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WESTRIDGE SCHOOL

August 22, 2018

Brian C. Annis, Secretary
California State Transportation Agency
915 Capitol Mall, Suite 350B
Sacramento, CA 95814

Laurie Berman, Director
California Department of Transportation
Director's Office, MS-49
1120 N St.
Sacramento, CA 95814

Shirley Choate, Interim Director
California Department of Transportation, District 7
100 S. Main St.
Los Angeles, CA 90012

**Re: State Route 710 North Study Environmental Impact
Report/Environmental Impact Statement**

Dear Secretary Annis, Director Berman, and Interim Director Choate:

We the undersigned organizations have extensively reviewed and commented on the draft environmental impact report/environmental impact statement (DEIR/DEIS) and associated documents for the State Route 710 North project. Since long before the release of the DEIR/DEIS in 2015, we have been very concerned with the potential adverse impacts of the 710 North project and remain very interested in its evolution.

We understand that Caltrans has decided to pursue the Transportation System Management/ Transportation Demand Management (TSM/TDM) alternative – a decision we all applaud. However, the EIR/EIS still contains analyses of all of the other alternatives, including the tunnel alternative. We are apprehensive that in the future Caltrans might decide to pursue the tunnel alternative, or some version thereof. Because of the possibility of such a decision, it is likely that at least some of us would file a legal challenge against the tunnel alternative, which would be based in large part on the significant flaws in the environmental analysis of this alternative in the DEIR/DEIS which remain uncorrected.

Litigation over the EIR/EIS would be against all parties' best interests. It would be against Caltrans' interest because it could lead to invalidation of the EIR/EIS, a stay halting any project taken in reliance on the document, including the preferred TSM/TDM alternative, and it would also hinder Caltrans' ability to dispose of excess/surplus property that is no longer needed for the tunnel alternative. Both sides would be strapped with the financial and other costs of the litigation.

The statute of limitations will begin running upon certification of the FEIR/FEIS, which we understand may occur very soon. Certifying the deeply flawed tunnel analysis contained in the FEIR/FEIS as complete and legally adequate is likely to result in prolonged litigation. Furthermore, we are gravely concerned that if Caltrans were to certify the sections of the FEIR/FEIS related to the tunnel alternative, there could be future attempts to rely on the data in these sections for approving some configuration of the tunnel alternative by Caltrans or another agency. People in the affected communities may feel obligated to protect their rights, and guard against the possibility of a tunnel alternative in the future by suing over the inadequacy of the FEIR/FEIS and Caltrans' process in certifying it and the approved TSM/TDM project. Future litigation brought after the FEIR/FEIS certification is final would have to be reviewed under the difficult standard of review in Public Resources Code section 21166 for subsequent environmental review, a much more heightened standard for petitioners to meet.

Our need to file this lawsuit can be avoided by Caltrans taking steps not to certify the tunnel alternative analysis in the FEIR/FEIS. This would be appropriate because the tunnel analysis is seriously flawed. These flaws were repeatedly identified in numerous comment letters, including those submitted by the City of South Pasadena, the City of La Cañada Flintridge, Westridge School, Pasadena Heritage, West Pasadena Residents' Association, No 710 Action Committee, Sequoyah School, Five Cities Alliance, National Trust for Historic Preservation, Natural Resources Defense Council, Environmental Protection Agency, South Coast Air Quality Management District, Los Angeles County Department of Health, esteemed Health Professionals and Scientists from the USC Keck School of Medicine, and others. Much of the tunnel alternative analysis was deferred or incomplete. Specific areas where the analysis was grossly deficient include, but are not limited to, the following: air quality, health risks, cultural and historic resources, water quality and usage, geology and soil settling, construction impacts, and cumulative impacts. Moreover, the analysis failed to consider in its entirety the impacts of the very real possibility of Tunnel Boring Machine failures.

Specifically, we respectfully request that you strike out and refrain from certifying those portions of the EIR/EIS that relate to the tunnel alternative. Examples of these relevant sections are listed in Exhibit A to this letter. Most, but not all, of these sections are preceded by the title "Freeway Tunnel Alternative." Technical appendices related to the tunnel alternative should also be stricken. Furthermore, a clear statement must be made in both the Record of Decision (ROD) and the Notice of Determination (NOD) that the tunnel alternative analysis is not certified or approved in any way. Following the Metropolitan Transportation Authority's May 2017 resolution to fund the TSM/TDM alternative, Caltrans should not approve any alternative other than the TSM/TDM project, so there is no need to certify the portions of the EIR/EIS related to the tunnel alternative.

We also request that you insert the following language into the FEIR/FEIS as an added safeguard:

“In the EIR/EIS, Caltrans analyzed several alternative projects, including a tunnel alternative. In response to public controversy and significant deficiencies relating to the tunnel alternative, as well as a lack of funding in the foreseeable future, Caltrans decided to reject it as infeasible and to not select it as the preferred alternative. To finally put to rest the public controversy relating to the tunnel alternative, Caltrans has tried to strike out and remove all portions of the EIR/EIS that relate to the tunnel alternative so that the certified FEIR/FEIS will not consider or approve the tunnel alternative and related analyses in any way. In addition, Caltrans hereby affirmatively states that any language that relates to the tunnel alternative that remains in the FEIR/FEIS, despite Caltrans’ efforts to remove such language from the document, is null and void and shall be considered to have been removed from the FEIR/FEIS and may not be utilized in any manner in the future for a tunnel alternative.”


There is precedent for modification of the EIR/EIS and a restrictive record of decision along the lines that we request above. Among the “Conditions and Commitments” in the April 13, 1998 U. S. Department Of Transportation Federal Highway Administration Record Of Decision for the State Route 710 Freeway, CA-EIS-74-1 5-F, FHWA committed to Design Advisory Groups and to implementing mitigation features, among other commitments. (file:///F:/710-Pasadena%20-%20WPRA/Misc/1998_04_13%20ROD-4-13-98.pdf, pp. 4-7.) A December 17th, 2003 letter to Jeff Morales, Director of Caltrans, from Gary Hamby, Division Administrator of FHWA provided an Environmental Re-evaluation of the California State Route 710 Gap Closure Project. (http://www.no710.com/resources/rod-recission-letters12_3_03.pdf.) This letter required a restart of the environmental review process if the freeway was proposed again and required that Caltrans demonstrate that funding was in place for the freeway. Therefore, detailed statements and commitments in decision documents are appropriate.


Furthermore, specifically addressing a single alternative for non-consideration and non-certification is appropriate. For example, the Legislature in 2013 adopted legislation that specially declared alternative F-6, the 710 Surface Route in the December 2012 Alternative Analysis Report, to “no longer be deemed a feasible alternative for consideration in any state environmental review process for the Interstate 710 north Gap Closure project.” (Govt. Code § 54237.8.) Similarly, Caltrans should specifically determine the tunnel alternative to no longer be deemed feasible for consideration and strike portions of the EIR/EIS that address it.

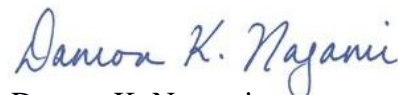
In conclusion, the 710 North project FEIR/FEIS should not include discussion of the tunnel alternative as it will not be used for TSM/TDM project approval and could create significant problems for affected stakeholders because of its deficiencies and inadequacy. We ask that you strike out the tunnel alternative discussion and analyses and explicitly state that Caltrans is not certifying the tunnel alternative analyses in any manner. This action would not only preclude lengthy and costly legal action, but also remove encumbrances (subsurface rights) that would delay the sale of Caltrans-owned properties. Both are in the best interest of Caltrans as well as all concerned parties.


We welcome your response and are hoping to work cooperatively with Caltrans to insure the safety of our communities. Please direct your comments and/or questions to: Jan SooHoo at jan@soohoos.org or call 818-952-4103.

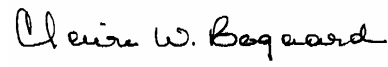
Sincerely,



Linda Dishman
President and CEO
Los Angeles Conservancy


Joanne Nuckols
Advocacy Chair
South Pasadena Preservation Foundation


Damon K. Nagami
Senior Attorney
Natural Resources Defense Council


Sarah Gavit
Director
West Pasadena Residents' Association


Claire W. Bogaard
Chair
No 710 Action Committee


Elizabeth J. McGregor
Head of School
Westridge School



Susan N. Mossman
Executive Director
Pasadena Heritage

EXHIBIT A

The portions of the 710 North Draft EIR/EIS sections related to the Freeway Tunnel Alternative that should be stricken include, but are not limited to, the following:

Pages 1-55 to 1-56, 1-57, 1-58 to 1-59,
Section 2.2.3.4 on pages 2-60 to 2-86;
Pages 3.1-3, 3.1-7 to 3.1-8, 3.1-14 to 3.1-15, 3.1-19 to 3.1-20, 3.1-23;
The portion of Table 3.1.2 entitled Freeway Tunnel Alternative;
The portion of Table 3.1.3 entitled Freeway Tunnel Alternative;
Page 3.2-7;
Pages 3.3-18 to 3.3-19;
Pages 3.3-24 to 3.3-27, 3.3-33 to 3.3-34; 3.3-37, 3.3-46,
The portion of Table 3.3.7 entitled Freeway Tunnel Alternative;
The portion of Table 3.3.8 entitled Freeway Tunnel Alternative;
Pages 3.3-50, 3.3-55 to 3.3-56,
The portion of Table 3.3.15 entitled Freeway Tunnel Alternative;
The portion of Table 3.3.16 entitled Freeway Tunnel Alternative;
Pages 3.3-60, 3.3-65 to 3.3-67, 3.4-9,
The portion of Table 3.4.5 entitled Freeway Tunnel Alternative;
Page 3.4-15
The portion of Table 3.4.9 entitled Freeway Tunnel Alternative;
The portion of Table 3.4.10 entitled Freeway Tunnel Alternative;
Pages 3.5-9 to 3.5-11, 3.5-17 to 3.5-19
The portion of Table 3.5.5 entitled Freeway Tunnel Alternative;
Pages 3.6-19, 3.6-24
The portion of Table 3.6.3 entitled Freeway Tunnel Alternative;
Pages 3.7-9 to 3.7-10
The portion of Table 3.7.4 entitled Freeway Tunnel Alternative;
The portion of Table 3.7.5 entitled Freeway Tunnel Alternative;
Pages 3.8-5 to 3.8-9, 3.9-16, 3.9-20, 3.10-12 to 3.10-14
Pages 3.10-18 to 3.10-20, 3.11-25, 3.12-15, 3.13-12, 3.13-27
Pages 3.13-31, 3.13-39, 3.14-9 to 3.14-9, 3.14-14 to 3.14-15
Pages 3.14-24, 3.14-15, 3.15-11, 3.15-13, 3.15-17, 3.16-9, 3.16-11
The portion of Table 3.17.4 entitled Freeway Tunnel Alternative;
Pages 3.17-12, 3.17-13, 3.18-7, 3.18-9 to 3.18-10, 3.21-3, 3.22-2
The portion of Table 4.6 entitled Freeway Tunnel Alternative;
The portion of Table 4.7 entitled Freeway Tunnel Alternative.