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4/14/11

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April 11, 2011

Ron Kosinski, Deputy District Director
Division of Environmental Planning
California Department of Transportation - District 7
100 South Main Street, MS 16A
Los Angeles, California 90012

Re: Route 710 EIR/EIS Scoping Process

To Whom It May Concern:

This office has been retained by the No 710 Action Committee. Attached hereto is a letter from my client regarding the "scoping" process for a possible EIR/EIS on the Route 710 freeway so-called "gap closure" project. My client has identified serious issues and potential violations of state and federal law involving the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA").

Please pay careful attention to the issues outlined in my client's attached letter. Please respond and make the needed revisions before proceeding with your "scoping" process to avoid the necessity of litigation. Thank you in advance for your attention to these matters.

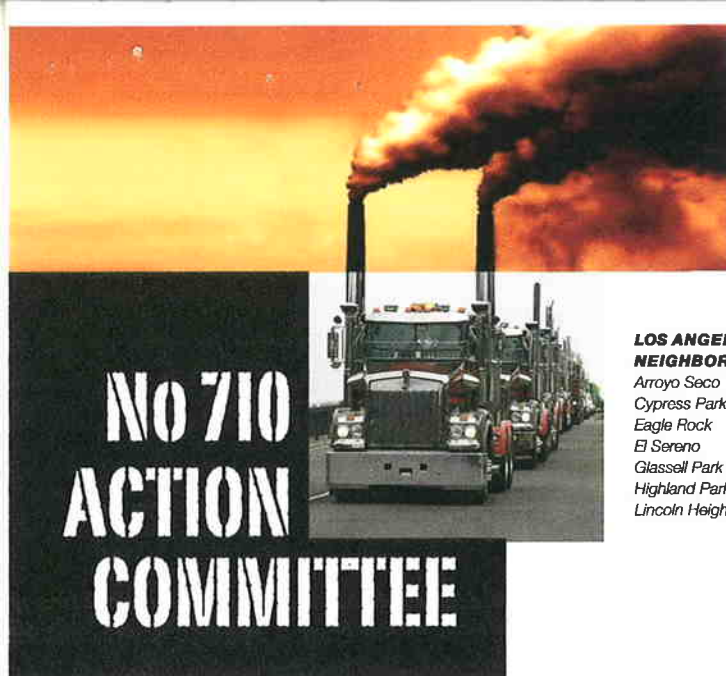
Sincerely,



Christopher Sutton

cc: clients

enclosed: No 710 Action Committee letter



OPPOSITION GROUPS (PARTIAL LIST)

Natural Resources Defense Council
Glassell Park Improvement Association, Land Use Committee
Far North Glendale Homeowners Association
Town Council of Crescenta Valley
Glendale Homeowners Coordinating Council
LA RED, El Sereno
Green Scissors 2010 Report Groups
Friends of the Earth
Taxpayers for Common Sense
Environment America
Public Citizen

INJUNCTION PLAINTIFFS

City of South Pasadena
Sierra Club
National Trust for Historic Preservation
California Preservation Foundation
Los Angeles Conservancy
Pasadena Heritage
South Pasadena Preservation Foundation
South Pasadena Unified School District

LOS ANGELES NEIGHBORHOOD COUNCILS

Arroyo Seco
Cypress Park
Eagle Rock
El Sereno
Glassell Park
Highland Park
Lincoln Heights

CITIES

City of Glendale
City of Los Angeles
City of La Canada Flintridge
City of South Pasadena

Post Office Box 51124,
Pasadena,
California 91115
626 799.0044

7 April 2011

Ron Kosinski, Deputy Director
Division of Environmental Planning
Caltrans – District 7
100 South Main Street, MS 16A
Los Angeles, California 90012

Re: Deficit Route 710 Scoping Session

Dear Mr. Kosinski:

No 710 Action Committee is a coalition of community groups throughout Southern California opposed to wasteful expenditures and defective environmental analysis that have characterized the debate over the Route 710 project for the past fifty years. Because of the federal court injunction against any surface route, if a surface route is proposed by the Metropolitan Transportation Authority (“Metro”), the so-called “scoping” of the next EIR/EIS on the Route 710 must be reformed. If the surface route is contemplated, the “scoping” process must include NEW 2011 analysis for historic properties, air quality, the Multi-Mode Low Build alternatives, and a high level financial analysis. Otherwise, issues cannot be “flagged” in the manner required by CEQA and NEPA.

**1. 1999 Preliminary Injunction Determined
The 1993 Caltrans EIR/EIA Analysis Was Legally Defective**

In 1999, the U.S. District Court in Los Angeles determined that the 1993 Caltrans EIR/EIS for the Route 710 surface route freeway proposal was legally defective and violated both CEQA and NEPA. See, **City of South Pasadena v. Slater (C.D.Cal. 1999) 56 F. Supp.2d 1106**. It appears that Metro’s “scoping” process for the potential future environmental studies may contain improper reliance on the defective 1993 EIR/EIS and the incomplete and defective analysis conducted for that document over eighteen years ago. Such reliance would violate both CEQA and NEPA. Caltrans and the federal government failed to appeal the 1999 preliminary injunction when they had the right to do so. All determinations in that case are final and binding on Caltrans and the Federal Highway Administration. Metro’s proposed reliance on any of the outdated and defective 1993 analyses would be not only illegal, violating the 1999 injunction, but fundamentally wrong.

2. Defective 1985 Historic Resources Analysis

The “scoping” for the “gap closure” EIR/EIS must start with a complete NEW historic properties inventory of the various Route 710 proposed routes. Over twenty-five years has elapsed since the Caltrans 1985 historic inventory. Twenty-five years of more neglect and improper rehabilitation by Caltrans have rendered the prior survey outdated. The passage of twenty-five years has caused hundreds of other structures to become historic by passing the fifty-year age threshold. Scoping cannot “flag” environmental issues without a new historic properties inventory. Scoping itself must include a new historic resources inventory.

3. Defective 1992 Air Quality Analysis

The air quality analysis in the 1993 EIR/EIS is outdated and legally defective. The “scoping” process must include an ENTIRELY NEW air quality analysis before the “scoping” process commences. The eighteen years that have passed since the 1992 air quality analysis have rendered that analysis wholly irrelevant to today’s conditions. Federal law requires particulate analysis to PM 2.5, but the 1992 regulation only required the less rigorous PM 10. Reliance on prior air quality analysis would violate CEQA and NEPA. Scoping depends on a new air quality analysis to “flag” issues under the current regulations and environment. Scoping itself must include a new air quality analysis.

4. Defective 1992 Analysis of Multi-Mode Low Build Alternative

The 1993 EIR/EIS contained no analysis of the Multi-Mode Low Build (“MMLB”) alternatives proposed by South Pasadena and others. A separate MMLB report done by Caltrans was rejected by the 1999 injunction. The “scoping” must first include a complete analysis of the MMLB in order to comply with CEQA and NEPA. Otherwise, the “scoping” will be unable to treat the MMLB as an alternative or be able to “flag” all potential environmental benefits associated with the MMLB. Scoping itself must include a full MMLB analysis.

5. Detailed Cost Analysis Must be Included To Determine if Mitigation Measures Will be Too Costly to Undertake

The 1999 injunction found that a project financial analysis is key to understanding the environmental impacts. The judge cited **Title 23, United States Code, section 134(h)(2) and Title 23, Code of Federal Regulations, section 450.324**. In addition, the Federal Highways Administration ordered Caltrans to perform the financial analysis in the 1998 Record of Decision (“ROD”) and again in the 2003 ROD rescission letter. Metro is acting with and under Caltrans and therefore bound by these prior decisions, laws, and administrative directives.

The 1993 EIR/EIS failed to include any cost analysis. The feasibility of the project directly involves mitigation measures related to air quality, historic resources, groundwater impacts, long-term seismic risks, and liquefaction risks due to groundwater. If the overall project is not financially viable, added environmental mitigation measures could be needed after construction commences. Thus a high level and detailed financial analysis must be completed as part of “scoping” under federal law. The Orange County Transportation Authority recently abandoned a proposed Orange County/Riverside tunnel proposal when it became clear before “scoping” that it was not financially viable ---- No tolls would be generated during years of construction, but debt service would be required from the first borrowing of billions. Other environmentally useful transit projects could be sacrificed and added environmental impacts created due to the lack of financial viability of the 710 project. The “scoping” needs detailed financial analysis to enable the process to “flag” all environmental issues in each alternative. Without cost and financial analysis the various alternatives cannot be analyzed during “scoping” to balance the costs and benefits of each alternative project.

Conclusion:

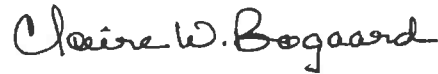
The Metro Scoping Process is Illegal and Dishonest

Based on the possible reliance on defective, incomplete, and outdated analysis in the 1993 Caltrans surface route EIR/EIS, and the lack of any financial analysis, Metro's Route 710 "scoping" process could violate both CEQA and NEPA. Metro must not undertake the "scoping" until the process of "scoping" is legally compliant. Otherwise "scoping" would be illegal and possibly violate the 1999 federal court injunction. All errors identified in the injunction must be corrected as part of Metro's "scoping" process.

Sincerely,



Joanne Nuckols



Claire W. Bogaard