



April 1, 2019

Oregon Department of Transportation

info@i5RoseQuarter.org

Attention: Megan Channell

123 NW Flanders St.

Portland, OR 97209

Dear Ms. Channell,

Please accept the following comments from Audubon Society of Portland (Audubon) regarding the draft Environmental Assessment (EA) for proposed widening of Interstate 5 (I-5) at the Rose Quarter. Audubon is a 501(c)(3) public interest conservation organization with 17,000 members in the Portland Metropolitan Region. Audubon has been tracking the I-5 Rose Quarter Freeway Widening Project since it was first proposed as part of the Portland Central City NE Quadrant Planning Process nearly a decade ago. Audubon is also a member of the No More Freeway Expansions Coalition and we incorporate their comments by reference. We appreciate the opportunity to comment on this project.

Based on the information provided in the EA, we urge ODOT to select the “no-build” alternative. If the project does proceed forward, we believe that ODOT would be required to do a full Environmental Impact Statement (EIS) in order to comply with the National Environmental Policy Act (NEPA).

As currently proposed, the I-5 widening project is not consistent with local climate, equity or environmental objectives. ODOT and the Federal Highway Administration (“ODOT”) have not made a compelling case that this project would substantially improve congestion on I-5 or that it should rank as a priority project in terms of addressing road safety issues. The freeway lids will offer little in terms of either providing openspace or reconnecting neighborhoods that were historically fractured by the construction of I-5 and will undermine, rather than improve, connectivity for pedestrians and bikers. A transportation project estimated to cost in the range of \$500 million should offer a compelling vision for addressing the most pressing issues of the 21st Century including climate change and equity, but as proposed, the I-5 widening appears designed primarily to perpetuate what should be a bygone era in which freeways and automobiles dominated our urban landscapes.

We would note up front that the EA raises far more questions than it answers. For a project of this cost and magnitude, the EA is remarkably superficial and sparse on details. Many of the EA's sections read more like thumbnail sketches than the detailed analysis we would expect for a project of this cost and magnitude. The challenges in assessing this project were also unnecessarily exacerbated by the fact that ODOT failed to include many important documents, data sets, figures, and appendices necessary for a complete review of the EA when it was first released on February 15, 2019. Ultimately the complete set

of information was not posted until March 13th, effectively narrowing the forty-five day comment period to just nineteen days (just thirteen business days). This project will have major impacts on our community and our environment during both the construction phase and once it is completed. It is important that ODOT strive for maximum transparency and meaningful public engagement.

We would also note that a very broad spectrum of community organizations and subject matter experts have weighed-in on this project with significant and substantive concerns. Virtually every element of this project including its congestion and safety benefits, environmental impacts, ability to redress historic inequities, and the efficacy of its surface improvements (connectivity for bikers and pedestrians and openspace) has raised red flags from groups and individuals with significant expertise in these subject areas. Too often with these types of mega projects, the NEPA process serves more as an exercise to convince the public, or at least key decision-makers, to allow the project to proceed forward rather than as a true exploration of alternatives that will result in the least damage to the environment. The stated purpose of NEPA is as follows:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation... [42 USC § 4321]

We strongly urge ODOT to heed the concerns being raised by the community now as well as the hard lessons of the Columbia River Crossing where more than \$175 million of public funds was wasted¹ before the project ultimately collapsed in a process that chose to ignore rather than address concerns being raised by community stakeholders. The I-5 widening project raised very significant concerns back when it was first proposed as part of the NE Quadrant Planning Process² in 2010. Many of these questions and issues raised then loom even larger nearly a decade later and issues that had only limited visibility in 2010 such as climate change and equity are of paramount importance today. It is critical that ODOT use the NEPA process to take the requisite “hard look” at this project and truly consider whether it should proceed forward.

The following are our specific concerns:

1. A full Environmental Impact Statement is required.

An environmental assessment may either result in a finding of no significant impacts (FONSI) or a determination to proceed to a full environmental impact statement. An agency must prepare an EIS if it is proposing a major action with a federal nexus which will “significantly affect the human environment.” In determining whether an action will significantly affect the human environment, the Council on Environmental Quality (CEQ) advises that an agency must look at both the context and intensity of the proposed action. We incorporate by reference NEPA analysis submitted by attorney, Sean Malone on behalf the No More Freeway Expansions Coalition. Portland Audubon Conservation

¹ https://www.oregonlive.com/business/2013/07/columbia_river_crossing_spends.html

² <https://www.portlandoregon.gov/bps/52841>

Director, Bob Sallinger is a signatory to these comments. Mr. Malone has done an outstanding job delineating the basis for why a FONSI would be inconsistent with NEPA and contrary to the law and a full EIS must be developed if the project is to advance.

We will not repeat the entirety of Mr. Malone's comments in this letter, but would note that we are surprised the ODOT did not proceed directly to a full EIS. The context for the I-5 Rose Quarter is a publicly funded project that will cost approximately \$500 million, likely take multiple years to complete, focused on the most active transportation corridor on the West Coast. This project will have impacts at the neighborhood, municipal, regional and national scales. It represents one of the most complex and expensive projects in the Regional Transportation Plan (RTP) which prioritized 882 projects for funding over the next 25 years.³ The project will have significant impacts on our river environment including impacts on federally listed salmonid species and federally designated critical habitat for listed salmonids, and will potentially trigger review for compliance with other environmental laws such as the Clean Water Act and CERCLA. Further, the baseline for this project includes the Columbia River Crossing (CRC), a \$3 billion dollar project which was abandoned in 2013, but which even standing alone required an EIS. If ODOT is going to include the CRC, which currently is not constructed and for which there are no plans for construction, in the baseline, then it must also consider the CRC as part of the cumulative impacts analysis of this project. By any measure the I-5 expansion meets the criteria for an EIS based on the scope, scale, complexity, controversy and cumulative impacts of the project.

2. The EA inappropriately includes the Columbia River Crossing in the baseline for this project rendering all of the traffic and pollution analysis meaningless.

ODOT has included the Columbia River Crossing (CRC) in the baseline for this project. The \$3 billion CRC project was abandoned in 2013 after nearly a decade of public process. There are no concrete plans at this time to revive the CRC. It is unclear on what basis ODOT would include the CRC in the baseline for the I-5 Rose Quarter Widening Project. Its inclusion creates a very significant, perhaps fatal, flaw in the EA.

If the CRC is included as part of the baseline, then ODOT must analyze the CRC as part of the cumulative effects analysis as a reasonably foreseeable action in conjunction with this project. Since the CRC standing alone required a full EIS, then the cumulative effects of the I-5 Expansion and CRC would surely require an EIS. If ODOT chooses to decouple the CRC from the I-5 Rose Quarter Expansion Project then all of the analysis included in the EA must be revised with the CRC removed from the baseline. Removal of the CRC from the baseline would render all of the currently included traffic calculations meaningless. We would assert that even with decoupling of the CRC and I-5 Rose Quarter Projects, that the I-5 Rose Quarter Project would still require a full EIS. We strongly question why ODOT would include a project of the magnitude of the CRC in the baseline for this EA when so many factors including timing, design, location and even whether it will happen at all remain purely speculative. We are also concerned that it is not readily apparent and transparent that the CRC is in the baseline for this EA—it took a remarkable amount of digging through the initially withheld data sets in order to determine that there was an Interstate Bridge hidden in the EA.

³ <https://www.oregonmetro.gov/news/regional-transportation-plan-numbers>

3. The EA fails to consider a reasonable range of alternatives including congestion pricing.

NEPA requires that agencies “rigorously explore and objectively evaluate all reasonable alternatives.” 40 C.F.R. § 1502.14(a) However, the EA analyzes only two alternatives: Build and No-Build. This falls far short of the agencies obligation under NEPA. In particular, we believe that the EA should have analyzed the potential of congestion pricing to address transportation concerns on this stretch of I-5.

We find ODOT’s assertion that congestion pricing was not considered in the EA because it was “not among the existing strategies for use in the study area” at the time that the NE Quadrant Plan was developed (2010-2012) and that congestion pricing will be considered separately “in the future” (EA at 23) entirely unconvincing. In fact, congestion pricing is currently being evaluated for the I-5 Rose Quarter study area, in part with funding from the very same legislative package that is propelling forward the I-5 Rose Quarter Project. Basing the decision not to include an alternative analyzing congestion pricing on the fact that congestion pricing was not being evaluated nearly a decade ago when this project was first conceived, locks ODOT into a bizarre time warp. The EA should be based on present day factors, not the circumstances that existed when the project was first conceived.

Further, it is impossible to reconcile ODOT’s dismissal of congestion pricing as “not a reasonable and foreseeable action” based on the fact that it is not included in the RTP fiscally restrained list (EA at 23) when it has included a far more speculative project, the Columbia River Crossing, which also is not included in the RTP fiscally restrained list, as part of the baseline for the I-5 Rose Quarter Project.

HB 2017 made congestion pricing available to ODOT as a tool to address congestion and reduce traffic emissions associated with climate change and air pollution. It specifically instructed ODOT to evaluate congestion pricing along I-5 and I-205, including the entirety of the I-5 Rose Quarter Project area. While freeway widening has repeatedly been demonstrated to be an ineffective long-term strategy for reducing congestion due to induced demand, congestion pricing has been demonstrated to be a cost effective strategy for addressing both of these concerns. We would refer ODOT to the work of Dr. Alex Bigazzi, a professor at the University of British Columbia, who concluded after a review of sixty different peer-reviewed studies, that congestion pricing is the most effective strategy to reduce emissions (both air pollution and carbon pollution) and traffic.⁴ An ODOT stakeholder advisory committee in 2018 and studies commissioned by ODOT have reaffirmed the efficacy of congestion pricing to address traffic, air pollution and carbon emissions.

It is troubling that ODOT so blithely dismisses the need to evaluate congestion pricing as an alternative to freeway widening. Congestion pricing offers real potential to reduce traffic congestion, air pollution and carbon emissions far beyond the best case scenario for freeway expansion. It also presents the opportunity to save half a billion dollars in public funding for this project and actually create revenue streams to address other community needs. It needs to be evaluated in a way that engages and addresses the concerns of underserved communities that could be in-equitably impacted. If this project moves forward at all, ODOT should produce a full EIS that includes multiple alternatives for

⁴ “Can traffic management strategies improve urban air quality? A review of the evidence”
AY Bigazzi, M Rouleau Journal of Transport & Health 7, 111-124

consideration including the use of congestion pricing as an alternative to address transportation issues on this stretch of I-5.

4. There are significant problems with ODOT’s modelling of the transportation impacts of this project in the EA.

The No More Freeways Traffic Technical Advisory Committee comprised of Buff Brown, Joseph Cortright, Brian Davis and Jesse Lopez have done an excellent job of analyzing flaws in ODOT modelling of the transportation impacts of this project in the “Technical Memorandum” that they have submitted into the record. We will not repeat those concerns here, but incorporate their “Technical Memorandum” by reference.

5. The EA fails to adequately describe or analyze the impacts of the construction phase of this project.

One of the most surprising omissions in the EA is the degree to which the EA fails to disclose or analyze the impacts of construction on the community. The EA provides tidbits of information scattered throughout the EA, for example that ODOT will work with the Moda Center to deal with traffic during major events. However, nowhere in the EA is there a comprehensive or coherent discussion about what construction activities will look like or how they will affect the community. In fact, we were unable to find anywhere in the EA even a mention about how long construction activities are likely to occur. Given the \$500 million cost and the complexity of the landscape on which ODOT will be operating, it is reasonable to assume that this project will likely last many months and potentially years, but there is no way to know based on a reading of the EA. ODOT should provide a detailed description of how long construction activities are likely to occur, how they will be phased, expected impacts on traffic on I-5 including congestion, emissions and economic impacts from delays associated with construction related congestion, expected emissions and air quality issues related to the actual construction activities, impacts on pedestrians and bikers utilizing the construction area, impacts on businesses in the construction area, etc. Without a detailed description and analysis of the actual construction, the public cannot make a fully informed assessment of this project.

6. The EA fails to consider or incorporate City of Portland environmental codes.

Although ODOT lists the City of Portland as a partner on this project, the EA fails entirely to incorporate and analyze compliance with City of Portland Environmental Codes, specifically Title 11 Tree Code and Title 33 Planning and Zoning Code. It is important to note that the City of Portland has environmental codes that go beyond what is required by state and federal environmental laws and that compliance with state and federal laws is not necessarily sufficient to meet City requirements.

City of Portland **Title 11 Tree Code**⁵ provides regulations protecting trees in the City of Portland and mitigation requirements when trees meeting certain specifications are removed. It is clear from multiple figures within the EA that substantial tree removal will need to occur in order to accomplish this project. However, the EA provides no information regarding the number, species and diameter of trees proposed for removal or what mitigation will occur in order to compensate for this loss and meet city

⁵ <https://www.portlandoregon.gov/citycode/66002>

requirements. ODOT should include a full description of the trees that will be removed or impacted and how it will mitigate for the loss to comply with city code.

City of Portland **Title 33 Planning and Zoning Code**⁶ addresses impacts to habitat as well as the Willamette River Greenway. Title 33 was recently updated to include the Portland Central City Plan including a new River Environmental (River E) Zone the will be directly impacted by in-water and riparian work associated with the I-5 Rose Quarter Widening Project. The code includes mitigation ratios and mitigation locational restrictions that go beyond what is required under state and federal law. For example Portland City Code would require 1.5:1 mitigation ratios for habitat impacts in the River E Zone (which can increase through the river review process) and that mitigation must occur within the Central Reach of the Willamette. However the EA makes no mention of Title 33, how the project will comply with Title 33, or where mitigation may be required. The EA's assertion that mitigation is likely to occur outside the Central Reach in the Multnomah Channel (EA at 31) is in direct conflict with city code. ODOT should not assume that mitigation proposed to meet state and federal obligations will also be sufficient to meet local requirements. Specifically ODOT should describe how it will comply with City of Portland habitat mitigation requirements associated with in-water and riparian habitat, Willamette River Greenway requirements, and balance cut and fill requirements.

7. The EA provides an inadequate discussion of how stormwater impacts will be addressed.

The EA acknowledges that 30 acres of new impervious surface associated with the freeway widening and 11 acres of new impervious surface associated with the freeway lids will be created. The EA proposes to address these increased stormwater impacts at three water quality treatment facilities located at N. Mississippi Avenue, adjacent to N. Knott Street and at the Eastbank Viaduct/ Esplanade (EA at 82). Portland is a recognized national leader in green infrastructure strategies for addressing stormwater runoff. ODOT should provide a much more detailed analysis of how green infrastructure can be directly incorporated into this project to provide stormwater benefits as well as other benefits associated with green infrastructure such as wildlife habitat, carbon sequestration, reduction in urban heat island effects, reduction in air pollution, community livability and public health. We urge ODOT to carefully consider how this project can complement City of Portland grey and green infrastructure strategies.

If stormwater cannot be treated entirely on site as indicated in the EA, we also urge ODOT to consider utilizing green infrastructure on ODOT property located between the east ends of the Marquam and Hawthorn Bridges to treat other I-5 runoff as mitigation for these impacts. Stormwater from I-5 is currently released into the Willamette in this area via an outfall near the Hawthorn Bridge. This area is a priority for the City and conservation groups for restoration to increase both recreation opportunities and habitat value.⁷ Replacing the outfall with green stormwater infrastructure would help support this effort.

⁶ <https://www.portlandoregon.gov/citycode/28197>

⁷ <https://www.portlandoregon.gov/bps/article/634577>

8. The EA fails to adequately analyze how this project will comply with state and federal environmental laws.

The EA provides only cursory analysis of how the project will comply with state and federal environmental laws. We are particularly concerned with the in-water and riparian work associated with this project. The EA downplays the potential impacts of the work on the river but in fact the in-water work is quite substantial including the installation of up to seventeen columns to support ramps associated with this project. Given the complexity of the river environment in this area including the presence of salmonid species and critical habitat protected under the Endangered Species Act, high levels of contamination in both the sediment, riparian areas and uplands, and other complex environmental factors, we believe that an EIS would likely be required for this aspect of the project alone. The City and its partners have spent billions of dollars working to restore health to the river, restoring salmonid habitat, reducing Combined Sewer Overflow (CSO) events and cleaning up contaminated sites. This project will occur in an area that represents some of the best restoration potential in the Central Reach. It is critical that ODOT fully discuss and access how this project will comply with state and federal environmental laws including, but not limited to the Endangered Species Act, Clean Water Act, CERCLA, Marine Mammal Protection Act and the 2016 National Marine Fisheries Service Biological Opinion addressing floodplain development in listed salmonid habitat in Oregon.⁸

We would highlight the following specific concerns:

a. The EA fails to adequately characterize listed salmonid use of the project area.

The EA lists critical habitat for five ESA-listed salmonid populations: Upper Willamette River (UWR) Chinook salmon, UWR steelhead trout, Lower Columbia River (LCR) Chinook salmon, LCR steelhead trout, and LCR Coho salmon. (EA at 28) However, it is important to note that this area is also used by several out-of-basin Chinook populations. These populations may have unique habitat needs relative to those listed in the EA. Additionally, the EA statement that “Temporary effects to ESA fish would be minimized by conducting work during times when fish are not present in work areas” (EA at 28) is inaccurate. Listed salmonids can be found in the area at all times of the year including during the in-water work window.

b. The EA may mischaracterize certain in-water activities as temporary rather than permanent.

The Army Corps of Engineers and Oregon Department of State Lands categorized in-water construction activity that impacts habitat for 24 months or longer as “permanent.” The EA should clearly describe the duration of its “temporary” in-water structures including concrete pour molds around drilled shafts, piles for temporary work bridges, and sheet piling all of which will impact shallow water habitat. Use of barges year-round may also qualify as permanent impacts. If in fact the duration of these structure would exceed 24 months, they may not qualify as temporary and would require different mitigation calculations.

⁸ https://www.westcoast.fisheries.noaa.gov/publications/habitat/2016_04-14_fema_nfip_nwr-2011-3197reducedsize.pdf

c. It is not clear why ODOT characterizes turbidity of sheet pile installation and drilled shaft construction as “minor”.

ODOT characterizes the turbidity impacts of sheet pile installation and drilled shaft construction as “minor.” (EA at 29) It is unclear as to how ODOT defines the term “minor.” These activities will cause significant turbidity. ODOT should fully describe and analyze the turbidity impacts and how they will be mitigated.

9. The Project will not achieve pedestrian, bicycle, openspace or equity benefits as described in the EA or in ODOT’s outreach efforts.

ODOT has aggressively promoted this project based on the surface benefits for pedestrians, bikers and openspace users that it projects will be provided by the “lids.” In fact in section 1.4 ODOT lists as the first project goal “enhance pedestrian and bicycle safety and mobility in the vicinity of the Broadway Weidler interchange.” (EA at 4). It is safe to say that if in fact this were the primary goal there are far better and less expensive ways to accomplish this objective. It is somewhat stunning the degree to which the project goals emphasize surface improvements rather than impacts directly to the functionality of I-5 to justify this half billion dollar project. We would characterize the surface improvements more as window dressing designed to increase public support for a project that does not appear to be able to pass muster on its own merits.

As an organization with a long history of working to create public openspace, we find the openspace associated with the lids to be highly un compelling. This openspace as characterized in the EA appears to be a random assortment of odd parcels that will be located in a highly unappealing, highly polluted environment interspersed among, above and below high traffic corridors. ODOT has provided no information as to how these openspaces might be used or programmed or the potential health impacts of drawing recreational users to openspaces located within a vortex of automobile activity. We would note that the Rose Quarter Area was originally marketed as a vibrant outdoor area as well as an event center---an ambition that it has never come close to achieving. Except when events are occurring in the Rose Quarter, it is mostly a ghost town and we see nothing in the freeway lids that suggests that this project will change that situation.

We would also note that similar concerns have been raised by the Portland Parks Board. ODOT described the City of Portland as a partner in this project. However, it is not clear that ODOT has coordinated in any meaningful way with Portland Parks and Recreation on the openspace aspects of this project.

It is not even clear that the openspace depicted on ODOT renderings will occur—ODOT made conflicting statements in recent months regarding the potential to place buildings on the lids, asserting in some forums that no building construction is possible and in other forums that up to two stories could be constructed on the lids.

Perhaps the most notable openspace impact is not the lids but rather the fact that an access ramp will be extended out over the Eastbank Esplanade. The Eastbank Esplanade is one of the most popular elements of our regional system of parks, trails and natural areas. A portion of it will now be covered by the expanded freeway, increasing noise and pollution and reducing aesthetic values of this trail. ODOT should more clearly described and assess the impacts on the Eastbank Esplanade.

We would defer to groups such as the City of Portland Pedestrian Advisory Committee, Portland Bicycle Advisory Committee, Oregon Walks, and The Street Trust with regards to the implications of this project for bikers and pedestrians, but we would note that the growing chorus of concern raised by groups dedicated to improving bike and pedestrian infrastructure seriously undermines ODOT's assertions that this project will provide net benefits for these modes of transportation. Instead it appears based on the analysis of multiple stakeholders that the project will actually reduce connectivity once the project is completed and will certainly disrupt pedestrian and bike connectivity while the project is under construction.

ODOT also asserts that this project will help at least in part remediate inequities that were created by the construction of I-5 by reconnecting communities that were bifurcated. We see no analysis in the EA that supports this assertion and comments submitted by the Lower Albina Vision Project which is explicitly focused on addressing these historic inequities seriously undermines this assertion.

The most significant impacts in terms of equity are the likely increased air pollution over time due to increased traffic caused by induced demand in the general project area, direct impacts to Harriet Tubman School articulated in concerns raised by the Portland School Board,⁹ and delay of high priority transportation safety projects in East Portland and elsewhere due to the expenditure of half a billion dollars on this project.

It is critical if this project continues forward that ODOT actively work with openspace, conservation, bike, pedestrian and environmental justice groups, neighborhood associations and frontline communities to develop a vision for capping I-5 that is truly visionary and meets community needs. An EIS should include alternatives that provide much more robust choices for the public to weigh-in on regarding the lids. As currently proposed, the lids are more of an afterthought than a central goal of the project as ODOT asserts.

Conclusion:

We appreciate the opportunity to comment on the I-5 Rose Quarter Widening Project. The congestion that increasingly plagues our communities increases carbon emissions and other forms of air pollution, reduces quality of life and undermines our economy. However, ODOT and the Federal Highway Administration simply have not made the case in this EA for advancing this half billion dollar project. The EA is highly deficient in multiple areas, is based on inaccurate modelling, and fails to consider alternatives that could better achieve the desired outcomes in terms of I-5 traffic and surface improvements. We urge ODOT and the Federal Highway Administration to select the no-build alternative. If the project is to advance further, NEPA requires that full EIS be developed which will allow agencies and the community to fully explore potential alternatives and impacts that more fully meet the objectives of this project and the needs of our community. However, we would caution the agencies that the concerns being raised by the community are profound and serious consideration should be given as to the efficacy of continuing to spend large sums of public dollars to advance this project. We will end by asserting that a half billion dollar transportation project needs to fully embrace the most

⁹ <https://www.oregonlive.com/education/2019/03/portland-schools-officials-arent-buying-states-environmental-assessment-of-rose-quarter-freeway-expansion.html>

pressing challenges of the 21st Century including climate change and equity. It should offer a compelling vision for how it will make our communities healthier, fairer and more sustainable.

Thank you for your consideration of these comments.

Respectfully,

A handwritten signature in black ink that reads "Bob Sallinger". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Bob Sallinger
Conservation Director

Audubon Society of Portland
5151 NW Cornell Road
Portland, Oregon 97210
Email: bsallinger@audubonportland.org
Phone: 503-380-9728