these distances, measured perpendicular to the centerline of the nearest lane in either direction, is 66 dBA or greater. This setback distance was developed to assist local planning authorities in developing land use control over the remaining undeveloped lands along the project in order to prevent further development of incompatible land use. Noise mitigation for future developments constructed within the setback distance will be the responsibility of the local communities or the developer"*

There are areas adjacent to the freeway where we are considering future development so we have concerns as to what limits would be placed on these sites. We also may want to redevelop remnants of property created after buildings are razed to accommodate the Zoo Interchange construction. We have questions about the future viability of these sites if the following rules apply:

*"The local government must provide documentation of land use controls, which would reasonably eliminate the need for noise barriers adjacent to future developments that abut freeways or expressways."*

**Air Pollution.**

The City concurs with the conclusion that reducing congestion will lower the pollution in the area. We concur that keeping regional traffic off of local streets will decrease pollution because on the increased speeds afforded on the freeway:

*"According to U.S. EPA's MOBILE6.2 emissions model, emissions of all of the priority MSATs [mobile source air toxics] except for diesel particulate matter decrease as freeway speeds increase"*

The City can be expected to offer other comments and concerns as this project continues through design and construction. Thank you for your consideration of our comments and for taking the opportunity to discuss the Zoo Interchange with us.

Sincerely,

  
Dan Devine,  
Mayor

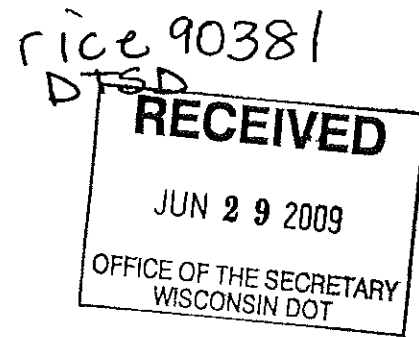
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4. The 66 dBA Leq(1h) setback distance is based on the Noise Abatement Criteria for activity category B, “picnic areas, recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries and hospitals.” Other developments not as affected by traffic noise, such as commercial uses, could still be developed. That threshold noise level is 72 dBA Leq. The fourth bullet point in section 3.19.3 of the DEIS, “The local government must provide documentation of land use controls, which would reasonably eliminate the need for noise barriers adjacent to future developments that abut freeways or expressways” specifically applies to noise barriers constructed by WisDOT. The goal of TRANS 405 is that local governments develop land use controls that address the issue of incompatible land use applying methods acceptable to the development goals of the community. As stated in the DEIS, “Noise mitigation for future developments constructed within the setback distance will be the responsibility of the local communities or the developer.”





**JOSEPH A. RICE**  
MILWAUKEE COUNTY SUPERVISOR



June 25, 2009

Mr. Jeffrey F. Paniati, Executive Director  
Acting Deputy Administrator  
U.S. Department of Transportation  
Federal Highway Administration  
[Redacted]

Mr. Frank J. Busalacchi, Secretary  
State of Wisconsin DOT  
[Redacted]

RE: Draft Environmental Impact Statement for the Zoo Interchange (Project I.D. 1060 33 01).

Dear Messrs. Paniati and Busalacchi:

I am writing in my capacity as Milwaukee County Supervisor and member of the Economic and Community Development Committee to comment upon the Draft Environmental Impact Statement for the Zoo Interchange (Project I.D. 1060 33 01) approved by both the Federal Highway Administration and the Wisconsin Department of Transportation. This project is critical to Milwaukee County and the future economic prosperity of the region. For that reason I take this opportunity to provide comments on the proposed plan.

I urge the respective Federal and State authorities involved in the Zoo Interchange reconstruction to be mindful of the critical importance of this interchange for public and private entities located near the interchange that are vital to the residents of Milwaukee County and the entire region. These entities include but are not limited to the Milwaukee County Children's Court Center, Milwaukee Regional Medical Center (MRMC), Milwaukee County Research Park (MCRP), as well as the Milwaukee County Highway Maintenance Division.

The MRMC serves over one million patients annually and provides over 15,000 jobs. A 2006 study estimated the MRMC's total direct and indirect economic impact for metropolitan Milwaukee to be \$2.417 billion.

The Milwaukee County Research Park is home to approximately seventy high-tech businesses as well as the Technology Innovation Center – a business incubator of 40 new technology-based businesses.

The Milwaukee County Highway Maintenance Division, located at the northeast quadrant of Highway 45 and Watertown Plank Road, maintains all County trunk highways, parkways, state trunk highways, and expressways. As such, it is highly dependent upon efficient use of vehicles to provide the citizens of Milwaukee County with a safe, usable roadway systems.

[Redacted]

Mr. Jeffrey F. Paniati  
Mr. Frank J. Busalacchi  
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In the case of all of these institutions, immediate access to freeways is critically important to their continued growth and success.

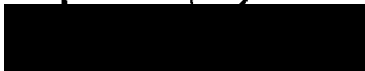
Further, Zoo Interchange project coordinators should also be mindful of the future development of the University of Wisconsin – Milwaukee School of Engineering. Earlier this year, Milwaukee County sold a parcel of county owned land located between the N. Swan Boulevard and Watertown Plank Road to the University of Wisconsin – Milwaukee for the purpose of constructing the new engineering campus. The new school campus, and its construction, will certainly generate a considerable amount of new traffic in the area, and it is important to take this new and exciting development into consideration when planning and performing the Zoo Interchange improvements.

Federal and State authorities ought to ensure that the Watertown Plank Road and Wisconsin Avenue exits from Highway 45 remain accessible during and after the construction period. MRMC, MCRP, and Milwaukee County Children's Court visitors heavily depend on these interchanges to get to these campuses. Approximately 15,000 people travel daily to the MRMC campus alone via the Zoo Interchange and exit at either Watertown Plank Road or Wisconsin Avenue to get there. The current Zoo Interchange reconstruction plan only allows freeway access to the MRMC, MCRP, and other institutions north of I-94, via Watertown Plank Road for trips from both eastbound and westbound on I-94. Only vehicles coming from the south on I-894/HWY45 would be able to access the MRMC campus at Wisconsin Avenue. Since a considerable number of visitors come to these locations via I-94, it is important that a dedicated and direct access to both Watertown Plank Road and Wisconsin Avenue be available from both directions.

These improvements, combined with the aforementioned provisions regarding the unrestricted access to important thoroughfares, should ensure that the much needed reconstruction of the Zoo Interchange will not negatively impact important Milwaukee County institutions located around it and instead will improve traffic access and egress from these properties.

Please take these comments into consideration as this plan unfolds – its importance to Milwaukee County cannot be over-emphasized.

Very truly yours,

  
JOSEPH A. RICE  
Supervisor, District 6

JAR: sd

## **Milwaukee County Supervisor Response**

1. WisDOT and FHWA will make every effort to maintain access to and from the Watertown Plank Road interchange during freeway reconstruction activities. Details on the type of access, duration, and other features will be developed in a subsequent design phase of the project.

With respect to I-94 access to Bluemound/Wisconsin: please note that access to this location will be afforded to both northbound and southbound US 45 traffic.

Efforts to provide ramp access to Bluemound/Wisconsin from I-94 continued following the conclusion of the DEIS comment period. In an effort to ensure that current and accurate information was used to determine the need for this access, aerial surveys of traffic movements into and out of the Milwaukee Regional Medical Center were completed by WisDOT in 2010. These surveys quantified the volume of existing traffic moving into and out of Medical Center parking areas and facilities from all directions and via all freeway and surface streets in the vicinity. The surveys confirmed that approximately 5 percent of the total Medical Center traffic stream uses the Bluemound/Wisconsin interchange heading to, or coming from, I-94. The use of arterials, as well as the other existing interchanges along I-94 and US 45, by the vast majority of Medical Center traffic reinforces the study's conclusion that other options will successfully handle the traffic diverted as a result of the proposed access change. See also Section 2.5.1. This information, when combined with the continued complications resulting from the close proximity of I-94 and Bluemound Road, led to an inability by FHWA and WisDOT to provide such access. However, the addition of (1) the Adjacent Arterials Component, and (2) a new US 45/Watertown Plank Road interchange configuration in the SDEIS address this concern. Improvements to 84<sup>th</sup> Street, Highway 100, and Watertown Plank Road (and intersections along each arterial) will address any increased traffic using these arterials to access the Milwaukee Regional Medical Center/Milwaukee County Research Park area. Additionally, the development of a free-flow interchange at US 45/Watertown Plank Road will significantly improve traffic operations along Watertown Plank Road, providing I-94 traffic opting to use US 45 to the new Watertown Plank Road interchange with direct access to each.

Mr. Jeffrey F. Paniati  
Mr. Frank J. Busalacchi  
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Cc: Scott Walker, Milwaukee County Executive  
Carlos Santiago, Chancellor, University of Wisconsin - Milwaukee  
William Ryan Drew, Executive Director, Milwaukee County Research Park  
Jack Takerian, Director, Milwaukee County DTPW  
Donna Brown, Project Director, WisDOT  
Jim Liptack, Project Manager, WisDOT  
Allen Radliff, FHA  
Eugene Johnson, WisDOT



Department of Public Works  
Infrastructure Services Division

Jeffrey J. Mantes  
Commissioner of Public Works

Preston D. Cole  
Director of Operations

Jeffrey S. Polenske  
City Engineer

August 10, 2009

Mr. James Liptack, PE  
WISDOT-Southeast Transportation Region  
PO Box 798  
Waukesha, WI 53187-0798

Subject: Zoo Interchange Reconstruction Project  
Draft Environmental Impact Statement (DEIS)

Dear Mr. Liptack:

The City of Milwaukee DPW has reviewed the Draft Environmental Impact Statement (DEIS) for reconstruction of the Zoo Interchange dated May 20, 2009 and offer the following comments:

First, we would like to express our appreciation for the opportunity to participate on the Technical Advisory Committee (TAC) and the opportunity to comment on the DEIS as it was being developed for this large and critical project. We appreciate WISDOT's efforts to address a number of our concerns and minimize right-of-way impacts in the development and refinement of alternatives.

However, we continue to advocate that WISDOT take a more proactive role in providing inter-city rapid and express transit service and evaluate a broader range of alternatives in the development of interchange design alternatives. As you are aware, the design decisions made now will impact transportation and land use in Southeastern Wisconsin through the life cycle of the interchange.

Major freeway reconstruction presents a unique opportunity to plan and provide for future transit corridors and it continues to be our expectation that the DEIS would evaluate alternatives that more thoroughly consider potential transit service to assure that key potential transit corridors are not precluded. While the regional long range transportation plan does not identify a north-south rapid or express transit corridor through the Zoo Interchange (beyond rapid bus traveling on the freeway), the DEIS provides an opportunity to reconsider and re-evaluate the transit service identified in the regional plan and the magnitude of the Zoo Interchange reconstruction project warrants such consideration. While we appreciate WISDOT's efforts to preserve the former CP Rail West Allis line which routes under the south leg of the interchange for future transit

### **City of Milwaukee Response**

1. WisDOT has evaluated a broader range of alternatives in the SDEIS, namely the Reduced Impacts Alternative. Although WisDOT provides operating support to intra-city mass transit systems in the state, the legislature has charged local governments and regional transit authorities, not WisDOT, with responsibility for implementing new or expanded transit systems like commuter rail or express bus systems.

WisDOT concurs that the need for a comprehensive and balanced approach to transportation in the region is important. WisDOT also supports the findings of the 2035 Regional Transportation Plan for Southeastern Wisconsin. As you are aware, the Regional Transportation Plan (the development of which was assisted by the City of Milwaukee DPW via the advisory committee), does not include a north-south transit corridor through the Zoo Interchange nor is there any record that such a facility was ever discussed. Conversely, reconstruction of the Zoo Interchange is in the Regional Transportation Plan as a separate component. The development of a north-south transit corridor from Lincoln Avenue to Burleigh Street, or interim termini, in the absence of a regional plan that supports its development, is outside of the scope of this project and study. Further, the purpose and need for this project is well-established as being justified even with a doubling of transit usage (along either existing or new corridors) in the region.

service and bicycle commuting, it was our hope that the DEIS would have incorporated and considered alternatives that provided a north-south transit corridor through the Zoo Interchange, at least between the West Allis Line and the County Research Park and Medical Complex. Including such alternatives would allow decision makers to evaluate potential benefits against costs and right-of-way impacts and allow comparisons with alternatives that do not provide for a future north-south transit corridor.

1

With respect to capacity expansion of the Zoo Interchange, we appreciate WISDOT's efforts to include and evaluate the 6 lane alternatives to allow meaningful comparison of costs, benefits, and impacts against 8 lane alternatives as we requested during early TAC meetings. We have also previously requested that the DEIS document the need for capacity expansion in the event that WISDOT recommends capacity expansion. While the DEIS takes no position on 6 lane vs. 8 lane alternatives, the DEIS indicates that traffic volumes will increase between 7% and 12% in the north, south, and west legs of the interchange while volumes are not expected to increase in the east leg through the plan period. Given Common Council resolution 011729 opposing capacity expansion of I-94 between the Marquette Interchange and the Zoo Interchange and that traffic volumes are not expected to increase in the east leg, it is our position that alternatives be considered that incorporate geometric improvements to improve safety but do not increase the number of lanes in the east leg in the City of Milwaukee. With respect to remaining legs, we would continue to advocate that the DEIS re-evaluate the proposed rapid and express transit improvements identified in the regional transportation plan, as well as the assumptions used in the travel demand forecasting model, to determine if transit could preclude the need for capacity expansion.

2

With respect to the specific alternatives contained in the DEIS, we have the following recommendations:

- The preferred alternative for the east leg of the interchanges is the E1 alternative identified in the Draft Environmental Impact Statement, which utilizes "Texas U-turns" to provide I-94 access to and from 76<sup>th</sup> Street and 84<sup>th</sup> Street. The 6-lane E1 alternative eliminates the need for the acquisition of 20 residential properties and one commercial property.
- The preferred alternative for the north leg of the interchange is the N1 alternative identified in the Draft Environmental Impact Statement, which utilizes frontage roads to provide freeway access to and from the local street system. The N1 alternative also introduces a new roadway crossing US 45 between Wisconsin Avenue and Watertown Plank Road, thereby creating a more direct link between the Milwaukee County Research Park and the Milwaukee Regional Medical Center and providing some traffic relief to the existing street system.



2. The Reduced Impacts Alternative evaluated in this SDEIS, while it increases capacity within the East Leg, it does so with fewer lane drops in advance of the eastern project limit. This change provides a more efficient transition and traffic operations to the existing 6-lane freeway section east of 70<sup>th</sup> Street.


Mr. James Liptack  
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- It is recommended that the Wisconsin Department of Transportation continue to investigate design alternatives to provide access to Blue Mound Road from I-94 to provide better access to the Milwaukee County Grounds and avoid traffic impacts to the intersection of Blue Mound Rd. and STH 100, as long as further property acquisitions can be avoided (note: the remaining alternatives under consideration for the north leg of the interchange provide for Blue Mound Road access to I-894 and US 45, but not I-94).

3

Attached also please find a certified copy of City of Milwaukee Common Council resolution #090256 providing the City of Milwaukee's official position on the reconstruction of the Zoo Interchange. If you have any questions, please contact us.

Very Truly Yours,

  
for Jeffrey S. Polenske, P.E.  
City Engineer

  
for Jeffrey J. Mantes  
Commissioner of Public Works

RWB: ns

Attachment

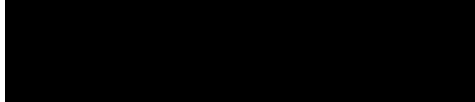
C: Mayor Tom Barrett  
Alderman Willie L. Hines, Jr.  
Alderman Michael J. Murphy  
Alderman Robert Bauman

3. Efforts to provide ramp access to Bluemound/Wisconsin from I-94 continued following the conclusion of the DEIS comment period. In an effort to ensure that current and accurate information was used to determine the need for this access, aerial surveys of traffic movements into and out of the Milwaukee Regional Medical Center were completed by WisDOT in 2010. These surveys quantified the volume of existing traffic moving into and out of Medical Center parking areas and facilities from all directions and via all freeway and surface streets in the vicinity. The surveys confirmed that approximately 5 percent of the total Medical Center traffic stream uses the Bluemound/Wisconsin interchange heading to, or coming from, I-94. The use of arterials, as well as the other existing interchanges along I-94 and US 45, by the vast majority of Medical Center traffic reinforces the study's conclusion that other options will successfully handle the traffic diverted as a result of the proposed access change. See also Section 2.5.1. This information, when combined with the continued complications resulting from the close proximity of I-94 and Bluemound Road, led to an inability by FHWA and WisDOT to provide such access. However, the addition of (1) the Adjacent Arterials Component, and (2) a new US 45/Watertown Plank Road interchange configuration in the SDEIS address this concern. Improvements to 84<sup>th</sup> Street, Highway 100, and Watertown Plank Road (and intersections along each arterial) will address any increased traffic using these arterials to access the Milwaukee Regional Medical Center/Milwaukee County Research Park area. Additionally, the development of a free-flow interchange at US 45/Watertown Plank Road will significantly improve traffic operations along Watertown Plank Road, providing I-94 traffic opting to use US 45 to the new Watertown Plank Road interchange with direct access to each.

By addition of the Adjacent Arterials Component elements described in Section 2 of the SDEIS, improvements to Highway 100, Watertown Plank Road, and 84<sup>th</sup> Street (and intersections along each arterial) will be included in the Zoo Interchange reconstruction. These improvements will address the portion of I-94-to-Bluemound/Wisconsin traffic that diverts to arterials as opposed to continuing north on US 45 to the new free-flow Watertown Plank Road interchange option described in the SDEIS. Some property acquisition is anticipated along each arterial, though most will be "strip" acquisitions along the existing right-of-way line.

# City of Milwaukee

Office of the City Clerk



## Certified Copy of Resolution

FILE NO: 090256

**Title:**

**Substitute resolution expressing the City of Milwaukee's position on the proposed reconstruction of the Zoo Interchange.**

**Body:**

Whereas, The Wisconsin Department of Transportation has released a draft environmental impact statement for the proposed reconstruction of the Zoo Interchange (the junction of Interstates 94 and 894 and U.S. Highway 45) that describes 4 alternatives for the project with the following costs:

- |  |                |
|--|----------------|
| 1. Do nothing  | \$0            |
| 2. Rebuild interchange in its current configuration  | \$960 million  |
| 3. Rebuild the interchange with 6 lanes and safety improvements (6-Lane Modernization Alternative) | \$2.16 billion |
| 4. Rebuild the interchange with 8 lanes and safety improvements (8-Lane Modernization Alternative) | \$2.31 billion |

; and

Whereas, An expansion of the Zoo Interchange to 8 lanes will encourage motor vehicle use and dependence, thereby increasing air pollution and reliance on foreign oil supplies, and leaving the Milwaukee-area economy and residents of the region at the mercy of gasoline price fluctuations; and

Whereas, The Zoo Interchange reconstruction plans make no provisions for improved mass transit in or around the Interchange and ignore the public's growing preference for a balanced, multi-modal transportation system that gives travelers and shippers a variety of options for personal and business travel and cargo transport; and

Whereas, An audit of the City's residential street paving program by the City Comptroller found

Whereas, It is fundamentally unjust for the federal and state governments to saddle local property taxpayers with the burden of paying to maintain and reconstruct existing local streets and bridges while at the same time funding the expansion of Interstate highways; and

Whereas, The Common Council finds that the costs to the City of Milwaukee, its residents and taxpayers of reconstructing and expanding the Zoo Interchange to 8 lanes far outweigh the benefits of the additional lanes; and

Whereas, The Common Council further finds that the \$150 million that may be spent to expand the Zoo Interchange from 6 lanes to 8 lanes could be more wisely used to provide additional aid to local governments for street and bridge maintenance, thereby preserving and improving the region's existing infrastructure; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the City of Milwaukee takes the following position with respect to the proposed reconstruction of the Zoo Interchange:

1. The preferred alternative is to rebuild the interchange under the 6-lane Modernization Alternative, which minimizes the total cost of the interchange reconstruction project and the number of property acquisitions in the City of Milwaukee.
2. The preferred alternative for the east leg of the interchanges is the E1 alternative identified in the Draft Environmental Impact Statement, which utilizes "Texas U-turns" to provide I-94 access to and from 76th Street and 84th Street. The 6-lane E1 alternative eliminates the need for the acquisition of 20 residential properties and one commercial property.
3. The preferred alternative for the north leg of the interchange is the NI alternative identified in the Draft Environmental Impact Statement, which utilizes frontage roads to provide freeway access to and from the local street system. The NI alternative also introduces a new roadway crossing US 45 between Wisconsin Avenue and Watertown Plank Road, thereby creating a more direct link between the Milwaukee County Research Park and the Milwaukee Regional Medical Center and providing some traffic relief to the existing street system.
4. The Wisconsin Department of Transportation should provide access to I-94 from Blue Mound Road, as long as further property acquisitions can be avoided (note: the remaining alternatives under consideration for the north leg of the interchange provide for Blue Mound Road access to I-894 and US 45, but not I-94).
5. The money saved by reconstructing the Interchange with 6 lanes, rather than proceeding with the option that expands it to 8 lanes, should be appropriated to local governments for the maintenance and reconstruction of existing local roads and bridges.
6. The number of structures in the city of Milwaukee acquired and demolished for this project should be kept to a minimum.
7. Any reconstruction of the Zoo Interchange should make provisions for a transit and bicycle-trail right-of-way that extends from the former West Allis Air Line railroad right-of-way on the southern edge of the Interchange northward toward the Milwaukee County Grounds and

Swan Boulevard to preserve the option of installing mass transit service and bicycle facilities from downtown Milwaukee to the County Grounds at a future time.

8. As a mitigation measure, the Wisconsin Department of Transportation should provide a westerly extension of the Hank Aaron State Trail along the former West Allis Air Line railroad.

9. As a traffic mitigation measure, commuter rail service should be operated along the Canadian Pacific mainline between Milwaukee and Watertown throughout the duration of the construction phase of the Zoo Interchange project.

; and, be it

Further Resolved, That the City Clerk is directed to send copies of this resolution to Governor Doyle, the City of Milwaukee's representatives in the Wisconsin Legislature and Secretary of Transportation Busalacchi.



**I, Ronald D. Leonhardt, City Clerk, do hereby certify that the foregoing is a true and correct copy of a(n) Resolution Passed by the COMMON COUNCIL of the City of Milwaukee, Wisconsin on July 28, 2009.**



**Ronald D. Leonhardt**

**August 06, 2009**

**Date Certified**

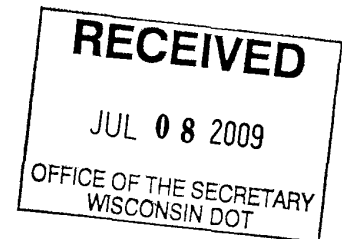


# Wisconsin State Fair Park

640 S. 84<sup>th</sup> St. • West Allis, WI 53214 • (414) 266-7000 • wistatefair.com

Statefairpark 90398  
DOTSD

July 6, 2009



Secretary Busalacchi  
Department of Transportation  
Hills Farms State  
Transportation Building

Ms. Donna Brown  
Department of Transportation

Mr. Brad Heimlich  
CH2M Hill

Dear Secretary Busalacchi, Ms. Brown and Mr. Heimlich:

Thank you for the continued opportunity for Wisconsin State Fair Park to provide insight into the East Leg of the Zoo Interchange Project. As you are aware, the Fair Park Board of Directors and staff have a strong interest in the alternatives being considered because whatever design is selected will have a critical impact on the operations at Wisconsin State Fair Park.

After reviewing the two current designs under consideration - E1 and E1/E3 Hybrid, our concerns remain very similar to those that were shared in our response dated March 13, 2009, regarding the M1 and M3 Alternative designs, and in our meetings with the Zoo Interchange team. To briefly recap our position, the State Fair Park Board is very concerned that the loss of four to six acres of property will negatively affect operations leading to significant declines in state fair attendance and the loss of numerous other events throughout the year. The resulting revenue reduction would require continued cuts in entertainment, agricultural programming and other attractions, which would ultimately put the future of the state fair and State Fair Park at risk. Specific preferences and requirements include:

- replacement parking on-site or very nearby to compensate for any lost parking and compensation for the difference in property value as a result of changes;
- replacement and relocation of signage near I94 and the Gate 7 access road;
- appropriate compensation for lost business income due to constraints on our ability to operate the state fair and the many other events held at the Fair Park as in the past;
- maintain the current efficient and safe access to the Fair Park, including the continued operation of an 84<sup>th</sup> Street exit ramp;
- strongly urge a resolution for the 84<sup>th</sup> Street exit ramp that, while keeping it in tact, does not require the loss of residential housing or businesses in our community; and
- a six lane option rather than an eight lane option.



### **Wisconsin State Fair Park Response**

1. While the SDEIS continues to consider E1 and E1/E3 Hybrid viable, the substantial number of comments received during the DEIS comment period, along with direct coordination with the Cities of West Allis, Milwaukee, and neighborhood stakeholders along 76<sup>th</sup> Street and adjacent streets led to the development of the Modified E3 alternative (see Section 2.5.2), which would mimic the existing access and travel patterns in-place today – ramps directly to/from 84<sup>th</sup> Street, and Kearney and O'Connor streets remaining in-place as one-way service drives providing connections between 84<sup>th</sup> Street and 76<sup>th</sup> Street. Little or no traffic diversion to 76<sup>th</sup> Street, beyond that noted with the current configuration, is anticipated as part of this alternative's implementation. No widening of 76<sup>th</sup> Street is therefore anticipated.

The Modified E3 alternative detailed in the SDEIS includes a further reduction in the impacts to State Fair parking along Kearney Street, from that quantified in the DEIS and discussed with State Fair Park officials earlier in the study (see Exhibit 3-25). As required by law, WisDOT and FHWA will coordinate with State Fair Park officials regarding compensation for acquired property, and any needed traffic mitigation, during the subsequent preliminary engineering phase for the project.

Secretary Busalacchi, Ms. Brown and Mr. Heimlich  
July 6, 2009  
Page 2

Of the two designs, the Wisconsin State Fair Park Board of Directors prefers the E1/E3 Hybrid option because it includes fewer negative impacts to State Fair Park. We would like to discuss the designs and possible additional modifications as to how the 84<sup>th</sup> Street ramp can be maintained in its current footprint. This is vital to not only Fair Park operations, but also of critical importance to those whose homes and businesses are at risk, as well as the Wisconsin Exposition Center, Pettit National Ice Center, and City of West Allis.

We continue to be impressed by the steps taken by DOT to obtain public comment on the possible design of the Zoo Interchange project. Our team looks forward to meeting with you in mid-July to further discuss the project and our position in respect to proposed designs. Patrice Harris will work with you to coordinate the meeting. She can be reached at [REDACTED]

Sincerely,

[REDACTED]

Susan Crane  
Chairperson

cc: Wisconsin State Fair Park Board of Directors  
Craig Barkelar, Interim Executive Director

MILWAUKEE  
REGIONAL  
MEDICAL  
CENTER

June 17, 2009

Jeffrey F. Paniati  
Acting Deputy Administrator  
Executive Director  
U.S. Department of Transportation  
Federal Highway Administration

Frank J. Busalacchi  
Secretary  
State of Wisconsin  
Department of Transportation

RE: Milwaukee Regional Medical Center (MRMC) "comment" on the Draft Environmental Impact Statement for Project I.D. 1060 33 01, (Zoo Interchange), approved by the State of Wisconsin DOT on June 19, 2009 and the Federal Highway Administration on June 20, 2009.

Gentlemen:

The following are the Milwaukee Regional Medical Center's comments on the Draft Environmental Impact Statement for Project I.D. 1060 33 01, (Zoo Interchange), particularly the design of the Build Alternatives and the extent to which they address improved freeway, regional arterial, and local roadway access for the MRMC campus.

***Background***

The Milwaukee Regional Medical Center (MRMC) campus is a major destination and significant traffic generator in the Zoo Interchange Corridor with over 15,000 people traveling to the campus every day. The existing access to the MRMC campus is provided by both Watertown Plank Road and Wisconsin Avenue. Vehicle access from those two roadways provides an opportunity for effective dispersal of traffic to and from the MRMC campus. This is evidenced by the almost even distribution of MRMC traffic to and from the west along these two roads. MRMC must be assured that access to both of these roads is a priority consideration of any plan for improvement of the Zoo Interchange. As a major stakeholder of the Zoo Interchange Project our priority is to have access to both roads (Watertown Plank Road and Wisconsin Avenue) from Highway 45 (including related frontage roads) north and south as well as from I-94 east and west so our patients, staff and visitors have options when coming to the campus, as they do now. This would assure continued effective dispersal of MRMC traffic. Following are some specific comments on the current plan for the interchange and other streets in the vicinity of the MRMC campus.

**MEMBERS**

BLOODCENTER OF WISCONSIN • CHILDREN'S HOSPITAL OF WISCONSIN • CURATIVE CARE NETWORK  
F-83  
PROEDTERT HOSPITAL • MEDICAL COLLEGE OF WISCONSIN • MILWAUKEE COUNTY BEHAVIORAL HEALTH DIVISION

### ***I-94 Campus Access***

The two modernization alternatives being considered for the Zoo Interchange (M-1 and M-3) only allow freeway access to the MRMC campus at Watertown Plank Road for trips from both eastbound and westbound I-94. There is no access to or from Wisconsin Avenue for trips from either direction on I-94. Only vehicles coming from the south on I-894/HWY45 are able to access the campus at Wisconsin Avenue. Since as much as 30 percent of the MRMC traffic comes to the campus from the east or west on I-94 hence north on Highway 45, the final design alternative must accommodate vehicles coming to the campus from I-94 direct, dedicated access to the campus at Wisconsin Avenue, as well as Watertown Plank Road, from HWY45.

1

### ***Highway 45 Campus Access***

MRMC supports the WisDOT HWY45 frontage road concept between Watertown Plank Rd. and Wisconsin Ave. (Texas U-turn) including the access at Connell Ave. extended shown from time to time during the evolution of the M-1 and M-3 alternatives. It would provide the MRMC campus with valuable alternative and dispersed access under decelerated traffic conditions.

### ***92nd Street Access***

There is currently no direct access to and from the campus to Bluemound Road. Bluemound Road is a significant regional arterial street in the vicinity of the campus. In the morning peak hour almost 300 vehicles come into the campus from the south on 87th Street as an alternative to 92nd Street because it has direct access from Bluemound. MRMC understands that the West Suburban TIA Draft Report does mention extending 92nd Street south from Wisconsin Avenue to the existing Bluemound arterial.

There is currently no direct access to and from the campus to the north, other than HWY45. Recent WDOT Conceptual Layouts for the M-1 and M-3 design alternatives show an extension of 92<sup>nd</sup> Street north from Watertown Plank Road to Swan Blvd. MRMC supports this concept with the recommendation that such extension avoid the green space directly to the north of the power plant. This could be accomplished by curving the extension to the east, starting just north of the power plant, hence following the westerly edge of the MMSD Storm Water Management Facility in a northerly direction to connect to Swan Blvd. This would provide the MRMC campus with valuable alternative connectivity to the north.

2

These two traffic/access connectivity improvements would: provide the MRMC campus with critical alternative access during the 5+ year freeway construction period, and provide the campus with much needed ongoing alternative access to the regional arterial street system.

### ***Wisconsin Avenue/Highway 100 Intersection***

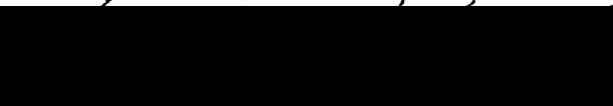
MRMC understands that the West Suburban TIA Draft Report recommends a new traffic signal at Highway 100 and Wisconsin Avenue, which MRMC strongly endorses. Whichever WDOT modernization alternative is selected, MRMC maintain that a traffic signal at this intersection

## **Milwaukee Regional Medical Center Response**

1. Efforts to provide ramp access to Bluemound/Wisconsin from I-94 continued following the conclusion of the DEIS comment period. In an effort to ensure that current and accurate information was used to determine the need for this access, aerial surveys of traffic movements into and out of the Milwaukee Regional Medical Center were completed by WisDOT in 2010. These surveys quantified the volume of existing traffic moving into and out of Medical Center parking areas and facilities from all directions and via all freeway and surface streets in the vicinity. The surveys confirmed that approximately 5 percent of the total Medical Center traffic stream uses the Bluemound/Wisconsin interchange heading to, or coming from, I-94. The use of arterials, as well as the other existing interchanges along I-94 and US 45, by the vast majority of Medical Center traffic reinforces the study's conclusion that other options will successfully handle the traffic diverted as a result of the proposed access change. See also Section 2.5.1. This information, when combined with the continued complications resulting from the close proximity of I-94 and Bluemound Road, led to an inability by FHWA and WisDOT to provide such access. However, the addition of (1) the Adjacent Arterials Component, and (2) a new US 45/Watertown Plank Road interchange configuration in the SDEIS address this concern. Improvements to 84<sup>th</sup> Street, Highway 100, and Watertown Plank Road (and intersections along each arterial) will address any increased traffic using these arterials to access the Milwaukee Regional Medical Center/Milwaukee County Research Park area. Additionally, the development of a free-flow interchange at US 45/Watertown Plank Road will significantly improve traffic operations along Watertown Plank Road, providing I-94 traffic opting to use US 45 to the new Watertown Plank Road interchange with direct access to each.
2. As portrayed on alternatives maps during the study, WisDOT and FHWA understand and recognize the potential value of increased north-south arterial access in the study area, particularly along 92<sup>nd</sup> Street. Though not a component of freeway system-related improvements, coordination with multiple stakeholders in the vicinity of the parcel north of Watertown Plank Road east of US 45 (Milwaukee County, UWM, Milwaukee Regional Medical Center, Milwaukee County Research Park, and others) will be continued during the FEIS and subsequent design phases of the project. Such discussions will investigate the possible inclusion of locally-funded improvements that would complement the freeway project's improvements.

provides significant benefits to the MRMC campus, particularly for traffic traveling west on Wisconsin Avenue and turning left onto southbound Highway 100. Without the signal, it is very difficult for those drivers who are leaving the campus to make the left turn at this intersection. This will also be an important route for westbound traffic during the construction of the Zoo Interchange improvements.

Respectfully Submitted on behalf of the following Members of the Milwaukee Regional Medical Center: BloodCenter of Wisconsin; Children's Hospital of Wisconsin; Curative Care Network; Froedtert Hospital, and; Medical College of Wisconsin.

  
William W. Hatcher  
Executive Director  
Milwaukee Regional Medical Center

Cc: Donna Brown, Project Director, WisDOT  
Jim Liptack, Project Manager, WisDOT  
Allen Radliff, FHA  
Eugene Johnson, WisDOT



Jeffrey M. Gonyo, Steering Committee Member

August 2, 2009

James Liptack, P.E.  
Wisconsin Department of Transportation (WisDOT)  
SE Transportation Region  
P.O. Box 798  
Waukesha, WI 53187-0798

**RE: HJCG Official Public Hearing Comments on the Draft Environmental Impact Statement [DEIS] for the WisDOT's Zoo Interchange Corridor Study [Project ID# 1060-33-01, Milwaukee County] – We are **strongly opposed** to **ALL** of the WisDOT's "Modernization" alternatives and have identified **several serious problems** with the DEIS and the public hearing process as specified herein. These public comments comprise a total of **226** pages (including all attached documents).**

Dear Mr. Liptack:

On behalf of the ***HIGHWAY J CITIZENS GROUP, U.A. (HJCG)***,<sup>1</sup> I am submitting these **official public hearing comments** on the Milwaukee Zoo Interchange Study's Draft Environmental Impact Statement (DEIS) to express our **strong opposition** to **ALL** of the Wisconsin Department of Transportation's (WisDOT) so-called "Modernization" alternatives for this specific project.<sup>2</sup> For the many reasons specified herein, the DEIS document and the public hearing process related to this environmental document do **not** meet the strict requirements of the **National Environmental Policy Act (NEPA)**, the **Clean Water Act (CWA)**, **Federal Aid Highways Act (FAHA)**, **Clean Air Act (CAA)** and other federal statutes, regulations and case law that govern these types of federally-funded road projects in Wisconsin.

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<sup>1</sup> The HJCG is a grassroots citizens organization with **over 15,000 members statewide**. Since 1999, our organization's general mission has been to: **1) Stop** unnecessary, fiscally-irresponsible and environmentally-damaging road expansion projects in our affected communities (focusing on those proposed projects located here in Southeastern Wisconsin), **2) Protect** our groundwater quality, **3) Promote** proper land use decisions, and **4) Preserve** our overall "quality of life" in this beautiful Kettle Moraine area of Wisconsin.

<sup>2</sup> These written public hearing comments on the Draft Environmental Impact Statement (DEIS) for the Milwaukee Zoo Interchange Corridor Study are being submitted **IN ADDITION TO** the oral public hearing testimony which I gave to the court reporter on June 23, 2009 at the "open house" public hearing on this project. Please be sure at **all pages** of these written public hearing comments (including **all** attached supporting documents) **become part of the administrative record** for the Milwaukee Zoo Interchange Corridor Study.



**A. The Milwaukee Zoo Interchange Study's DEIS Failed to Properly Consider Several Reasonable Alternatives (some of which were improperly "screened out" and others were completely ignored and not mentioned without explanation).**

Logic and law dictate that every time an agency prepares an environmental impact statement, it **must** answer three questions in order: **1)** What is the purpose of the proposed project (major federal action), **2)** Given that purpose, what are the reasonable alternatives to the project, and **3)** To what extent should the agency explore each particular reasonable alternative? See **Simmons v. Army Corps of Engineers**, 120 F.3d 664 (7<sup>th</sup> Cir. 1997).

When a federal agency prepares an Environmental Impact Statement (EIS), it **must consider "all reasonable alternatives"** in depth. 40 C.F.R. § 1502.14. No decision is more important than delimiting what these "reasonable alternatives" are. That choice, and the ensuing analysis, forms "the heart of the environmental impact statement." 40 C.F.R. § 1502.14.

To make that decision, the first thing an agency must do is **define the project's purpose**. See **Citizens Against Burlington, Inc. v. Busey**, 938 F.2d 190, 195-96 (D.C. Cir. 1991). The broader the purpose, the wider the range of alternatives; and vice versa. One obvious way for an agency to slip past the strictures of NEPA is to contrive a purpose so slender as to define competing "reasonable alternatives" out of consideration (and even out of existence). The federal courts **do not condone** any agency attempt to **constrict** the definition of a project's purpose because that would lead to the **improper exclusion** of truly reasonable alternatives. The EIS then **cannot** fulfill its role. (Again, see **Simmons v. Army Corps of Engineers** for further guidance.)

In the case of the Milwaukee Zoo Interchange Study, the DEIS **narrowly defines** the project's "**purpose and need**" on **DEIS page 1-4** as follows:

The purpose of the proposed action is to address the deteriorated condition of the **study-area** freeway system, obsolete design of the roadway and bridges, current and future capacity, and high crash rate. The proposed action would accomplish the following:

1. Maintain a key link in the local, state, and national transportation network.
2. Address the obsolete design of the **study-area** freeway system to improve safety. This includes replacing left-hand entrances and exits and providing proper weaving distances between exit and entrance ramps.
3. Replace deteriorating pavement and bridges.
4. Accommodate future traffic volumes at an acceptable level of service.

This is exactly the type of **narrow** "purpose and need" statement that the Seventh Circuit in **Simmons v. Army Corps of Engineers** held was **illegal** and **in violation of NEPA**. The DEIS's narrow purpose and need statement has **improperly focused on solving a traffic problem with a "single source"** (i.e. expanding and modernizing the Zoo Interchange) **instead of considering several sources** (i.e. "transportation demand management" alternatives, "transportation system management" alternatives, "spot

## HJCG Responses:

1. This statement is incorrect. The Council on Environmental Quality (CEQ) is responsible for developing regulations to implement NEPA. The CEQ's regulations address the issue of "all reasonable alternatives" versus "reasonable range of alternatives." Citing the AASHTO Center of Environmental Excellence, Practitioner's Handbook 07:

**Duty to Evaluate "All Reasonable Alternatives."** The CEQ regulations require an EIS to "rigorously explore and objectively evaluate all reasonable alternatives" and to "[d]evote substantial treatment to each alternative considered in detail . . . so that reviewers may evaluate their comparative merits." The regulations also provide that "for alternatives which were eliminated from detailed study, [the EIS should] briefly discuss the reasons for their having been eliminated."

**"All Reasonable" vs. "Reasonable Range."** The reference in the CEQ regulations to "all reasonable alternatives" implies—if taken at face value—that *every* reasonable alternative must be rigorously evaluated, no matter how many reasonable alternatives exist. However, in many cases, the number of potentially reasonable alternatives is very large or even infinite. The CEQ has addressed this issue in guidance, stating that a "reasonable range" of alternatives can be studied when the number of potentially reasonable alternatives is very large: For some proposals, there may exist a very large or even an infinite number of possible reasonable alternatives. For example, a proposal to designate wilderness areas within a national forest could be said to involve an infinite number of alternatives from 0 to 100 percent of the forest. When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS. An appropriate series of alternatives might include dedicating 0, 10, 30, 50, 70, 90, or 100 percent of the forest to wilderness. What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.<sup>10</sup> Therefore, despite the reference to "all reasonable alternatives" in the CEQ regulations, it is permissible to study a "reasonable range" of alternatives in an EIS. When relying upon this interpretation, it is important to ensure that the range of alternatives covers the "full spectrum" of potential reasonable alternatives.

**What is a Reasonable Alternative.** The CEQ regulations do not define a "reasonable" alternative. The CEQ's guidance states that "[i]n determining the scope of alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant."<sup>11</sup>

2. The two key findings in *Simmons v Corps of Engineers* are that 1) the Corps of Engineers stated that the purpose of the project was to build their proposed solution, in

this case a dam and reservoir, and 2) the Corps used the purpose and need statement developed by the project's proposer instead of independently developing its own purpose and need statement.

For the Zoo Interchange WisDOT and FHWA developed the purpose and need statement that defined the problems with the study-area freeway system rather than the solutions. The purpose and need statement was presented to the project advisory committee, the public, participating agencies (DNR, Corps of Engineers, US EPA, City of Milwaukee, City of West Allis and City of Wauwatosa). The purpose and need statement's development was consistent with CEQ regulations implementing NEPA and *Simmons v Corps of Engineers*.

3. This is only the purpose of the project from page 1-4 of the Draft EIS. The need for the project is documented on the following 39 pages.

improvement" alternatives, and "off-alignment" alternatives) **to solve a common problem** (i.e. traffic congestion and safety in the Milwaukee metropolitan area which includes the surrounding counties). Thus, the DEIS's "purpose and need" statement for the Zoo Interchange Study has been **so narrowly written** that it has **wrongfully excluded several very reasonable alternatives** to addressing what appears to be a broad, regional traffic congestion and safety problem here.

**FIRST**, the "transportation demand management" (TDM) and "transportation system management" (TSM) alternatives were **improperly screened out** as reasonable alternatives to alleviate traffic congestion on our Milwaukee metropolitan area freeway system. Given the sharp fluctuations in gas prices and increased costs associated with automobile travel in our struggling economy, it now makes "good common sense" to **place greater emphasis on public transit alternatives**, which would significantly reduce freeway traffic congestion. The DEIS (on **pages 2-6 and 2-7**) summarily dismisses this reasonable "transportation demand management" alternative without much discussion. Likewise, on **DEIS pages 2-7 and 2-8**, the WisDOT **quickly dismissed** the highly-effective "transportation system management" alternatives such as ramp metering, HOV lanes on entrance ramps, variable message signs warning travelers of delays, closed-circuit television cameras posting images and traffic conditions to local newscasts and the internet, crash investigation sites, and enhanced freeway patrols. Greater emphasis on both TDM and TSM alternatives here would **eliminate the need for constructing the more-costly and environmentally-damaging "Modernization" alternatives** specified in the DEIS – thereby **making the "Spot Improvement" alternatives a more feasible option** to solving the Milwaukee metropolitan area's traffic congestion and safety problems on the freeway system.

**SECOND**, on **DEIS pages 2-9 thru 2-15**, the WisDOT has **improperly and illegally dismissed all of the "Spot Improvement" alternatives** without an adequate discussion as to why these reasonable alternatives would not solve the traffic congestion and safety problems on the freeway system (both in Milwaukee County and in some of the surrounding counties such as Waukesha and Washington Counties). These "Spot Improvement" alternatives would "replace the existing freeway and bridges while **addressing the safety issues** that can be fixed with **modest** right-of-way acquisition."

This alternative would be **far less costly to the taxpayers of Wisconsin** given that the "Modernization" Alternatives being recommended by the WisDOT would cost **more than \$2.3 billion** (that would be about **\$400** more in taxes for **every** man, woman and child living in the State of Wisconsin). In addition, because the "Spot Improvement" alternatives would require **fewer residential and business relocations**, this alternative would be **much less economically and environmentally-destructive** than the more massive "Modernization" alternatives being promoted by the WisDOT in this DEIS.

The **key issue** here is "improving traffic safety" and the WisDOT acknowledges that the "Spot Improvements" alternative would do **exactly that** – i.e. improve traffic safety. When **combined** with the TDM, TSM and our off-alignment alternatives (such as using the "Old Highway 164" in Waukesha County [now called CTH F] linked with a new roadway in the empty WE Energies Power-line Corridor and/or CTH Y to form a **direct metropolitan bypass connection around Milwaukee** between I-94 in Waukesha County and Highways 41/45 in Washington County), these "**Spot Improvements**" become a very

4. The TSM and TDM alternatives were dismissed from consideration as stand-alone alternatives. Page 2-6 of the Draft EIS states that the “Modernization Alternatives assume certain TDM elements will be implemented, and would include certain TSM elements like ramp metering, variable message signs, crash investigation sites and closed-circuit television cameras.” Indeed, many of these elements are in place on the study-area freeway-system today. The TDM alternative assumes a 100 percent increase in mass transit and the regional plan concludes that it will still not eliminate the need to add capacity to the study-area freeway system.
5. The Spot Improvement Alternatives were eliminated from consideration because they would not meet the purpose and need of the project, namely they would not adequately accommodate anticipated future traffic volumes. No local governments have advocated for the Spot Improvement Alternatives, and these alternatives have little public support. Also, the Spot Improvement Alternatives are not consistent with the regional transportation plan. See *Evaluation of Spot Improvements Against Purpose and Need*, Section 2.2.4.

**reasonable, cost-effective and environmentally-friendly alternative** instead of the WisDOT's unduly emphasized "Modernization" alternatives.

**THIRD**, despite being **repeatedly raised** by citizens during the EIS process over the past two years, the WisDOT's Milwaukee Zoo Interchange Study DEIS **fails to even mention** (and thus, does not discuss) our **more fiscally and functionally prudent alternate route** linking Highway F (known as Highway 164 prior to 1999 and then Highway 74 from 1999 through 2005) either to the empty WE Energies Power-line Corridor or Highway Y, which would **directly-connect** Interstate 94 in Waukesha to Highway 41/45 at the Lannon Road/Highway Y interchange in Germantown, thereby **creating a more efficient way to get around the Milwaukee Metropolitan area and relieving traffic congestion at the Zoo Interchange**.

This **citizen-supported alternate route** is now part of a **pending federal lawsuit** against the U.S. Department of Transportation (USDOT), Federal Highway Administration (FHWA), Wisconsin Department of Transportation (WisDOT) and U.S. Army Corps of Engineers (USACE) to **stop** the four-lane expansion of Highway 164 as well as several other related road expansion projects in both Waukesha and Washington Counties.<sup>3</sup> Thus, this alternate route has **many other added benefits** and **makes more sense** because:

1. Highway F (known as "Highway 164" prior to 1999 and then "Highway 74" from 1999 through 2005) is **already** a divided, four-lane highway between Waukesha and Sussex (which now **dead-ends** and **goes nowhere**).
2. Using the existing four-lane Highway F and the WE Energies power-line corridor (or Highway Y) to connect I-94 to Highway 41/45 at the newly-expanded interchange there in Germantown would be **approximately 12 miles shorter in distance, would provide a more direct route for commercial traffic** between Waukesha, Sussex, Germantown, Jackson, Slinger, Hartford and West Bend and **would cost less taxpayer dollars to construct**.
3. Our proposed alternate route connects I-94 to Highway 41/45 in Germantown **BEFORE** "the Highway 41/45 split," unlike the WisDOT's plan, which sends traffic on Highway 164 up to Highway 60 in Slinger several miles **AFTER** Highways 41 and 45 already have split.
4. Our alternate route follows the basic path that the Southeastern Wisconsin Regional Planning Commission (SEWRPC) recommended for this highway back in the 1960's and 1970's as part of its then-proposed **"beltline freeway"**. It could be easily resurrected to **effectively solve** the Milwaukee Metropolitan area's traffic problems.
5. Our alternate route proposal would have far **fewer negative residential, business and environmental impacts** than the WisDOT's plans to expand both Highway 164 in Waukesha and Washington Counties and the Zoo Interchange in Milwaukee County.
6. Construction of this alternate route combined with adding some simple safety improvements to the existing Highway 164 (i.e. lower speed limits, turn lanes and traffic lights at all major intersections and subdivision entrances, and wider paved shoulders)

<sup>3</sup> Copies of our **pending federal lawsuit's amended complaint, main brief and response brief** are attached here for further reference on this matter. Also attached are two recent news articles from the **West Bend Daily News** and **Hartford Times Press** (dated July 9, 2009 and July 15, 2009 respectively) reporting on our federal lawsuit's "oral argument" held before Judge Lynn Adelman on July 8, 2009.

6. The Power Corridor Alternative was proposed by the Highway J Citizens Group during the WIS 164 corridor study and documented in WisDOT and FHWA's EIS for the WIS 164 project, approved in 2001. The WIS 164 EIS documents the impacts and traffic carrying aspects of that alternative and why it was not selected for implementation. The Highway J Citizens Group was the only entity to advocate for this alternative as part of the Zoo Interchange study. No other members of the public or local, county, regional, state or federal agencies asked WisDOT to consider it as part of the Zoo Interchange study. The Draft EIS did not mention the Power Line Corridor because there is no connection between the power line corridor 10-15 miles west of the project area and the deficiencies in the Zoo Interchange corridor. There is no provision in NEPA that requires all alternatives to be evaluated. The Power Corridor alternative failed to rise to the level of other alternatives considered that had the ability to address the project's need factors. This document mentions the Power Corridor alternative in Section 2.3.4.

would eliminate the need to expand our roadway to four-lanes anywhere in Waukesha and Washington Counties. As indicated by the WisDOT's Environmental Impact Statement, adopting this alternate plan would reduce traffic counts on Highway 164 by up to 33% in some areas and therefore, make this roadway much safer for area residents.

7. Construction of our alternate route could save Wisconsin's taxpayers at least a billion dollars.

Thus, the above-described alternate route (using CTH F with the WE Energies Power-line Corridor and/or CTH Y to create a congestion-relieving connection between Interstate 94 and Highways 41/45 bypassing Milwaukee County without using the Zoo Interchange to travel between Waukesha and Washington Counties) alleviates many traffic problems with one simple, cost-effective and environmentally-friendly solution.

At three separate WisDOT public information meetings (on January 17, 2008, January 23, 2008 and May 29, 2008, respectively), the **HJCG** had an information and display table set-up to strongly promote this more reasonable alternative. Our **HJCG** members spoke with the WisDOT officials at those meetings and gave them information about the many positive attributes of this alternative. Furthermore, both **HJCG** member Charles Petrie and I had filed written public comments during the EIS process last year strongly supporting the above-described CTH F/Power-line Corridor/CTH Y alternate route around Milwaukee County as a reasonable alternative we wanted considered in the DEIS.<sup>4</sup> Yet, despite providing this detailed information about this alternate route to the WisDOT on numerous occasions (as just described), I am now absolutely astonished to see that the DEIS for the Zoo Interchange Study fails to even mention this citizen-supported, reasonable alternative. **WHY DOES THE WISDOT CONTINUE TO IGNORE OUR REASONABLE ALTERNATIVES TO EXPANDING THE ZOO INTERCHANGE?**

The **HJCG** strongly believes that the full implementation of both Transportation System Management and Transportation Demand Management alternatives combined with the immediate construction of our citizen-supported CTH F/Power-line Corridor/CTH Y alternate route AND rebuilding the Milwaukee Zoo Interchange using "Spot Improvements" alternative is the most cost-effective, community-friendly solution to addressing the traffic congestion and safety problems on the freeways in Milwaukee, Waukesha and Washington Counties (i.e. the Milwaukee metropolitan area). The most important part of this extremely practical solution is the alternate route.

Construction of our proposed CTH F/Power-line Corridor/CTH Y alternate route would provide an important "freeway-style" transportation link between Interstate 94 in Waukesha County and State Highway 41/45 in Washington County and, while at the same time, significantly reducing traffic congestion on the Zoo Interchange in Milwaukee County. Currently, motorists who must travel between Waukesha and Washington Counties have "only one freeway choice" to do so – that is, to use the Zoo Interchange in Milwaukee County.

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<sup>4</sup> **HJCG** member Chuck Petrie filed written public comments at the January 17 & 23, 2008 WisDOT public information meetings and subsequently by an October 17, 2008 e-mail to WisDOT's Jim Liptack while I had filed detailed written comments (via first class mail) with Mr. Liptack on June 12, 2008.



1. Why should motorists have to travel many additional miles into Milwaukee County and unnecessarily add traffic congestion on the Zoo Interchange in order to travel between Waukesha and Washington Counties?
2. Does this additional needless travel really make sense given the high price of gasoline today?
3. Why hasn't the WisDOT considered the numerous negative impacts on the homes, businesses and environment (especially air and noise pollution) in both Wauwatosa and West Allis if the Zoo Interchange were to be expanded using the WisDOT-preferred "Modernization" alternatives specified in the DEIS?
4. Is there a much better solution to this 40-year old transportation problem in Southeastern Wisconsin?

Don't the people of this area as well as the taxpayers of Wisconsin deserve some honest answers to these pertinent questions? Unfortunately, the WisDOT's DEIS for the Milwaukee Zoo Interchange Study does NOT provide those badly-needed answers.

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**B. The DEIS for the Zoo Interchange Study Does Not Comply with the Federal Aid Highways Act (FAHA) Because It Fails to Consider the Adverse Affects of Air Pollution and WisDOT Failed to Hold an Adequate Public Hearing on this Project.**

**1. The DEIS Fails to Consider the Adverse Affects of Air Pollution under Section 109 of FAHA (especially greenhouse gas emissions).**

The **Federal Aid Highways Act (FAHA)** requires consideration of the adverse effects of air pollution. 23 U.S.C. §109(a). In addition, the U.S. Department of Transportation (USDOT) must determine the costs of eliminating or minimizing the adverse health effects attributable to air pollution and require mitigation in the "best overall public interest." Sec. 109(h). Under USDOT's regulations, this statutory analysis is to be performed as part of the project's NEPA review. See 23 C.F.R. Part 771.

**Section 109 of FAHA** requires an air pollution analysis on a local, individualized basis. It requires consideration of each federally funded project, not of the broader air quality control regions that may encompass numerous projects. Thus, merely because a project is part of a Transportation Improvement Plan found to comply with a State Implementation Plan (SIP) for air quality does not mean, in any way, that the project complies with FAHA's Section 109 (which requires that the adverse affects of air pollution from a specific project be separately analyzed).

In addition, NEPA requires each agency to undertake independent review of the environmental consequences of its action (42 U.S.C. § 4332), and federal agencies have long been aware of the greenhouse effect and the role of carbon dioxide as a major greenhouse gas. See 54 Fed.Reg. 21,985, 21,986, 21,990 (May 22, 1989) (Nat'l Hwy. Transp. Safety Bd.). See also Massachusetts v. EPA, 549 U.S. 497, 127 S.Ct. 1438, 1462-63, 167 L.Ed.2d 248 (2007) (EPA arbitrarily and capriciously refused to regulate greenhouse gases under Clean Air Act); Center for Biological Diversity v. Nat'l Hwy. Transp. Safety Bd., 538 F.3d 1172, 1200-03 (9th Cir. 2008) (NHTSB arbitrarily and capriciously refused to

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7. The Draft EIS and Supplemental Draft EIS document the project's air quality impact in Section 3.20. Certain pollutants like ozone cannot be evaluated on a project-level basis because ozone is a regional pollutant. Therefore the project's inclusion in a conforming TIP is an appropriate and relevant evaluation tool.

Greenhouse gases are noted in the Draft EIS and Supplemental Draft EIS. The EPA has not yet developed criteria for greenhouse gas impacts. FHWA's position is that greenhouse gas emissions are a national issue, and cannot be meaningfully addressed on a project-level basis.

quantify value of carbon emissions reduction in cost-benefit analysis). Thus, both the U.S. Environmental Protection Agency (USEPA) and the federal courts now require that **greenhouse gas emissions from any proposed project be fully analyzed**.

In the DEIS for the Milwaukee Zoo Interchange Corridor Study, the WisDOT has **failed to adequately consider the adverse affects of air pollution** and, other than mentioning "greenhouse gases," has done **no analysis** of the expected increases in such emissions as a result of this proposed project (see **DEIS pages 3-118 thru 3-126**). Thus, the DEIS fails to meet the strict requirements of both NEPA and FAHA here.

## **2. WisDOT's So-Called "Open House" Public Hearing for the Milwaukee Zoo Interchange Corridor Study is Inadequate Under Section 128 of FAHA.**

The **Federal Aid Highways Act (FAHA)** **requires** a public hearing to be held on proposed highway projects. **See** 23 U.S.C. § 128(a); 23 C.F.R. § 777.111(h). While the public hearing provides a means for informing the public about a proposed project, the hearing must be "more than a public presentation by the highway department of its plans and decisions." **Coalition of Concerned Citizens Against I-670 v. Damien**, 608 F.Supp. 110, 124 (S.D. Ohio 1984). Instead, the hearing must serve as a forum for the agency to "be **directly** and **publicly** confronted with opposing views" on the project so that the agency can make the best decision. **D.C. Federation of Civic Ass'ns v. Volpe**, 434 F.2d 436, 441 (D.C. Cir. 1970).

Courts do not take public hearings lightly. In **D.C. Federation**, the court noted that they are the forums ordained by Congress in which citizens "participate in highway planning decisions. The Supreme Court has made it clear in a series of cases that the right of effective participation in the political process is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." **Id.** at 441 (citation omitted). The court also noted that the congressional history associated with the public hearing requirement "shows a long-standing and ever increasing congressional concern that highway planners be **directly** and **publicly confronted** with opposing views." **Id.**

Several federal district courts have addressed the issue of whether an "open forum" hearing satisfies FAHA's public hearing requirement. In **City of South Pasadena v. Slater**, 56 F.Supp. 2d 1106, 1132 (C.D. Cal. 1999), the court noted pointedly that "the plaintiffs have raised serious questions about whether the format of an open house is the equivalent of a public hearing." The court in **Sierra Club v. U.S. Dept. of Transp.**, 310 F.Supp.2d 1168, 1205-09 (D.Nev. 2004), also heavily criticized the interpretation of the public hearing requirement that would permit an "open forum" format. The court questioned whether, based on the legislative history underlying FAHA, 23 U.S.C. § 128, an open forum format fully effectuates Congressional intent. 310 F.Supp.2d at 1208. That legislative history, the court noted, suggests **Congress had a preference for "quasi-legislative" and "town-hall" formats**, which permit a **more formal** presentation of arguments by both the agency and the public. **Id.** The court reasoned:

Congress enacted § 128 "primarily for the benefit of the local residents whose homes and lives may be affected by a national highway construction project." Public hearings fulfill **two major congressional goals**. First, the hearings

8. 23 CFR 777.111 makes no mention of the type of hearing that a sponsoring agency must provide. WisDOT and other state transportation agencies around the country have used the open house format for years. WisDOT and FHWA will conduct a hearing on the Supplemental Draft EIS that will include the opportunity to publically speak before WisDOT officials and other hearing attendees.

are designed “to make sure that state planning officials are apprised of the nature and depth of local residents’ feelings about the wisdom of a particular project.”

**Second**, the hearings “provide a formal means of documenting, ascertaining, attesting and filtering all possible environmental, community, and transportation elements” related to highway projects to ensure effective agency decision-making.

The open house format **dilutes** the achievement of both of these objectives. FHWA’s open house format limits the opportunity for citizens to “**directly and publicly**” confront agency decision-makers with opposing views. Open houses diffuse the “public” character of the hearings, producing instead many private meetings between agency representatives and individual members of the public. Citizens do not hear every question, comment, or concern voiced by the other citizens, nor do they hear the agency’s response. Consequently, concerned citizens lose the ability to inform and influence their fellow citizens’ views. Additionally, the open house format diffuses the pressure that comes from direct and public challenge to the agency from a live audience member.

**Id.** at 1208-09 (citations omitted). The court concluded that the “letter and spirit of NEPA” requires FHWA “to maximize public involvement and empower the citizenry,” and urged it “to reconsider whether the open house format optimizes public involvement.” **Id.** at 1209.

An informal “open house” public hearing is **totally unacceptable** for the Milwaukee Zoo Interchange Corridor Study’s DEIS because it amounts to “**no public hearing at all**” from the crucial perspective of communication **by** members of the public **to** agency officials. The ability to make a statement to a stenographer in a corner of the room, which the stenographer later reduces to writing and provides to the agency, is the functional equivalent of the right to submit written comments only—in other words, the functional equivalent of **no** hearing. The agency decision-makers may thereby **avoid** altogether the “**direct and public confrontation with opposing views**,” which Congress considered to be an **indispensable** foundation of the public hearing requirement.

Moreover, there is no **public** discussion with those decision-makers, at which the presentations of participants and any resulting give-and-take between agency officials and those participants can shape the opinions of others in attendance. Rather, there is merely “a series of private discussions in a public place.” In short, there is no **hearing** in terms of communicating to the agency, but merely a public **gathering** at which no one can make any **public** statement to a representative of the agency charged with making a decision.

The requirement that the WisDOT hold a formal public hearing is now a **major** part of our pending federal lawsuit to stop the Highway 164 four-lane expansion in Waukesha and Washington Counties. Both the U.S. Congress and several federal courts have **harshly criticized** government agencies for holding informal “open house” public hearings as a way to **muffle** and **suppress** the free public expression of ideas on federally-funded highway projects. Even the **Federal Highway Administration (FHWA)** itself has **recognized** the tension between the “open house” format and the objective of maximizing public involvement in highway decisions that may affect the homes and lives of local residents:

**An open forum hearing without an audience session precludes debate on a proposal’s merits.** Parties do not hear opposing views first-hand—nor do they have an opportunity to clarify stances or raise questions about opposing viewpoints. Some critics charge that agencies use open forum

hearings as a “**divide and conquer**” strategy. If differing views are not heard, the public may be surprised to find a controversy exists. When people hear one another, they develop an improved understanding of a proposal and its implications for other people.

....

**Constituents do not hear elected officials at an open forum hearing.**

At traditional public hearings, elected leaders announce their views. At open forum hearings, however, officials can speak to only a few people at a time.

U. S. Dept. of Transportation, Federal Highway Admin., ***Public Involvement Techniques for Transportation Decision-Making***, [www.fhwa.dot.gov/reports/pittd/openhouse.htm](http://www.fhwa.dot.gov/reports/pittd/openhouse.htm).

At the “open house” public hearing on the Draft Environmental Impact Statement (DEIS) for the Milwaukee Zoo Interchange Corridor Study, I **personally witnessed** and **experienced** the above-described problems associated with these types of public hearings. Immediately upon arriving at the Zoo Interchange Corridor Study’s DEIS public hearing on June 23, 2009, WisDOT Project Director **Donna Brown** and Forward 45 Consulting Project Manager **Brad Heimlich** told Al Wilhelmi and me that we would **not be allowed to directly communicate** our more reasonable alternatives to the other people attending this hearing.<sup>5</sup> The **only available options** to submit public hearing testimony were to either speak privately with a court reporter or submit written comments. In both cases, the other people attending this public hearing would **not be able to hear** this testimony.

After being presented with these two public hearing testimony options, I decided to speak to one of the court reporters to **“read into the record” several pages of comments** on the **many serious legal flaws** with the Milwaukee Zoo Interchange Corridor Study’s DEIS. What happened to me during this **“total sham of a public hearing process”** is summarized in the following paragraphs.<sup>6</sup>

I was escorted by a WisDOT representative to a **secluded room** in the back of the Tommy Thompson Youth Center where three court reporters were sitting (one at each of the three tables in that same small room about four feet from each other). This room was **totally isolated** from the other people who were out in the main area viewing the WisDOT project exhibits. **No citizens** (other than “three at a time” who were testifying to the court reporters) **were allowed in that room to hear the testimony as it was being given.**

I sat down and began speaking to my court reporter while two other people were speaking to their court reporters in the same room. A few minutes into my oral testimony, one of the neighboring court reporters told me to **“tone it down”** because she **couldn’t hear** the testimony of the person who was speaking to her. I then told my court reporter,

<sup>5</sup> For more details on how WisDOT’s Ms. Brown and Forward 45’s Mr. Heimlich **forcibly prevented** Al Wilhelmi and me from sharing detailed information about our more **cost-effective** and **community-friendly** alternatives with the other people attending this public hearing, please **see Section B(3)** of my official public comments (the next section coming up here).

<sup>6</sup> A more detailed account of my June 23, 2009 “open house” public hearing experience can be found in the attached June 25, 2009 **The Political Environment** blogsite posting entitled, **“First Person Account of Muzzled Free Speech at Monday’s Highway Hearing.”**



**“HERE IS ONE OF THE KEY PROBLEMS WITH THESE “OPEN HOUSE” PUBLIC HEARINGS** – The public outside who should hear my testimony cannot hear it because they are not in the same room. Yet, I am so close to the other two court reporters that if I try to speak in a normal voice, my testimony irritates them and interferes with the two neighboring citizens’ testimony which is being given orally at the same time!”

About half way through my oral testimony, the neighboring court reporter again interrupted me and said, “**If you can’t talk quieter, then shut up – I can’t hear the person testifying to me here!**” I then told my court reporter that “**It’s obvious that the WisDOT has intentionally set up these sham public hearings in this format to deter citizens from participating and interacting with each other on these project proposals.**”

Upon conclusion of my testimony, I told my court reporter that, in a law office or court setting, it would be “**absolutely insane**” to have three court reporters take oral testimony from three different people who are speaking at the same time in the same small room as the WisDOT has allowed to occur at the public hearing for the Milwaukee Zoo Interchange Corridor Study’s DEIS. The court reporter appeared to “**nod in agreement**” with me on that closing point made.

In accordance with the above-discussed statutory and case law and given my previously-described, personal experience on June 23, 2009, I must **most vigorously insist** that the WisDOT immediately hold a formal public hearing (NOT an informal “open house” public hearing) on the DEIS for its Milwaukee Zoo Interchange Corridor Study. Such a formal public hearing must be equipped with an open microphone in front of a public audience where everyone in attendance can hear the each person speak. Anything less is not a true public hearing under the Federal Aid Highways Act (FAHA).

**3. The WisDOT Intentionally Prevented and Obstructed Citizens From Publicly Communicating and Sharing Their Views With Other Attending Citizens at the Zoo Interchange DEIS’s Public Hearing in Direct Violation of Both the Federal Aid Highways Act (FAHA) and Established Federal Highway Administration Guidelines for Open House Public Hearings.**

The Wisconsin Department of Transportation (WisDOT) held its “open house” public hearing on the Draft Environmental Impact Statement (DEIS) for the Milwaukee Zoo Interchange Corridor Study on June 23, 2009 and June 24, 2009.<sup>7</sup> Apparently, **the WisDOT does NOT believe in the “free exchange of citizen ideas”** at these types of public hearings on major, federally-funded road projects like this one here.

Immediately upon arriving at the June 23, 2009 “open house” public hearing on the Milwaukee Zoo Interchange Study (held in the State Fair Park’s Tommy Thompson Youth Center at 640 South 84<sup>th</sup> Street in West Allis, WI), WisDOT Project Director **DONNA BROWN** and Forward 45 Consulting Project Manager **BRAD HEIMLICH** **aggressively accosted** Al Wilhelmi and me and **forcibly prevented** us from communicating with the other people attending this hearing.<sup>8</sup>

<sup>7</sup> A copy of the WisDOT’s Public Hearing Notice for the Milwaukee Zoo Interchange Corridor Study’s Draft Environmental Impact Statement (DEIS) from the May 24, 2009 Milwaukee Journal Sentinel is attached here.

We wanted to share detailed information with other concerned citizens to explain how traffic congestion and safety problems on the Zoo Interchange could be eliminated without having to spend \$2.3 billion as the WisDOT wants to do here.<sup>9</sup> However, Ms. Brown and Mr. Heimlich did not want the other people attending this "so-called" public hearing to hear about our more cost-effective and community-friendly alternatives, so they called the State Fair Park police to have us removed from the premises. For more details on Ms. Brown's and Mr. Heimlich's illegal actions at this public hearing, please see my "first person account" of this incident in the attached June 25, 2009 The Political Environment blogsite posting by **James Rowen**, a former Milwaukee Journal Sentinel reporter and senior staff member of both Milwaukee Mayor John Norquist and Madison Mayor Paul Soglin.<sup>10</sup>

This outrageous, undemocratic behavior of these two arrogant, unresponsive bureaucratic bullies is totally inconsistent with the Federal Highway Administration's (FHWA) stated policies and guidelines for citizen participation at "open house" public hearings on federally-funded road projects. These stated policies and guidelines can be found on the FHWA's website (at [www.fhwa.dot.gov/reports/pittd/openhous.htm](http://www.fhwa.dot.gov/reports/pittd/openhous.htm)) in a document entitled, "**Public Involvement Techniques for Transportation Decision-Making – Open Forum Hearings/Open Houses**" (copy of which is attached here). On page 1 of that document, the FHWA clearly states the following about the common characteristics of open forum public hearings:

"These events can include non-agency displays. Sister agencies and community proponents or opponents may be given space to present a point of view, displays, documents, or handouts in separate, visible areas. Some agencies have found that allowing public groups to set up tables outside the meeting or hearing room helps the public distinguish official agency information from other sources."

Because the Wisconsin Department of Transportation (WisDOT) and Forward 45 (their hired consultants) blatantly violated the Federal Highway Administration's (FHWA) stated policies and guidelines for "open house" public hearings on federally-funded road projects by intentionally preventing our citizens group members (including me) from communicating with other concerned citizens at this taxpayer-funded public hearing, **I HEREBY DEMAND THAT NO FURTHER FEDERAL FUNDS BE SPENT ON THE MILWAUKEE ZOO INTERCHANGE CORRIDOR STUDY.**

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<sup>8</sup> After Ms. Brown and Mr. Heimlich blocked our entry into this public hearing to communicate with the other people in attendance there, I then demanded copies of each of their business cards, which are attached here. Later on, I also obtained the business cards from **Sergeant Brian Reynolds** of the **Wisconsin State Fair Park Police Department** (the officer first arriving on the scene after the WisDOT had called the police) and from **Tom Held**, a Milwaukee Journal Sentinel reporter who had personally witnessed this entire incident from beginning to end (copies of these two cards also are attached here to my public comments).

<sup>9</sup> Seven pages of color photographs depicting the signboards we wanted to show people at the June 23, 2009 and June 24, 2009 public hearing along with our two-page informational leaflet we wanted to hand out to interested citizens are attached to these official public comments for inclusion into the administrative record.

<sup>10</sup> Several other The Political Environment blogsite postings related to this June 23, 2009 incident also are attached to these comments for your review and consideration. Also, a brief summary of this event can be found in my July 2, 2009 Milwaukee Journal Sentinel "Letter to the Editor" that was entitled, "**Citizen Participation Seemed to Be a Sham**" (a copy of this published letter also is attached to these comments).



Our hard-earned, federal tax dollars should not be provided to a state roadbuilding agency that forcibly suppresses citizen input at public hearings in direct violation of well-established, federal policies and guidelines. WisDOT removed the "public" from this public hearing, and that outrageous and illegal action warrants the prompt removal of all federal funds from the Milwaukee Zoo Interchange Corridor Study.

**C. Concluding Remarks Summarizing Our Reasons for Opposing the WisDOT's Zoo Interchange Expansion Plans in Milwaukee County.**

While I am pleased to see that the WisDOT has decided to prepare a **Draft Environmental Impact Statement (DEIS)** for the Milwaukee Zoo Interchange Corridor Study, the DEIS prepared here is grossly deficient and does not comply with NEPA, FAHA, CWA, CAA and other federal statutes, regulations and case law. The many legal problems with this DEIS (discussed in detail above) can be summarized here as follows.

**FIRST**, NEPA requires that all "reasonable alternatives" must be fully considered. The analysis of environmental consequences provides the basis for "the heart of the environmental impact statement": the evaluation of alternatives. 40 C.F.R. §§ 1502.14, 1502.16. Using the information on environmental consequences, an EIS must "rigorously explore and objectively evaluate all reasonable alternatives" and . . . [d]evote substantial treatment to each alternative considered in detail . . . so that reviewers may evaluate their comparable merits." 40 C.F.R. § 1502.14(a).

Because the WisDOT has failed to take the required "hard look" at our citizen-supported, reasonable alternatives (discussed in great detail in my comments above), its "alternatives analysis" in this DEIS is irreparably and unfairly skewed to favor the "Modernization" alternatives (which are the most expensive, most environmentally-damaging and least supported by the affected residents) to the total exclusion of all others.

**SECOND**, FAHA's Section 109 requires that the adverse affects of air pollution be fully analyzed (including greenhouse gas emissions). WisDOT has failed to do that here in this DEIS for the Milwaukee Zoo Interchange Corridor Study. This is especially true for greenhouse gas emissions (which are merely mentioned, but not analyzed).

**THIRD**, for the many reasons specified above, the WisDOT's "open house" public hearing format on the DEIS for the Milwaukee Zoo Interchange Corridor Study does not meet the requirements of FAHA's Section 128. Thus, I must insist that BEFORE the Final Environmental Impact Statement (FEIS) is issued, the FHWA and WisDOT conduct a "true public hearing" which has an "open microphone format" allowing everyone in the room to hear everyone else's public hearing comments as they are presented "one at a time" to the attending audience. Let's put the "public" back into the "public hearing" for the Zoo Interchange Corridor Study's DEIS.

**FOURTH**, because the Wisconsin Department of Transportation (WisDOT) and Forward 45 (their hired consultants) blatantly violated the Federal Highway Administration's (FHWA) stated policies and guidelines for "open house" public hearings on federally-funded road projects by intentionally preventing our citizens group members (including me) from directly communicating with other concerned citizens at this taxpayer-

funded public hearing, I **HEREBY DEMAND THAT NO FURTHER FEDERAL FUNDS BE SPENT ON THE MILWAUKEE ZOO INTERCHANGE CORRIDOR STUDY**. WisDOT's **removal** of the "public" from this so-called "public hearing" should be **harshly condemned** by the FHWA, and **all federal funds must be promptly denied** on this project.

**FINALLY**, please be fully-aware that, the **failure to seriously-consider** and then take positive, receptive action on these concerns (as expressed in my public hearing comments herein) will **most certainly result** in the **HJCG taking prompt legal action** against the WisDOT to **vigorously challenge** what then would be a "legally deficient" Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Milwaukee Zoo Interchange Corridor Study. The HJCG is prepared to "do whatever is **legally necessary**" to **protect** our homes, families, neighborhoods and environment in Southeastern Wisconsin. We view these legal battles as "fifteen round boxing matches" and are **determined** to "stay fighting in the ring for the **full fifteen rounds**" until we **win**.

The message here is very clear: We will not allow these **arrogant, unresponsive, bureaucratic bullies** at the WisDOT to dictate what types of road expansion projects should be built in our communities. In this case, the **WisDOT's economically and environmentally-devastating "Modernization" alternatives** for expanding the Zoo Interchange are **neither needed nor wanted** by the many taxpaying citizens of Wisconsin.

If you have any questions or need further information, please either call me at [REDACTED] or write to me at the address specified above. Thank you for your anticipated cooperation in this very important matter.

Sincerely,

[REDACTED]  
Jeffrey M. Gonyo,  
Steering Committee Member for the  
***Highway J Citizens Group, U.A.***  
[REDACTED]

Enclosures (Numerous supporting attachments – see complete list beginning on next page)

cc: President Barack Obama (Washington, DC)  
U.S. Department of Transportation (Washington, DC)  
Federal Highway Administration (Washington, DC and Madison, WI)  
U.S. Senators Herb Kohl and Russ Feingold (Washington, DC)  
Governor Jim Doyle (Madison, WI)  
WisDOT Secretary Frank Busalacchi (Madison, WI)  
State Senator Jim Sullivan (5<sup>th</sup> Senate District)  
State Representative David Cullen (13<sup>th</sup> Assembly District)  
State Representative Leah Vukmir (14<sup>th</sup> Assembly District)  
State Representative Anthony Staskunas (15<sup>th</sup> Assembly District)  
Attorney Elizabeth Rich (Elizabeth Gamsky Rich and Associates, SC)  
Attorney Charles Barr (Croen & Barr, LLP)  
Selected news media outlets (TV, radio, newspaper and internet)

**COMPREHENSIVE LIST OF ATTACHED DOCUMENTS**  
**IN SUPPORT OF MY AUGUST 2, 2009 PUBLIC HEARING COMMENTS**  
**ON THE MILWAUKEE ZOO INTERCHANGE CORRIDOR STUDY'S**  
**DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS).**

1. **WisDOT's Zoo Interchange Corridor Study Main Website** dated July 11, 2009 ([www.dot.wisconsin.gov/projects/sefrefreeways/zooindex.htm](http://www.dot.wisconsin.gov/projects/sefrefreeways/zooindex.htm)) which includes notification of the **extended deadline of August 10, 2009** for filing official public comments on the Draft Environmental Impact Statement (DEIS) – (4 pages).
2. **Zoo Interchange Public Hearing Notice** as it appeared in the May 24, 2009 **Milwaukee Journal Sentinel** -- (1 page).
3. **Notice of Zoo Interchange Public Hearing Dates** on June 23, 2009 and June 24, 2009 -- (1 page).
4. **Milwaukee Zoo Interchange Map** -- (1 page).
5. **Power-Line Corridor Alternative Map** -- (1 page).
6. **Highway Y Alternative Map** -- (1 page).
7. **Photographs of HIGHWAY J CITIZENS GROUP, U.A. Display Table at WisDOT Public Information Meeting on Zoo Interchange Corridor Study** (Zoofari Conference Center – January 17, 2008) – (3 pages).
8. **Photographs of HIGHWAY J CITIZENS GROUP, U.A. Display Table at WisDOT Public Information Meeting on Zoo Interchange Corridor Study** (State Fair Park – Tommy Thompson Youth Center – January 23, 2008) – (3 pages).
9. **May 13, 2008 certified letter from WisDOT Project Director Donna Brown to Jeffrey Gonyo (Highway J Citizens Group, U.A.) placing restrictions on our citizens group as to the type of information table displays permitted at future WisDOT meetings on the Milwaukee Zoo Interchange Corridor Study** – (2 pages).
10. **Photographs of HIGHWAY J CITIZENS GROUP, U.A. Display Table at WisDOT Public Information Meeting on Zoo Interchange Corridor Study** (Wauwatosa West High School – May 29, 2008) – (1 page).
11. **October 23, 2008 Milwaukee Journal Sentinel news article** entitled, "DOT Weighs Super-Sizing Interchange" – (2 pages).
12. **November 23, 2008 Milwaukee Journal Sentinel news article** entitled, "DOT Throws Lives in Limbo" – (4 pages).
13. **May 28, 2009 Milwaukee Journal Sentinel news article** entitled, "Zoo Interchange Reconstruction Could Cost \$2.3 Billion" – (5 pages).

14. **HIGHWAY J CITIZENS GROUP, U.A. Leaflet Entitled "Why Does the WisDOT Continue to Ignore Our Reasonable Alternatives to Expanding the Zoo Interchange?"** which was intended for distribution to other concerned citizens attending the June 23, 2009 and June 24, 2009 "open house" public hearing on the Milwaukee Zoo Interchange Corridor Study's Draft Environmental Impact Statement (DEIS) – (2 pages).
15. **Photographs of the HIGHWAY J CITIZENS GROUP, U.A.'s Seven Informational Boards** intended for public display at the WisDOT's June 23, 2009 and June 24, 2009 "Open House" Public Hearing on the Zoo Interchange Corridor Study – (7 pages).
16. **Business Cards obtained at the June 23, 2009 "open house" public hearing on the Draft Environmental Impact Statement (DEIS) on the Milwaukee Zoo Interchange Corridor Study** from: a) WisDOT Project Director **DONNA BROWN**, b) Forward 45 Consulting Project Manager **BRAD HEIMLICH**, c) Wisconsin State Fair Park Police Sergeant **BRIAN REYNOLDS**, and d) Milwaukee Journal Sentinel Reporter **TOM HELD** -- (2 pages).
17. **Federal Highway Administration (FHWA) Document Entitled, "Public Involvement Techniques for Transportation Decision-Making – Open Forum Hearings/Open Houses"** from the FHWA's official website at: <http://www.fhwa.dot.gov/reports/pittd/openhous.htm> (visited June 23, 2009) – (7 pages).
18. **June 23, 2009 The Political Environment blogsite posting** by James Rowen entitled, "Did WisDOT Really Call the Cops Tonight to Shut Out Zoo Interchange Opponents?" – (5 pages).
19. **June 23, 2009 Milwaukee Journal Sentinel news article** entitled, "Zoo Interchange Meeting Leaves Homeowners Frustrated" – (2 pages).
20. **June 24, 2009 The Political Environment blogsite posting** by James Rowen entitled, "State Fair Park Police Told Group It Could Not Pass Out Materials at WisDOT Public Session Tuesday" – (3 pages).
21. **June 25, 2009 The Political Environment blogsite posting** by James Rowen entitled, "First-Person Account of Muzzled Free Speech at Monday Highway Meeting" – (15 pages).
22. **June 26, 2009 The Political Environment blogsite posting** by James Rowen entitled, "Federal Transportation Funding Overhaul Delayed: Ripples Will Be Felt Here" – (2 pages).
23. **June 27, 2009 The Political Environment blogsite posting** by James Rowen entitled, "Silencing Highway Critics Hurts Everyone" – (3 pages).
24. **June 28, 2009 The Political Environment blogsite posting** by James Rowen entitled, "Highway Expansion Will Not Save Us From Idiots Behind the Wheel" – (2 pages).

25. July 2, 2009 The Political Environment blogsite posting by James Rowen entitled, "Letter to the Editor Details Free Speech Denial at WisDOT Hearing" – (1 page).
26. July 2, 2009 Milwaukee Journal Sentinel Letter-to-the-Editor by Highway J Citizens Group, U.A. member Jeffrey M. Gonyo entitled, "Citizen Participation Seemed to be a Sham" – (1 page).
27. July 9, 2009 The Political Environment blogsite posting by James Rowen entitled, "More Highways = More Debt, But Wisconsin Keeps On Spending" -- (3 pages).
28. July 17, 2009 The Daily Reporter news article entitled, "Interchange Project Splits Three Cities" – (2 pages).
29. July 20, 2009 The Political Environment blogsite posting by James Rowen entitled, "Public Comments Count? The Record Shows Otherwise" – (2 pages).
30. October 20, 2008 Amended Complaint for Injunctive and Declaratory Relief (Highway J Citizens Group, U.A., et al. v. U.S. Department of Transportation, et al.) -- the original federal lawsuit complaint was filed on February 22, 2005 – (35 pages).
31. January 5, 2009 Plaintiffs' Main Brief in Highway J Citizens Group, U.A., et al. v. U.S. Department of Transportation, et al. – (51 pages).
32. April 6, 2009 Plaintiffs' Response Brief in Highway J Citizens Group, U.A., et al. v. U.S. Department of Transportation, et al. – (34 pages).
33. July 9, 2009 West Bend Daily News article entitled, "Highway 164 Activists Take Argument to Federal Court" – (1 page).
34. July 15, 2009 Hartford Times Press article entitled, "Highway 164 Activists Get Their Day in Court" – (1 page).





Division of Transportation  
System Development  
Southeast Regional Office

Jim Doyle, Governor  
Frank J. Busalacchi, Secretary  
Internet: [www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)

October 1, 2010

Minneapolis Area Office  
Bureau of Indian Affairs

Subject: I.D. 1060-33-01  
Zoo Interchange Reconstruction  
Milwaukee County  
Environmental Documentation

Dear ,

The Wisconsin Department of Transportation (WisDOT) and Federal Highway Administration (FHWA) have been engaged in a corridor study of the Zoo Interchange and approaches (I-94, I-894, and US 45) in western Milwaukee County since late 2007.

As you recall, WisDOT and FHWA circulated a Draft Environmental Impact Statement (DEIS) in May 2009, and conducted a public hearing in June 2009, to apprise agencies and stakeholders of a range of freeway/interchange modernization alternatives for the long-term reconstruction of the freeway system, and seek their feedback on the purpose of and need for the project and the range of alternatives considered.

Constructive feedback and testimony was received during the Draft EIS comment period, and at the public hearing. Many of the comments and testimony were related to three major themes, as follows:

- While supportive of the project's purpose and need and modernization concepts, a number of reviewers and respondents requested that WisDOT and FHWA investigate whether additional alternatives were viable that would further reduce the magnitude of impacts, and/or project cost;
- A number of stakeholders in the Milwaukee Regional Medical Center area asked that WisDOT and FHWA investigate whether modifications or new alternatives could be developed to provide access to the existing Bluemound Road/Wisconsin Avenue interchange with US 45 from I-94; and
- Businesses, homeowners, and municipal representatives along the East Leg of the project requested that WisDOT and FHWA attempt to revisit options at the I-94/84<sup>th</sup> Street interchange to avoid the use of "Texas U-Turns" that would likely divert traffic to 76<sup>th</sup> Street, and away from 84<sup>th</sup> Street, near State Fair Park.

In response to those comments and others made during the DEIS availability period and at the public hearing, WisDOT and FHWA have undertaken additional studies to determine if alternative refinements could be made to address this feedback. These studies have resulted in the development of a new freeway alternative (called the "Reduced Impacts Alternative"), and the development of alternatives on selected parallel and intersecting arterials in the project area.

Because these new alternatives differ from those presented in the original DEIS, WisDOT and FHWA have determined that the preparation of a Supplemental DEIS (SDEIS) is warranted. Under FHWA rules in Part 771 of the Code of Federal Regulations, FHWA uses the following definition for when a Supplemental EIS shall be prepared:

"An EIS shall be supplemented whenever the Administration determines that:

(1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or

(2) New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS." (*Part 771 CFR – Federal Highway Administration, DOT*)

Although it seems unlikely to WisDOT and FHWA that the Reduced Impacts Alternative and arterial improvements will result in significant environmental impacts that were not evaluated in the original DEIS, both agencies have agreed that the SDEIS is the best document type to evaluate the newly developed information on such a project of major significance to Milwaukee and Southeastern Wisconsin.

The SDEIS should "provide sufficient information to briefly describe the proposed action, the reason(s) why a supplement is being prepared, and the status of the previous draft or final EIS. The SDEIS needs to address only those changes or new information that are the basis for preparing the supplement and were not addressed in the previous EIS (23 CFR 771.130(a))." (*FHWA Technical Advisory T6640.8A*, October 30, 1987, XII – Supplemental Environmental Impact Statements). In addition, the FHWA Technical Advisory also stipulates that the SDEIS should address any new environmental requirements that became effective after the previous EIS was prepared to the extent that they apply to the portion of the project being evaluated.

This letter is being sent to advise you of the decision to prepare a SDEIS. Based on our current schedule, we expect the SDEIS to be signed and circulated late this year, or early in 2011. If you are interested in meeting to discuss the project, please don't hesitate to contact me at [REDACTED]

WisDOT and FHWA appreciate your past involvement in the project, and look forward to your continued engagement and contributions.

Sincerely,

Wisconsin Department of Transportation

[REDACTED]

Roberto Gutierrez  
Southeast Freeways Program Director

Agencies Mailing List

Pre	First Name	Middle Ini	Last Name	Title	Organization	Organization-2	Address-1	Address-2	City	State	Zip
Ms.	Sherry		Kamke		USEPA Region 5						
Ms.	Louise		Clemancy	Field Supervisor	U.S. fish and wildlife Service	Green Bay Ecological Services Office					
					Minneapolis Area Office	Bureau of Indian Affairs					
Mr.	John		Shite	District Conservationist	Natural Resources Conservation Service	Waukesha Service Center					
Ms.	Rebecca		Gruber		U.S. Army Corps of Engineers	St. Paul District					
Mr.	Ernie		Quintana	Regional Director	National Park Service						
Mr.	Michael	C.	Thompson	Team Supervisor	Environmental Analyst & Review Program	Wisconsin Department of Natural Resources					
Ms.	Shelley		Warwick		Environmental Analysis & Review Program	Wisconsin Department of Natural Resources					
Mr.	Tracey		McKenney	SE Freeways Coordinator Wisconsin Division	FHWA						
Mr.	Jeff		Mantes		City of Milwaukee						
Mr.	Jeff		Polenske		City of Milwaukee						
Mr.	Bill		Wehrley		City of Wauwatosa						
Mr.	William		Kappel		City of Wauwatosa						
Mr.	Michael		Lewis		City of West Allis						
Mr.	Jack		Takerian		Milwaukee County	Department of Transportation & Public Works					
Ms.	Sue		Black		Milwaukee County Parks Department						



# SECTION 106 REVIEW ARCHAEOLOGICAL/HISTORICAL INFORMATION

Wisconsin Department of Transportation  
DT1635 11/2006

For instructions, see FDM Chapter 26

**SHPO**  
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NOV 22 2010

**DIV HIST PRES**

## I. PROJECT INFORMATION

Project ID 1060-33-01	Highway - Street Zoo Interchange -- Adjacent Arterials Component	County Milwaukee
Project Termini Watertown Plank Road (108 <sup>th</sup> Street - 87 <sup>th</sup> Street); 84 <sup>th</sup> Street/Glenview Avenue (I-94 - Currie Street)		Region - Office Southeast (Waukesha)
Regional Project Engineer - Project Manager Roberto Gutierrez		Area Code - Telephone Number 414-750-5938
Consultant Project Engineer - Project Manager Brad Heimlich/CH2M HILL		Area Code - Telephone Number 414-807-8246
Archaeological Consultant Archaeological Research, Inc. (Dave Keene)		Area Code - Telephone Number 773-975-1753
Architecture/History Consultant Heritage Research, Ltd. (John Vogel, Traci Schnell)		Area Code - Telephone Number 262-251-7792
Date of Need December 2010		SHSW # 08-0046/MI
Return a signed copy of this form to:		

## II. PROJECT DESCRIPTION

Project Length Watertown Plank Road - 1.3 miles; 84 <sup>th</sup> Street/Glenview - 0.9 miles	Land to be Acquired: Fee Simple TBD acres	Land to be Acquired: Easement TBD acres
---	--	--

Distance as measured from existing centerline	Existing	Proposed	Other Factors	Existing	Proposed
Right-of-Way Width	varies	varies	Terrace Width	varies	varies
Shoulder	varies	varies	Sidewalk Width	5 feet	5 feet
Slope Intercept	TBD	TBD	Number of Lanes	4	4-6
Edge of Pavement	varies	varies	Grade Separated Crossing	none	none
Back of Curb Line	varies	varies	Vision Triangle acres	n/a	n/a
Realignment	no	no	Temporary Bypass acres	n/a	n/a
Other - List:			Stream Channel Change	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Attach Map(s) that depict "maximum" impacts.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Tree topping and/or grubbing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Brief Narrative Project Description - Include all ground disturbing activities. For archaeology, include plan view map indicating the maximum area of ground disturbance and/or new right-of-way, whichever is greater. Include all temporary, limited and permanent easements.

This form is a supplement to the March 2008 submittal for the same project I.D. This supplement pertains specifically to the addition of two arterials (see above) which are now included in the freeway reconstruction alternatives.



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☐ Add continuation sheet, if needed.**III. CONSULTATION**

How has notification of the project been provided to:

- ☒ Property Owners  
☐ Public Information Meeting Notice  
☒ Letter - Required for Archaeology  
☒ Telephone Call  
☐ Other:

- ☒ Historical Societies/Organizations  
☐ Public Information Meeting Notice  
☒ Letter  
☒ Telephone Call  
☐ Other:

- ☒ Native American Tribes  
☐ Public Info. Mtg. Notice  
☒ Letter  
☐ Telephone Call  
☐ Other:

\*Attach one copy of the base letter, list of addresses and comments received. For history include telephone memos as appropriate.

**IV. AREA OF POTENTIAL EFFECTS - APE****ARCHAEOLOGY:** Area of potential effect for archaeology is the existing and proposed ROW, temporary and permanent easements. Agricultural practices do not constitute a ground disturbance exemption.**HISTORY:** Describe the area of potential effects for buildings/structures.

Area of potential effect for history is the first tier of buildings adjacent to the roadway for each arterial.

**V. PHASE I ARCHEOLOGICAL OR RECONNAISSANCE HISTORY SURVEY NEEDED****ARCHAEOLOGY**

- ☐ Archaeological survey is needed
- ☒ Archaeological survey is not needed - Provide justification  
☐ Screening list (date).

**HISTORY**

- ☒ Architecture/History survey is needed
- ☐ Architecture/History survey is not needed  
☐ No structures or buildings of any kind within APE  
☐ Screening list (date).

**VI. SURVEY COMPLETED****ARCHAEOLOGY**

- ☐ NO archaeological sites(s) identified - ASFR attached  
☐ NO potentially eligible site(s) in project area - Phase I Report attached  
☐ Potentially eligible site(s) identified-Phase I Report attached  
☐ Avoided through redesign  
☐ Phase II conducted - go to VII (Evaluation).  
☐ Phase I Report attached - Cemetery/cataloged burial documentation

**HISTORY**

- ☐ NO buildings/structures identified - A/HSF attached  
☒ Potentially eligible buildings/structures identified in the APE - A/HSF attached  
☐ Potentially eligible buildings/structures avoided - documentation attached

**VII. DETERMINATION OF ELIGIBILITY (EVALUATION) COMPLETED**

- ☒ No arch site(s) eligible for NRHP - Phase II Report attached  
☐ Arch site(s) eligible for NRHP - Phase II Report attached  
☐ Site(s) eligible for NRHP - DOE attached

- ☐ No buildings/structure(s) eligible for NRHP - DOE attached  
☒ Building/structure(s) eligible for NRHP - DOE attached

**VIII. COMMITMENTS/SPECIAL PROVISIONS - must be included with special provisions language**

Archaeology ASFR submitted in March 2008 included the parcels within the APE along these Adjacent Arterials.

**IX. PROJECT DECISION**

- ☐ No historic properties (historical or archaeological) in the APE.  
☐ No historic properties (historical or archaeological) affected.  
☒ Historic properties (historical and/or archaeological) may be affected by project;  
☒ Go to Step 4: Assess affects and begin consultation on affects  
☐ Documentation for Determination of No Adverse Effects is included with this form. WIDOT has concluded that this project will have No Adverse Effect on historic properties. Signature by SHPO below indicates SHPO concurrence in the DNAE and concludes the Section 106 Review process for this project.

(Regional Project Manager)

(WIDOT Historic Preservation Officer)

(State Historic Preservation Officer)

12/1/2010

11/22/10  
\_\_\_\_\_  
(Date)  
[Redacted]  
(Consultant Project Manager)  
11/22/10  
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)