

December 5, 2012

TO: Paula Hammond, Secretary, Washington State Department of Transportation

FROM: Nancy Boyd, Washington CRC Project Director

SUBJECT: Review of Acuity Group correspondence to Washington legislators regarding Columbia River Crossing – Project Sponsors Council and Open Public Meetings Act

Introduction

At your request, we have reviewed assertions made by Tiffany Couch about the Columbia River Crossing (CRC) project, that the Open Public Meetings Act was not followed.

The CRC project's work with agency partners and advisory groups has adhered to all state laws and agency policies regarding open public meetings. We have also maintained a high level of commitment to public engagement and public information. Our process to reach consensus on a locally preferred alternative was transparent and the record clearly reflects how public feedback has shaped our decisions.

Findings

1. Assertion: A bi-state group of regional agency representatives, the "Project Sponsors Council (PSC)," made decisions related to the National Environmental Policy Act (NEPA) process and the project has denied the existence of the group.

Finding: CRC has shared information about all PSC activities; an early Project Sponsors Council did not make decisions about the CRC project.

Two groups existed as the project has developed, both of which have been called "project sponsors council." While they share the same name, the two Project Sponsors Councils existed in different periods and for different purposes. An early PSC met eight times from mid-2005 to late 2006 before disbanding in January 2007. Members included several regional agency leaders and elected officials who also sat on the 39-member bi-state Task Force. These meetings served as an informal forum for representatives to discuss elements of CRC's early project development, with members agreeing at their initial meetings that they would not have a decision making role, but rather play a "coordinating function," acting as a "sounding board" for how to move forward with the project.

No decisions were made at the early PSC meetings. Participants reviewed and discussed draft information and made suggestions to the Project Development Team, composed of department of transportation and consultant staff, for consideration.

A second Project Sponsors Council, appointed by Governor Gregoire and Governor Kulongoski, met between November 2008 and December 2011. The later Project Sponsors Council was composed of regional elected officials charged by the governors with advising on completion of the environmental impact statement, project design, project schedule and financial plan, and sustainability goals.

Ms. Couch claimed that CRC and WSDOT staff made misleading statements about the existence of an early PSC group. At the August 20, 2012 Washington Legislative Oversight Subcommittee meeting, Secretary of Transportation Paula Hammond said that additional information would be

provided to the committee to clarify questions about PSC's role. A response to the question about an early PSC group was included in detailed response to committee questions on September 27, 2012 (see response number 26 "Was there a group called the Project Sponsors Council before 2008?").

Critical decisions related to the CRC project were, and continue to be, directed by the Washington State Department of Transportation (WSDOT) and the Oregon Department of Transportation (ODOT). Project oversight was, and continues to be, provided by the governors from both states, Oregon and Washington legislative transportation committees, as well as the Federal Transit Administration and Federal Highway Administration. Significant decisions throughout scoping, problem definition and alternatives evaluation were made WSDOT and ODOT and informed by an extensive public process, including recommendations from the project's 39-member Task Force, information provided by sponsor and cooperating agencies and public comment. The boards and councils of the six local project sponsors - C-TRAN, Trimet, the cities of Vancouver and Portland, the SW Washington Regional Transportation Council, and Metro - each took approval actions at their own public meetings in the summer of 2008 after more than three years of public meetings which led to the unanimous recommendation of a Locally Preferred Alternative.

Ms. Couch has been provided with or has online access to all existing records relating to both PSC groups. All recommendations by the governor-appointed Project Sponsors Council are published on the project website. Because no decisions were made by the early PSC, the records are not published on the project website. Internal meeting records were provided at Ms. Couch's request.

2. Assertion: Some of the project's early planning documents reveal that key decisions were made by the early PSC group.

Finding: The record of CRC's process shows the limits of the early PSC's role and that critical project decisions were made by the states in consultation with stakeholders and the public.

Ms. Couch cites a draft October 2005 internal memo and other documents as evidence of PSC having a decisional role in the project. However, concepts described in the draft memo were neither accepted by the project nor was the memo finalized, and the content did not reflect the group's working assumptions or activities.

The CRC Task Force was the primary advisory body through which the CRC project sought public feedback on project scoping and alternatives. The Task Force was composed of 39 members and was chaired by two citizens appointed by the Washington and Oregon governors. The group met 23 times between February 2005 and June 2008 on project-related issues and concerns. The Task Force helped identify problems to be addressed by the CRC project and developed evaluation criteria, possible solutions, a range of alternatives to be considered in the draft EIS and a recommendation for a locally preferred alternative. Each Task Force meeting was noticed to the public with a news release and posting to the CRC website. All meetings were videotaped by public access television for rebroadcast and provided opportunity for public testimony.

Records of early PSC meetings indicate members' discussion of their role in the project. Those members agreed at their November 7 and December 20, 2005, meetings that they would not have a decision making role, but rather play a "coordinating function," acting as a "sounding board" for how to move forward with the project. The group made no significant recommendations while it existed. This role is documented in the June 2006 Project Management Plan cited by Ms. Couch, that describes consensus leading to public actions taken by each official board and council body, not the PSC.

At their meetings, early PSC members discussed project development milestones presented by the Project Development Team. For example, in December 2005, PSC members discussed the project's draft evaluation effort and purpose and need statement. The Project Development Team later presented its proposed evaluation language based on agency, early PSC, staff, and public comments to the Task Force, which was an open public meeting. An amended evaluation framework was

adopted by the Task Force at its February 2006 meeting. The purpose and need statement, based on work with the Task Force, was finalized by the Project Development Team and submitted for approval to Federal Highway Administration in January 2006.

The early PSC made a decision to disband in early 2007, concluding that its meetings were duplicative and unnecessary given that all but one member also sat on the Task Force. The Task Force went on to provide recommendations to narrow potential solutions to five alternatives analyzed in the Draft Environmental Impact Statement. The Task Force considered findings in the Draft EIS and public comments before making its final action of recommending a Locally Preferred Alternative: a replacement bridge with light rail. The boards and councils of the six local project sponsors considered the Task Force recommendation, technical findings in the Draft EIS and comments made at their own public hearings before unanimously recommending an LPA: a replacement bridge with light rail. The LPA recommendation was then carried forward for additional development.

3. Assertion: The early PSC meetings violated the Open Public Meetings Act and that the CRC project planned to limit public participation.

Finding: CRC has adhered to state and agency policies regarding open public meetings and encouraged public participation throughout project development.

CRC is committed to complying with open meetings and public records acts of the State of Washington and State of Oregon. The project's public communication procedures are in accordance with Chapter 42.30 RCW, Chapter 192 ORS and WSDOT policies outlined in the Administrative Services Manual. Public meetings are noticed through a combination of press releases, the project website, broadcast emails, legal notices and display ads. All meeting materials related to the project's many public advisory committees and decisions are posted on the project website and are available for review at the project office.

As discussed in the previous section, the early Project Sponsors Council met several times from mid-2005 to January 2007. PSC's intent and function was information sharing only. The early PSC affirmed at its first meeting that it was not a governing body for the CRC project. Thus, in its role, the open meetings law requirements of Oregon and Washington do not apply. Recommendations and approvals in this period were made by the CRC Task Force and the boards and councils of local project sponsors. All votes related to recommendations by the Task Force to the CRC project occurred during open public meetings that had been publicly noticed.

Through the public involvement program that led to the Record of Decision in December 2007, CRC staff participated in more than 900 public events, leading to more than 27,000 face-to-face contacts to allow people to learn about the project and provide input. Community input has shaped project development and design. More than 12,000 public comments were received on a range of topics that significantly contributed to project designs, including the project's purpose and need, preliminary alternatives, environmental impact statement, locally preferred alternative and refinement of project designs following selection of the LPA.

Conclusion

Ms. Couch's claims do not take into account all of the facts and her concerns are unwarranted. The early Project Sponsors Council served as a point of inter-agency coordination. No decisions were made by this group during its limited engagements. The project has made no attempt to obscure their activities. CRC's extensive public record reflects open and collaborative work with the community to define the problems in the I-5 project area, evaluate and package alternatives, and select a long-term solution.

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cc: Project Controls