



November 13, 2015

City of Seattle, Dept. of Planning and Development
Attn: John Shaw, Senior Transportation Planner
P.O. Box 34019
Seattle, WA 98124-4019
Via e-mail: John.Shaw@Seattle.Gov

Re: **Port of Seattle Comments on the proposed Seattle Arena Addendum to the Final Environmental Impact Statement; DPD project #3014195**

Dear John:

The Port of Seattle has reviewed the *Addendum to the Final Environmental Impact Statement* for the *Seattle Arena* (October 29, 2015) and is disappointed that the analysis still fails to adequately address the probable significant adverse environmental impacts of the project, and further, fails to adequately evaluate alternatives that would avoid such impacts.

The Seattle Arena EIS Addendum fails to address vehicular capacity reductions associated with project

In previous letters, the Port has expressed concerns that the proposed SoDo Arena will cause unacceptable and irrevocable adverse impacts to the transportation network that supports the Port and the Duwamish Manufacturing/ Industrial Center. In addition to causing increased traffic associated with events at the New Arena, the project will permanently reduce the existing street capacity on Occidental Avenue S and S Holgate St, and potentially on 1st Avenue S, 24 hours per day, 7 days per week, for general purpose, freight and emergency vehicles. The New Arena requires the elimination of S Occidental Avenue, which is one of only two through-streets located between the BNSF's mainline tracks and its Seattle International Gateway (SIG) railyard. Elimination of Occidental Avenue will exacerbate congestion along 1st Avenue S, one of the primary freight arterials in the region. The EIS Addendum discloses that further reductions in capacity are also probable along both S Holgate Street and 1st Avenue S, yet the EIS Addendum fails to evaluate such changes. It states that

"Separately from the proposed Seattle Arena project, the City's Seattle Department of Transportation (SDOT) is considering design changes to Holgate Street between 1st Avenue S and 3rd Avenue S. The traffic analysis contained in the Draft and Final EIS was based on the existing lane configuration for this portion of Holgate. The existing lane configuration includes five lanes; two east bound, and three westbound (one right-turn only, one through, and one left-turn only) between 1st Avenue S and Occidental

Avenue S. It transitions to four lanes (two eastbound and two westbound) where it crosses the railroad tracks. Draft design drawings show various potential realignments, including a design that would reduce the number of lanes to three lanes. At the time of preparation of this Addendum, no decision has been made by SDOT as to the future design or alignment of Holgate Street. Any changes to Holgate Street will be made independently of the Seattle Arena project, and SDOT's decision-making process will include an analysis of potential changes to traffic capacity and flow that could result from alternative alignments and lane configurations."

The Port rejects the notion that the reduction in lane capacity on S Holgate Street could be considered an "Independent Project." The only reason for changing the lane configuration is to accommodate the pedestrian bridge necessary for the Arena project to provide safe pedestrian access across the multiple railroad tracks. Instead, it should be characterized as a "closely related" proposal under SEPA that is considered in conjunction with the proposal for the New Arena. WAC 197-11-060(3)(b)(i) and (ii). SDOT has never independently proposed such a pedestrian bridge, nor is it considered in any City Capital Improvement Program or other planning document. It is therefore part of the Arena project itself and must be evaluated, including the impacts on the Duwamish traffic system.

The Port is also very concerned about evaluating the impacts of the pedestrian bridge in isolation. Since the pedestrian bridge is a required element of the Arena project, it is reasonable to assume that some of the space needed to accommodate it should be provided on the Arena site by relocating the sidewalk onto a property easement. This is a common solution that other development project use so that a project's frontage improvements do not reduce the function of an adjacent street.

S Holgate Street is a critical east-west connection in the Duwamish Industrial area, 1 of only 6 streets that cross the railroad tracks between Royal Brougham Way and S Spokane Street. In addition, it will likely be required to serve as the primary detour route when SDOT constructs the S Lander Street Overpass project, which is a key project in the successful Move Seattle levy. Reducing the capacity of S Holgate Street to accommodate the Arena will exacerbate congestion already made worse by the vacation of Occidental Avenue S, and could extend vehicle queues resulting in congestion on 1st and 4th Avenues, and increasing the chance that vehicles get stuck on the many train tracks on this corridor.

The EIS Addendum recommended that the sidewalk adjacent to the Arena on 1st Avenue S be substantially widened from the previous analysis. However, it is unclear whether this wider sidewalk (nearly 27-feet in total width including the buffer areas) would further encroach into the 1st Avenue S vehicular capacity. The EIS Addendum states that the sidewalk "*may be located within the public right-of-way (public sidewalk), or on a combination of public sidewalk and private property.*" (EIS Addendum page 1-3.) In the past, SDOT has tried to repurpose the capacity on 1st Avenue S by eliminating the center two-way left turn lane, an action that was never executed due to the significant adverse impacts to local property access and neighborhood circulation. Such a change at the New Arena would substantially affect access to the BNSF's North SIG Yard, which supports Port and industrial operations. In order for the EIS to be adequate, it should disclose the likely adverse environmental impacts associated with the New Arena's 1st Avenue S frontage improvements.

Loss of Occidental Avenue S is Unacceptable

The Port has submitted many comments related to the vacation of Occidental Avenue S, and continues to believe that loss of this street would cause irreversible negative impacts to the transportation system in SoDo and the region. Despite that fact that the City has prepared an EIS, SEIS, and addendum to the EIS, it has still failed to adequately identify and analyze these likely adverse environmental impacts in the environmental review process. Please see our letter to Ms. Beverly Barnett, "Street vacation request submitted for the Seattle Arena (Clerk File 312905), June 22, 2015. In summary, Occidental Avenue S provides a variety of functions, around the clock, every day of the year, only some of which are addressed in the FEIS Section 3.8.2.10. The issues that have not yet been addressed include:

- a. Occidental Avenue S is currently the relief-valve for congestion on 1st Avenue S and its intersection with S Atlantic Street. Loss of S Occidental Ave's capacity will exacerbate congestion on 1st Avenue S and the intersection of 1st Ave S and S Atlantic Street around the clock. Yet, that intersection operates at LOS F and has no known remedies. The FEIS Section 3.8.2.10 presents the traffic information, but does not address the likely impacts of additional traffic flowing to that intersection. Nor does it address the likely improvements and design changes that would be necessary on Massachusetts if the City grants this street vacation.
- b. Vacation of Occidental has regional implications that the City has failed to properly evaluate during the environmental review process. The 1st Avenue S and S Atlantic Street corridor provide the most critical connection for traffic entering or exiting the city to the south, affecting freeway connections (SR519, I-5/I-90 and SR99) and freeway access from the Duwamish MIC, NW Seattle and downtown for any vehicles and especially trucks moving between the freeways and the Port or railyards.
- c. Occidental Avenue S provides an escape route for vehicles that are blocked by long trains on S Holgate Street: it provides the route to access the Edgar Martinez Drive overpass of the mainline tracks. This includes access for emergency vehicles at a train crossing blockage.
- d. Occidental Avenue S is an important south-bound egress route for pedestrians after M's and Seahawks games. If it is vacated, those pedestrians would be forced out to 1st Avenue S.... Loss of vehicle carrying capacity of 1st Avenue would exacerbate the already congested conditions.
- e. Occidental Avenue S is often used by trucks staging for events at the stadia. No alternative for this function has been proposed.
- f. Loss of Occidental Avenue S also reduces the public safety by reducing access options for first-responder vehicles to enter or depart the already congested area.

Clearly the proposed vacation of Occidental Ave S has significant adverse environmental impacts on the public health, welfare and safety. The City's environmental review process, including the FEIS, has failed to define or quantify these impacts sufficiently, nor does it properly identify mitigation measures needed to address the likely adverse environmental impacts of the proposal. The City's environmental review process, and other supporting documents to date, has failed to clearly identify the public benefit for the proposed street vacation. Mitigation measures addressing the project impacts must be accounted

for separately, and in addition to, any mitigation measures necessary for impacts of operation of the proposed arena.

Project Mitigation is still undefined, and the impacts of mitigation are not analyzed

The guiding principle for determining the adequacy of an EIS is the “rule of reason.” Weyerhaeuser v Pierce County, 124 Wn. 2d 26, 873 P. 2d 498 (1994). In the Weyerhaeuser case, the court held the EIS was inadequate because it failed to contain a sufficient discussion of alternative for a solid waste handling facility. As in the Weyerhaeuser case, the FEIS does not sufficiently identify the alternatives to the proposal. It also fails to demonstrate that proposed mitigation will remedy the impacts, does not commit to imposing mitigation as a condition of street vacation approval, and, further says the proponent will not commit until “a future substantive action” such as approval of the Master Use Permit (page CR-1, Appendix G of FEIS). How can the City ensure that mitigation is adequate if there is no clear commitment by the proponent to undertake these measures? Further, the Port cannot determine whether or not these mitigation measures will be adequate mitigate the likely adverse traffic impacts. As noted above, the resultant impacts of the mitigation must be disclosed: of a pedestrian bridge on Holgate Street, of sidewalk widening, and of a new parking garage south of Holgate.

Project Memorandum of Understanding (MOU) requirements have not been fulfilled

The MOU called for Land Use Studies, SEPA analysis including alternative sites, and an Economic Impact study. These have not been completed sufficiently so as to fulfill the intent of the MOU.

Industrial lands protection: The promises made to the industrial community by the City as part of the MOU signed by the City Council in September 2012 have not been fulfilled. Specifically, no new protections for industrial land have been adopted, although the MOU called for a study “to develop new land use mechanisms to maximize the economic viability of the Duwamish Manufacturing / Industrial Center, and civic vitality of the Stadium Transition Area Overlay District.” MOU 22b. The study was completed in 2013 but, to date, the City has taken no action on the industrial lands advisory committee study findings and recommendations. In fact, the City’s current draft Comprehensive Plan Update does not include the industrial committee’s recommendations. Similarly, the framework for the use of the \$40 million transportation mitigation fund is unidentified.

Consideration of Alternative Sites: The Port of Seattle continues to request fair and equal analysis of alternative sites for the arena, both within and outside of the City of Seattle. In recent months, another City study has come to light acknowledging that the Key Arena could be overhauled to support NBA and NHL teams. The previously undisclosed information on Key Arena, and the lack of thorough analysis for the SoDo site alternatives, serves to confirm the Port’s view that the SoDo site is too small to accommodate the proposed SoDo Arena, which magnifies the potential impacts of this facility.

Lead agencies are required to consider “reasonable alternatives” to the proposed action when they prepare an environmental impact statement (EIS). RCW 43.21C.030(2)(c)(iii). The Washington Supreme Court held that an EIS prepared by a public agency to be inadequate because it failed to discuss whether its objective of siting a regional shopping center in the county could be achieved at one of the alternative sites. Barrie v. Kitsap County, 93 Wn. 2d 832, 855, 613 P. 2d 1148 (1980). For the New Arena proposal, the City has identified the retrofit of Key Arena as an alternative to constructing a new

arena in SODO, but has failed to offer an adequate discussion of the Key Arena alternative in the EIS and Addendum; thus, the City's environmental review contains the same deficiencies as described by the court in the Barrie case.

In a newspaper article, Mayor Murray stated that the City would not be further considering offers by an out of state investment group to retrofit Key Arena because it felt this consideration would be inconsistent with the Memorandum of Understanding (MOU) it executed with New Arena proponent, Chris Hansen, for the SODO site. "Overhaul Key Arena? Mayor Murray says no for now." Seattle Times, November 13, 2015. In addition, the City appears to be disregarding the findings of a city-commissioned report published in June 2015 that revealed Key Arena could be retrofitted to accommodate both NBA basketball and NHL hockey. The City's refusal to properly consider the retrofit of Key Arena makes its consideration of alternatives in the environmental review process legally flawed; this is because it is responsible as the lead agency under SEPA to fully consider the alternatives to the proposal to locate a new NBA basketball/NHL hockey facility arena in SODO.

The City's position is also inconsistent with the representations it made to the Washington Court of Appeals, Division I in *International Longshore and Warehouse Union v. City of Seattle (ILWU)*, 176 Wn. App. 511 (2013). There, the ILWU challenged the legality of the MOU between the City, County, and Mr. Hansen, as prejudging the outcome of the SEPA review process for a proposed NBA/NHL facility by "stacking the deck" in favor of the New Arena in the SODO location. In defense of the MOU, the City took the position that it would not commit to the SODO arena project until it had analyzed the environmental impacts of the proposed arena, including "consideration of one or more alternative sites." MOU, paragraph 5. Indeed, the court noted that the SEPA process for the MOU expressly anticipates that the SEPA review process will consider at least the alternative of Seattle Center as well as a "no action" alternative." *ILWU, supra*. The statement by Mayor Murray flies in the face of the City's representation to the court in the *ILWU* case and reveals the City's environmental review process for the New Arena to be fatally flawed.

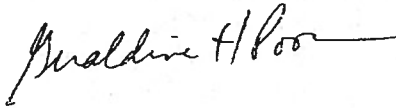
Economic Impact Analysis: The MOU called for an Economic Impact Analysis which was incorporated into the SEPA analysis. However, the impact study does not adequately quantify and evaluate the potential negative effects of the proposal upon Port and marine cargo operations and business. For this reason, it is insufficient for decision-making purposes, with only a general statement regarding the Port's competitiveness, compared with other alternative west coast export/import gateways.

Thank you for the opportunity to comment on the Addendum to the Final Environmental Impact Statement (FEIS) for the proposed Seattle Arena. The Port's concerns have been unanswered either in the FEIS responses, or the Addendum. The proposed SoDo Arena will result in potentially irreversible harm to marine cargo and industrial uses and activities in south Elliott Bay. The city risks the long-term loss of industrial jobs and economic opportunities in the maritime economy.

The New Arena in SoDo requires elimination of Occidental Avenue S, requires narrowing of S Holgate Street, and may reduce capacity of 1st Avenue S. It is the wrong site. These impacts will harm our ability to create and sustain jobs in the maritime and industrial sectors, ultimately weakening our

region's economy. If you have any questions, please contact me at (206) 787-3778,
poor.g@portseattle.org.

Sincerely,

A handwritten signature in black ink that reads "Geraldine H. Poor". The signature is written in a cursive style with a horizontal line extending to the right.

Geraldine Poor, AICP
Manager, Regional Transportation

cc: City of Seattle: Sugimura, Hauger
Northwest Seaport Alliance: Beckett, Jordan, Wolf
Port of Seattle: Pulsifer, Graves, Collins, Goodwin, Jones Stebbins, Wolpa, Merritt, Meyer,
Blomberg, Gellings