

**US 97 Bend North Corridor Project
Deschutes County, Oregon
Federal-Aid Number S004(112)
ODOT Key Number 14020**

U.S. Department of Transportation, Federal Highway Administration
and
Oregon Department of Transportation

September 2014

1. DECISION

This Record of Decision (ROD) describes the Federal Highway Administration's (FHWA's) decision to select the East DS2 Modified Alternative, identified as the Preferred Alternative in the Final EIS, as the Selected Alternative for the US 97 Bend North Corridor project. The basis for this decision is provided in the US 97 Bend North Corridor project Draft Environmental Impact Statement (Draft EIS) and Final Environmental Impact Statement (Final EIS).

FHWA has determined that the requirements of the National Environmental Policy Act of 1969 have been satisfied for the US 97 Bend North Corridor project. FHWA approved the Final EIS on July 24, 2014. The U.S. Environmental Protection Agency published the Notice of Availability in the Federal Register on August 8, 2014 (Volume 79, No. 153, Page 46439). The July 2011 Draft EIS and the July 2014 Final EIS discuss the development of alternatives for the project; narrow the choice of alternatives for environmental evaluation; and assess impacts of the alternatives advanced for environmental evaluation. The July 2014 Final EIS, identifies a Preferred Alternative for the project. These documents can be viewed and downloaded from the document library on the project website:

<http://www.oregon.gov/ODOT/HWY/REGION4/Pages/RoadworkImprovements.aspx>.

After considering each proposed alternative's impacts to the human environment, using the social and natural sciences to evaluate the impacts and input received from stakeholders, the FHWA selects the Preferred Alternative for implementation. The Oregon Department of Transportation (ODOT) supports the selection of the Preferred Alternative.

The following sections contain a description of the Preferred Alternative, other alternatives considered, and decision criteria. Other sections of this ROD discuss the Section 4(f) finding, measures to minimize harm, and the monitoring of mitigation and conservation measures. Appendix A includes comments received on the Final EIS and responses to those comments. Appendix B is an errata of minor technical errors in the Final EIS that have been corrected.

1.1 DESCRIPTION OF THE SELECTED ALTERNATIVE (PREFERRED ALTERNATIVE)

The Selected Alternative is the East DS2 Modified Alternative, identified in the Final EIS as the Preferred Alternative. Chapter 2 of the Final EIS provides a complete description of the Preferred Alternative. The map set included in Figure 2-3 FEIS in Chapter 2 of the Final EIS depicts the Preferred Alternative alignment and design details. FHWA released the Draft EIS for public and agency review and comment on July 29, 2011. FHWA provided a 45-day comment period that ended on September 12, 2011. Comments were received by letter, email, and at a public hearing held on August 24, 2011. After reviewing the public and agency comments and considering the tradeoffs between the alternatives, FHWA and ODOT recommended the East DS2 Modified Alternative as the Preferred Alternative in July 2014.

The Selected Alternative consists of realigning the existing US 97 facility east to a new approximately 2-mile, four lane, limited access bypass that is adjacent to the existing railroad tracks. The new facility will be designated US 97 and as an expressway and bypass. A new signalized intersection at US 97 and 3rd Street will be constructed at the northern portion of the realigned segment of US 97. The current US 97 roadway will become a local arterial and will also serve as an extension of 3rd Street. The Selected Alternative will alleviate much of the queuing and associated congestion forecast by 2036. By shifting traffic onto limited access and accessed controlled facilities (US 97 and US 20) and off of the local arterial system (3rd Street and others), the overall crash rate is expected to decrease under the Selected Alternative.

The Selected Alternative consists of the following elements:

South Section—Butler Market Road to Nels Anderson Place

The Selected Alternative constructs a new alignment of US 97 which will be a free flow highway facility with access to and from the newly aligned US 97 occurring through the existing Butler Market Road interchange and the existing Empire Avenue interchange. A third travel lane will be added to the existing two travel lanes on northbound US 97 starting at the point where the 3rd Street northbound on-ramp merges, which is just north of the Butler Market Road overcrossing of US 97. The merge distance for the northbound on-ramp at the Butler Market Road interchange will be lengthened. Southbound US 97, between the Butler Market Road and Empire Avenue interchanges, will retain the current two travel lanes. The southbound on-ramp from Empire Avenue will be lengthened to provide additional merging distance. The northbound and southbound travel lanes will be separated by a median that varies between 2 feet and 90 feet in width. Between Butler Market Road and Empire Avenue, US 20 and 3rd Street will be a co-located four-lane facility with two travel lanes in both directions.

Empire Avenue Interchange - The Empire Avenue interchange will retain its configuration as a partial diamond interchange with Empire Avenue crossing over US 97. An off-ramp will allow vehicles on northbound US 97 to exit the highway at Empire Avenue. There will be no off-ramp from southbound US 97 to Empire Avenue. On-ramps will allow eastbound and westbound vehicles on Empire Avenue to enter northbound or southbound US 97.

In order to provide access into the industrial area south of Empire Avenue, Mervin Sampels Road will be improved east of 3rd Street with a signalized intersection at 3rd Street. The Selected Alternative will retain the existing Empire Avenue bridge over existing US 97 and will enlarge the Empire Avenue/3rd

Street intersection from the current three lanes of traffic to seven lanes. The intersection of Empire Avenue and O.B. Riley Road will be expanded and improved, including the installation of a traffic signal.

US 97, US 20 and 3rd Street between Empire Avenue and Nels Anderson Place – Under the Selected Alternative, northbound US 97 will have three travel lanes on its existing alignment. About halfway between Empire Avenue and the Sisters loop ramp, US 97 veers east from its existing alignment to the new alignment. The three travel lanes on the newly aligned US 97 split with the two right lanes continuing on northbound US 97. The left lane will veer to the northwest and expand to two lanes with one of those lanes connecting to westbound US 20 via the Sisters loop ramp and the other lane connecting to northbound 3rd Street/westbound US 20 on an elevated structure.

Between Empire Avenue and the Sisters loop ramp, the co-located US 20/3rd Street will remain on its existing alignment that is separated by a vegetated and concrete median. The combined westbound US 20/northbound 3rd Street facility will be widened from two lanes to three lanes beginning at Empire Avenue. North of Empire Avenue, a new off-ramp will route the right lane northbound to the newly extended 3rd Street, which uses the existing US 97 facility. The two left lanes continue as westbound US 20, which requires replacing the structure over 3rd Street to accommodate a second lane on US 20 as well as span the newly extended 3rd Street. In this segment, eastbound US 20 is a one-lane roadway that merges with the newly extended two-lane southbound 3rd Street. Once merged, there will be two through travel lanes on southbound 3rd Street and two left turn lanes at the Empire Avenue signal. There will be numerous directional movements available through the US 97/US 20/3rd Street connection.

North of Empire Avenue a new east-west local street will be constructed to connect Industrial Park Boulevard and Nels Anderson Road, improving traffic flow in this area. South of Empire Avenue, improvements will be made to the intersection at Sherman Road and Nels Anderson Road to facilitate truck turning movements, including a widened pavement section for tractor/trailer turning radii differences (off-tracking). The intersection of Sherman Road and Empire Avenue and private accesses slightly west of Sherman Road are shown as closed under the Selected Alternative. As the Selected Alternative moves into final design and construction phases, the timing of implementation of access changes on Empire Avenue will be important. The City of Bend and ODOT will work jointly with stakeholders to develop a strategy for the phasing and criteria that will trigger the implementation of these changes.

An access road for the Swalley Irrigation District to perform maintenance on the Swalley Main Canal Pipeline will be constructed off of the new northbound US 97 on-ramp at the Empire Avenue interchange.

A trail undercrossing of the newly aligned US 97 will be installed to support the City of Bend's future trail plan as shown in Exhibit 2-3 FEIS, Map 3 and Exhibit 3-61D FEIS in Chapter 3 of the Final EIS.

Central Section—Nels Anderson Place to Cooley Road

US 97 and 3rd Street between Nels Anderson Place and Cooley Road – Under the Selected Alternative, US 97 will be four lanes, with two northbound and two southbound lanes separated by a median or a median barrier. The realigned segment of the highway will be east of the current alignment and will be located immediately adjacent to the railroad right of way. Third Street will have two northbound and two southbound lanes separated by a center turn lane. The intersections of 3rd Street with Robal Road and Cooley Road will be signalized. Cooley Road will travel under the realigned US 97 and the railroad

tracks, which requires lowering Cooley Road approximately 25 feet and lowering 3rd Street 10 feet. There will be no direct connection to US 97 at Cooley Road.

Britta Street will be extended north from its current termination at Hardy Road, as a new two-lane road and will connect to US 20 at Robal Road at a signalized intersection. The portion of existing Jamison Street that parallels US 20 on the west side will be extended north, then west to connect to the extended segment of Britta Street.

The intersection of Cooley Road and O.B. Riley Road will be improved with a one-lane roundabout to improve traffic flow. The Selected Alternative will widen Cooley Road from the current three lanes to five lanes between the new signalized intersection with Hunnell Road and the new crossing under the BNSF Railway. The Selected Alternative minimizes impacts by maintaining access to Hunters Circle from Cooley Road, east of the realigned US 97.

North Section—Cooley Road to Fort Thompson Lane

Newly aligned US 97 will have two northbound and two southbound travel lanes separated by a median barrier. Approximately 500 feet south of Cooley Road, 3rd street will be shifted west from the current US 97/3rd Street. Third Street will continue north of Cooley Road with two travel lanes in each direction, separated by a two-way left turn lane. The realigned US 97 will reconnect with the existing US 97 alignment just south of Grandview Drive. A new signalized intersection will connect US 97 with the extended 3rd Street, which is aligned on the existing Clausen Road facility, on the southeast side of the Deschutes Memorial Gardens and Chapel.

The intersection of Loco Road and 3rd Street will have a two-lane roundabout designed to City of Bend standards. Access to US 97 at Grandview Drive and at Loco Road will be closed. In addition, two access driveways to US 97 from rural residential lots on the east side of US 97 will be closed.

The Selected Alternative elements described above include several modifications to the East DS2 Alternative studied in the Draft EIS, which were made to avoid or reduce environmental impacts or reduce project cost. The following modifications were made to the Selected Alternative in response to comments received on the Draft EIS:

- Replacing the northern interchange with a signalized intersection that is contained within the City of Bend's Urban Growth Boundary (UGB)
- Decreasing impacts to rural residential lands. In the rural residential area north of Cooley Road. The Selected Alternative will limit local road improvements to the extension of 3rd Street along Clausen Drive and a new roundabout at Loco Road and 3rd Street.
- Avoiding any access closures on US 97 north of Deschutes Memorial Gardens and Chapel, including access at the mobile home parks, or any of the associated local road improvements to Fort Thompson Lane, Harris Way, Suzanne Lane, and Bowery Lane
- Minimizing the acquisition of land zoned Multiple Use Agriculture in Deschutes County to less than 1 acre, compared to approximately 77 acres with the East DS1 Alternative and 31 acres with the East DS2 Alternative.

The estimated cost to construct the Selected Alternative is \$174 million with right of way costs estimated at \$74 million (42 percent of total project cost). The costs of the Selected Alternative are in 2016 dollars, which represent the projected construction year.

2. ALTERNATIVES CONSIDERED

In the Draft EIS the No Build Alternative, the East DS1 Alternative and the East DS2 Alternative were considered. The East DS2 Modified Alternative was identified as the Selected Alternative following the release of the Draft EIS, the public hearing, consideration of comment received on the Draft EIS, and the release of the Final EIS. The following provides a brief description of the other alternatives that were evaluated in the Draft EIS. A more complete description of these alternatives is provided in Chapter 2, Section 2.1 of the Final EIS. Chapter 2, Section 2.4 of the Final EIS documents alternatives that were screened but eliminated from further consideration. Chapter 2, Section 2.5 of the Final EIS provides a comparison of the No Build Alternative, the East DS1 and East DS2 Alternatives, and the Selected Alternative.

No Build Alternative

With the No Build Alternative, US 97 would not be realigned. US 97 would continue to operate as it does today. Improvements to the existing transportation system that are independent of the proposed action and were previously planned and identified in the fiscally-constrained portion of the Bend Metropolitan Organization's *2007-2030 Metropolitan Transportation Plan*, as shown in Exhibit 2-30B FEIS in Chapter 2 of the Final EIS, would still be built.

East DS1 Alternative

The East DS1 Alternative would primarily differ from the Selected Alternative in the north section of the corridor. The East DS1 Alternative would have a full diamond interchange north of Bowery Lane and outside of the UGB instead of a signalized intersection within the UGB. The East DS1 Alternative would have a number of new local road connections between Grandview Drive and Fort Thompson Lane to replace access points that would be closed on US 97. Robal Road would also be extended west of US 20 as a new two-lane road and would connect to O.B. Riley Road at an unsignalized intersection.

East DS2 Alternative

The East DS2 Alternative would primarily differ from the Selected Alternative in the north section of the corridor. The East DS2 Alternative would have a directional interchange south of Bowery Lane and partially outside of the UGB instead of a signalized intersection within the UGB. The East DS2 Alternative would have a number of new local road connections and an overcrossing between Grandview Drive and Fort Thompson Lane to replace access points that would be closed on US 97. Robal Road would also be extended west of US 20 as a new two-lane road and would connect to O.B. Riley Road at an unsignalized intersection.

2.1 CRITERIA USED TO SELECT THE PREFERRED ALTERNATIVE

Based on the Draft EIS and comments from the public and local, state, and Federal agencies, ODOT and FHWA have identified the East DS2 Modified Alternative as the Selected Alternative. Overall, the Selected Alternative performs better than the No Build, East DS1, and East DS2 Alternatives, as described below. The Selected Alternative has lower impacts to many natural and built environment resources compared to the East DS1 and East DS2 Alternatives, as described below. The differences in impacts between the alternatives are described in greater detail in Chapters 3 and 4 of the Final EIS. Although there are some cases, as described below, where the Selected Alternative has greater impacts

to specific natural or built environment resources, the difference in those impact levels is not great enough to substantially outweigh the benefits of the Selected Alternative.

This section explains the rationale for identifying the East DS2 Modified Alternative as the Selected Alternative versus the No Build, East DS1, and DS2 Alternatives. The rationale described below draws upon information provided in Exhibit ES-7 FEIS in the Executive Summary of the Final EIS. The benefits and impacts summarized in Exhibit ES-7 FEIS rely on analyses described in more detail in Chapters 3 and 4 of the Final EIS. In addition, the analyses in Chapters 3 and 4 of the Final EIS reflect changes to the impacts of the East DS2 Modified Alternative due to refinements in the design subsequent to the publication of the Draft EIS.

Rationale for Identification of the East DS2 Modified Alternative as the Selected Alternative

The No Build Alternative does not meet the project's Purpose and Need. FHWA and ODOT have identified the East DS2 Modified Alternative, which is a modified version of the East DS2 Alternative evaluated in the Draft EIS, as the Selected Alternative because it will:

- Minimize impacts to neighborhoods east of US 97
- Substantially minimize impacts to rural residential properties north of Cooley Road and west of US 97 by containing all improvements within the City of Bend's UGB, except for the extension of Britta Street west of US 20 and intersection improvements at Cooley Road and O.B. Riley Road
- Separate the highway and local street functions; allow peak operating speeds to be reasonably close to the posted speeds
- Improve the access spacing on US 97 to meet spacing standards between the connection to US 20/3rd Street and the north 3rd Street signalized intersection.

Additional considerations include:

- **Land Use.** No exceptions to the statewide planning goals are necessary. Local and regional plans have been updated to include the Selected Alternative, including the *Bend Urban Area Transportation System Plan*, *Bend Area General Plan*, and the Bend Metropolitan Planning Organization's *2007-2030 Metropolitan Transportation Plan*
- **Right of Way and Utilities.** Fewer acres of land converted to right of way (approximately 82 acres under the Selected Alternative compared to 180 acres and 131 acres under the East DS1 and East DS2 Alternatives, respectively)
- **Access.** The FEIS received comments regarding access to the commercial triangle bound by US 20, US 97 and Cooley Road. The Final EIS acknowledges that customers will have to learn new travel routes to some businesses, potentially impacting sales from drive-by customers. We do not expect this to result in significant or long-term adverse economic impacts, including impacts to the Cascade Village Shopping Center.

There are no access closures to Cascade Village Shopping Center as a result of the Preferred Alternative. Current access to the Cascade Village Shopping Center and the other shopping centers off of Robal Road will not change or be closed as a result of the Preferred Alternative. There is one access point on existing US 97 (future 3rd Street under the Preferred Alternative) that is just south of Robal Road; under the Preferred Alternative this access point will allow right-in/right-out movements only. Today that access point provides right-in/right-out and left-

in (no left out) movements; the left-in turn movement will be eliminated under the Preferred Alternative.

- **Environmental Justice.** No change to environmental justice population access to US 97 and the addition of a multi-use path connection
- **Socioeconomic Analysis.** Less impact to community cohesion, fewer residential displacements (6 residences under the Selected Alternative compared to 19 and 13 under the East DS1 and East DS2 Alternatives, respectively) and shorter emergency response times on sampled routes (see Exhibit 3-54 FEIS in the Final EIS for response time estimates of six different routes from the Public Safety Complex)
- **Parks and Recreational Facilities.** The addition of a trail undercrossing of US 97 to accommodate the City of Bend's future trail plan
- **Visual Resource.** Minimal decrease in visual quality
- **Water Quality, Stormwater Runoff, and Hydrology.** Fewer acres of net new impervious surfaces (39 acres under the Selected Alternative compared to 49 acres and 40 acres under the East DS1 and East DS2 Alternatives, respectively) and more acres of stormwater ponds and swales to provide stormwater treatment (2.7 acres under the Selected Alternative compared to 2.3 acres and 2.4 acres under the East DS1 and East DS2 Alternatives, respectively)
- **Natural Systems and Communities.** Fewer acres removed of western juniper woodlands habitat and sagebrush shrublands/shrub-steppe strategy habitat (16 acres under the Selected Alternative compared to 66 acres and 62 acres under the East DS1 and East DS2 Alternatives, respectively)
- **Wetlands and Other Waters.** Fewer feet of new piping of lateral lines connecting to the Swalley Main Canal Pipeline (380 feet under the Selected Alternative compared to 515 feet under the East DS1 and East DS2 Alternatives)
- **Non-Threatened and Endangered Species.** Fewer acres of habitat loss for non-threatened and endangered, strategy species (16 acres under the Selected Alternative compared to 66 acres and 62 acres under the East DS1 and East DS2 Alternatives, respectively)
- **Invasive Species.** Fewer acres of ground disturbed during construction, resulting in less potential for spread of invasive species (115 acres under the Selected Alternative compared to 140 acres and 132 acres under the East DS1 and East DS2 Alternatives, respectively)
- **Noise.** Fewer noise impacts (21 sites impacts under the Selected Alternative compared to 23 sites and 26 sites under the East DS1 and East DS2 Alternatives, respectively)
- **Geology.** Fewer acres of ground disturbance (115 acres under the Selected Alternative compared to 140 acres and 132 acres under the East DS1 and East DS2 Alternatives, respectively)

Although there are some cases where the Selected Alternative would have the same impacts as the East DS1 and East DS2 Alternatives (e.g., the loss of approximately 70 linear feet of habitat linkage feature through piping of the Swalley Riley Lateral), there are very few cases where the Selected Alternative would have slightly more impacts than the East DS1 or East DS2 Alternatives:

- The Selected Alternative will result one more business displacement (44 businesses) than the East DS1 Alternative (43 businesses)

- The Selected Alternative will result in noise impacts at 67 residences/8 businesses compared to 59 residences/5 businesses and 63 residences/5 businesses under the East DS1 and East DS2 Alternatives, respectively.

The difference in impact levels in these cases is minor. Section 4 below lists the mitigation commitments for the US 97 Bend North Corridor project.

Environmentally Preferred Alternative

Because the Selected Alternative will result in overall fewer impacts than the East DS1 and East DS2 Alternatives, the Selected Alternative is the environmentally preferred alternative. The Selected Alternative minimized impacts to neighborhoods east of US 97 and to rural residential properties outside the UGB north of Cooley Road and west of US 97. These lessor impacts outweigh the two instances described above in which the Selected Alternative has slightly more impacts than the East DS1 or East DS2 Alternatives. The Selected Alternative will promote the national environmental policy as expressed in NEPA's Section 101 because it causes the least damage to the biological and physical environment and best protects, preserves, and enhances historic, cultural, and natural resources when compared to the East DS1 and East DS2 Alternatives.

3. SECTION 4(F) FINDING

The US 97 Bend North Corridor project required an individual Section 4(f) evaluation. The project includes one Section 4(f) use finding:

- July 24, 2014, Nels and Lillian Andersen House, Final Section 4(f) Determination concluded there is no feasible and prudent alternative to the use of land from the Nels and Lillian Andersen House and the proposed action includes all possible planning to minimize harm to the Nels and Lillian Andersen House resulting from such use.

The project also includes the following Section 4(f) *de minimis* findings:

- November 7, 2013, Oregon Trunk Railway
- November 12, 2013, Swalley Main Canal and associated laterals.

Each FHWA Section 4(f) *de minimis* finding is included in Appendix L of the Final EIS. The individual Section 4(f) evaluation was published with the Final EIS.

4. MEASURES TO MINIMIZE HARM

All practicable measures to minimize harm have been incorporated into the Selected Alternative.

4.1 FINAL EIS MITIGATION COMMITMENTS

Following is a summary of mitigation commitments for the US 97 Bend North Corridor project as described in the Final EIS. These mitigation commitments are hereby made to be part of the project and will be complete with the delivery of the project. Measures are grouped by environmental subject area and are further defined, where applicable.

Transportation

- ODOT will prepare the overall traffic management plan, work zone traffic control plans, and a public involvement plan
- ODOT will shield and/or focus construction lighting in work areas to minimize glare and spillover of ambient light into adjacent areas.

Land Use

- ODOT will coordinate with the Oregon Transportation Commission to apply the bypass, expressway, and freight route designations to the realigned portions of US 97.

Right-of-Way and Utilities

Project Design

- ODOT will perform early coordination with utility providers for review of preliminary plans to avoid delays to utility relocation work
- ODOT will acquire new right of way and utility easements prior to construction to minimize delays to utility relocation work
- ODOT will conduct a type, size, and location study for bridge and pipe crossings
- ODOT will locate drainage swales, stormwater treatment facilities, traffic signals, lighting, and sign bridge foundations and will take existing utility facilities into account and minimize conflicts to the extent possible
- ODOT will consider existing utility facilities when designing the vertical and horizontal roadway alignments to minimize impacts to utilities where possible
- ODOT will continue to coordinate with the Swalley Irrigation District during the project design phase to identify and avoid or minimize construction impacts
- ODOT will design any replacement of Swalley Irrigation Facilities to meet the Swalley Irrigation District's standards or obtain approval by the Swalley Irrigation District manager
- ODOT will protect and maintain access to Swalley Irrigation Facilities
- ODOT will follow Swalley Irrigation District policies with regard to private laterals
- ODOT will restore the District to full function according to Federal Relocation Policy and Guidelines set forth in 23 CFR 645.

Project Construction

- ODOT will identify utilities experiencing construction conflicts, notify the utility owners of the conflicts, and approve a utility relocation plan for the utility owners to implement
- ODOT will allow utility providers to utilize public right of way for temporary or permanent relocation of facilities
- ODOT will protect and maintain access to Swalley Irrigation Facilities during construction
- ODOT will coordinate with the Swalley Irrigation District during construction and perform construction activities on Swalley Irrigation Facilities outside of irrigation season and winter stock runs, unless other arrangements are made with the Swalley Irrigation District.

Environmental Justice

No avoidance, minimization and/or mitigation commitments are needed.

Socioeconomics

- ODOT will preserve southbound access from the Public Safety Complex onto US 20
- Maintain access to businesses and residences that are not displaced by including local street connections in the proposed action.

Parks and Recreational Facilities

- Construction of a trail crossing under US 97 as shown in Exhibit 2-3 FEIS (Map 3) and Exhibit 3-61D FEIS to accommodate bicyclists and pedestrians on the planned extension of the North Parkway Trail between Empire Avenue and Robal Road.

Historic Resources

- ODOT will complete one of three options, up to a maximum cost of \$30,000, to resolve adverse effects to the Nels Andersen House:
 - Option 1: Removal and Relocation of the Andersen House (when ODOT possesses the Andersen House and a qualified party is selected to relocate the Andersen House)
 - Option 2: Provide content and funding for Des Chutes County Historical Museum's architectural walking tour mobile application and demolition of the Andersen House (when ODOT possesses the Andersen House and a qualified party is not identified to relocate the Andersen House)
 - Option 3: Provide content and funding for Des Chutes County Historical Museum's architectural walking tour mobile application (when ODOT does not possess the Andersen House but removes vehicular access from the parcel upon which the Andersen House is located)
- ODOT will develop and implement an inadvertent discovery plan prior to construction. This plan will specify a protocol for halting construction work if unidentified archaeological resources or human remains are encountered. This protocol will specify that the Oregon State Historic Preservation Office, the Confederated Tribes of Warm Springs, the Burns Paiute Tribe and the Klamath Tribe will be notified so that the significance of the discovery could be evaluated and the appropriate course of action could be implemented.
- ODOT will survey properties within the Area of Potential Effect that have not yet been surveyed for archaeological resources as the right of way is purchased and ODOT takes ownership.

Visual Resources

- ODOT will apply color and aesthetic treatment like texturizing and scoring to structures such as retaining walls, medians, and bridge abutments to facilitate a common visual theme with other highway structures and colors in Central Oregon
- ODOT will follow the Structural Component Aesthetic Treatment Plan for the US 97 Bend North Corridor Project to the extent practical
- ODOT will contour cuts and fills to visually blend with the surrounding landscape where feasible
- ODOT will utilize street light technology that minimizes ambient spillover light into adjacent areas

- ODOT will remove as few mature trees as possible, and will retain as many rock features and lava pressure ridges as possible to reflect the vegetation and landform of the surrounding landscape
- ODOT will design bridges to be consistent with ODOT's Bridge Design and Drafting Manual or equivalent.

Water Quality

Project Design

- ODOT will continue coordination during the project design phase with the Swalley Irrigation District related to the location of stormwater ponds and canal and lateral crossings in relation to their irrigation facilities
- ODOT will prepare a groundwater protection plan that will:
 - Identify and confirm the location of groundwater resources within the API through field surveys and contacts with landowners before construction
 - Identify the procedures to sample wells within 150 feet of planned subsurface construction activities before construction to obtain water quality and water volume yield data for each sampling point.
- ODOT will prepare an erosion and sediment control plan, a pollution prevention plan and a spill prevention control and countermeasures plan.

Project Construction

- ODOT will require the contractor to implement temporary and permanent erosion control best management practices as needed during all phases of construction to prevent unnecessary soil disturbance and limit vegetation removal to protect water resources
- ODOT will require the contractor to implement pollution prevention and spill prevention control and countermeasures best management practices with regard to fueling of construction equipment, fuel storage and secondary containment with impermeable lining, and having spill containment equipment and supplies maintained on site to protect groundwater resources
- ODOT will arrange for a temporary water supply through a local supplier and make the necessary repairs to any well that has a diminished water supply due to subsurface construction activities, or install another comparable well
- ODOT will coordinate the timing of the installation of new crossings of the Swalley Irrigation District facilities with the district.

Natural Systems and Communities

Project Design

- ODOT will design vegetation restoration plans to prevent the establishment of non-native/invasive plants to the greatest extent feasible by specifying native plants and seed mixes.

Project Construction

- ODOT will coordinate with the Oregon Department of Fish and Wildlife to minimize impacts to habitat

- ODOT will implement temporary and permanent best management practices as needed during all phases of construction to prevent unnecessary soil compaction and limit vegetation removal where feasible, and in coordination with the Oregon Department of Fish and Wildlife.

Wetlands and Other Waters

Project Design

- If construction takes place near open laterals, best management practices would take place to avoid adverse impacts to irrigation water.

Project Construction

- ODOT will require the contractor to implement temporary and permanent erosion control best management practices as needed during all phases of construction including both vegetative control and engineered controls
- ODOT will require all contractors to implement a pollution control plan and an erosion and sediment control plan which will include provisions for:
 - Locating staging and storage areas away from unpiped and piped canals and laterals
 - Refueling or servicing machinery at least 150 feet away from the canals and laterals
 - Cleaning equipment and checking for leaks at least 150 feet away from the canals and laterals.

Threatened and Endangered Species

No avoidance, minimization and/or mitigation commitments related to federal or state threatened and endangered species are needed.

Non-Threatened or Endangered Species

For non-threatened or endangered species ODOT makes the same commitments as identified for Natural Systems and Communities and Invasive Species.

Invasive Species

Project Design

- ODOT will design vegetation restoration plans to prevent the establishment of non-native/invasive plants to the greatest extent feasible by specifying native plants and seed mixes
- ODOT will identify and verify locations of known populations of invasive species on plan sheets and call out treatment method including removal or spraying prior to construction activities.

Project Construction

- ODOT will implement temporary and permanent best management practices as needed during all phases of construction to prevent the spread of invasive plants
- ODOT will remove any populations of invasive plants within the construction area prior to ground-disturbing activities.

Air Quality

- ODOT will require the contractor to establish truck staging areas for diesel-powered vehicles located where truck emissions have a minimum impact on sensitive populations, such as residences, schools, hospitals and nursing homes

- ODOT will require the contractor to prevent airborne dust and fugitive dust emissions from construction activities including rock, concrete, and asphalt crushing operations
- ODOT will require the contractor to not use oil, waste, waste water or other illegal materials as dust suppressants.

Noise

- During final design of the Preferred Alternative, ODOT will update the feasible and reasonable analysis for a potential noise barrier(s) which would be placed east of US 97 to reduce predicted traffic noise impacts at the Hilltop and Juniper mobile home parks as shown in Exhibit 3-94 FEIS in the Final EIS. This noise barrier is referred to as “Noise Barrier for Sites 171, 172, 182, and 183” in the Final EIS and Noise Technical Report.

Energy

- ODOT will require the contractor to limit idling of construction equipment to the greatest extent possible/feasible or as directed by the ODOT construction project manager
- ODOT will require the contractor to locate staging areas as close to work sites as feasible or as directed by the ODOT construction project manager
- ODOT will require the contractor to implement traffic management plans that minimize delay and vehicle idling to the extent possible or as directed by the ODOT construction project manager.

Geology

Project Design

- ODOT will design embankments such that they are placed on rock or firm subgrade soils to avoid long-term settlement.

Project Construction

- ODOT will require the contractor to implement temporary and permanent erosion control best management practices as needed during all phases of construction including both vegetative control and engineered controls.

Hazardous Materials

- ODOT will conduct asbestos and lead-based paint surveys on structures to be demolished
- ODOT will conduct Level 1 Site Assessments and Level 2 Preliminary Site Investigations, when recommended by the Level 1 Site Assessments, for properties to be acquired
- ODOT will coordinate with utility providers to remove and relocate utilities that contain hazardous materials, such as transformers containing PCBs, as necessary
- ODOT will confirm the presence/absence of contamination where contamination is reasonably suspected by collecting soil and groundwater (if encountered) samples for laboratory analysis prior to construction. If contamination is confirmed in areas that will be disturbed or excavated during construction, special provisions will be prepared to address regulatory compliance for worker safety and the handling and disposal of contaminated media. If unexpected contamination is encountered during construction, work will stop until a qualified hazardous materials subcontractor can be mobilized to address the contaminated media.

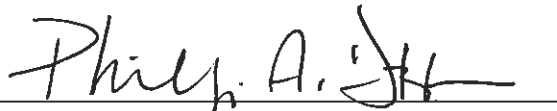
- ODOT will require the contractor to prepare a Hazardous Substance Health and Safety Plan and a Contaminant Management Plan prior to construction if there is a likelihood of encountering contaminated media.

5. MONITORING OR ENFORCEMENT PROGRAM

All mitigation measures from this ROD will be entered into the ODOT Environmental Commitment Tracking System. This system allows ODOT and FHWA to track the implementation of mitigation measures during and after construction. A copy of the tracking sheet will be part of the plans and specifications in the construction office. The information will be readily available to all construction and inspection personnel.

RECORD OF DECISION APPROVAL

Based on the systematic, interdisciplinary analysis contained in the US 97 Bend North Corridor Final EIS, careful consideration of social, economic, and environmental factors, and input received from other agencies, organizations, and the public, FHWA approves the East DS2 Modified Alternative as the Selected Alternative for the US 97 Bend North Corridor project.



Phillip A. Ditzler
Oregon Division Administrator
Federal Highway Administration



Date

Appendix A

Record of Public Comments on the Final EIS and Responses

Responses to individual comments are provided in the following order.

Comment Code	Agency	Agency Representative
A1	City of Bend	Nick Arnis
A2	City of Bend	Nick Arnis
A3	US Environmental Protection Agency	Christine Reichgott

Comment Code	Name of Commenter
P1	Tony Brown
P2	Alan Sandner
P3	Henry Keesling
P4	Neil Bryant, Bryant, Lovlien & Jarvis, PC on behalf of the CVSC, LLC
P5	Toby Bayard
P6	Michel Bayard on behalf of the Hunnell United Neighbors
P7	Elizabeth Dickson, Hurley RE, PC on behalf of Bend Center LLC
P8	Neil Bryant, Bryant, Lovlien & Jarvis, PC on behalf of the CVSC, LLC

A1: Nick Arnis

From: Nick Arnis [mailto:narnis@bendoregon.gov]
Sent: Friday, August 29, 2014 2:45 PM
To: PREIFFER Amy L; BRYANT James R
Subject: FEIS and final outcomes with the city

Hi Amy and Jim,

I spoke with Neil Bryant today and he forwarded me an email he sent and received from Amy. He brought to my attention the location in the FEIS of the city TSP outcomes. I will take a look also. The concern is that the outcomes from the city TSP amendment are buried in the document and likely very difficult to access or find years from now when design and construction may occur. I am wondering if there is a way to create an ODOT supplement or implementation strategy for the FEIS that is included with the EIS that is meant more as a next guide that could include the information in Exhibit N or draws out that information in an easy way for others after us. I would like to know your thoughts and I will give you a call next week. Thanks .

Nick Arnis, Director
Growth Management Department

PUBLIC RECORDS LAW DISCLOSURE: Emails are generally public records and therefore subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. Emails can be sent inadvertently to unintended recipients and contain confidential or privileged information. If you are not the intended recipient (or authorized to receive for the recipient), please advise by return email and delete immediately without reading or forwarding to others. Thank you.

001

The amendment to the City of Bend's Transportation System Plan (TSP) to incorporate the Preferred Alternative into the Plan was approved on March 8, 2014 by the City of Bend's City Council. Consistency of the Preferred Alternative with the City's amended TSP is documented in Section 3.2.3 and Appendix M of the Final EIS. As this comment letter points out, Appendix N of the Final EIS, Topic 13 – Additional connectivity to businesses in the Robal Road vicinity, describes that the City and ODOT will coordinate to conduct a project development plan and design for the Robal Road area. A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS. Therefore, we have determined that no further revisions to the EIS are needed.

001

M e m o r a n d u m

To: Amy Pfeiffer, ODOT Region 4 Planning and
Environmental Manager

From: Nick Arnis, Growth Management Director

Subject: Final Environmental Impact Statement (FEIS)
comments

Date: September 8, 2014



Thank you for the opportunity to comment on the FEIS.

The EIS process included the amendment of the City Transportation System Plan (TSP). During the TSP adoption process with the Planning Commission and the City Council, there were lengthy discussions about the Robal Road intersection and the Empire Interchange area. ODOT, City, and local property owners and businesses agreed to language in the TSP for future analysis and conditions when the design process begins after the record of decision.

Exhibit N references "Topic" a reas relating to the TSP amendment issues. The FEIS is a large document of ideas, information, data and discussion over many years of study. I think the important results and outcomes of the TSP amendment process are too deep in the EIS document in Exhibit N and may not be found by future City and ODOT officials and the public when the planning and design begins that implements the FEIS preferred alternative.

I recommend a section be included in the Executive Summary about the City TSP amendment process and outcomes. Sections ES6 "Identified Areas of Concern" or ES7 "Permits and Approvals Needed" are possible locations for the TSP amendment process. My preference is to include the TSP discussion in the Executive Summary, if that is not possible, please consider a supplement to the FEIS from ODOT that describes the implementation strategy that includes the outcomes of the TSP amendment.

Thank you for your consideration.

001

Thank you for your review of the Final EIS. The amendment to the City of Bend's Transportation System Plan (TSP) to incorporate the Preferred Alternative into the Plan was approved on March 8, 2014 by the City of Bend's City Council. Consistency of the Preferred Alternative with the City's amended TSP is documented in Section 3.2.3 and Appendix M of the Final EIS.

As this comment letter points out, Appendix N of the Final EIS, Topic 13 – Additional connectivity to businesses in the Robal Road vicinity, describes that the City and ODOT will coordinate to conduct a project development plan and design for the Robal Road area. A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS. Therefore, we have determined that no further revisions to the Final EIS are needed.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, FISH, AND
PUBLIC AFFAIRS

September 8, 2014

Mr. Anthony Bessen
Federal Highway Administration
530 Center Street NE, Suite 420
Salem, Oregon 97301

Ms. Amy Pfeiffer
ODOT Region 4
63055 N. Highway 97, Bldg M
Bend, Oregon 97701

Re: US 97 Bend North Corridor Project Final Environmental Impact Statement and Final Section
4(f) Evaluation, EPA Region 10 Project Number: 08-006-FHW

Dear Mr. Bessen and Ms. Pfeiffer:

The U.S. Environmental Protection Agency has reviewed the Final EIS for the US 97 Bend North Corridor Project. We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act.

We would like to commend FHWA and ODOT for an outstanding NEPA process and Final EIS for the US 97 Bend North Corridor Project. We are pleased that all issues identified as being unresolved in the Draft EIS have been successfully resolved, and that all of the comments and recommendations we submitted for the Draft EIS have received a thoughtful, thorough, and helpful response. A few of the highlights include:

- A 2011 traffic analysis to update the 2007 pre-economic recession analysis in the DEIS.
- A Preferred Alternative that modifies and improves the East DS2 Alternative in response to public and agency comments. The Preferred Alternative:
 - Incorporates an array of transportation system management and transportation demand management strategies;
 - Includes many bicycle-pedestrian improvements that provide non-motorized access throughout the project area, including separated multi-use paths along US 20 and US 97;
 - Maintains existing access to US 97 for disadvantaged populations and others with the 3rd Street signalized intersection and multi-use path connection;
 - Substantially decreases impacts to western juniper woodlands and shrub-steppe habitats, prime farmland and farmland of statewide importance, and acres of ground disturbance;
 - Avoids the need for exceptions to statewide planning goals;
 - Minimizes displacements and impacts to community cohesion.

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Thank you for your review of the US 97 Bend North Corridor Final EIS. We are pleased to hear that the U.S. Environmental Protection Agency (EPA) is highly satisfied with the Final EIS. ODOT and FHWA worked diligently to resolve all unresolved issues identified in the Draft EIS, develop a Preferred Alternative that meets the community's needs, and update the data and analyses for the Final EIS, where applicable. ODOT and FHWA also emphasized understanding, responding to, and incorporating, where applicable, all agency and public comments received on the Draft EIS and Final EIS. We very much appreciate our close working relationship and the EPA staff visit to Oregon in July 2013 for the field review of this project and others.

001 Cont.

- Completion of all identified MPO and local government planning actions/updates together with a discussion of how the transportation planning process and the proposed project comply with SAFETEA-LU Section 6001.
- Identification of sensitive receptors for mobile source air toxics in the area of potential impacts and refinements to air quality construction mitigation measures.
- Decreased construction activity within wellhead protection areas.
- Consideration of impacts with respect to children's health and safety per Executive Order 13045.

We also appreciate the clarity of the Final EIS, which facilitates review by presenting new information in orange print – a practice we hope will be broadly adopted.

Thank you for the opportunity to participate in the NEPA process for the US 97 Bend North Corridor Project and, in particular, for providing an informative site visit in July, 2013. If we can be of further assistance, please contact me at (206) 553-1601 or via electronic mail at reichgott.christine@epa.gov, or contact Elaine Somers of my staff at (206) 553-2966 or via electronic mail at somers.elaine@epa.gov.

Sincerely,



Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit



P1: Tony Brown

From: noreply@us97solutions.org [mailto:noreply@us97solutions.org]

Sent: Friday, August 08, 2014 12:32 PM

To: info@us97solutions.org

Subject: US97 Bend North Corridor Website - Comment/Mailing List Form Submission

First Name : Tony

Last Name : Brown

Street Address : 1830 NW Ivy Ave

City : Redmond

State : OR

Zip Code : 97756

Phone :

Email : brownag@eou.edu

Add to Mailing List : Yes

Comments/Questions :

The proposed re-route of HWY 97 in North Bend looks good. My wife drives this route daily and I drive it twice a week, during rush hour.

I'd love to see NO traffic lights on the north end and instead have an overpass with on/off ramps. I understand this would dramatically increase the cost, but I strongly believe that in the long run it will be needed and I'm a fan of doing it right the first time, even if it cost more money now (as it will save us money in the long run).

Thanks for the opportunity to share my thoughts.

Tony

001

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We appreciate your expression of support for the project and the Preferred Alternative. In response to comments on the Draft EIS, the northern interchange proposed under the East DS1 and East DS2 Alternatives, as presented in the Draft EIS, was replaced with a signalized intersection under the Preferred Alternative to minimize impacts to rural residential properties north of Cooley Road and west of US 97. Cost was considered during the development of the alternatives considered in the Draft EIS.

Please also see Section 2.6 of the Final EIS, Appendix N of the Final EIS, Topic 1 – How analysis of neighborhood impacts (including Hunnell, Boyd Acres and Rock O' the Range areas) influenced identification of the Preferred Alternative and Topic 32 – Range of alternatives, alternatives screening and identification of the Preferred Alternative.

P2: Alan Sandner

From: noreply@us97solutions.org [mailto:noreply@us97solutions.org]
Sent: Sunday, August 10, 2014 2:41 PM
To: info@us97solutions.org
Subject: US97 Bend North Corridor Website - Comment/Mailing List Form Submission

First Name : Alan
Last Name : Sandner
Street Address : 19695 Ridgewood Dr.
City : Bend
State : OR
Zip Code : 97701
Phone : 541-312-4712
Email : asand@bendbroadband.com
Add to Mailing List : Yes

Comments/Questions :

Another Case of wasting a pile of taxpayer money to accomplish nothing!

001 | You simply moved the congestion 1.4 mile further north.

I sometimes wonder if the traffic engineers have ever driven a car?!!

002 | There are fairly simple solutions that would solve the problem, but what is being done is a total waste.

001

ODOT and FHWA performed extensive traffic analysis to inform the development of project alternatives as well as analyze traffic operations within a larger study area; please see Section 3.1 in the Final EIS for a description of the Transportation Area of Potential Impacts and the resulting traffic analysis that demonstrates improved traffic operations with less congestion resulting from the Preferred Alternative compared to the No Build Alternative.

002

ODOT and FHWA considered 166 comment submissions (letters, testimony, email) on the Draft EIS to develop and identify the Preferred Alternative, which minimizes neighborhood impacts compared to the East DS1 and East DS2 Alternatives studied in the Draft EIS while also meeting the project's purpose and need as stated in Section 2.6.1 of the Final EIS. ODOT and FHWA evaluated a preliminary range of 21 build alternatives which varied from simple to more complex solutions. The Preferred Alternative was developed in response to comments received on the Draft EIS. Overall, the Preferred Alternative met the project's purpose and need to reduce congestion, increase traffic flow, and improve safety while minimizing impacts to the community.

Please also see Section 2.6 of the Final EIS and Appendix N of the Final EIS, Topic 1 – How analysis of neighborhood impacts (including Hunnell, Boyd Acres and Rock O' the Range areas) influenced identification of the Preferred Alternative, Topic 32 – Range of alternatives, alternatives screening and identification of the Preferred Alternative, and Topic 35 – Purpose and need; goals and objectives.

P3: Henry Keesling

From: Hal Keesling [mailto:halkeesling@yahoo.com]
Sent: Monday, August 11, 2014 12:32 PM
To: PFEIFFER Amy L
Subject: 97 highway

Looking at the EIS I see that the intersection at Old Bend Redmond highway and 20 is not discussed. With all of the planning in this area it seems that that intersection has been left out. Due to the proposed traffic increases along 20 it would be prudent to place a signal at this location.

001

Nice work on the rest of the EIS.

Henry Keesling

001

Thank you for your expression of support regarding the Final EIS. While the US 97 Bend North Corridor project area and improvements does not include the intersection of the Old Bend Redmond Highway and US 20, roadway improvements to this intersection are considered a current and reasonably foreseeable action in the cumulative impacts study area, as shown in Exhibit 4-4 FEIS in Chapter 4 of the Final EIS. For more information regarding Deschutes County's plans for a grade-separated intersection at US 20/Old Bend Redmond Highway, please refer to Chapter 5, Table 5.3.T2 of the Deschutes County Transportation System Plan Update 2010-2030 (<http://www.deschutes.org/DeschutesOrg/files/87/875065d8-9f56-4c4f-9fa5-a97b06202ea5.pdf>).

From: Mary McCord <Mary@bjlawyers.com> on behalf of Neil Bryant
 Sent: Friday, August 15, 2014 12:20 PM
 To: PFEFFER Amy L; HEACOCK Jon W
 Cc: atykeson@bendbroadband.net; Jeremy Green; kevin.burnes@sina.net
 martinpc@cdsmith.com; Neil Bryant
 Subject: US 97 Bend North Corridor Project Final Environmental Impact Statement

Dear Amy and Jon:

I have briefly reviewed the US 97 Bend North Corridor Project Final Environmental Impact Statement ("EIS"). I did not find any reference to the TSP amendments adopted by the city of Bend specifically relating to Robal Road and Empire Avenue. Both were to have project development and design studies. In the case of Robal Road, a portion of that study would determine whether or not there should be a connection to US 97. I understand why these studies have not begun. The recommendations from Trip 97 are a factor concerning Robal Road. The only reference I found was on page 2-24 which stated:

"The preferred alternative will not preclude other future, independent improvements to US 97, such as a direct connection between US 97 and Highway 20, a new northern interchange, or a connection between US 97 and Robal Road."

Am I missing something? Is there any other reference about the final decision not being made?

Concerning Empire Avenue, I continue to represent Bend Broadband. Again, I could find no reference to the TSP amendments or the study. It appears that the access point for the car wash and Dairy Queen are eliminated. Am I correct? Also, does the widening of Empire require any of the Bend Broadband underground infrastructure to be moved? Please point out if I am missing something.

Neil

Neil R. Bryant Attorney & Shareholder
 E: neil@bjlawyers.com | P: 541-382-4331 | F: 541-389-3386 | 591 SW Mill View Way, Bend, OR 97702 | www.bjlawyers.com



BRYANT, LOVLIN & JARVIS

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001

Thank you for your inquiry on the US 97 Bend North Corridor Final EIS. There are additional references to this future work in the FEIS. Please see, Appendix N of the Final EIS, Topic 13 – Additional connectivity to businesses in the Robal Road vicinity, which describes that the City of Bend and ODOT will coordinate to conduct a project development plan and design for the Robal Road area. Any action that would consider a future connection in the Robal Road area is not part of the US 97 Bend North Corridor project and therefore is not included in the Preferred Alternative. City of Bend TSP amendments relating to this future work would only occur after that work is completed.

A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS. Future access closures on Empire Avenue are discussed in Appendix N of the Final EIS, Topic 6 – Truck and traffic movements on Mervin Sampels Road and Sherman Road closure.

The amendment to the City of Bend's Transportation System Plan (TSP) to incorporate the Preferred Alternative into the TSP was approved on March 8, 2014 by the City of Bend's City Council. Consistency of the Preferred Alternative with the City's amended TSP is documented in Section 3.2.3 and Appendix M of the Final EIS.

002

Information provided in Appendix N of the Final EIS addresses the concerns listed in your letter.

- TSP amendments: Topic 13 – Additional connectivity to businesses in the Robal Road vicinity and P4 001 response.
- Exhibit 2-3 FEIS in the Final EIS shows that the access to the car wash and Dairy Queen will be closed. This access closure will be addressed through coordination with the City of Bend, who has jurisdiction. Please also see Topic 6 – Truck and traffic movements on Mervin Sampels Road and Sherman Road closure.
- Bend Broadband: Please see Topic 11 – Bend Broadband utilities and property, as well as the response to Bend Broadband's comments on the Draft EIS (Comments P67 and P129). Impacts, if any, to Bend Broadband's underground utilities will be identified during the final design phase of the project. ODOT will coordinate directly with Bend Broadband if any underground utilities will need to be relocated.

P5: Toby Bayard

From: Toby Bayard [mailto:tobybayard@hotmail.com]
Sent: Saturday, August 30, 2014 7:05 PM
To: PFEIFFER Amy L
Cc: HOLLOWAY Rex A; Michel L Bayard
Subject: Thanks for the CD

Hi Amy,

Michel and I are back from a long sojourn through the San Juans and have assembled a small group of HUNS to review the FEIS. We really thank you for the CD you mailed to us.

So far, things are looking really great and we are pleased that ODOT considered and addressed so many of our comments.

Many new people have moved into this area; not all are HUNS (in that not all have contributed to the reserve of funds that we maintain) but happily, the vast majority have very similar ideas about how this area should "develop" or rather, not develop. We've tried to reach out to as many as possible and educate them about this project. So far so good.

We will be submitting the HUNS comments before the deadline. We're still divvying up tasks and doing some quick NEPA training. We have (so far) very few comments and those we do have are mostly favorable.

None of the new residents will be submitting comments because, of course, they did not comment on the DEIS.

Best,

Toby Bayard
Call to Action Coordinator – HUNS

001

Thank you for confirming the Final EIS CD was successfully delivered. ODOT and FHWA worked diligently to understand, respond to, and incorporate, where applicable, all comments received on the Draft EIS. ODOT and FHWA have addressed comments on the Final EIS with the same commitment and care as was applied while responding to Draft EIS comments.

001

Hunnell United Neighbors Comments – US97 Bend North Corridor FEIS

September 6, 2014

Amy Pfeiffer
Environmental Project Manager
ODOT Region 4
63055 N Highway 97
Building M
Bend, OR 97701

SUBJECT: Hunnell United Neighbors Comments on FEIS – US97 Bend North Corridor Solutions Project

Dear Ms. Pfeiffer:

Representatives of the Hunnell United Neighbors (HUNS) who have legal standing with regards to the Oregon Department of Transportation (ODOT) Region 4's US97 Bend North Corridor Solutions Project are submitting these comments on the Final Environmental Impact Statement (FEIS).

Based on a detained detailed inspection of the FEIS and related Appendices, the HUNS conclude that the Preferred Alternative (Modified East DS2) provides a solid long-term solution for the traffic congestion and safety problems described in Chapter 1, Purpose of and Need for the Proposed Action. We support this solution, although we have some concerns about its legal viability as it relates to the FHWA's funding and approval procedures as they are defined under NEPA.

The HUNS accept that the Preferred Alternative as described in the FEIS is a legally-compliant modification of the earlier East DS2 alternative, which was presented in the project's Draft EIS (DEIS). We are also satisfied that ODOT's public outreach program, as it was designed, sufficiently drew out the HUNS comments and concerns. We compliment ODOT for hearing and responding to the many well-documented concerns of the HUNS (and the HUNS' legal proxy, Bruce and Susan Levin, who were represented by local land use attorney Paul Dewey) regarding the numerous foreseeable actions, indirect effects and cumulative impacts that could be reasonably expected to occur if the East DS1 alternative had become the Preferred Alternative. We believe that ODOT's East DS2 Modified Alternative is in the HUNS' overall best interests and we support it.

While HUNS take exception to the Oregon Transportation Commission's (OTC) expressway designation of the portion of US97 that passed through the proposed project's six-mile corridor, we also understand that the TRIP97 Partnership is reviewing the designation and pursuing collaborative solutions that maximize investments and make the best corridor management decisions for the region. We hope and anticipate that the Trip 97 Partnership will recommend to the OTC that the expressway designation be eased. Further, we understand that the expressway designation is not the subject of this proposed action and that our exceptions have no bearing on decisions made by the OTC.

1 | Page

001

Thank you for your comment. We are pleased to hear that the HUNS support the Preferred Alternative and appreciate the HUNS participation throughout the project. ODOT and FHWA worked diligently to understand, respond to, and incorporate, where applicable, all comments received on the Draft EIS. We are pleased to hear that those efforts have been successful in accounting for the comments and concerns of the HUNS.

002

We acknowledge your expressed exception to the expressway designation of a section of US 97 within the US 97 Bend North Corridor's project limits and agree that it is not within the scope of this project to change that designation. The expressway designation is addressed in Appendix N of the Final EIS, Topic 27 – Expressway designation.

001

002

Hunnell United Neighbors Comments- US97 Bend North Corridor FEIS

The HUNS appreciate that the Preferred Alternative requires no exceptions to Oregon's Statewide Land Use Planning Goals, specifically Goals 11 and 14, and that it does not further urbanize our rural area. We also strongly support the removal of a Northern Interchange from consideration and its replacement with a signalized at-grade connection between the northern extension of 3rd Street and US97. Clearly, this yields a much improved and less costly solution that preserves the rural character of the HUNS area.

A few minor points were noted by the HUNS who reviewed the FEIS:

- Some members of the HUNS, particularly those residing in the Bowery Lane, Quail Haven, and Hunnell Road portions of our declared territory, are Swalley Irrigation District (SID) patrons. These members have concerns regarding the required 380 feet of piping that is required by the East DS2 Modified Alternative. Specifically, 70 linear feet of the Swalley Riley Lateral, associated with the Swalley Main Canal Pipeline, must be piped for the extension of Britta Street, and five existing culverts for the Swalley Rogers Lateral must be lengthened by 310 feet for the realignment of US 97 and US 20. For those HUNS who are also Swalley patrons, these concerns are financial. We ask that ODOT compensate SID for impacts to its infrastructure and request that ODOT provide us with a more detailed explanation of how impacts to the Swalley Riley Lateral are to be mitigated so that Swalley patrons suffer no financial or operational damage.

- One member of the HUNS wanted ODOT to provide a minor correction to FEIS Chapter 1, page 1-17, Exhibit 1-8 FEIS, which addresses crashes. The exhibit is labeled 2006- 2011 but the data appears to be from 2004-2009. This problem continues on page 1-22, where the FEIS states, "Updated data from 2006 to 2011 shows that the total number of crashes each year between 2006 and 2011 varied from 29 to 44 (Exhibit 1-8 FEIS)" but the data appears to be from 2004-2009.

- Several HUNS who reside on Bowery Lane (all of whom have standing) want ODOT to correct the map in Chapter 1, page 1-23, Exhibit 1-13: Exhibit 1-13. It fails to show a private driveway belonging to Jerry Morris, 20710 Bowery Lane, Bend, OR 97701. While the Morris residence is reached from Bowery Lane, its occupants frequently conduct huge junk sales in a field accessed via a private drive from US97. At times, dozens of vehicles enter / exit this driveway-certainly more than those accessing a private residence. Signs advertising junk/garage sales are visible from US97 only at the last minute in both directions of travel. This leads drivers on US97 to stop suddenly--in one instance, even to back-up in the right-most southbound lane--US97, nearly causing a collision with the vehicle following her who happened to be a HUNS resident. We ask that ODOT update its Exhibit 1-13 to recognize this private driveway and that it work with Deschutes County to eliminate this "illegal" and dangerous access.

- Nowhere in Chapter 9 were the HUNS listed on the distribution list as recipients of Final Environmental Impact Statement, yet Amy Pfeiffer mailed a CD to Toby Bayard of the HUNS on August 8, 2014. The HUNS are clearly stakeholders in the US 97 Bend North Corridor Solutions project. We would have liked to be listed in Chapter 9 as recipients of the FEIS.

2 | Page

003

ODOT and FHWA considered all comments submitted on the Draft EIS, which factored into developing the Preferred Alternative to avoid the need for a goal exception and stay within the City of Bend's urban growth boundary except for the extension of Britta Street and the roundabout at Cooley Road and O.B. Riley Road. Please also see Appendix N of the Final EIS, Topic 5 – Statewide goal exceptions.

004

ODOT and FHWA maintain continued coordination with the Swalley Irrigation District regarding the impacts to the Swalley Irrigation District's facilities associated with the Preferred Alternative and associated mitigation. Reimbursement from ODOT to the Swalley Irrigation District includes costs to modify or relocate Swalley Irrigation District facilities and engineering expenses accrued by the Swalley Irrigation District, such as mapping their existing facilities relative to the Preferred Alternative. ODOT will reimburse the Swalley Irrigation District for any impacts under the Preferred Alternative. The reimbursable costs to Swalley Irrigation District from ODOT are estimated at \$1.5 million (in 2014 dollars), as presented in the Final EIS Utility Technical Report and in the response published in Appendix N of the Final EIS to the Swalley Irrigation District's comments on the Draft EIS (Comment A3). Specific costs will be identified during the final design phase of the project; the impacts to Swalley Irrigation District facilities are reimbursable, and therefore, there will not be financial hardship to the Swalley Irrigation District or to their customers.

005

Thank you for letting us know about this technical error. The data presented in Chapter 1, page 1-17, Exhibit 1-8 FEIS, is updated data from 2006 to 2011. The header row of Exhibit 1-8 FEIS should have been labeled from 2006 to 2011 rather than 2004 to 2009. This is corrected on the errata sheet included in Appendix B in this Record of Decision (ROD). The statement on page 1-22 correctly states that the data are from 2006 to 2011.

006

ODOT and FHWA acknowledge the existence of a private driveway on US 97 for the residence at 20710 Bowery Lane that is not shown on Exhibit 1-13 in the Final EIS. ODOT has no current plans to close this approach. The Preferred Alternative does not impact this access point, so Exhibit 1-13 has not been revised, but it is noted in the errata sheet included in Appendix B of this ROD.

007

The distribution lists in Chapter 9 are limited to the agencies, tribes, and libraries that ODOT distributed the Draft and Final EIS. ODOT maintains a project mailing list

Hunnell United Neighbors Comments- US97 Bend North Corridor FEIS

- Two HUNS objected to the FEIS statement: "Roadway improvements may benefit businesses and the economy by enhancing customer/season of travel to businesses...which may result in a reduction in sales from drive-by customers. Improved traffic flow and travel times resulting from roadway improvements may also benefit the regional and state economy by improving travel conditions and predictability for freight traffic. (Emphasis added.) These HUNS note that ODOT seems to focus solely on benefits to the regional and state economy that may accrue by improving travel conditions for freight traffic. These improved travel conditions will come at the expense of the travel conditions for local traffic (estimated by ODOT to be 75 percent of total traffic).

- A majority of reviewers felt that there was incongruity between a FEIS statement and the preferred solution's mitigation measures that addressed it. Specifically, the FEIS makes a series of statements about the economic importance of the lands between US 97 and US20:

(a) "... Bend has identified the economic lands between US 97 and US 20 as an important component to its current and future economic base;

(b) "The area between US97 and US20 is widely viewed as one of the most ideal locations in the region for retail uses due to its proximity to the largest market (Bend), but also for its relatively close proximity to Sisters, Redmond, and intervening rural areas. Considering the expectations for future growth in the retail sector, existing concentration of retail uses in the US 97 / US 20 area, the number of employees present in existing uses in the area, and potential for additional employment growth, protecting and enhancing employment opportunities in this area are important to the City of Bend

(c) "This area plays a critical role in Bend's current and future economy..."

(d) (Developed as), "the largest retail commercial center in the region consisting of Jefferson, Crook and Deschutes counties, it serves as a destination for these and more distant rural locations;

(e) (Retail trade is) "one of the largest employment sectors and with the highest percentages of payroll in Deschutes County; and

(f) "The expansive growth of Bend over the last three to four decades has resulted in the construction of modern industrial and commercial buildings along US 97 and US 20, as well as in between the two highways near Robal...and Cooley Roads".

The HUNS worry that the act of eliminating connectivity between Robal Rd. and realigned US97 will result adverse economic that are amplified over time. These effects may induce changes in land use, growth rates and the socioeconomic climate of the area. We worry that these effects are likely to alter the behavior and functioning of the Cascade Village Shopping center environment by cutting off a critical means of access to it. Many HUNS are loyal patrons of Trader Joes, Dicks Sporting Goods, Food 4 Less, Home Depot, Michaels, Ross Dress for Less, World Market, Starbucks, Target, Bed Bath and

that includes nearly 1,000 individuals and organizations who requested to be notified about the project. ODOT sent both email and postcard notifications about the publication of the Final EIS on August 8, 2014, to the entire project mailing list and to all people who commented on the Draft EIS, including the HUNS. The Final EIS CD was sent to Toby Bayard as a courtesy since she submitted a large number of comments on behalf of the HUNS.

008

The Final EIS acknowledges that customers will have to learn new travel routes to some businesses, potentially impacting sales from drive-by customers. Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to this area under the Preferred Alternative. Exhibit 2-8 FEIS in Chapter 2 of the Final EIS provides a visual depiction of travel routes to this area.

As described in Section 3.1 of the Final EIS, all trips, including local trips, that travel on US 97 will experience less congestion, increased traffic flow, and improved safety compared with the No Build Alternative. Many of the local trips on the existing US 97 facility would be expected to shift to the realigned 3rd Street to travel to local destinations. Those trips on 3rd Street would also experience less congestion, increased traffic flow, and improved safety since local traffic will be separated from through traffic, which will use the new US 97 facility.

Please also see Appendix N of the Final EIS, Topic 15 – Separated through and local routes.

009

We respectfully disagree that the realigned US 97 will result in significant or long-term adverse economic impacts, including impacts to the Cascade Village Shopping Center. There are no access closures to Cascade Village Shopping Center as a result of the Preferred Alternative. Current access to the Cascade Village Shopping Center and the other shopping centers off of Robal Road will not change or be closed as a result of the Preferred Alternative. There is also one access point on existing US 97 (future 3rd Street under the Preferred Alternative) that is just south of Robal Road; under the Preferred Alternative this access point will allow right-in/right-out movements only. Today that access point provides right-in/right-out and left-in (no left out) movements; the left-in turn movement will be eliminated under the Preferred Alternative.

The Final EIS recognizes the economic importance of the commercial land between US 97 and US 20. The Final EIS discloses possible potential impacts to the Cascade Village Shopping Center. In the Final EIS, on page ES-17, Exhibit ES-5 FEIS (Map 3)

Hunnell United Neighbors Comments- US97 Bend North Corridor FEIS

Beyond and local restaurants (to name but a few). We are concerned that these retailers and local eateries will relocate due to economic impacts.

The HUNS have a "socioeconomic" interest in seeing Cascade Village remain a viable and thriving major activity center. Having so complete a major activity center in close proximity our area provides a major benefit to our residents. Realtors have even stated that this proximity enhances the value of our property. We ask ODOT to reconsider removing US97-Robal Road access to Cascade Village in its East DS2 Modified Alternative.

Concerns about consistency between the city of Bend's TSP and the Preferred Alternative

The HUNS very much support the East DS2 Modified Alternative. We appreciate all the time and effort that ODOT has invested in delivering a truly credible, functional and cost-effective solution for the US97 Bend North Corridor. We feel strongly that this alternative must be legally defensible so that the FHWA can quickly sign off on the Record of Decision (ROD). Please understand that the HUNS bring forward the following concern not as a criticism of the East DS2 Modified Alternative, but rather to strengthen ODOT's chances of gaining FHWA sign off and funding.

The FEIS states, "City of Bend: March 5, 2014 ordinance approved by Bend City Council amending the Bend Urban Area Transportation System Plan, to include the Preferred Alternative. While the "City Council adopted the findings in Exhibit B, the HUNS are not certain that Bend fully amended its Bend Area General Plan Chapter 7, Transportation Systems, Appendix C, Transportation System Plan (TSP) and TSP Maps and Appendices to achieve consistency with the preferred alternative. It is our understanding that Bend is still studying the impacts of removing the connection between Robal Road and US 97 and closing Sherman Road and an unnamed access road to the Dairy Queen and Empire Car Wash. To our knowledge, these three roadway elements still appear on Bend's TSP but do not appear on the map of the East DS2 Modified Alternative.

Additionally, the FEIS states on page M-25 (Appendix M): "The City will coordinate with ODOT to conduct a project development plan and design for the Robal Road area that includes but is not limited to public involvement and the study and analysis of the costs and benefits of a Robal Road connection to the preferred alternative. Future project costs, right of way impacts, local trip displacement impacts, land development, EIS updates, and TRIP 97 plan outcomes will greatly influence whether Robal Road is connected to the preferred alternative."

The FEIS further states that Bend will "coordinate with ODOT concerning project development and design for the improvements at, and around the Empire interchange, to determine project phasing, costs, access, local trip displacement impacts, and road modifications. As the preferred alternative will be a phased project, future updates of traffic demand and other factors will allow the project to revisit the details of later phases of the project to ensure that it is cost effective and addresses both the regional and local circulation needs of the area."

4 | Page

and Page 2-11, Exhibit 2-3 FEIS (Map 3), illustrate that a right-in/right-out access point is provided under the Preferred Alternative. Exhibit 2-8 FEIS, on page 2-30 of the Final EIS, illustrates the travel route movements to commercial areas (including the Cascade Village Shopping Center) from US 20 and US 97. Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to this area under the Preferred Alternative. In addition, Appendix N of the Final EIS, Topic 13– Additional connectivity to businesses in the Robal Road vicinity, describes the commitment for the City and ODOT to coordinate to conduct a project development plan and design for the Robal Road area.

010

We are pleased to hear that the HUNS support the Preferred Alternative. ODOT and FHWA worked diligently to understand, respond to, and incorporate, where applicable, all comments received on the Draft EIS during the development of the Preferred Alternative.

011

ODOT and FHWA have found that the US 97 Bend North Corridor project is consistent with all applicable planning documents including the Bend Area General Plan and the Bend Transportation System Plan. ODOT initiated an amendment to the City of Bend's Bend Area General Plan and Transportation System Plan (TSP) to incorporate the Preferred Alternative into these documents. On March 8, 2014, the City of Bend City Council approved this amendment. Consistency of the Preferred Alternative with the City's amended TSP is demonstrated in Section 3.2.3 and Appendix M of the Final EIS. Appendix N of the Final EIS, Topic 13– Additional connectivity to businesses in the Robal Road vicinity, describes the commitment for the City and ODOT to coordinate to conduct a project development plan and design for the Robal Road area. Closure of Sherman Road and the access point to the Dairy Queen and Empire Car Wash is discussed in Appendix N of the Final EIS, Topic 6 – Truck and traffic movements on Mervin Sampels Road and Sherman Road closure.

ODOT coordinated closely with the City during the TSP amendment process and worked closely with City staff to develop the language ultimately included in the adopted TSP amendment, including the commitment to conduct a study of the Robal Road area. ODOT acknowledges that land use and traffic conditions may change in the future before the realignment of US 97 is constructed. ODOT is committed to studying a potential connection to Robal Road, and the determination of improvements in the Robal Road area will occur as an independent and separate project from this US 97 Bend North Corridor project. ODOT will conduct this study to look at the conditions in the Robal Road area

P06: Michel Bayard on behalf of the Hunnell United Neighbors (HUNS)

before the realignment of US 97 is constructed.

The Record of Decision (ROD) completes the National Environmental Policy Act (NEPA) process. If there is new information or changed circumstances, a reevaluation will be conducted to determine whether supplemental NEPA documentation is required.

012

Thank you for acknowledging the continued diligent efforts of ODOT and FHWA on this project, particularly with regards to the public engagement process. We would like to reiterate that the Cascade Village Shopping Center will not lose access with construction of the Preferred Alternative. Please also see the response to P06 009.

011 Cont.

The above wording suggests that consistency may or may not be achieved between Bend TSP and the Preferred Alternative, and could only come after a study has been conducted. It also seems to imply that consistency had not yet been achieved when the FEIS was issued.

The HUNS believe that, were an appeal to be filed, the FHWA/ODOT may be unable to show consistency with the local agency's (city of Bend's) plans. For this reason, we respectfully ask that ODOT delay issuing a ROD until the required studies are completed and planning consistency is achieved.

In Closing

The HUNS thank ODOT Region 4 and the US97 Bend North Corridor Project Team for their years of work on this project. We know that it has been a long and arduous process for ODOT. During it, we have interacted with many dedicated, talented ODOT employees who have conducted themselves with the utmost professionalism. We sincerely hope that ODOT can move quickly toward a ROD (we understand that ODOT hopes to issue it on September 22, 2014).

012

While the HUNS have expressed minor reservations about some elements of the project, particularly the loss of US97 access for the Cascade Village Shopping Center, we are, overall, very satisfied with the outcome of this multi-year project and we wish ODOT the best in obtaining project approval and funding.

Respectfully submitted,



Michel L. Bayard
President and Founder
Hunnell United Neighbors, Inc., an Oregon Corporation



707 E. Hill View Way, Bend, OR 97701
503-317-5820 • Fax: 503-317-0807 • www.hurley-re.com

September 8, 2014

Amy Pfeiffer
Environmental Project Manager
ODOT Region 4
63053 N Highway 97
Building M
Bend, OR 97701

via Email to Amy.L.Pfeiffer@odot.state.or.us

RE: Bend Center LLC Comments on FEIS – US97 Bend North Corridor Solutions Project

Dear Ms. Pfeiffer:

Our firm represents Bend Center, LLC ("Bend Center") which has legal standing and submits these comments on the Final Environmental Impact Statement ("FEIS") for the Oregon Department of Transportation ("ODOT") Region 4's US97 Bend North Corridor Solutions Project ("the Project").

Bend Center would like to commend ODOT on the robust public outreach program it has completed, and compliments ODOT in hearing and responding to the voluminous comments and concerns that have been voiced throughout the process.

Bend Center is the successor developer, owner and manager of property within the "commercial triangle" of businesses between US97, US20, and Cooley Road, at Bend's North End adjacent to North Highway 97. The businesses located on the property provide substantial economic benefit to all of Central Oregon, both as a provider of goods and services and as an employer. Our businesses include Home Depot, Sportmart's Warehouse, Target, Michaels, Staples, Olive Garden, Panda Express, and Wilson's Mattress Gallery.

After a detailed review of the FEIS and related Appendices, Bend Center has significant concerns with the Preferred Alternative (Modified East DSE) as described in the FEIS, and with the legal viability as it relates to the Federal Highway Administration's ("FHWA") funding and approval procedures as they are governed by the National Environmental Policy Act ("NEPA").

001

Thank you for your review of the Final EIS. FHWA and ODOT have found that the US 97 Bend North Corridor project is consistent with all applicable planning documents including the Bend Area General Plan and the Bend Transportation System Plan.

ODOT initiated an amendment to the City of Bend's Bend Area General Plan and Transportation System Plan (TSP) to incorporate the Preferred Alternative into these documents. On March 8, 2014, the City of Bend City Council approved this amendment. Consistency of the Preferred Alternative with the City's amended TSP is demonstrated in Section 3.2.3 and Appendix M of the Final EIS. In addition, Appendix N of the Final EIS, Topic 13– Additional connectivity to businesses in the Robal Road vicinity, describes the commitment for the City and ODOT to coordinate to conduct a project development plan and design for the Robal Road area. A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS. Based on these facts, we respectfully disagree with your assessment.

001

Hurley RE
Comments Re: FEIS for US97 Bend North Corridor Project
Page 2

Coordination with Local Governments and Planning

Local sovereignty in long range planning decisions is protected under the NEPA Process. See North Buckhead Civic Assoc. v. Skinner, 903 F.2d at 1541, (“NEPA does not confer the power or responsibility for long range local planning on federal or state agencies”) (June 29, 1990). See also *Id.* of Hope Historical Ass’n, Inc. v. United States Army Corps of Engineers, 646 F.2d 215, 221, (“[i]n obvious and indeed central aspect of this relationship must be respect for sovereignty of local authorities”) (May 29, 1981).

As part of the Project, ODOT initiated a Type IV Legislative Amendment to the Bend Area General Plan Chapter 7, Transportation Systems, Appendix C—Transportation System Plan (“TSP”). On March 5, 2014, the City of Bend made its decision to amend the TSP. See *Notice of Decision, Bend City Council, Ordinance NO. NS-2215 March 5, 2014*. The TSP now reads:

33. The City accepts the findings of US 97 Bend North Corridor Project Preferred EIS Alternative. Prior to design and construction, the City and ODOT will coordinate to conduct two independent project development plans / designs within the study area of the preferred alternative to verify the construction meets the then current needs of both the City and ODOT. One plan development and design will be for the study and analysis, including the impact on any business, of a possible Robal Road connection to the ODOT Preferred Alternative to be completed prior to entering into an intergovernmental agreement (IGA) for implementation of the US 97 phase of the Preferred Alternative. The other development and design will be for the Empire interchange area to be completed prior to entering into the intergovernmental agreement (IGA) for implementing the phase of work that would impact any business, public street, or private driveway access onto Empire Avenue. The final redevelopment of the transportation system at Robal and Empire and the ODOT Preferred Alternative may include some or all of the changes determined in the final design to improve the transportation system and meet the City's transportation needs. The IGAs will conform with the studies and analyses.¹

In its FEIS, ODOT fails to recognize its responsibilities to work with the City of Bend in coordination and further study, omitting any mention of Bend's TSP or its obligations to conduct further study prior to design and construction of the Project. Instead, the FEIS merely states that “[t]he Preferred Alternative will not preclude other future, independent improvements to US 97, such as a direct connection between US 97 and US 20, a new northern interchange, or a connection between US 97 and Robal Road.” *US 97 Bend Northern Corridor Project, Final Environmental Impact Statement, Chapter 2-24, July 2014*.

By failing to incorporate the City of Bend's TSP, the FEIS violates NEPA and precludes FHWA signoff and funding.

Injury to Business

The FEIS misrepresents the impact to business by not adequately discussing impacts to removing local access – ingress and egress – using Robal Road and Cooley Road.

The FEIS at 3-149 states that the “average business in this area employs 23 individuals.” It is undisputable that the Home Depot, Sportsman's Warehouse, Target, Michaels, Staples, and Olive

¹ Bend Area General Plan, Chapter 7: Transportation Systems, 6.9.6 Street System, Policy 33.

Hurley RE
Comments Re: FEIS for US97 Bend North Corridor Project
Page 3

Garden employ substantially more employees. Instead of exploring the impacts to these businesses, the FEIS states that:

[t]he larger retailers within the commercial triangle . . . could experience a greater loss of driveway customers. However, this business area provides important services to the residents of the greater Bend area who would likely continue to frequent the establishments within this business area regardless of the change in travel routes. . . . Therefore, the separation of local and regional traffic on 3rd Street and US 97, respectively, would have minimal to moderate changes in patronage of businesses. (FEIS at 3-172).

Dismissing these larger retailers' concerns by merely saying they provide "important services" and so customers will "likely continue" to give them patronage is speculative at best and therefore violates NEPA. See *Utahns v. United States DOT*, 305 F.3d 1152 ("[t]o be a reasonable alternative, it must be non-speculative, and bounded by some notion of feasibility") (Sept. 16, 2002).

Instead, ODOT must study the impact that closing local access to the Bend Center property will have, not only to the businesses themselves, but to the additional congestion it will create on the local streets of the City of Bend.

If access via US 97 and US 20 is lost, hundreds of daily trips will be re-routed and place a burden on the City's streets without any affirmative obligation to assist, coordinate, or study mitigating options. As already discussed, the FEIS fails to mention the studies already agreed to under the City's TSP.

Conclusion

Bend Center is enthusiastic that ODOT is actively working to manage and plan for the future traffic need of this critical business area. We know that our retailers rely on efficient trucking channels to successfully run their businesses. We hope that ODOT can move quickly towards a Record of Decision that balances the interests of our economy and provides for greater safety and efficiency in this section of our highway.

However, Bend Center wants to ensure that this multi-year Project can continue to move successfully forward. The FEIS as it stands, violates NEPA. ODOT fails to be consistent with local long-range planning and fails to adequately study the effects of the Project on the local environment and economy. For these reasons, the Project is in jeopardy of being stopped because the FHWA will not be able to approve the Project or its funding for lack of NEPA compliance. We do not want to see the vast investment of ODOT, local government, and community resources and staff time be wasted due to minor omissions.

We respectfully request that you make the necessary changes to adequately address NEPA so that the Project can successfully move forward.

Sincerely,


Elizabeth A. Dickson
Attorney


J. Kenneth Kataroff
Law Clerk

US97BENDNORTH CORRIDOR RECORD OF DECISION COMMENTS BY ODOT FEIS - 2014.9.24.docx

002

The average number of employees cited for the Robal/Cooley business area is based on information collected during a door-to-door survey of businesses. Some businesses, such as the major retailers cited in the comment, employ many more individuals, while other smaller businesses employ fewer. Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to the commercial triangle bound by US 20, US 97, and Cooley Road under the Preferred Alternative. Exhibit 2-8 FEIS in Chapter 2 of the Final EIS provides a visual depiction of travel routes to this area.

ODOT and FHWA did not dismiss concerns voiced by businesses in the project area. A detailed response was prepared for each comment letter submitted during the Draft EIS comment period; these comment letters and responses are provided in Appendix N of the Final EIS. Further, as documented in Chapter 7 of the Final EIS, ODOT held numerous focus group meetings with businesses as well as public open houses throughout the NEPA process to solicit ideas, listen to concerns and respond to questions.

ODOT completed traffic analysis to study the changes in travel patterns that are anticipated as a result of the Preferred Alternative, including those that impact local roads. ODOT's traffic analysis is explained in Appendix N of the Final EIS, Topic 24 – Traffic analysis. The results of the traffic analysis are reported in Section 3.1.3 of the Final EIS and in more detail in the Updated Traffic Analysis Report published with the Final EIS. The Preferred Alternative includes multiple improvements to the local street system which are needed for the associated improvements on US 97 to fit into the local transportation system, as part of this project. These local street improvements are included as part of this US 97 Bend North Corridor project.

003

The Final EIS complies with NEPA. As documented in the Final EIS, the Preferred Alternative is consistent with local long-range planning documents, and the Final EIS and its associated technical reports have studied the effects on the local environment and economy. ODOT will continue to work to manage and plan for future traffic needs in the project area.

Thank you for the comments you provided previously on the Draft EIS. Appendix N of the Final EIS includes a point-by-point response to each comment letter received during the Draft EIS comment period, including your letter dated September 12, 2011 (Comment P104). This resubmitted letter as part of your review of the Final EIS is included as P08 Attachment 1 in this Record of Decision.

002

We respectfully disagree that the Preferred Alternative will have direct, indirect and cumulative impacts that will significantly impact the Cascade Village Shopping Center. We disagree that the realigned US 97 will result in significant or long-term adverse economic impacts, including impacts to the Cascade Village Shopping Center. There are no access closures to Cascade Village Shopping Center as a result of the Preferred Alternative. Currently there are three access points to the Cascade Village Shopping Center off of Robal Road; none of those will change or be closed as a result of the Preferred Alternative. There is also one access point on existing US 97 (future 3rd Street under the Preferred Alternative) that is just south of Robal Road; under the Preferred Alternative this access point will allow right-in/right-out movements only. Today that access point provides right-in/right-out and left-in (no left out) movements; the left-in turn movement will be eliminated under the Preferred Alternative.

The Final EIS recognizes the economic importance of the commercial land between US 97 and US 20. The Final EIS discloses possible potential impacts to the Cascade Village Shopping Center. In the Final EIS, on page ES-17, Exhibit ES-5 FEIS (Map 3) and Page 2-11, Exhibit 2-3 FEIS (Map 3), illustrate that a right-in/right-out access point is provided under the Preferred Alternative. Exhibit 2-8 FEIS, on page 2-30 of the Final EIS, illustrates the travel route movements to commercial areas (including the Cascade Village Shopping Center) from US 20 and US 97.

Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to the commercial triangle bound by US 20, US 97, and Cooley Road under the Preferred Alternative.

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(216) 600-0000 TDD 419.280.2288

Page 2

economic lands between Highway 97 and US 20 as important components to the current and future economic base of the city and region (the Golden Triangle).

"Considering the expectations for future growth in the retail sector, existing concentration and retail uses in the US 97/US 20 area, the number of employees present in the existing uses in the area, and the potential for additional employment growth, protecting and enhancing employment opportunities in this area are important to the City of Bend." Page 1-26, Section 1.4.2.

CVSC and the other commercial properties have additional properties that can and should be developed as retail. Not having direct access at Robal Road to the Preferred Alternative will negatively impact the Golden Triangle, and cumulatively result in the loss of jobs and a potential change in use or vacancy of the existing space.

SPECIFIC COMMENTS

1. The importance of congruency and continuity with local agencies' transportation plans.

NEPA requires consistency with the transportation plans of the City of Bend and Deschutes County. On May 21, 2012, the City of Bend, Deschutes County, CVCS, Bend Center Mall, Newman Development of Bend, LLC and Lowes HIW, Inc. signed and hand delivered a letter to ODOT expressing the group's joint concerns with the DEIS. A copy of that letter is attached. This letter was instrumental in ODOT rethinking its position and proposing a different preferred alternative. NEPA requires that the preferred alternative be:

- consistent with local agencies' plans;
- minimize impacts to existing and planned local economic base; and
- provide for existing and planned local connectivity within long term planning.

The anticipated consistency with the City of Bend TSP has not been accomplished to date. The City of Bend adopted amendments that did not move in lock step with the Preferred Alternative at Robal Road and Empire.

2. City of Bend Transportation System Plan ("TSP").

Although the City of Bend did approve the Preferred Alternative on March 5, 2014, it was not a blanket endorsement as portrayed in the FEIS. In fact, the City of Bend TSP amendments provide for the possible connection at Robal Road and some changes on Empire Avenue that are not included in the Preferred Alternative. The City of Bend did not accept all the amendments proposed by ODOT and the Preferred Alternative. ODOT and the FHWA cannot move forward with the funding or construction of the Preferred Alternative until the City of Bend is satisfied and additional amendments are made.

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003

Thank you for the letter you provided on May 21, 2012. ODOT sent a response letter to the City of Bend and Deschutes County on December 10, 2012 in response to the issues raised in that letter. ODOT also met in-person with individuals of the working group to understand and address the concerns raised in the May 21, 2012 letter. This resubmitted letter as part of your review of the Final EIS is included as P08 Attachment 2 in this Record of Decision.

ODOT initiated an amendment to the City of Bend's Bend Area General Plan and Transportation System Plan (TSP) to incorporate the Preferred Alternative into these documents. On March 8, 2014, the City of Bend City Council approved these amendments. Consistency of the Preferred Alternative with the City's amended TSP is demonstrated in Section 3.2.3 and Appendix M of the Final EIS. In addition, Appendix N of the Final EIS, Topic 13 – Additional connectivity to businesses in the Robal Road vicinity, describes the commitment for the City and ODOT to coordinate to conduct a project development plan and design for the Robal Road area. A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS. Please also see the response to a similar comment you submitted at P4 001.

004

The portrayal of TSP consistency in your comment is inaccurate. The Preferred Alternative is consistent with the City of Bend TSP. Appendix N of the Final EIS, Topic 13 – Additional connectivity to businesses in the Robal Road vicinity, describes the commitment for the City and ODOT to coordinate to conduct a project development plan and design for the Robal Road area. A copy of the adopted TSP amendment, which includes this commitment, is included in Appendix M of the Final EIS.

ODOT coordinated closely with the City during the TSP amendment process and worked closely with City staff to develop the language ultimately included in the adopted TSP amendment. ODOT is committed to studying a potential connection to Robal Road, but the determination of improvements in the Robal Road area will occur as a separate project, independent from this US 97 Bend North Corridor project. This commitment for future transportation planning work does not make the Preferred Alternative inconsistent with the City's TSP as alleged in your comments. Please also see the response to a similar comment you submitted at P4 001.

Page 3

The TSP, as amended, is attached in Appendix M. The TSP provides:

"The City will coordinate with ODOT to conduct a project development plan and design for the Robal Road area that includes but is not limited to public involvement and the study and analysis of the costs and benefits of a Robal Road connection to the preferred alternative. Future project costs, right of way impacts, local trip displacement impacts, land development, EIS updates, and Trip 97 plan outcomes will greatly influence whether Robal Road is connected to the preferred alternative." Page M-25.

The TSP continues:

"As the preferred alternative will be a phased project, future updates of traffic demand and other factors will allow the project to revisit the details of later phases of the project to ensure that it is cost-effective and address both the regional and local circulation needs in the area." (M-25)

ODOT acknowledges that the FEIS, as a condition of securing FHWA's approval, must be consistent with locally adopted plans. (M-26) Consequently, the Preferred Alternative is currently not consistent with the TSP. Final determination of the Robal Road connection has not been made. Unless the reader of the FEIS carefully analyzes Appendix M, this important decision is missed and understated.

The City of Bend was very concerned about existing businesses and the direct and indirect impacts of the Preferred Alternative. The issues in the September 12, 2011 letter and the May 21, 2012 letter concerning maintaining access and connectivity to the Golden Triangle remain. The FEIS analysis fails to recognize the cumulative impact of the Preferred Alternative. The FEIS understates the importance of access, connectivity and convenience of the transportation system to the Golden Triangle.

3. Expressway Designation.

The retention of the expressway designation has importance. The FEIS states that on April 17, 2013, the Oregon Transportation Commission reviewed the expressway designation and decided to retain that designation. The TSP specifically discusses the expressway designation. The City of Bend and the Golden Triangle owners requested the expressway designation be changed to "urban other." This reflects the fact that this section of Highway 97 has never met expressway standards. The roadway classification can impact access and planning decisions. The TSP provides:

"The expressway classification may change or be modified pending the outcome of the transportation reinvestment, innovation and planning for US 97 and Central Oregon's study. (Trip 97, Phase I). Trip 97 may include performance measures that would lead the Oregon Transportation Commission or the Oregon legislature to amend the Oregon Highway Plan (OHP) policies, including the expressway

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Exhibit 2-8 FEIS in Chapter 2 of the Final EIS provides a visual depiction of travel routes to this area. Impacts to businesses are analyzed in Sections 3.5.3 and 4.1.4 of the Final EIS and that analysis demonstrates that only potentially slight adverse direct, indirect and cumulative impacts are likely to be experienced in the "Golden Triangle" associated with local drivers needing to learn slightly modified routes to access this area. Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to the commercial triangle bound by US 20, US 97, and Cooley Road under the Preferred Alternative.

006

Appendix N of the Final EIS, Topic 27 – Expressway designation, addresses the expressway designation for US 97. The information presented in the Final EIS about the Oregon Transportation Commission's (OTC) decision on the expressway designation is factual and relays the current and effective OTC decision. The OTC may revisit the expressway designation in the future, including future programs, plans, or projects that implement elements of TRIP97.

As described in Appendix N of the Final EIS, Topic 24 – Traffic analysis, ODOT modeled the changes in travel patterns that are anticipated as a result of the Preferred Alternative, including those that impact local roads. The results of the traffic analysis are reported in Section 3.1.3 of the Final EIS and in more detail in the Updated Traffic Analysis Report published with the Final EIS. The Preferred Alternative will benefit all local, regional, and through trips through shortened travel times, reduced delays, and improved safety.

Page 4

classification for Highway 97 in the city. These changes could be also influence the planning concept and future design of the parkway extension." At page M-22.

The FEIS reads as if the OTC has made a final decision. The OTC should be awaiting the recommendation of Trip 97.

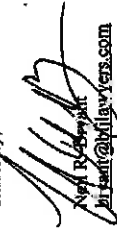
The FEIS improved traffic conditions come at the expense of local travel, which is 75% of the total traffic. The expressway designation benefits freight travel but not the community of Central Oregon. Only 3.5% of the travel on the parkway is through traffic. The parkway is an integral part of the regional and local transportation grid. A conclusive statement that the designation will not change is premature and not accurate.

CONCLUSION

CVSC is not requesting that the additional planning be done today nor in the near future. However, at some point, as development and growth continues, the circumstances will change and the final decision about a Robal Road connection will need to be made. The lack of connectivity between Robal Road and the Preferred Alternative results over time to induce changes in land use, growth rates and socio-economic climate. The behavior and functioning of residents and tourists will not only impact this major activity center but the community. Small and large tenants will leave and relocate somewhere else. That will cause additional problems for the county, the City of Bend and ODOT. Good planning should encourage and grow the existing commercial centers. Degradation of the access will discourage development of the remaining, unimproved commercial space in the Golden Triangle. The FEIS fails to study and analyze these indirect effects and their cumulative impact. Twenty-five to thirty-five percent of the business at CVSC is tourist or "drive-by." There is no analysis of the impact if this business disappears because of the Preferred Alternative.

As always, feel free to contact me or my partner, Jeremy Green, if you have questions.

Sincerely,


Neil Bryant
jbryant@bvlavjars.com

Enclosures

(10159081-0007753)11

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The access that is provided today to the businesses in this area will not change; however, because the Preferred Alternative will provide a new through facility for US 97 on a new alignment, the integrity of the realigned US 97 facility will be maintained by not providing additional access. ODOT is committed to studying a potential connection to Robal Road, as called for in the TSP amendment ordinance, and the determination of improvements in the Robal Road area will occur as an independent and separate project. ODOT will conduct this study to look at the conditions in the Robal Road area before the realignment of US 97 is constructed. Appendix N of the Final EIS, Topic 4 – Access to the commercial triangle bound by US 20, US 97 and Cooley Road and drive-by business impacts, describes how access will be provided to the commercial triangle bound by US 20, US 97, and Cooley Road under the Preferred Alternative. Exhibit 2-8 FEIS in Chapter 2 of the Final EIS provides a visual depiction of travel routes to this area. Impacts to businesses are analyzed in Sections 3.5.3 and 4.1.4 of the Final EIS and in the Final Socioeconomic and Environmental Justice Technical Report published with the Final EIS. The analysis conducted during the EIS provided no indication that the commercial triangle would disappear and therefore further study of such an event including changes in land use, changes in growth rates and the socio-economic climate was not necessary for the EIS.

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Neil R. Bryant
Robert S. Lovlien
John A. Page
Sharon R. Smith
John D. Smith
Natalie G. Belmeche
Stephanie R. Lunde
Kurt C. Ford
Paul J. Walker
Kyle G. Wenzel
Jennifer M. Green
Peter A. Chisholm
Melinda Thomas

Bryant, Lovlien & Jarvis, PC
1000 N. 10th St., Suite 200
Bend, Oregon 97701
Phone: (503) 962-3344
Fax: (503) 962-3345
WWW.BLVJPC.COM

September 12, 2011

Via Hand Delivery, First Class Mail, and Email Amy.L.Pfeiffer@odot.state.or.us

Amy Pfeiffer, Environmental Project Manager
Oregon Department of Transportation, Region 4
61030 O.B. Pike Road
Bend, Oregon 97701

Re: Comments on Draft Environmental Impact Statement ("DEIS")
Bend North Corridor Project (the "Project")
CVSC, LLC

Dear Ms. Pfeiffer,

As you are aware, this office represents CVSC, LLC ("CVSC"), owners of the Cascade Village Shopping Center located between Highway 70 and Highway 97 in Bend, Oregon ("Cascade Village"). Cascade Village, which was the 2007 recipient of Building A Better Central Oregon Award, encompasses approximately 370,000 square feet and provides much needed goods and services to customers throughout Central and Eastern Oregon. Cascade Village currently has 33 merchants, restaurants, and entrepreneurs which employ 690+ hard-working full-time and part-time Oregonians.

CVSC has been involved in all public discussion concerning the Project. At the outset of the Project, CVSC engaged Wilbur Smith Associates of San Francisco, California ("Wilbur Smith") to evaluate the alternatives and offer improvements and other reasonable alternatives. With Wilbur Smith's assistance, CVSC has concluded that the two alternatives fail the reasonableness requirements imposed by the National Environmental Policy Act ("NEPA").

NEPA was passed in 1970 to encourage meaningful public input and involvement in evaluating federal actions. NEPA was designed to encourage collaboration. Sadly, the Oregon Department of Transportation ("ODOT") has failed to find an alternative that CVSC and the community can support. The basic problem has been ODOT's determination to create an expressway through the Project that moves traffic more quickly, particularly freight traffic. Highway 97 divides the City of Bend (the "City"). Seventy-five percent of the highway's users are local. Their destination is Bend. The expressway mobility standards have dominated the modeling and frustrated true collaboration. The community needs a better result.

Amy Pfeiffer, Environmental Project Manager
Oregon Department of Transportation, Region 4
September 12, 2011
Page 2

A. General Comments

1. **Indirect and Cumulative Impacts.** NEPA requires the consideration of direct, indirect, and cumulative impacts. The DEIS fails to accurately identify and describe the impacts, in part because the DEIS was prepared by use of out of date data and information. This effectively limits consideration of other reasonable cost effective alternatives.

There are many intended and unintended consequences that will result from the construction of either alternative. If Deschutes County (the "County") and the City do not have the ability to construct the arterial roads required by the construction of alternative DS-1 or DS-2, there will be a significant adverse impact to the community. The DEIS fails to acknowledge this impact or discuss any potential solutions.

From the business perspective, if a shopper misses an exit to the north Bend regional shopping corridor (aka the "Golden Triangle"), which encompasses many businesses and well over 1,000,000 square feet of commercial space, he or she will have a lengthy and confusing trip to get back to the Golden Triangle. ODOT incorrectly believes that locals will quickly learn how to get on and off the new Highway 97 to reach commercial centers. The truth of the matter is that if access is difficult, even locals will be less inclined to make the trip to the Golden Triangle.

Bend is a tourist destination. Tourists need convenient and visible access to businesses. Many types of businesses (i.e., restaurants, coffee shops, etc.) rely on drive-by, spontaneous drivers, particularly the retail merchants of Cascade Village. If an individual stops for a Starbucks coffee, he or she is more likely to walk around the shopping center and buy something. The impact to business is consistently downplayed throughout the DEIS. 25% to 35% of Cascade Village's business is generated by tourists. Although a business survey was completed, the survey does not attempt to analyze the impact construction of either DS-1 or DS-2 will have on business. Central Oregon cannot afford to lose any jobs.

2. **Expressway Designation.** The Project should not have an expressway designation. In 2000, the Oregon Transportation Commission ("OTC") amended the 1999 Oregon Highway Plan to redesignate the Project as an expressway. In 2011, the legislature passed Senate Bill 264 specifically to address ODOT's access management program. After listening to its constituents, the legislature wanted ODOT's access management system to balance the economic objectives of properties abutting state highways with safety and access management objectives in a manner consistent with local transportation plans.

The designation of the Project as an expressway will be reviewed in 2012. Because mobility standards will likely change, ODOT should not finalize the DEIS until after the expressway designation has been properly reviewed.

3. **Mobility Standards.** Many of the alternatives considered by ODOT were quickly eliminated because of the expressway designation and underlying restrictive mobility standards. The 2011 legislature passed Senate Bill 795. The purpose of this legislation is to define an

Amy Pfaffner, Environmental Project Manager
Oregon Department of Transportation, Region 4
September 12, 2011
Page 3

"appropriate balance between economic development and planning." A Rule Making Advisory Committee ("RAC") for Transportation Planning Rule ("TRP") has been formed. Draft rules have been circulated which significantly alter mobility standards. ODOT must report to the legislature not later than February 1, 2012. Different mobility standards will require different traffic modeling and more alternatives.

A precedent has been set for relaxing mobility standards. In 2010, ODOT and the City signed an Intergovernmental Agreement wherein ODOT relaxed mobility standards in exchange for the City improving certain City streets.

4. **Impact on Local Roads.** DS-1 and DS-2 assume that the County and the City will have the funds necessary to construct arterials capable of handling the local traffic displaced by the construction of the selected alternative. Neither the City nor the County currently has funds available for this purpose. The proposed local street system will not work without significant improvements in the infrastructure. Among other City streets, construction of either alternative will result in further failure of Empire.

ODOT has not completed any analysis of the direct, indirect, and/or cumulative impacts the resulting new traffic pattern will have on the local street system. The County has had a moratorium on accepting new roads since 2006. Additionally, both the City and the County will need to amend their transportation plans. The preferred alternative should not be selected until these issues are analyzed and addressed.

5. **Purpose and Need.** One of the elements of the Purpose and Need statement is to improve safety. Prior to 2008, the City and the County experienced rapid growth. This has changed with the recession. In fact, ODOT acknowledges that the trips on the Project have decreased approximately 9-15%. Traffic accidents have been reduced. Crash rates for Cooley Road and Robel Road are less than one-half the crash rates on similar roadways. The information that ODOT uses in its safety analysis is outdated and wrong. Safety is always important, but the DEIS has overstated the danger.

The Project's third performance objective is not solved by either alternative. This objective requires that the DEIS (and the underlying alternatives) address the following:

"Support economic development consistent with local agency plans; minimize impacts to existing and planned local economic base; and provide for existing and planned local connectivity within the long-term planning period." (DEIS-ES-3)

The alternatives do not support economic development. Construction of the alternatives will have significant adverse impacts to the existing and planned economic base. Finally, neither alternative provides for existing or planned local connectivity.

6. **Cost Benefit Analysis.** The DEIS states that the cost benefit ratio ("CBR") falls when the Project's cost exceeds \$160 to \$180 Million (see Appendix T, Page T-373). The construction of

Amy Pfaffner, Environmental Project Manager
Oregon Department of Transportation, Region 4
September 12, 2011
Page 4

either DS-1 or DS-2 will approach \$320 Million when right-of-way, soft costs, and local road improvements are added. If the costs approach \$320 Million, the BCR drops to .5. Currently, the Bend MPO has only designated \$40 to \$42 Million of available funds over the next 20 years for all projects. There simply is not sufficient funding or benefit to justify alternative DS-1 or DS-2.

7. **Land Use and Impact on Neighborhoods.** Both DS-1 and DS-2 require two Goal Exceptions. Goal Exceptions are not easy to obtain. Also, both alternatives, especially DS-1, devastate the quality of life in Hummel Hills. The DEIS makes assumptions about the expanded Urban Growth Boundary ("UGB"). The expansion of the UGB has not been approved by LGDC. It will take years to complete the process. The DEIS should only reference the existing UGB.

8. **Railroad Consent to New Alignment.** DS-1 and DS-2 require the consent and cooperation of Burlington Northern Santa Fe Railroad in order to construct the new Highway 97. This consent and cooperation has not been obtained and there is no guarantee that it will. This is not analyzed in the DEIS.

9. **Phasing.** Because of the lack of funding, all stakeholders have acknowledged that the construction will need to be phased. There is no breakdown or analysis in the DEIS of the impact of this phasing nor a breakdown of the costs for each phase.

10. **Disposal of Transportation System Management ("TSM").** The DEIS dismisses improvements that could be made through TDM/TSM as being inappropriate for communities of less than 200,000 in population. No rationale or authority is given for this decision. TDM/TSM measures are clearly appropriate. Investment in the TDM/TSM projects have a substantially lower cost and lower impact than building alternative DS-1 or DS-2.

11. **Loss of Tax Revenues.** The Golden Triangle has a real market value of approximately \$1 Billion Dollars and provides over 1,000 jobs. These businesses pay \$1,161,544 in property taxes. Without safe, convenient, and viable access to the new Highway 97, that tax base is at significant risk. Many businesses will not survive the construction of DS-1 or DS-2. This impact has not been considered by ODOT.

12. **Freight Patterns.** Much of the freight traffic's destination is Bend and, in particular, the Golden Triangle. According to the DEIS, only 3.5% of the freight traffic is purely through traffic (and, therefore, 96.5% have a Bend destination). There is no analysis of the impact construction of DS-1 or DS-2 will have on these large trucks. What will be their traffic patterns? Where do they drive now and where will they deliver in the future? Will the alterations impact the time of their deliveries?

13. **Interchange Area Management Plan ("IAMP").** Cascade Village is identified as being in the Empire IAMP. It should be in the Robel or Cooley IAMP as are the other businesses within the Golden Triangle.

Amy Pfaffner, Environmental Project Manager
Oregon Department of Transportation, Region 4
September 12, 2011
Page 5

B. Specific Concerns

Attached to this letter as Exhibit A are various comments by Peter Martin of Wilbur Smith concerning the DEIS.

C. References

1. US 97/Cooley Road Intersection Mid-Term Improvements
2. SB 264 (2011)
3. SB 795 (2011)
4. Draft Amendments to TPR 0060
5. 2010 Census Report
6. August 18, 2011 Staff Report to TPR RAC from Michael Roch
7. IGA Between ODOT and the City
8. U.S. Highway 97 Corridor Strategy (Madras – California Border) ODOT Nov. 1995

D. Concluding Comments and Recommendation

CVSC makes the following concluding comments and recommendations:

1. The DEIS is flawed, biased, and incomplete. ODOT should pursue a more context sensitive design and not finalize the DEIS until the new mobility standards are adopted. The adoption of new mobility standards may change the modeling and alternatives that were disregarded may now be viable.
2. Reconsider the "expressway" designation. If the Project is no longer considered an "expressway," mobility standards will be modified to allow more design flexibility.
3. Recognize the CBR and other economic realities. The preferred alternative should be something that can be accomplished based on available funding. This most likely will be improvements to intersections (especially Cooley Road) and the addition of another lane.

Please feel free to contact me or my partner, Jeremy M. Green, if you have any questions or concerns regarding this letter. Thank you in advance for your time and careful consideration of our comments.

Sincerely,


Neil P. Bryant
N2646
(10319-027-00093576.1)

nbryant@bllawyers.com

Exhibit A

Technical Comments from Peter Martin, Wilbur Smith Associates

A. Executive Summary

Page ES-1; Table ES-1

The project length totals about six miles but only about two miles between Empire and Grandview might possibly be considered "congested."

Page ES-3; Last Paragraph/Last Line

Supporting economic development is mentioned. However, the continued support of the economic viability of the north corridor businesses seems to have been ignored (this has been a major concern raised by stakeholders).

Page ES-4; Second Paragraph

There is a great deal of ambiguity regarding development of land between US 20 and US 97 and it is our understanding this urban expansion has not been environmentally cleared. It would also seem that this issue has a major impact on highway needs and it should not have been treated as a given in the DEIS.

Page ES-4; Section ES.2 - Build Alternatives

ODOT has effectively only identified one alternative for consideration. The second alternative is essentially a minor variation of the first alternative. In addition to numerous other alternatives, ODOT failed to consider a two-mile extension from Empire to Grandview using the design practices of the current Bend Parkway. This and other reasonable alternatives/options were dismissed as not consistent with ODOT's build vision for the project and not meeting ideal ODOT design standards.

Page ES-11; Section ES.3 - Juniper Ridge

Juniper Ridge is moving forward with only 500 acres.

Page ES-12-18; Exhibit ES-7

CVSC has major concerns about the ODOT focused criteria, the data used for the evaluation (e.g., much of the data is out of date), and the biased nature of the evaluation. For example, CVSC sees no mention in the long-term impact section of adverse impacts on businesses, residents, and others. The evaluations for the build alternatives only seem to reflect what ODOT believes supports its freeway project. The evaluation of the no build uses pre-recursion dated material in its assessment. Current volumes have declined 10% and future volumes have likely dropped even more. Accidents have also declined sharply. The assessments of long-term transportation impacts for the no build alternative uses pejorative adjectives like severe and extreme, but the assessments of the ODOT build alternative uses positive phrasing like alleviation. In many ways, the seven page matrix seems to conceal important differences with minuet differences of little interest to most in the corridor.

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Page - 1 of 26

Page ES-19; Section ES.5

The Interchange Area Management Plans need to be more fully described. In addition, the Impacts of the plans must be included, particularly if the plans are integral elements of the build plan.

Page ES-20; First Paragraph

CVSC understands that the highway designation is currently under review and it has been used by ODOT to narrowly limit corridor alternatives. What this DEIS demonstrates is that the only affordable improvements in the corridor are upgrades as an arterial street and that the expressway designation south of Grandview is not feasible (also not desired by stakeholders). The reclassification of this segment likely did not have effective public review and input from locals within the corridor and the expressway classification should not be treated as a given.

Page ES-21; ES.6 - Identified Areas of Concern

The strong local concerns have not been reflected in the definition of reasonable alternatives or the evaluations.

B. Purpose and Need for Proposed Action

Page 1-1; Section 1.1

Exhibit 1-1 defines the physical limit to ODOT's limited alternative. The Functional Impact area extends well beyond the identified areas to at least Burlin Market Road to the south and 18th Street to the east. CVSC has questions concerning the ability of the road network to accommodate the four lanes of capacity ODOT is proposing to add at the north end of the network.

Page 1-2; Third Paragraph

The fall of 2004 reference clearly demonstrates the dated foundation for the traffic assessments – existing and future.

Page 1-3; First Paragraph

Factually the statement a reasonable range of alternatives is false. Only one alternative is actually analyzed along with a minor variant. Reasonable alternatives were eliminated by ODOT as discussed previously.

Page 1-4; Section 1.3.1; Second Paragraph

ODOT's review of its expressway designation and the mobility standards used to assess congestion will moot much of the foundation for this DEIS.

Page 1-4; Third Paragraph

The growth forecasts appear to be based on out dated land use plans and forecasts of regional intercity traffic. Consequently, the future increases are questionable and certainly should be open to land use assumption changes consistent with twenty-first century practices of coordinating land use and transportation decisions. Oregon has a national reputation for this coordination, but it seems absent on

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Page - 2 of 26

this project. Few communities are building new freeways through developed urbanized areas today – communities have learned from past mistakes the folly of building highways regardless of impacts.

Page 1-6; Exhibit 1-3

Is the maximum capacity definition absolute or design capacity impossible? It is not possible for existing traffic to operate more than the maximum capacity of an intersection. A select link analysis showing where the traffic growth is coming from for the Cooley intersection would have been informative.

Page 1-6; First Paragraph

This paragraph clearly describes that the forecasts are based on growth trends prior to the recession (which growth trends are no longer valid). For a project of this size, use of outdated forecasts is inappropriate.

Page 1-7; First Bullet

This statement represents an opinion, not fact.

Page 1-7; Second to Last Paragraph

Current observations do not support this paragraph. Most users of the corridor will disagree with this statement.

Page 1-7; Last Paragraph

These conclusions are based on out dated forecasts. Conditions have significantly changed.

Page 1-8; Last Paragraph

ODOT should think more multi-modality and think of moving freight on BNSF tracks and not on highways and through urbanized areas. The primary focus of the new ODOT freeway is to move freight. The freight dimensions must be better explained.

Page 1-9; First Paragraph

CVSC disagrees with forecasts used for this conclusion, except for the last statement about considering possible growth policy changes. Most of the complaints about delays on Highway 97 are from ODOT and not local business and residents. The most serious concerns expressed by local businesses and residents are the inability to access their destination simply and conveniently. ODOT's freeway option will make accessing destinations much more time consuming and difficult.

Page 1-10; Section 1.3.3

This discussion is out of date as recent accident data shows a substantial and significant drop in accidents. The Nobel Intersection failed to make the Bend top ten list and the Cooley intersection barely made it at #10 on recent reports. Why is ODOT proposing to spend \$250+ million on the intersections with higher accidents if the severity of accidents on the high speed segment northbound to Redmond is not a bigger safety problem? Speed leads to the most severe accidents. The statement that motorists are not expecting the congestion simply reflects the fact that ODOT has not implemented simple TSM

100319-027-0009520713

Page - 3 of 26

safety measures (e.g., advance warning beacons) and has not considered lower speed limits for the study segment. Traffic signal right angle collisions are not even cited in Exhibit 1-4. Annual accidents have been relatively stable on this study segment even though traffic volumes have increased, undermining ODOT's statements that accidents will increase in the future due to traffic increases.

Page 1-13; First Paragraph
An "expressway" is not the appropriate highway designation for the segment between Empire and Grandview. On Page 1-17, ODOT admits that this segment functions as the central city to the region. Most planners would interpret this to mean that it is not appropriate to run high speed traffic through the city center.

Page 1-15; First Paragraph
This paragraph fails to mention the need to "protect and enhance existing businesses." The protection and/or enhancement of existing businesses are more important to most stakeholders than supporting economic development.

Page 1-15; Third Paragraph
CVSC doubts the accurateness of the cost estimates. The cost estimates do not cover the entire non-US 97 street improvements that are shown on the alternative depictions.

Page 1-15; Last Paragraph
ODOT's statement that the project must have a consistent approach to the design and to the urban corridor context created by the Bend Parkway makes sense. However, this understanding is not reflected in ODOT's development and screening of reasonable alternatives. If the current Bend Parkway has 4,000 foot spacing between the Empire and Reed Market interchanges, why is ODOT demanding two mile spacing for the extension?

Page 1-18; First Paragraph; Last Sentence
This statement is questionable. Is it based on discussions with current property owners?

Page 1-18; Last Paragraph
ODOT seems to be saying that more housing is needed in Bend to help reduce commute demands from Redmond. Logical conclusion, which does not seem to have been considered in the DEIS solutions.

Page 1-20
These goals represent excellent criteria to design effective and reasonable alternatives. The goals seem to be ignored by ODOT, however, throughout the entire DEIS process. The goals are what the community wants, not a new high impact costly freeway. If a new planning effort is undertaken to correct the deficiencies of this DEIS effort, these goals should feature prominently in the definition of solutions.

C. Alternatives

Page 2-1
The introduction should start with an admission that the project began without financial constraints on alternatives and that most of the screening was done prior to OTC directing the project team to focus on downscaled alternatives that might be affordable. At that time, ODOT abandoned the previously defined alternatives. The sequence is very important for reviewers to understand and appreciate.

Page 2-1; Third Paragraph
Who will pay for the auxiliary lane? Why is the cost of the auxiliary lane not included in the project costs? CVSC agrees with the need for the auxiliary lane but questions isolating it from the \$250+ million ODOT believes might be available for the freeway.

Page 2-6; Exhibit 2-5
The incomplete linkage between 3rd Street/Bend Parkway and US 97 is a problem which probably should have been highlighted in the purpose and need statement. The incomplete linkage creates/increases congestion at Empire and confusion, ultimately leading to accidents.

Page 2-8; First Paragraph
ODOT is passing Third Street operation and maintenance responsibility to the City. Has the City agreed to this transfer and does the City have the resources (financial and otherwise) to assume operation and maintenance responsibility?

Page 2-8; Last Paragraph
The phasing plan and its independent utility are critically important to understanding the impacts and affordability of the proposed ODOT freeway. It needs to be explained. Phasing seems to lack an intuitive solution and if one cannot be found and the impacts fully appreciated the ODOT concept is flawed.

Page 2-9; South Sector Paragraph
CVSC has consistently advised ODOT that the two mile spacing of interchanges is unwarrantable for retail businesses. CVSC has suggested minor mitigation measures like southbound ramps to local. If, as ODOT admits, the retail core functions as the center city for the region, what center city has its nearest freeway access located one mile away with indirect circuitous access?

Page 2-11; Exhibits
How does one get from Third Street south to Target and Lowes?

Page 2-14
A street level view is easier to appreciate than the crow's view. The segment east of the BNSF railroad would seem to be very critical.

Page 2-19; First Paragraph
CVSC strongly disagrees that complete access control is needed. Bend Parkway's current 4,000 foot spacing seems to work and should be considered to allow southbound Robal on and off ramps and a northbound off ramp near Cooley Road.

Page 2-21; Last Paragraph
Please explain why the initial screening of the initial unaffordable alternatives was done based on ODOT's ideal set of design standards for expressways and not using geometric feasibility.

Page 2-24; Exhibit 2-18
As noted previously, CVSC contends that the wrong set of criteria was used for this screening.

Page 2-49; Second to Last Paragraph
The elimination assessment does not appear correct. The concept in the southbound direction would be to start the new expressway near Clausen and to provide an auxiliary lane off-ramp approach to Robal (so the ramp distance could be as much as 3,000 feet without impacting the mainline). A southbound on-ramp would pick-up at Robal and have a one-half mile of acceleration lane before merging with the US 20 on-ramp traffic. In the northbound direction, an off-ramp would be provided to Third Street followed in about one mile with the merge back into northbound US97 to Redmond. The suggestion to split some of the Empire traffic off to Third Street appeared to make sense.

Page 2-52; Reason for Elimination
Few planners would question that coordinating land use and growth plans (a form of TDM) would be the best means to address the corridor problems. The commute nature of the traffic is a major cause of current peak demand spikes and congestion.

Page 2-52; Second Paragraph
There is no support in the transportation community for the statement that TSM alternatives are only applicable for populations over 200,000. Please cite the source or delete the comment. TSM measures are very applicable to communities the size of Bend. TSM measures could help address safety issues and dismissing buses to Redmond seems capricious. Finally, the reduction of speed limits on the study segment merits attention.

Page 2-54; East DSJ
This concept further complicates an already congested and confusing bottleneck. The Sisters Interchange and Empire Interchange are a mess. The key interchanges are Third Street south, Third Street/US 97 north, US 20 and the Bend Parkway (total of four approaches). This should be simple to connect and adding in a new 97 freeway will add a fifth leg which complicates things. Connecting the Bend Parkway to US 20 and 3rd/US 97 north to 3rd south would provide a simpler interchange. Certainly directional flows would need to be accommodated in the design, but adding a fifth leg to this area seems a mistake. CVSC has grave concerns with this alternative's impact on retail businesses, its phasing and affordability, its effectiveness, and its lack of context to the community in the corridor.

(00019-027-0006557-1) Page - 6 of 26

Page 2-54 East DSJ
This is essentially the same concept as DSJ and suffers from all of the same problems.

Page 2-55; Last Paragraph
Interchange Area Management Plans are a critically important part of ODOT's option and they need further explanation in the DEIS. The re-designation of US 97 as an expressway clearly shows how bureaucratic rules can have major consequences if hidden under technical terms.

Page 2-57; Identified Areas of Concern
Stakeholders have consistently expressed these concerns over the past 7 years. However, no evidence is shown that these concerns have been used to define reasonable or acceptable alternatives. Stakeholders do not like the ODOT alternatives because the alternatives do not reflect or address these concerns.

0. Affiliated Environment

Page 3-1; Third Bullet; Last Sub-Bullet
Temporary seems to imply brief, but construction impacts likely will last more than three years. Three years is not a brief period of time from the perspective of retailers.

Page 3-5
Are the estimated through trips for the City or for the API?

Page 3-6
Traffic queuing discussion is out of date and inconsistent with 2011 observations.

Page 3-9; Last Paragraph
Only the Cooley Road Intersection is in the top ten accident intersections in Bend today.

Page 3-10
No mention is made of the BNSF at-grade railroad crossing at Cooley Road. The Federal Railroad Administration has extensive data on history of accidents at this crossing and it should be reported in the DEIS.

Page 3-10
The freight discussion provides no quantification of truck movements to understand ODOT's claim that this is a major need in the API. How many long distance trucks are traveling on US 97 and where are the trucks going? How sensitive are the truck trips to a few minutes of added delay and how likely will freight movements shift to non-peak travel times should delays increase? If the volumes are indeed significant, perhaps a bypass would be a better investment than encouraging them to clog the Bend Parkway?

(00019-027-0006557-1) Page - 7 of 26

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Page 3-15; First Paragraph

The 2035 forecast are not simply based on local area growth assumptions. Are freight trips "hardwired" into the network? Are external to external trips "hardwired" into the network? How are external to internal and internal to external trips estimated? These assumptions are important and simply implying that traffic volumes are a result of land use growth assumptions is misleading. Growth assumptions can be modified if planners are aware of the infrastructure infeasibility of the assumptions. Interchange and freight travel assumptions need to be explicitly stated.

How were the intercity forecasts developed and based on what assumptions? The MPO model forecast is out of date and needs to be updated to provide sound input to a \$250+ million public investment, particularly when the project will have major adverse impacts on the City.

Page 3-10; Exhibit 3-9

The projected increases at Cooley Road suggest the need to explain the cause of these increases. How many new trips from Juniper Ridge and how many from Walmart? What are the other major causes of increases at this intersection?

Page 3-18; Third Paragraph

CVSC questions this assessment. Freight traffic will likely shift to off-peak travel times.

Page 3-18; Last Paragraph

Sometimes congestion actually leads to increased transit ridership, particularly if transit preferential measures are introduced in the corridor. Most transit agencies favor congestion.

Page 3-19; Second Bullet

CVSC agrees that the ODOT build alternatives will not solve the Empire Avenue Interchange problems. Rather, the ODOT build alternatives will probably worsen them. This is a major problem and investing \$250+ million in a two mile corridor without solving the Sisters Interchange and Empire Interchange problems is a poor investment of public funds. How does leaving or worsening a travel barrier at Empire make sense as it separates the north Bend city center from the main areas of Bend?

Page 3-19; Last Paragraph

ODOT's focus in the DEIS seems to be on through traffic accident rates. Industry experience has also shown that less direct and confusing access to local businesses and street networks also increases accidents. The ODOT proposed action is not intuitively obvious to motorists and, therefore, accidents will result from confusion and increased turns.

Page 3-22 East DS2 Alternative

This is essentially the same alternative as DS1

Page 3-25; Second Paragraph

Congestion might actually result in an improved jobs/housing balance and reduce Redmond to Bend commute volumes. This would have VMT and a host of sustainability benefits. So the congestion and environmental benefits might be better without encouragement of long distance commuting.

Page 3-27; Exhibit 3-14

This exhibit demonstrates that Empire is falling and will continue to fall even after spending \$250+ million and impacting the community and eco system in Bend. How can this be smart?

Page 3-28; Exhibit 3-15

No build performs better than the \$250+ million build alternatives in terms of overall network delay and overall network travel time. These are important indicators and suggest that ODOT's obsession with building a high speed freeway for through traffic comes at the expense of local traffic.

Page 3-45; Last Sentence

Most retail businesses in the corridor would disagree with this statement and prefer the slower traffic with direct, visible, and convenient access to ODOT's build proposed action. Diverging customers away from retail businesses is very bad practice.

Page 3-47; First Paragraph

Retail businesses would prefer the no build alternative with direct, visible, and convenient access to high speed bypass options. ODOT's appreciation for retail business does not seem very well informed and reflects a highway engineer's perspective on retail business access needs. Stakeholders have repeatedly tried to educate ODOT engineers about the critical importance of direct, visible, and convenient access. ODOT is not listening.

Page 3-49; Second to Last Paragraph

Transportation and land use planning experts almost universally agree that building high speed through traffic facilities into urbanized communities is a bad practice. ODOT's proposed action plan runs a freeway through the heart of Bend (compromising the livability standards Bend residents have enjoyed). Perhaps a broader involvement of unbiased sustainable community planners in the process would have found a more modern solution than is proposed.

Page 3-52; Exhibit 3-28

A map showing ODOT's proposed right-of-way acquisitions is needed to inform on this important issue. The "devil is in the details." What is the proposal for BNSF's easement use and has BNSF agreed to this?

Page 3-60; Indirect Impacts

The assessment of congestion impacts on retail businesses is in error. Retail businesses will almost universally favor the no build option with its congestion to the proposed build action. The congestion might even benefit their businesses. Local retail businesses all oppose ODOT's freeway for this reason.

Page 3-68; Exhibit 35

Is ODOT proposing to acquire part of the Target shopping frontage along Robal?

Page 3-70; Exhibit 3-38

Is ODOT proposing to acquire Robal frontage from Target?

Page 3-89; Exhibit 3-44

The retail businesses on the west side of US 97 function as an important part of the neighborhoods (e.g., key shopping and socializing destinations for residents). The build alternatives will disrupt this pattern.

Page 3-92; Demographic and Economic Trends

What is the 2035 population forecast for Bend assuming as a basis for traffic forecasts and what is the basis for this growth – pre-recession trend line?

Page 3-97; First Paragraph

Contrary to the statements in this paragraph, it will be more difficult to attract and retain retail businesses with the build alternatives. The no build alternative is most favored by retail businesses because it will help attract and retain their businesses versus the negative impacts associated with the ODOT build alternatives.

Page 3-103; Second Paragraph

Southbound travelers that do not exit at the northern interchange will not be able to exit to US 97 until they are outside the API (i.e., Reed Market Interchange). How can this be a viable alternative? Many of the customers of the retail businesses on Highway 97 are tourists who are unfamiliar with the road network. Those will be lost customers with this plan. Any retail business expert will confirm this being the case. ODOT does not understand retail businesses and refuses to listen.

In the northbound direction, if a customer misses the Empire exit, the customer will need to travel north to the new north interchange. This is also naïve to expect. The Empire interchange is forecasted to be congested.

Reference is made to the P8 report on retail shopping. We request a copy of this document to confirm that accuracy of ODOT's interpretation.

Page 3-103; Last Paragraph

CVSC contests the accuracy of this assessment. A survey of retail anchors will conflict with ODOT's characterization. This is supported by the retail opposition to ODOT's alternatives.

Page 104; First Paragraph

Local travelers with destinations between Grandview and the Sisters interchange will encounter more indirect access to their destinations.

(US97-027-0008837-1)

Page - 10 of 26

Page 3-105; Second to Last Paragraph

Much emphasis is given to regional freight and through traffic. In contrast, little emphasis is given to overall travel to regional destinations (e.g., Cascade Village). Insufficient information is provided concerning the amount of regional freight and the major through destinations trips.

Page 3-107; Response Times

Comparing response times to these narrowly screened build options and not including times for more community based lower cost reasonable alternatives diverts attention away from more meaningful comparisons.

Page 3-109; Second to Last Paragraph

It is unclear if the ODOT freeway vision will be the best or highest benefit cost solution to the regional freight and intercity travel needs cited in this paragraph. Lower speeds in general yield the least number of fatal and severe injury accidents. Therefore, the general statement of the build alternatives being safer is a simplified opinion.

Page 3-110; General

The description of impacts reads very much like an argument for the build alternatives and lacks any semblance of an unbiased assessment, which is how EIS reports should be prepared. The comment is true for the entire document and not for just this one page. This is a fundamental deficiency in the DEIS which is intended to provide unbiased assessments of the impacts on communities and ecosystems of proposed federally funded actions. The advocacy presentation in the DEIS clearly shows the authors bias and brings into question the balanced assessment of benefits and impacts. How can such a biased document be used by decision-makers?

Page 113; Second Paragraph

Reference is made to a slight decline in sales. What authoritative source has ODOT used to assess impacts on retail sales? The retail businesses along the corridor disagree with virtually all of the DEIS assessments of retail impacts.

Page 114; Construction Mitigation

Construction blockages should avoid the holiday shopping season.

Page 3-116; Exhibit 3-61

Why is the creek crossing Cooley Road near the BNSF tracks not shown?

Page 3-126; Neil Anderson House

These impacts seem very significant.

Page 3-128; First Paragraph

Removal and/or demolition of the house is a huge impact.

(US97-027-0008837-1)

Page - 11 of 26

Page 4-12; Third Bullet
Speed is only important for long distance trips. The time difference for short distance trips of less than three miles is not critical to mobility. Long distance trips are those where speed is important.

Page 4-12; Fifth Bullet
CVSC disagrees with this assessment. On what basis is this assessment being made? What authoritative source is being used for purposes of this assessment? Owners of the shopping center on the west side of US 97 know their local market, tenants, and the retail business. All strongly disagree with this assessment.

Page 4-12; Last Bullet
CVSC doubts this assessment is accurate. Freight traffic might shift out of the peak hours, but it will not perceptibly impact operations. Bend does not want high speed long distance trucks moving through the API and the City.

Page 4-13; Last Bullet
This assessment is false and lacks any authoritative foundation. It should be corrected to say that the build alternatives will adversely impact retail businesses in the corridor.

Page 4-14; First Paragraph
If this statement were true, the community would broadly support ODOT's proposed alternatives. It is obviously false as is reflected in the broad opposition to ODOT's alternatives.

Page 4-18; Second Paragraph
The rationalization of removing the Neils Anderson house and the piling of the Swalley Canal is not minor as ODOT has characterized. This mischaracterization reflects the distorted and biased views of highway engineers and do not accurately reflect views of most residents.

Page 4-21; First Paragraph
Noise is very speed dependent with higher noise levels at higher speeds. This is not explicitly mentioned.

Page 4-21; Second Paragraph
Has ODOT properly considered the noise impacts of truck braking? Portions of US 97 are on a grade.

Page 4-21; Energy
It would be better to state the percentages increase and the total annual amount than to just say minor. CVSC questions if induced growth and travel is properly accounted for in the analysis.

(03019-027-00080574)

Page - 14 of 26

Page 4-22; Climate Change
The proposed build alternatives have substantial likelihood of encouraging sprawl land use patterns which almost all climate change experts would agree is a primary cause of increased greenhouse gases and contributor to adverse climate change.

Page 5-1; Build Alternatives
ODOT's characterization that 2-3 year construction impacts are minimal for retail businesses is false.

Page 5-1; Section 5.1.2
This is an advocacy expression of highway engineers' opinion and it is not shared by others in the community.

Page 5-2; First Paragraph
This is the view of highway engineers and not the view of the local community.

Page 6-1
The expenditure of vast amounts of money for this project will almost certainly preclude funding a better long term solution to mobility needs.

E. Chapter Z

The 4f process should demonstrate "there is no prudent and feasible alternative to using that land." As described previously, ODOT's process for screening alternatives and ODOT's narrow definition of "reasonable" has resulted in the choice between the no build and ODOT's freeway alternatives. ODOT has not considered prudent and feasible alternatives, just ODOT highway engineers view.

F. Appendix - Right of Way

Page 6; Last Paragraph
The DBS does not explicitly indicate that the build options will require the closure of Hunters Circle connection to Coolley Road. The appendix indicates that right-of-way will be required, but does not indicate if the new streets will be built on ODOT's budget or would be the responsibility of the City.

Page 7; Third Paragraph
ODOT has been advised of the complexities impacting access and parking at shopping complexes. Access and parking are of such importance that they are often stipulated in tenant leases. The proposed widening of Tubal Road will incur these costs as well as right-of-way and construction costs. It is unclear where these mitigation costs will be covered in the project costs.

Page 11; Right-of-Way Costs
With so many properties, the land, relocation, and litigation cost contingencies are low.

(03019-027-00080574)

Page - 15 of 26

6. Traffic Technical Report

Page 1; First Paragraph

The purpose of the proposed action stated in this paragraph does not agree with the DEIS Purpose and Need. It emphasizes freight movement. This underscores the confusion at ODOT as to what this project is intended to solve.

Page 1; Last Paragraph

The recent designation of US 97 south of Grandview as an expressway is currently under review and might change thereby negating the current defined intent. The most current accident data is also significantly lower than is reported in this paragraph.

Page 2; First Paragraph

Few states use the 30th highest hour to design facilities as it leads to over design. It is generally reserved for use on recreation highways. How would the analyses and benefits have changed if the average volumes were employed and not the 30th highest hour? What is the percentage difference between the average and the 30th highest hour?

Page 2; First Paragraph

It is a stretch to say that current volumes that are at least 10% lower than the existing conditions traffic volumes are equivalent. Compared to the forecast 40% traffic growth, 10% is a significant difference.

Page 2; Second Paragraph

CVSC understands that the current mobility standards are under review. Many states have reduced their standards to reflect budget and livability concerns.

Page 2; Last Paragraph

While ODOT has a 1.9 mile interchange spacing standard, the 4,000 foot spacing on the current Bend Parkway suggests a design variance should be considered in defining reasonable alternatives for US 97.

Page 3; Second Paragraph

The MPO model uses pre-recession growth assumptions, which are clearly not accurate today. Rather than a 40% increase in traffic, reality is that 20% is more likely. Taken into account with the 10% reduction in current traffic the net total traffic increase might be more like 10% above the 2007 volumes and not 40%. Major investment decisions merit good updated forecasts.

Page 3; Last Paragraph

The purpose and need that the 20 pre-downscaled alternatives were screened against included meeting ODOT's current design standards without consideration of exceptions. The use of goals and objectives once some reasonable alternatives had been eliminated was virtually useless. The screened alternatives were limited to ODOT alternatives, which later were downscaled without re-entering the screening process. Reasonable alternatives were, therefore, not fully considered by ODOT.

(00019-027-00093571)

Page - 15 of 26

Page 3; Last Paragraph

Admission is made that the downscaled alternatives were defined after the main screening was performed. This is not a good practice and does not explain why a TSM option was not considered with the downsizing.

Page 4; First Paragraph

The two build alternatives are essentially the same. The proposed alternatives do not meet the standards established by the NEPA process.

Page 4; Third Paragraph

North of Grandview Business 97 narrows to two to three lanes? Most of the traffic on this segment is bound for the Cooley Triangle retail. Why does it narrow to a lower capacity facility?

Page 4; Last Paragraph

The 75% reduction for through traffic ignores the added travel time for those attempting to access US 97 retail. This is a very narrow definition of benefits and should be complemented by a similar assessment of travel time impacts for US 97 retail traffic.

Page 5; Paragraph 1

Reference is made to near capacity section of the Parkway south of Empire. It does not seem logical that adding four lanes of freeway capacity north of Empire can be accommodated by the network to the south. This is a major concern that raises questions about the reasonableness of ODOT's proposed build alternatives. In the long term, it also raises concerns about the segment north of the northern interchange. Merging four lanes of freeway traffic with a major arterial seems like the recipe for a bottleneck on US 97 north of the northern interchange.

Page 5; Paragraph 3

Assessment views US 97 as an Interstate facility rather than a community asset. In urbanized area freeways and expressways generally serve both local and regional needs. Few new freeways have been constructed bisecting urban areas with the trend to build bypass routes to accommodate the high speed through traffic.

Page 5; Last Paragraph

The benefits of focusing entirely on long distance trips and the need for these trips to bisect the API are not established in this DEIS. Constructing a high speed only facility for through traffic in an urbanized area has generally been abandoned by the transportation planning industry as a very bad practice.

Page 6; First Paragraph

The two purposes are not consistent with the DEIS purposes.

Page 8; Figure 2

The mile post for Empire Bend Parkway interchange should be added to this figure.

(00019-027-00093571)

Page - 17 of 26

Page 9; Paragraph 1 Consideration should be given to changing the expressway designation.	Page 16; First and Second Paragraphs The 2005 history further supports the absence of a safety problem on US 97 and brings into question one of ODOT's three purposes for this project.
Page 10; First Paragraph CVSC understands that the mobility standards are currently being reviewed and might change, undermining this premise.	Page 22; Second Paragraph Most EISs use the average weekday peak hours and not the 30th highest hour. The latter tends to overstate the problem and over estimate potential project benefits. Combined with use of an existing condition with volumes 10% higher than current volumes and a generous mobility standard, use of the 30th highest hour argues for overbuilding capacity.
Page 10; Third Paragraph Use of the 30th highest hour for the DEIS is inappropriate. The average weekday peak hour should be used. The higher hour overstates the need and estimates of benefits which are described in the HERS-5T section of this report.	Page 22; Third Paragraph What were the factors applied to boost the average peak hours to 30th highest hours?
Page 11; Second Paragraph Advance warning flashing signal ahead signs and actual speed displays would also help. If the safety problems are as substantial as suggested by this DEIS, one suspect ODOT would have already implemented these low cost measures.	Page 27; Second Paragraph Using the 30th highest hour would overstate queuing problems. How many hours or portions of the hour on a typical weekday experience the 2007 queue?
Page 13; Last Paragraph It would seem that installation of "Jersey" type safety barriers north of Grandview might be a more cost effective investment than the proposed freeway action.	Page 29; Table 14 Queues are sensitive to volumes near their capacities. The reported queues seem substantially longer than currently observed. Are these based on 2007 traffic volumes factored up to the 30th highest hour?
Page 12; Paragraph 1 The crash data seems to suggest that the study section of US 97 has lower crash rates than other comparable ODOT highways. It is therefore unclear why ODOT is proposing to spend huge amounts of money when the experience shows a relatively safe facility. Minor TSM safety measures seem to further enhance safety.	Page 29; Last Paragraph Were old 2007 traffic volumes adjusted up to 30th highest hour used for the MOE analysis?
Page 12; Last Paragraph The accident history is not current.	Page 30; Last Paragraph When did ODOT re-designate US 97 as an expressway and what public outreach was made to affected property owners? Based on the current Bend Parkway, these spacing standards apparently were not in place for its planning, design, and construction. The same is true of US 97 from Sisters interchange north.
Page 13; Last Paragraph History suggests driver error more than engineering design as the cause of most severe accidents.	Page 31; Last Paragraph Cascade Village has a left turn inbound access from US 97 northbound south of Robal Road.
Page 14; First Paragraph The segment north of Robal has an accident rate less than half the statewide average and the section south to Empire are about two-thirds the statewide average for comparable facilities. This experience suggests a facility that is operating well.	Page 33; Second Paragraph Not having the best forecast (locally constrained) seems a problem considering the cost and the impacts associated with the proposed action.
Page 14; Second Paragraph The Cooley Road and Robal Road intersections have accident rates "substantially below" the statewide average. This history suggests a relatively safe current design.	Page 35; Third Paragraph Clearly the vast majority of the traffic on US 97 is local, and yet ODOT's proposed action is aimed at the 25% of the non-local trips building it would seem a four lane expressway for about 10,000 ADT of through traffic.

(j0038-027-00085572-1)

Page - 18 of 26

(j0038-027-00085572-1)

Page - 19 of 26

Page 33; Last Bullet

Observations agree with the statement that most of the peak hour trips are commute trips and are not long distance trips that the proposed action is designed to accommodate.

Page 34; First Paragraph

Models are simply efficient number crunchers. They take whatever data is inputted and blindly follow instructions on how to use the input data. If the input data is flawed the output is flawed. We know that the Bend model was calibrated to pre-recession conditions and, thus, there is strong reason to suspect the model is overestimating trips. We also know that the land use growth assumptions used for the MTP 2030 forecast are much higher than what will actually occur. The model is therefore substantially and significantly over forecasting trips. Regional through traffic which is the primary purpose for the proposed action is hardwired into the MPO model. That is these regional intercity trips are estimated externally by ODOT, including perhaps intercity freight movements. These inputs are not explicitly described anywhere in the DEIS. As regional travel (including freight) is a primary reason established by ODOT for the proposed action, understanding these inputs is critically important. Is the analysis for the PM peak hour or some other hour?

Page 34; Fourth Paragraph

Use of the 30th highest hour is inappropriate. The straight line interpolation approach also seems weak in light of the recession. Not much is likely to happen between now and 2015.

Page 34; Last Paragraph

More detail seems warranted on the local growth to confirm that it is a sound basis for major investment decisions. The growth reflected in traffic volumes statement seems like circular reasoning. What is the growth and where is it located? Knowledge of this will allow confirmation that the input data is valid and also will allow decision-makers to revisit if this growth is smart or if it should be redirected elsewhere or in another form.

Page 35; Last Paragraph

Volumes on the Empire interchange crossing are projected to double. This will be a challenge to accommodate and from a system or network perspective it raises the question of diversion of some traffic away from this interchange.

Page 35; Last Paragraph

The Bend Parkway south of Empire will be at capacity, which raises the question of adding four expressway lanes into an already near capacity highway.

Page 35; Last Paragraph

The following ODOT finding raises questions on the proposed project capacity merits.

(00319-007-00005571)

Page - 20 of 26

"The over standard mainline sections of US 97, especially south of the project limits will increase congestion for traffic entering and leaving the project area. Any substantial improvement with the project results in traffic reaching the limits faster, thus increasing congestion."

Page 39; Paragraph 1

Current conditions are relatively good concerning queue spillback and little growth is likely by 2015. Therefore, the queue discussion in this paragraph does not seem accurate.

Page 43; Table 26

These forecasts are based on old data, biased forecasts (30th highest hour), and generous mobility standards.

Page 44; Queuing

This discussion supports the premise that adding capacity north of Empire will not solve regional problems, merely shifting the bottleneck location.

Page 51; First Paragraph

The alternatives were first screened concerning satisfaction of ODOT current design standards and those were used as a final filter past fall test. It did not matter that alternatives were consistent with the current Bend Parkway design practices or that they were functionally viable. Unless they passed the current local ODOT design standards, alternatives were discarded and not considered further. Thus, many reasonable alternatives were eliminated. Any consideration of the goals and objectives occurred only for the ODOT standard alternatives.

Page 51; First Paragraph

At the near completion of the project the purpose and need was revised to allow downscaled alternatives which, while not ideal, must have met the ideal current ODOT design standards. It is common in the transportation industry to consider design standard waivers, but this was not entertained by ODOT in this DEIS process.

Page 52; Paragraph 2

The Cascade village entry at Hela Anderson includes left-turns inbound to the Shopping Center.

Page 52; Paragraph 4

Four lane Robel Road between US 20 and US 97 will involve some costly and significant right-of-way acquisition.

Page 59; Paragraph 1

The benefits of the proposed action could better be achieved by a bypass not traversing the API. The apparent objective to serve interstate and long distance freight traffic is inconsistent with punching a high speed highway thru a developed urban area.

(00319-007-000730572)

Page - 21 of 26

H. Traffic Appendices

Page D-49; Paragraph 2

It is very debatable if the old 2002 volumes represent sound 2035 volumes. The decline in traffic, accidents, population, and employment forecast are dramatic and significant. Simple tables showing existing and future population and employment changes near the project area would be helpful.

Page G-69

Only 3.5% of the trips are pure through trips. This statement brings into question the merits of the proposed action. Complicating travel for 96% of the traffic to benefit 3% of the traffic is not reasonable.

Page E-57; 2007 No Build Volumes

The 2007 30th highest hour forecast show that the current segment of US 97 south of Robal serving about 1,000 vph per lane and the segment of Bend Parkway south of Empire serving about 1,325 vph per lane.

Page H-91 2025; No build Forecasts

The 2025 no build forecast show volumes increasing to 1,500 vph per hour per lane on the Bend Parkway end to 1,300 vph per lane on US 97 at Robal. Overall this forecast show a 55% increase in peak direction volumes on US 20 south of Robal, a 36% increase on 3rd south of Empire, a 25% increase on 3rd at Robal, and a 43% increase on the Bend Parkway south of Empire. These growth numbers do not seem realistic.

Page K-232 2035; Forecasts for East DSL -1

The 2035 forecast for the East DS-1 build option shows even higher volumes on 3rd south of Empire and on US 20 south of Robal. The forecast for the Bend Parkway south of Empire is projected to be 3,965 vph in the northbound direction or about 1,000 vph per lane. The volume on the Bend Parkway would be higher than the no build alternative.

Page T-359; HERS-ST

This document dated October, 2009 precedes ODOT's definition of its downscaled alternatives. Thus, its findings do not reflect the DEIS build options. Consequently, HERS-ST discussion is not relevant to this DEIS. The analysis was performed for the East Alternative, which was discarded as being unaffordable leading to the subsequent definition by ODOT of the downscaled alternative.

Page T-362; Second Paragraph

It is customary to include a TSM alternative in these cost benefit analyses. Why wasn't a TSM option included? It might, for example, have included adding a third lane in each direction south of Grandview or lower speed limits with traffic safety measures.

Page T-362; Last Paragraph

The benefit cost assessment was performed without knowledge of the project costs. It assumed \$300 million in construction costs for the bypass option. This cost information is not available anywhere in the 1,500 page DEIS documentation. After seven years of planning it is reasonable to expect that total project cost information would have been provided for the DEIS and this HERS-ST analysis. Without the costs, review of benefit cost ratios is meaningless.

Page T-363; Second Paragraph

Mention is made of \$350 to 450 million in total project costs.

Page T-365; First Paragraph

This sentence suggests that environment is included in the assessment. In fact, only direct environmental benefits are considered and many livability and other environmental impacts are not considered.

Page T-365; First Paragraph

This paragraph seems to suggest that only ODOT agency costs were considered and that costs of the City, County, and other agencies are not factored in. Is this correct? If so, aren't the total costs the most important?

Page T-367; Second Paragraph

CVSC believes that the existing and forecast traffic volumes/conditions are significantly out of date having been prepared before the recession. Thus, any analyses based on these forecasts are also questionable.

Page T-371; Fourth Paragraph

These costs do not reflect livability and sustainability costs.

Page T-372; Second and Third Paragraphs

Assumptions need to be validated with preliminary cost estimates, otherwise they are meaningless.

Page T-373; Table 7

The benefit cost ratio for the bypass option is 1.71 based on \$100 million capital improvement costs. The total ODOT bypass option is understood to be \$250+ million, which would have substantially lower benefit costs. The benefits used for this assessment appear to be overstated based on pre-recession conditions and the costs we believe are likely understated. One would anticipate cost in the order of \$320 million comprised of:

- \$300 million right of way
- \$15 million Empire Interchange
- \$35 million Cooley Road BNSF underpass
- \$20 million northern interchange
- \$120 million six miles of expressway

- \$30 million local street modifications and traffic/signage control

These estimates do not have the benefit of geotech and other detailed background studies, but suggest that this will not be a low cost effort to construct. This will not be a simple project to construct and costly traffic management plans will be needed over a decade.

The ODOT 1.71 BCR which was based on the \$100 million construction cost postulation, more likely would be 1.15 if the benefits were calculated based on post recession growth and use of the average weekday peak hour traffic volumes rather than the 30th highest hour of the year. The growth forecast are likely 25 percent lower than used in the DEIS and the adjustment for 30th highest hour would add another 5 to 10% to eliminate inflated benefits. Recognizing that the steepest benefits occur at/near capacity these adjustments likely translate to a 50% boost to ODOT estimated benefits. If the \$320 million cost estimate above is used in the BCR calculation the BCR drops to 0.36 -- hardly a cost effective or reasonable investment. Inclusion of land value in the cost makes sense since few highways ever revert back to other uses and those few incur major demolition costs to allow for other uses. Costs for engineering design, construction management and other such soft costs should also be included in the total project costs used for the BCR.

General

At the back of the Traffic appendices, ODOT describes its approach and found a 1.71 BCR for the bypass project. Actually, this is not a bypass since it places the freeway traffic into the network at the congested Sisters/Emple interchange. The BCR should exceed 1.00 to be considered viable, but almost all DOTs look for something greater (e.g., 1.20) to ensure that the project is feasible. In practice, projects must be competitive with other major investment highway projects in addition to being viable themselves.

ODOT's estimate of benefits is likely 50% too high as the growth inputs to the model are about 30% too high and the use of the 30th highest hour adds to the inflated traffic volumes. Near capacity operating conditions, the benefits are greatest so the benefits would be higher than the traffic volume inflation.

ODOT confesses not having current cost estimates but uses \$100 million construction costs for ODOT's analysis. ODOT does not include land cost and probably not "soft costs." ODOT's rationale is that land will always have value and could be used at a later date for something else. This is a flawed argument as few of us have ever seen land revert back to something else after it has been developed for a highway. Also, substantial demolition costs would be involved to return the land to another use.

If the benefits were reduced by 50%, the BCR would drop to 1.15. If the costs increase from ODOT's \$100 million to CVSC's projected \$320 million, it would further reduce the BCR to 0.36.

(103319-027-00058571)

Page - 24 of 26

E. Interchange Area Maintenance Plan Technical Report

Page 1; Paragraph 1

According to ODOT, only 3.5% of the traffic is purely regional with 75% of the traffic having destinations within the API. Thus, it is misleading to say US 97 also serves as a route for local residents to travel to and from home and work. It would be more accurate to say that US 97 is an important arterial street which also accommodates some regional traffic.

Page 3; Second Paragraph

Crash rates are less than half the statewide average for comparable facilities. As such, it is a relatively safe facility and not a major safety problem.

Page 5; Exhibit 2

It seems questionable that a two lane business 97 north of Cooley will be adequate since most of the traffic in the corridor is local and this local traffic would need to use this narrow roadway.

Page 7; First Bullet

The expressway classification is under review and this purpose, therefore, is premature and likely to change.

Page 7; Bullet Six

The purpose is overly broad and invites abuse.

Page 10; Exhibit 4

Cascade Village is located more than a half mile from the Emple Interchange and should not be included in the Emple Interchange Management Area Plan. Overall the areas for these interchange plans are too large and usurp control by the City and County. Public input is needed to focus these areas. In recent years, ODOT has eliminated Cascade Village's driveway to US 20 and encouraged it to focus its front door towards US 97. To reopen access issues for the shopping complex after substantial investments towards oriented itself towards US 97 seems poor public policy.

Page 57; First Paragraph

As these IAMPs are integral elements of the proposed corridor plan, they should be more fully described in the DEIS and the refinement of the IAMPs should be subject to NEPA review at the project level prior to moving forward with implementing the corridor plan and the IAMPs.

Page 38; Third Paragraph

The IAMPs should be consistent with the proposed action and since reasonable alternatives were not included in the evaluation and since the proposed action itself is not cost effective in terms of its BCR it by definition is an unreasonable action.

(103319-027-00058571)

Page - 25 of 26

Page 42; Last Paragraph

This paragraph cites no differences in ODOT's proposed actions. It is likely that more cost effective and reasonable actions will be identified before the FEIS is published.

Page 43; First Paragraph

3,520 feet influence area is defined in this paragraph, but more public input is needed to define a reasonable area. Cascade Village should not be within this IAMP.

North US 97 Public-Private Working Group
c/o Liz Dickson
Hurley Re PC
747 Mill View Way
Bend, OR 97702

Members:

City of Bend (City Manager Eric Kling
and Transportation Engineering Manager Nick Arnlt)
Deschutes County (County Commissioner Alan Unger
and Road Department Director Chris Doty)
Cascade Village Shopping Center (Neil Bryant
of Bryant, Lovlien & Jarvis, PC, Legal Counsel)
Bend Center Mall (Liz Dickson of Hurley Re, PC, Legal Counsel)
Newman Development of Bend, LLC (George Akel, Managing Member
and Liz Fancher, Legal Counsel)
Lowe's HW, Inc. (Mark Stoner, Director of Real Estate Acquisitions)

DELIVERED BY HAND by Erik King and Chris Doty
May 21, 2012

Bob Bryant
Region 4 Manager
Oregon Department of Transportation
63055 N Hwy 97
Bend OR 97701

Re: North US 97 Corridor Environmental Impact Statement ("EIS")
Informed Decision Making Process
Working Group Refinements

Dear Bob:

The Draft Environmental Impact Statement process synthesized the diligent and excellent work of many interested people. That work confirmed a need for changes at the intersection of North US 97 and Cooley Road in Bend's north end. It also illuminated the need to scale back those recommendations to make them affordable. We are all operating in a strained economic environment, requiring us to rethink plans and projects to better balance multiple objectives.

We are very encouraged by your discussions with the City and County about creating a project approach to the current EIS alternatives and support this direction. A project-based action, such as the one being discussed, will preserve flexibility to accommodate the findings of the "Trip 97" effort (see below) and will also meet the Draft EIS's purpose and need by improving safety and mobility, relieving congestion at the US97 / Cooley Road intersection, and supporting economic development consistent with local agency plans while minimizing impacts to the existing and planned economic base. A project that does not preclude other actions that emerge as part of a longer term vision for the corridor is a creative and feasible method for moving forward with the EIS. We are also supportive of your idea to pursue shorter term projects as the end product of the current EIS process, and deferring longer term option decisions, like DS-1 and DS-2 options, to a later date with current information. We believe that it is prudent to step back

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Working Group Letter to Bob Bryant of ODOT
Page 2

and let the results of "Trip 97" determine the alternatives, if any, that might arise from the collaborative efforts of the region's cities, counties and businesses with respect to the US 97 corridor as it exists between Madras and La Pine.

Public and private interests share common goals for this project. To that end, we have worked together to narrow and refine our common objectives in the interest of presenting them to you for consideration and, hopefully, to be of assistance as we improve the EIS collectively. This Working Group is comprised of:

- Deschutes County
- City of Bend
- Cascade Village Shopping Center
- Bend Center Mall
- Newman Development Group of Bend, LLC
- Lowe's HW, Inc.
- Representatives of the HUNS and BANA have also attended some meetings

The Working Group acknowledges that long term solutions for the region's transportation corridor will be necessary. Interim, project-based solutions need and should not preclude those longer term solutions. Otherwise, public dollars will be wasted. With that foundation in mind, we have met several times and have distilled our common goals for the project into these criteria:

1. Relieve Capacity Constraint at US 97 – Cooley Intersection to Allow Economic Growth
 - a. Immediate demands require change to accommodate needed growth
2. Maintain Access and Connectivity to and from Critical Regional Employment and Commercial Area Facilities for Public Benefit
 - a. Access – recognize that access restriction and elimination of existing points of access to major centers of development will funnel additional traffic to congested intersections.
 - b. Facilities – emergency services on Hwy 20 and three shopping areas
 - c. Connectivity – promotes and enhances the development of key areas for economic development
3. Propose an Affordable Project-based Solution
 - a. Limited funding dictates strategic improvements and right of way acquisitions
 - b. Project development should begin on a proposed small scale project
 - c. Development of a longer term solution should begin with a discrete project
 - d. Measure the costs of all proposed changes against the benefits achieved
4. Review the "Expressway" designation for that portion of US 97 that is within the Urban Growth Boundary
 - a. Recognize that functionality is of primary importance and should not be restricted by facility classification

We will support ODOT's efforts as a unified group to achieve these goals.

The local government effort commonly referenced as "TRIP 97" offers new ways to address the challenges of this project as well. The flexible mobility standards reflected in this concept are intended to address precisely the purpose and need that the EIS was intended to address. We hope that TRIP 97 will address the functionality of the US 97 facility in a way that will allow ODOT to consider more outcomes and options for improvements to address highway congestion based on design techniques without the

Working Group Letter to Bob Bryant of ODOT
Page 3

restrictions created by the Expressway designation. TRIP 97's collective vision for the Central Oregon corridor will reflect true collaboration of cities, counties, and small businesses in the region all working together to promote healthy, growing communities for the region, to our mutual benefit. A corridor solution is likely coming from this effort. We encourage ODOT to respect that process and plan in concert with those results as they are completed.

Our Working Group encourages reliance on traffic flow measurements that reflect volumes as they exist today, as contrasted with the traffic patterns and volumes that existed in 2006 or 2008 or even 2010. It is our belief that the best results will come from using today's volumes as a starting point to project future levels and patterns, utilizing updated analyses throughout this process. Multiple catalysts are in play that already have changed and that will continue to change the current traffic levels significantly:

- State and regional efforts are underway to bring job creators to the region and if successful, will significantly change traffic patterns in the area.
- Deschutes County's Transportation System Plan is undergoing significant revisions, currently in the final public hearing phase, and will change traffic patterns.
- City of Bend's UGB expansion process, currently under appeal, will be completed in 2-3 years and will significantly impact Bend's north end.

We collectively support a project-based approach that will have an immediate positive impact for the capacity, safety and operations of the corridor. We believe that financially feasible, phased solutions can significantly reduce congestion while allowing access to key commercial and industrial facilities, and will reopen Bend for business.

We look forward to working with you and your staff on these ideas and proposals to finish the EIS process.

Sincerely,
North US 97 Public-Private Working Group

City of Bend


City Manager Eric King

Deschutes County


Transportation Engineering Manager Nick Arnis


County Commissioner Alan Unger

Road Department Director Chris Doty

Cascade Village Shopping Center



Neil Bryant of Bryant, Lovlien & Jarvis, PC,
Legal Counsel

Bend Center Mall



Liz Dickson of Huntley Re, PC, Legal Counsel

Newman Development Group of Bend, LLC



George Aloi, Managing Member

Lowes HW, Inc.

M/ Mark Shorer

Mark Shorer, Director of Real Estate Acquisitions

Appendix B

Final EIS Errata Sheet

The list below corrects errors identified in the Final EIS. Where applicable, the old text is shown with strikeout and corrected text is provided in bold.

Page Number	Description of Correction
ES-3 to ES-4	Added a hyphen in the following sentence: The purpose of the proposed action is to improve safety and mobility for trucks and automobiles on US 97 by implementing a practical design solution that is affordable within the potential 20-year funding opportunities and that meets the following performance objectives for the medium-term (510 5-10 years) and long-term (over 10 years) planning periods as defined by the Bend Metropolitan Planning Organization's <i>2007–2030 Metropolitan Transportation Plan</i>.
ES-36	Corrected the right of way and utilities impacts summarized in Exhibit ES-7: Preferred Alternative: Acquisition of an estimated 103 105 parcels totaling approximately 82 acres of right of way.
1-17	Re-labeled the header row in Exhibit 1-8 FEIS: 2004 2006 2005 2007 2006 2008 2007 2009 2008 2010 2009 2011

Exhibit 1-8 FEIS: Number and Type of Crashes on US 97 within the API from 2006 to 2011

Crash Type	2006	2007	2008	2009	2010	2011	Total
Angle	2	0	0	0	0	3	5
Backing	2	0	0	1	0	1	4
Fixed Object	8	2	2	3	3	3	21
Head-on	0	0	0	0	1	0	3
Miscellaneous/Other	0	2	1	1	0	4	8
Non-collision	1	1	1	0	1	0	3
Rear-end	24	22	19	21	18	16	120
Sideswipe-meeting	0	0	0	2	1	1	4
Sideswipe-overtaking	5	1	3	4	4	1	18
Turning	2	8	11	3	1	3	28
Total	44	36	38	35	29	32	214
Fatal/Injury A Crashes	3	0	5	2	1	3	14
Intersection/Related	17	20	24	16	20	22	119

Note: This revised exhibit shows updated crash data for 2006–2011.

- 1-23 **Exhibit 1-13 should show an additional private driveway on US 97 for the property located at 20710 Bowery Lane.**
- 3-104 **Corrected the estimated number of parcels requiring acquisition under the Preferred Alternative as listed in Exhibit 3-35 FEIS:**
Estimated Parcels Requiring Acquisition for the Preferred Alternative:~~103~~ **105**

3-117 Corrected the number of parcels requiring partial acquisition under the Preferred Alternative in the following sentence:

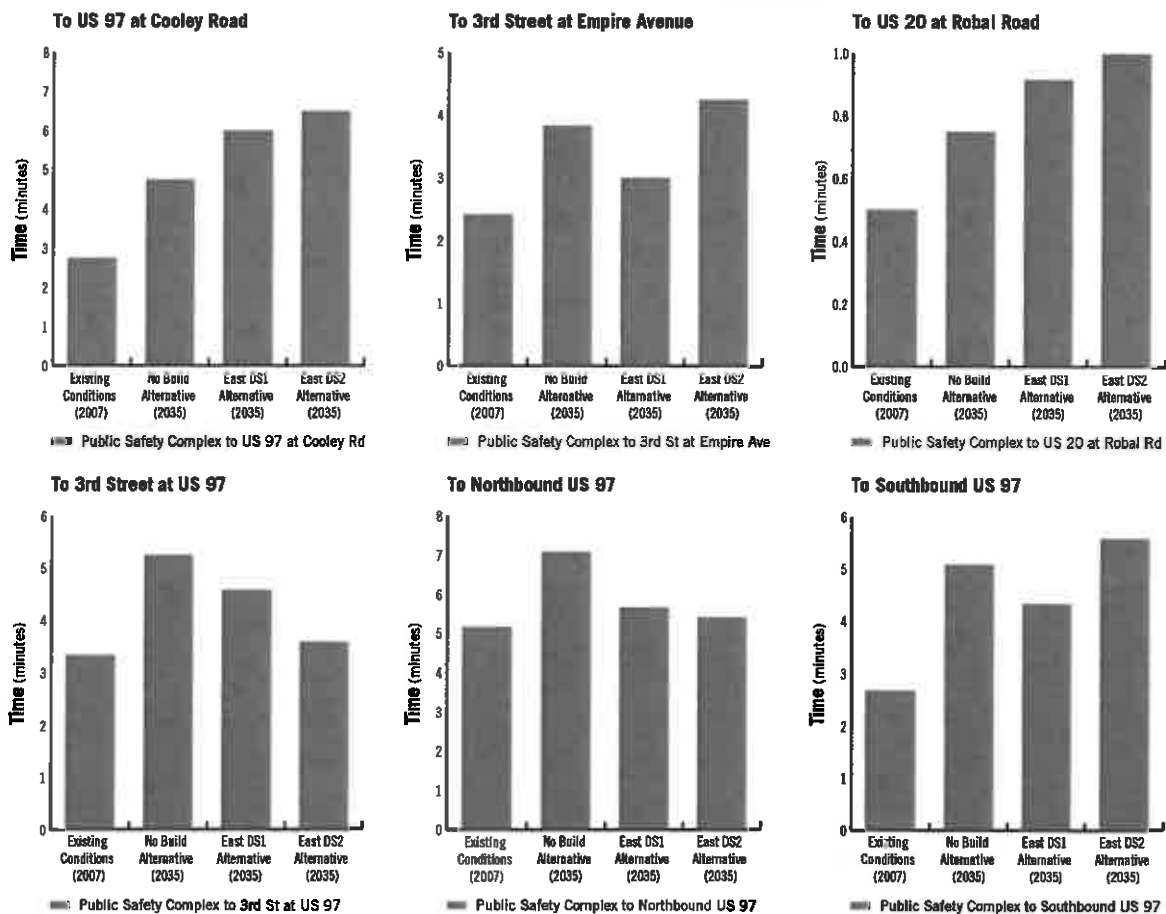
Nearly Approximately half (~~51~~ 53) of the parcels highlighted in Exhibit 3-38 FEIS (Maps 1 through 5) will be only partially acquired and will not require removal of the home or business on that parcel.

3-117 Corrected the total number of parcels requiring acquisition under the Preferred Alternative in the following sentence:

The Preferred Alternative will require acquisition of right of way, access rights, or an easement from ~~103~~ 105 parcels, as shown in Exhibit 3-35 FEIS.

3-169 Replaced the bar graphs in Exhibit 3-54 with the versions presented in the Draft EIS, which include data for the East DS2 Alternative rather than the East DS2 Modified Alternative:

Exhibit 3-54: Emergency Service Provider Estimated Response Times from the Public Safety Complex



3-184 Corrected the number of parcels requiring partial acquisition under the Preferred Alternative in the following sentence:

The Preferred Alternative will require acquisition of 52 full parcels and ~~52~~ 53 partial acquisitions as shown in Exhibit 3-60 FEIS.

3-185 Corrected the number of parcels subject to acquisition under the Preferred Alternative as listed in Exhibit 3-60 FEIS:

Parcels subject to acquisition (full or partial): ~~104~~ 105