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**Comments on the Draft Environmental Impact Statement for the I-94 Rehabilitation Project, FHWA- MI-EIS-01-01-D**

May 11, 2001

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Dear Sirs:

We, the undersigned 17 organizations, are filing joint comments that document our concerns with the Draft Environmental Impact Statement [DEIS] for the "I-94 Rehabilitation Project."

We oppose the "Build Alternative" (hereafter called the expansion alternative) as described by the DEIS. The "expansion alternative" consists of room for 24 traffic lanes and will have a staggering pricetag of \$1.3 billion for the 6.7-mile segment. This is about \$20 million per block. This alternative will increase our dependency on autos and trucks. It provides for a dangerous lack of diversity in our transportation investment. The "expansion alternative" is not in the best interest of the public trust.

This project defines a crossroad regarding the future of Southeast Michigan's transportation system. Do we continue to pour billions of dollars into new and wider highways, or do we steer Southeast Michigan in a better direction?

We, the undersigned organizations know that the better direction for this project is to diversify our transportation investments by investing in congestion-fighting transit options in our urban areas. Transit will add vitality to the City. The "expansion alternative" will suck vitality away from the project area.

We propose that the following reasonable alternative be made the preferred alternative for this project:

- Rehabilitate I-94 to its original design. This addresses the immediate need to fix the deteriorating condition of pavement and bridges. It is a more honest "rehabilitation." It doesn't render obsolete all of the construction with the associated traffic-delay cost that have plagued this vital I-94 corridor for years.
- Reduce posted speeds along this 6.7-mile section to maximize the capacity, reduce noise, reduce pollution, reduce crashes and improve energy efficiency.

- Further add transportation capacity along the corridor by investing in a modern commuter rail system with lines to serve Ann Arbor, Detroit and Mount Clemens. An additional line to Pontiac would offer an alternate to I-75 commuters who use I-94 to access areas of Central Detroit. Per SEMCOG data, a modern 3-line commuter rail system would cost about \$200 million, equivalent to the cost budgeted for traffic control during construction of the "expansion alternative."
- Further add transportation capacity along the corridor by investing in SpeedLink Bus Rapid Transit along Gratiot to Eastland, Grand River to City Limits and Michigan to Dearborn. These three lines, consisting of about 32 miles, would cost about \$385 million to establish based on SEMCOG's Transit Vision Forum during January 2001.

This alternative would meet the purpose and need of the proposed project, cost significantly less than the "expansion alternative" and meet the goals of the project as outlined below:

- Provide needed mobility along the corridor for *all* people and freight
- Enhance the potential for economic development within the City of Detroit and the study area.
- Result in beneficial social, environmental, and economic improvements to the host neighborhoods and the City of Detroit.
- Significantly reduce taxpayer investment while strengthening our transportation infrastructure through diversification.

#### **Additional comments on the DEIS**

This "expansion alternative" will have staggering adverse impacts to the human and natural environment on both the local community and the region. In addition, this alternative will be the most expensive road building projects in the state's history.

MDOT's "expansion alternative" is really 3 projects in one; the expansion of the main line, creation of the central median space, and creation of continuous service drives. MDOT intends to build these three projects three times in the I-94 corridor, Wyoming to I-96, I-96 to Conner (the current DEIS) and Conner to I-696. The project proposed in the current DEIS cannot be a successful stand-alone project and the other two segments need to be included to determine the cumulative impacts for the project. The DEIS has not addressed the cumulative impacts for the full project.

We challenge the scoping process that led to the study of only one segment of a larger much more damaging project (a proposed expansion of I-94 between Wyoming Ave in Detroit and I-696 in Macomb County.) Either the plan is to expand I-94 both east and west of this initial segment and it is segmentation, or it is not. The community needs to know what they are getting into if they say yes to this project.

In addition, nothing is provided in the DEIS to justify the expansive service drives proposed, the real need for the additional capacity of I-94, and the need for the space in the middle.

Where the DEIS goes beyond assertions and provides data such as on the projected level of service information provided, the "expansion alternative" is clearly excessive design even without the extra space in the middle for future expansion.

The proposed I-94 expansion project raises many crucial issues about appropriate scale and capacity of urban freeways, funding priorities for public transportation as well as roads within this corridor, congestion management during construction, usurpation of irreplaceable urban rail corridors, maintenance of air quality standards, mobile contributions to urban air toxics and environmental justice concerns, just to name a few. The DEIS does not provide acceptable or adequate answers.

We find the analysis and discussion of the purpose and need, project justification, air quality and noise impacts, environmental justice concerns, cumulative impacts of and alternatives to the proposed expansion to be woefully inadequate. Taken as a whole, the DEIS understates the adverse environmental impacts, ignores reasonable alternatives, and overstates both the need for and the economic benefits of this project.

Some specific technical issues that need addressed include:

1. **Air Quality violations are concealed:** Without any explanation, MDOT has used air quality data from a suburban air monitor to under-predict the air pollution impacts from this massive expansion. If MDOT had used Detroit-based data it would be obvious that the "expansion alternative" will violate health-based national air quality standards for carbon monoxide (CO). In addition, since the DEIS indicates that truck traffic will increase faster than automobile traffic, using default model inputs on vehicle mix is inappropriate.
2. **The DEIS does not address the new standards for fine particulate matter (PM 2.5) and Ozone.** The DEIS does not address the fact that under the Air Quality Standards recently upheld by the US Supreme Court, the air in the corridor is unhealthy (does not meet attainment requirements) for both PM 2.5 and Ozone, major air pollutants from car and truck emissions. Building the "expansion alternative" violates clean air laws because it is designed to increase air pollution emissions from cars and trucks in an area where the air is already unhealthy.
3. **Air Toxics are not addressed:** The Draft Environmental Impact Statement is totally silent about the increase in toxic pollutants during construction and from the increased truck traffic. Likewise, there is no discussion of the impact of mobile source toxics on human health or on the Great Lakes ecosystem due to air deposition.
4. **No provision has been made to install aftermarket emission controls on diesel construction equipment.** Regardless of the ultimate scale of the I-94 rebuild, aftermarket emission controls (including particle traps) on all construction equipment must be required.
5. **The DEIS ignores the link between increased highway traffic and health.** Detroit's children suffer from asthma at three times the national average. The Journal of the American Medical Association reports that traffic controls imposed during the Atlanta Olympics decreased morning peak traffic counts by 23%. During this period, Medicaid-related emergency room visits and hospitalizations

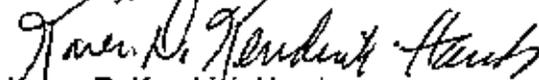
for asthma dropped by 42%. The DEIS for I-94 ignores transit and rail alternatives that could reduce traffic and the pollution it causes.

6. **The "expansion alternative" will result in more crashes and higher injury rates than maintaining the current design of I-94.** A detailed review of the crash statistics in the DEIS shows that the crash rate along I-94 in the project area is 305 per 100,000 vehicles traveled (mvm). This rate is lower than the regional average of 350 crashes. Higher crash rates within the study area occur, not along I-94 but along I-75 and the Lodge where the lanes have been expanded. Thus it is very likely that the expansion will lead to a worse crash rate. The current design of I-94 is safer than the "expansion alternative."
7. **The international trade route rationale does not withstand close scrutiny.** MDOT has asserted that importance of I-94 overall to commerce and international trade. Nevertheless, this particular segment of I-94 is not key to the potential connections between Canada and Chicago, Fort Wayne, or Toledo. For traffic using the Blue Water Bridge between Port Huron and Sarnia, I-69 is the primary link between Canada and the west and south. This segment of I-69 is underutilized and for the most part does not pass through urban areas in Michigan. Traffic using the Ambassador Bridge to and from Canada will primarily travel I-94 west of I-96 and never use the segment discussed in the DEIS. The 6.7 segment east of I-96 is not critical to this network.
8. **MDOT's response to environmental justice concerns is an insult.** MDOT is touting sidewalks immediately along the curb of the service drives where no one wants to walk because of the fast traffic, pollution and noise. At the same time, it appears that the pedestrian overpasses that link communities across the expressway will be removed and not replaced, thus pedestrian access will actually be worsened.
9. **Space saved in the median for 'possible future transit' is unlikely to be effective in the future.** Light rail doesn't belong among 10 lanes of interstate traffic. Space "maybe for transit" is a ruse to create more space for truck lanes.

I-94 desperately needs to be rebuilt, but the "Expansion Alternative" cannot be justified economically, environmentally, or socially. In addressing the capacity needs of this corridor, there is the opportunity to increase the vitality of the City, not to continue to drain it.

We recommend abandonment of the "Expansion Alternative" and preparation of a supplemental DEIS that better addresses the concerns enumerated herein. Consistent with state-of-the-art transportation systems in all vibrant cities, rely on transit to increase capacity in the corridor. Use SEMCOG's transit vision, and an intermodal traffic analysis model. This project is too important to ignore the reasonable alternative as outlined at the beginning of this letter.

Sincerely,



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On behalf of:

*On behalf of*

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Tom Barwin, City Manager

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Dear Mr. Lopez-

Please consider the additional organizations who would like to sign-on in agreement with comments written by Transportation Riders United, for the draft DEIS on the I-94 "rehabilitation."  
The two new organizations are:

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Jane Mackey, Chair

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Bob Jackman, President

Michigan Environmental Council  
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the Draft Environmental Impact Statement for  
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FHWA-MI-EIS-01-01-D**



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VOLUME 1

**Comments of Transportation Riders United on the Draft Environmental Impact Statement for the I-94 Rehabilitation Project, FHWA- MI-EIS-01-01-D**

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May 11, 2001

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#### **1 INTRODUCTION**

Transportation Riders United [TRU] is a Michigan Nonprofit corporation based in Southeast Michigan with both individual and organizational members working in coalition to advocate for transportation access and mobility. The purposes of TRU include to:

1. Inform and influence the public and officials about the importance of public transportation options.
2. Promote discourse on local, regional and state developments related to transportation.
3. Promote improved public transportation.
4. Promote alternatives to highway expansion.

TRU's comments on the adequacy of the Draft Environmental Impact Statement [DEIS], the appropriateness of the stated purpose and need for this project, the scope of the project, the adequacy and rigor of the alternatives analysis, the nature and degree of impacts of MDOT's chosen analysis on the natural and human environments, and the sufficiency of proposed mitigations are made in furtherance of our purposes.

Further TRU's comments assess the proposed I-94 "rehabilitation" [really a massive expansion, and hereinafter, so named] in light of the foregoing goals, statutory objectives for planning under ISTEA, and TEA-21, the regulations of the Council On Environmental Quality [CEQ] for compliance with the National Environmental Policy Act [NEPA] and the Michigan Department of Transportation's [MDOT] State Long Range Plan [SLRP]. After a careful and thorough review of the DEIS and the requirements governing its preparation, we are forced to conclude that:

1. MDOT has failed to justify its proposed expenditure of \$1.3 Billion to create a twenty-four lane wide swath of pavement through the center of Detroit.
2. The DEIS fails to consider reasonable, feasible, prudent, and practicable alternatives to proposed expansion of I-94, including meeting capacity needs through immediate transit improvements and shifting freight to other modes.

3. The DEIS ignores, underestimates or miscalculates project impacts on the human health and the environment.
4. The DEIS ignores, underestimates or miscalculates the economic impact of the project.
5. The DEIS fails to provide adequate mitigation for the impacts that it does acknowledge.
6. MDOT has subverted public participation by too narrowly defining stakeholders, by misleading residents and patrons of the institutions and businesses who will be directly affected of the magnitude of the Project. MDOT has totally ignored the cumulative impacts of the project on the larger community of Detroit and the southeast Michigan region both in terms of environmental impacts and the more subtle opportunity costs of investing the large sum of public capital infrastructure dollars for so little economic benefit.
7. The DEIS fails to analyze transportation and mobility needs intermodally or at a systems level within the corridor, such as the possible role of better rail for freight and passenger movement (including more tracks, signals, road bed) and more transit, whether it be increased and improved bus service, or the implementation of a combination of Bus Rapid Transit, Light Rail and commuter rail. MDOT's persistent pattern of project by project analysis, e.g. I-75 at the Ambassador Bridge, I-375, I-75 at I-94 and I-75 Oakland County as well as I-94 undercuts SEMCOG's ability to make a systematic review of the region's needs and develop integrated, intermodal solutions. All of the projects above focus on strictly road and private vehicle solutions to mobility and access problems which could be better solved by creative mix of rail, transit, water, air options in addition to road based transportation. This system wide assessment is an essential part of the cumulative impacts analysis, but has not been done.
8. The DEIS does not adequately evaluate the environmental justice implications of this proposed expansion or mitigate the disparate adverse impacts the "Build Alternative" will have on minority and low income populations.
9. The DEIS does not accurately assess the increases in air, noise and water pollution the proposed expansion will cause, and does not propose appropriate mitigations.
10. The DEIS does not discuss the potential duration of construction, how construction would be phased and managed to minimize disruption and how the proposed \$260 million congestion management and traffic maintenance funds would be spent. Without this information it is impossible to assess the construction impacts on the host community.

## **2 OVERVIEW**

### **2.1 Implementation of this expansion project frustrates TEA-21 mandated regional planning objectives.**

"It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution." 23 USC Sec.134(a)(1) (citing planning objectives in the Transportation Equity Act for the 21st Century, [TEA-21])

The goals of TEA -21 are:

- Provide accessibility and mobility for all people and goods,
- Invest strategically in transportation infrastructure to enhance the vitality of the community;
- Promote a safe and secure transportation system,
- Protect and enhance the environment

Our analysis of the DEIS reveals that none of these goals would be furthered by the "Build Alternative" as currently proposed.

### **2.2 The Draft EIS contains misstatements, contradictions and inaccuracies.**

The DEIS, has been written in a way that makes it difficult on a single or cursory reading to grasp the full implications of what this project would do to midtown Detroit and the region. After multiple readings one is left with the impression that the document has been crafted as much to conceal as to disclose; that certain crucial decisions have been made but are not being revealed to the public who would tend to

object to them. Key pieces of information are stated only once without fanfare, such as the proposed 54.5 foot width of the central median lane for "future use." (p4-27) or that the purpose and need of the continuous service drives is really to function as the I-94 freeway, bringing 6-8 lanes of traffic into the neighborhoods for the duration of construction (p. 2-16). At the same time, points of questionable accuracy, such as the "benefits" of continuous service drives for community redevelopment, pedestrian access and environmental justice are repeated endlessly.

Statements in one section of the DEIS are contradicted in other sections of the document, as though there was no expectation that the public would read the entire DEIS. Some of the conclusions are unsupported by data, do not readily follow from the data cited, or in the case of traffic safety statistics and accident counts, are inconsistent with the data cited. Some statements are false and several key discussions have been completely omitted such as the impact of air toxics or the contribution this project will make to increased emissions of CO<sub>2</sub>, thus contributing to global climate change.

### **2.3 The "Build Alternative" is an Expansion, not a "Rehabilitation."**

At the outset we note that the very use of the phrase "Rehabilitation" is in itself misleading. According to the Webster's New Collegiate Dictionary, rehabilitation means, "to restore to a former capacity." (p.966-67, 1979). By contrast, this project would expand existing capacity below grade from three lanes in either direction with minimal shoulders, to potential capacity of 18 lanes (including median and shoulders) and create additional capacity of 6-8 lanes at the surface level. This expansion vastly exceeds "rehabilitation," and therefore we reject the use of this misleading nomenclature.

## **3 THE PROPOSED "BUILD ALTERNATIVE" SUBVERTS THE STATED GOALS OF THE PROJECT.**

### **3.1 The "Build Alternative" does not satisfy any of the aspects of Goal 1- *Mobility*.**

The "Build Alternative will increase crash rates and is an inefficient design to increase transportation capacity along the study corridor.

- Higher speeds and higher level of service will result in more crashes that are likely to result in worse injury.
- The "Build Alternative" does not provide for a single dime for current transit improvements.
- Nothing in the DEIS indicates that the "Build Alternative" will encourage the use of multiple occupancy vehicles.
- The "Build Alternative" will have no impact on border crossings.

### **3.2 The "Build Alternative" will not optimize Access and Development consistent with Goal 2**

There is nothing in the "Build Alternative" that will increase transportation access for those in the host communities that do not have access to a car. The "Build Alternative" will not result in transit oriented development, rather, it will likely result in draining vitality from the host communities.

The purpose of the "Build Alternative" seems to be to move outsiders through the host community as fast as possible, yet another "white highway through black bedrooms," if you will. Rather than connecting the community, the continuous service drives will tend to divide, creating a much wider swath of pavement between neighborhoods north and south of the express way. Further, the service drive design creates a difficult choice. To gain connection to the service drive, neighborhoods will have to forego noise-reducing barriers. To implement the sound walls, neighborhoods will have streets truncated by cul de sacs. The difficulty of these choices underscores that a project of this scale and design is simply not appropriate in an urban community.

### **3.3 The "Build Alternative" will not minimize adverse environmental impacts consistent with Goal 3**

The "Build Alternative" will result in massive environmental impacts and especially due to air quality impacts, will cause sickness and disease within the host community. Carbon Monoxide [CO] hotspots will likely cause violations of the National Ambient Air Quality Standards [NAAQS]. Increased car and truck traffic will lead to increases in air toxics and pollutants from combustion. It is impossible to tell from the meager analysis in the DEIS whether adverse environmental impacts will be minimized; urban air toxics are a significant environmental and health issue and they are not even addressed.

### **3.4 The "Build Alternative" does not satisfy any of the aspects of Goal 4 - Cost Effectiveness.**

The "Build Alternative" is a vastly excessive design that is costly twenty million dollars per block, dangerously lacks diversity, results in a negative return to the community, further destroys community cohesion, results in no long term job development, and doesn't service transit users. DEIS p2-16. In contrast, TRU's alternative, as outlined in these comments, will meet this goal in a very positive sense.

## **4 THE PROPOSED "BUILD ALTERNATIVE" DOES NOT SATISFY HISTORIC GOALS FOR FREEWAY REHABILITATIONS IN THE CITY.**

Expansions and rehabilitation of the entire I-94 corridor from Wyoming Avenue in the west to I-696 in Macomb County in the east have been contemplated since at least 1990. Unfortunately MDOT's current proposal honors none of these concerns. :

#### Plan requirements for the City of Detroit

The City of Detroit is prepared to develop and will support a plan that has the following characteristics:

1. The plan should recognize the need for a balanced transportation system that serves Detroit residents.
2. The plan should not contribute to the loss of population and jobs by Detroit.
3. The plan should protect the economy and tax base of Detroit.
4. The plan should minimize disruption.
5. The plan should include realistic funding priorities for freeway maintenance and rehabilitation, construction and other transportation modes.

Greater Detroit Area Freeway Rehabilitation Program, [GDAFRP] (1990) Ex A. The GDAFRP program is a collection of Goal statements, charts, maps and individual reports. Much of the information is unpaginated and undated. Relevant excerpts have been reproduced in the Exhibit.

These considerations reinforce study issues outlined in the GDAFRP:

#### **Issue II: Social/Environmental**

- A. Federal funds should be used to develop fixed rail systems on Woodward and on Gratiot. About 30% of Detroit's population does not have access to a car. The goal should be to achieve a balanced mix of transportation choices that will reduce the percentage of the urban area devoted to transportation.

#### **Issue IV: Capacity and Safety**

- F. The additional number of lanes proposed to be added to the Detroit Freeway system to reach Level of Service D in the year 2010 is unrealistic. Implementation of Level of Service D would require another massive round of property acquisition and residential and business dislocation. The end result would be permanent economic and social damage to Detroit due to the loss of jobs and property and income tax revenue and neighborhood disruption.
- G. Where freeway capacity deficiencies exist, consideration should be given to the improvement of parallel surface routes or freeway transit lanes, rather than the construction of additional traffic lanes on the freeway. The City is interested in the use of freeways for transit or High Occupancy Vehicles (HOV's).

### **Issue VII: Financial**

- B. Federal funds should be pursued to develop fixed rail systems on Woodward and on Gratiot. A significant share of Act 51 funds should also be available for transit improvements.

The GDAFRP understands the interactions between freeway expansion and urban infrastructure abandonment:

#### **I. Regional Development Considerations.**

"The metropolitan freeway plan should strive to minimize urban sprawl. P. 1;

#### **III. System Capacity Deficiencies**

Federal funds should be used to develop fixed rail systems on Woodward and on Gratiot. A significant share of Act 51 funds should also be available for transit improvements. About 30% of Detroit's population does not have access to a car. In addition, Detroit's elderly population is large and their reliance on transit is greater. The goal should be to achieve a balanced mix of transportation choices that will reduce the percentage of the urban area devoted to transportation. p.3.

#### **VIII Financial Considerations**

The City fully recognizes that Federal and State support for freeway improvements is diminishing steadily, and that its own ability to provide required matching funds is limited. The Greater Detroit Area Freeway Policy Committee should address the need for new financial resources early in the planning process. The Committee must also establish funding priorities that achieve a balance between freeway maintenance and upgrading, the construction of new freeways, and transit improvements that are meaningful for the 30% of Detroit's population that does not have access to an automobile.

Thus the issues have not changed since 1990. Unfortunately MDOT's preferred alternative to address these issues is woefully lacking in vision and creative solutions. It is sobering and disconcerting to realize that MDOT is proposing to spend 1.3 billion dollars to "rehabilitate" less than one third of the original "high priority" I-94 corridor, and that these funds will be spent in derogation of these goals and considerations rather than to advance them.

### **5 THE SCALE AND EXPENSE OF "BUILD ALTERNATIVE" PROPOSED BY THE DEIS ARE MASSIVE AND TOTALLY UNJUSTIFIED.**

#### **5.1 The proposed scale of expansion is excessive in an urban community and not justified by the statement of purpose of need.**

MDOT's Draft Environmental Impact Statement [DEIS] for the proposed I-94 "expansion" reveals a plan for expansion to over 24 lanes of pavement. This massive expansion of I-94 between I-96 and Conner will cause extensive damage to both the social fabric and environmental health of the local community.

##### **5.1.1 Description of scale of expansion**

A review of the project description provided by both the text at p 4-27, and the figure of a representative cross section on page 2-10 reveal the following footprint of expansion. The diagram on page 2-10 omitted the "flex" lanes and dimensions for the central median space. These undepicted features account for another 80 feet of space.

- **Eastbound:** Service drives and gutter – 42.5 feet wide (16, 12, 12, 2.5),
- Indeterminate, but apparently variable, width for retaining walls, terracing or slopes,
- Right side 12 foot shoulder,
- 12 foot flex lane, either along service drive or in "ditch" [acceleration, deceleration, auxiliary]
- Four through-traffic lanes at 12 feet each,
- Left side 12 foot wide shoulder,

- **Central Median:** 54.5 feet of median space for “future use” [this is the equivalent of four and a half 12 foot lanes – see p 4-27],
- **Westbound:**
- Left side 12 foot wide shoulder,
- Four through traffic-lanes at 12 feet each,
- 12 foot flex lane,
- Right side 12 foot shoulder,
- Indeterminate width for retaining walls, terracing or slopes, service drives and gutters – 42.5 feet wide (16, 12, 12, 2.5).

Thus, the total proposed footprint would be 307.5 feet wide plus the space consumed for retaining walls, terracing or slopes. Other sources cite a right of way width of 374 feet. The DEIS is defective because it fails to clearly disclose this basic information which is essential to assessing project impacts.

The proposed dimensions should be compared to the current footprint of three 12 foot through lanes in each direction, modest right side shoulder (approximately 10 feet) undersized left side shoulder (approx. six feet) – no space in the median, no flex lane, sloped walls of indeterminate width throughout the Phase I segment and intermittent service drives. Where there are service drives, between Chalmers and Cadieux, they are only two or three lanes wide and around 30 feet wide.

We have measured the proposed width against Wayne State's Football field in the aerial photograph on Sheet 2. For most of its 6.7-mile length the expansion will be wider than a football field is long. The space consumed by the Build Alternative would be at least six lanes wider than the current amount of pavement, including services drives, at I-94 and Merriman Road to serve Metro Airport. We are unaware of any other urban freeway that is proposing to expand the footprint to 24 lanes wide through the heart of city's midtown area. Los Angeles, Denver, and Chicago all have 3 lane wide expressways in the comparable areas. Boston, Milwaukee, San Francisco and Portland, Oregon. The scale of expansion proposed for I-94 is a rural greenfields 1950's design, not well suited for an urban brownfield site in the 21<sup>st</sup> century. It is as though the designers saw the city as a vacant desert, totally discounting the constraints of the urban fabric and the people and businesses there. The project must be scaled back to remain within the current footprint of the expressway.

## **5.2 The Proposed expenditure is obscenely excessive and not cost effective.**

The proposed budget of \$1.3 billion for the 6.7-mile project is enough to build a region-wide network of commuter rail and bus-rapid transit and build light rail transit on Woodward Avenue. The “Build Alternative” would cost \$20 million a block for a swath of pavement wider than a football field is long, without including any investment in current transit needs.

The scale and scope of this project will have staggering adverse impacts to the human and natural environment on both the local and community and the region. In addition, this project will be the most expensive road-building project in the state's history. This project raises many crucial issues about appropriate scale and capacity of urban freeways, funding priorities for public transportation as well as roads within this corridor, congestion management during construction, usurpation of irreplaceable urban rail corridors, maintenance of air quality standards, mobile contributions to urban air toxics and environmental justice concerns, just to name a few. The DEIS is filled with misleading statements and assertions which are unsupported and in some cases even contradicted by the supporting documentation.

## **5.3 The “Build Alternative” will render obsolete the current reconstruction of the Dequindre Yard Bridge**

The Dequindre Yard Bridge, on I-94 between I-75 and Chene, has been under construction for at least the past two years causing traffic to be reduced to only two lanes in either direction. In addition, the Woodward Avenue bridge has recently been rebuilt and other bridges are being rebuilt, causing a history of lane closures on this section of I-94. The requirement to merge from three lanes to two creates traffic

back-ups throughout the day. It is difficult to calculate the economic burden to the region in lost time, energy consumption, air pollution emissions, and a general loss of goodwill that this construction-created congestion has caused.

These projects also have the subtle effect of creating the impression that I-94 is desperately undersized, thus making the proposed expansion project more acceptable to the average driver when in fact, three lanes in each direction would provide appropriate capacity for I-94 through the study section, if transit components were implemented as part of the rehabilitation. Few members of the public realize that approving the "Build Alternative" will force a significant portion of the Dequindre Yard and Woodward Avenue Bridge projects to be scrapped. All of the pain of the Dequindre Yard and Woodward Avenue Bridge projects will have been for naught. The DEIS states:

Although the I-94 bridges and roadway over the Dequindre Yard are currently being rebuilt and slightly widened for the ongoing project, they are not being reconstructed to include the proposed improvements under consideration in this DEIS for I-94. No additional driving lanes, continuous service drives, or space in the median will be constructed as part of the project. If the "Build Alternative" is selected as the Recommended Alternative, as much as possible of the rebuilt portion of I-94, bridges and the I-75 interchange will be retained and incorporated into the I-94 Rehabilitation. DEIS p3-5.

The DEIS is deficient for not discussing the direct cost to discard bridges that will be less than five years old as well as the indirect costs of the congestion endured to rebuild the bridges that the expansion will render obsolete.

## **6 A PROJECT-WIDE EIS MUST BE PERFORMED BECAUSE THE MDOT'S AND FHWA'S PROPOSED "BUILD ALTERNATIVE" INCLUDES UNADDRESSED CUMULATIVE IMPACTS**

The CEQ regulations mandate consideration of cumulative impacts. Cumulative impacts are defined to include impacts from other "reasonably foreseeable future actions." 40 C.F.R. § 1508.7, 1508.25. "Cumulative actions" or "cumulative impacts" are those which, combined with other actions, will have cumulatively significant impacts that should be evaluated in the same EIS. 40 C.F.R. § 1508.25(a)(2). The impacts of all reasonably foreseeable future actions should be considered, regardless of the person or entity taking such action. 40 C.F.R. §§ 1508.7, 1508.25(c)(3). Because the entire I-94 expansion is reasonably foreseeable, it must be evaluated as a cumulative impact along with the interchanges. Furthermore, given that the I-94 project is related both geographically and functionally to activities in the area, a sufficient cumulative impact analysis requires the grouping of the I-375, I-75 with this project to review of cumulative impacts.

Under CEQ regulations, cumulative impacts and connected actions are distinct concepts and impose separate requirements. As the Fifth Circuit has explained, [i]t is important to remember that issues of economic and functional dependence [i.e., connected actions] are distinct from questions of environmental synergy [cumulative impacts], and that concerns in both areas may trigger the need for a comprehensive EIS." Fritiofson v. Alexander, 772 F.2d 1225, 1241-42 nn. 10-12 (5th Cir. 1985).

Federal law clearly requires federal agencies to closely scrutinize cumulative impacts. Environmental analyses must take a hard look at the environmental impacts of proposed actions, 40 C.F.R. § 1508.9(b), which include direct, as well as indirect and cumulative impacts. See 40 C.F.R. § 1508.8 (effects include ecological, aesthetic, historical, cultural, economic, social or health impacts, whether direct, indirect or cumulative); 40 C.F.R. § 1508.25(c)(EIS shall consider three types of impacts, including direct, indirect, and cumulative effects); 40 C.F.R. § 1508.25(a)(2)(EISs must analyze the effects of actions "which when viewed with other proposed actions have cumulatively significant impacts"). CEQ regulation state that indirect effects:

are caused by the action and are later in time or further removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water quality and other natural systems, including ecosystems.

40 C.F.R. § 1508.8(b).

Here, since the MDOT has failed to perform a full cumulative DEIS, strong federal case law requires federal agencies to closely examine the cumulative impacts of the proposed actions in the draft EIS. NEPA requires that where several actions have a cumulative or synergistic effect, the consequences must be considered in the EIS. This principle has been specifically applied where multiple highway projects can have cumulative impacts on a community. City of Carmel-By-The-Sea v. US DOT, 123 F.3d 1142 (9th Cir. 1997); 40 C.F.R. § 1502.16. See also, NRDC v. Callaway, 524 F.2d 79, 88 (2d Cir. 1975)(an agency "may not go to the extreme of treating a project as an isolated 'single-shot' venture in the face of persuasive evidence that it is but one of several substantially similar operations").

As well, Federal case law mandates an analysis of cumulative impacts. In Airport Neighbors Alliance v. U.S., 90 F.3d 426 (10th Cir. 1996), the Tenth Circuit stated succinctly the law of cumulative impacts from Citizens for Responsible Area Growth v. Adams, 477 F. Supp. 894 (D.N.H. 1979) (airport expansion), and Save the Yaak Comm. v. Block, 840 F.2d 714 (9th Cir. 1988) (Forest Service logging road), two cases where an analysis of such cumulative effects had been required. The court stated that in Adams and Save the Yaak, a project-wide EIS is required where (a) abandoning the larger plan would destroy the "functionality" of the project, and (b) the agency and the project proponent publicly treated the different projects as interdependent. 90 F.3d at 430-31.

Here, I-94 expansion project closely resembles Adams and Save the Yaak because (a) phase I between I-96 and Conner would be useless if the other two phases were not built; and (b) MDOT's original scoping document and ongoing 5 year plans all assume the project will eventually extend from Wyoming to I-696. In other words, the phases west of I-96 and east of Conner cannot be abandoned "without destroying the proposed [project's] functionality..." Airport, 90 F.3d at 431. Furthermore, the linchpin center segment is not an independent, stand alone project, but are depends on the construction of the projects on either side, so much so, that "it would be unwise or irrational to complete one [analysis] without the other." Id. at 430.

## **6.1 MDOT, in discussing only Phase I of the entire I-94 Corridor Capacity Study, has failed to address the cumulative impacts of the entire project.**

### **6.1.1 Definition of the Larger Project**

MDOT has a larger plan than for the I-94 corridor than that addressed by the current DEIS. As early as 1990, MDOT was focusing on the entire I-94 corridor "from Wyoming Avenue in Detroit to 13 Mile Road in Macomb County, as the corridor of highest priority." The cost for the entire corridor project was estimated at \$600 million. Memo from G. Robert Adams to Highway Steering Committee re the Greater Detroit Area Freeway Rehabilitation Freeway Program, Feb. 15, 1991. Ex. B. Related Maps and charts also identify the same termini for the I-94 project. Ex C.

In the August 1995 Scoping Packet (no author given), Ex. D, the study area was defined as extending between I-96 and Conner Avenue as well as a longer study corridor from Wyoming Avenue, Detroit on the West to the I-696 interchange in Macomb County in the east for HOV lanes. P.3.

In informal conversations, various MDOT officials have agreed that this expansion is merely Phase I of planned expansions of a similar scale along the entire Detroit corridor. What MDOT and FHWA have failed to do is disclose this within the Draft EIS so that the public could comment on the full range of cumulative impacts. Gary Naeyert, former press secretary for MDOT and now performing the same function for the Michigan Association of Road Builders, called this "the linch-pin project" of the beginning of the modernization of Detroit's Freeway system. WJR 760am interview evening of March 22, 2001, 9:45 pm David Newman show. Attached as Ex 'E'.

On March 5, 2001, before a meeting of the City of Detroit City Planning Commission, MDOT Staff agreed that this 6.7-mile project was merely phase one of the larger I-94 project from Wyoming to I-696. When asked whether the 24 lane foot print for the I-94 expansion would determine the scale of the expansion, an MDOT representative assured that the Commissioners that I-94 "wouldn't be any wider" than the size

proposed for the 6.7 mile expansion. [Statement of Jeff Saxbe, MDOT staff, to the City of Detroit City Planning Commission, May 3, 2001].

Finally, In the first three Volumes of Michigan's Road and Bridge Plan, discussions of the I-94 corridor project make clear that this DEIS only addresses phase I, without discussing or inviting public comment on the cumulative impacts of expanding I-94 to a 24 lane footprint not just for the relatively unoccupied central section of the project between I-96 and Conner, but to both the east and west where more people live and both the housing stock and businesses immediately adjacent to the expressway are more viable.

#### **Volume I - 5 Year Road and Bridge Program 1999-2003- Metro Region**

The scope of improvements to I-94 between I-96 and Conner Avenue is still being determined with a final recommendation to be made in 1999. 17.5 million is budgeted to provide design work up to 2002. Following FHWA approval of the environmental document, design could begin as early as 2000. This project is the first phase of a larger project to rehabilitate I-94 between Wyoming Avenue in the City of Detroit and I-696 in Macomb County. A major objective is to maintain truck mobility, as this segment is part of the hub of interstate-to- interstate and international truck travel. This section of I-94 provides a connection for commercial and trans-continental traffic to the two Detroit/Windsor border crossings and the Blue Water Bridge in Port Huron. Structure Work to accommodate improvement to mainline I-94, including the Dequindre Yard bridge are expected to occur within this 5 year period. ( Pp 53-54). Ex F

#### **Volume II- 5 Year Road and Bridge Program 1999 [sic]-2004 – Capacity Improvements and New Roads – Wayne County**

A draft environmental Impact Statement (DEIS) for recommended improvements to I-94 from I-96 and Conner Avenue in Wayne County is expected [sic] be submitted to FHWA for review in 2000. The final EIS, with a recommended alternative, is currently possible by early 2001. Following FHWA approval, authorization to design the selected alternative could begin. This project is the first phase of a larger project to rehabilitate I-94 between Wyoming Avenue in the City of Detroit and I-696 in Macomb County. This section of I-94 provides a connection for commercial and trans-continental traffic to the two Detroit/Windsor border crossings and the Blue Water Bridge in Port Huron. Since this segment is part of the hub of interstate and international truck travel, a major objective for this project is to maintain truck mobility. Structure work to accommodate improvement to mainline I-94 is expected to occur within this 5-year period. Currently the Dequindre Yare bridge replacement is underway. ( Pp 66-67) Ex G

#### **Volume III - 5 Year Road and Bridge Program 2001-2005, the whole project is clear:**

I-94, I-96 to Conner Avenue. This project is the first phase of a larger project to rehabilitate two projects: I-94 between Wyoming Avenue in the city of Detroit and I-696 in Macomb County; I-94 was identified in an MDOT planning study entitled the Greater Detroit Area Freeway Study as the freeway in greatest need of improvement. The objective is to address the deterioration of the facility due to age and outmoded design. The DEIS is being finalized and is expected to be complete in early 2001. A Final EIS should be completed later in 2001. Build Michigan III contains additional funding for design. (p. 81.) Ex. H

Finally, there is also an oblique reference to other phases of this I-94 project within the four corners of the DEIS.

#### **3.4 Other projects**

This project is part of a series of proposed projects to improve the transportation system in Detroit and southeast Michigan. This proposed project is the first of other I-94 improvement projects in southeast Michigan.

p.3-5. This was the appropriate place for the DEIS to clearly and explicitly disclose that the 6.7 mile section under study was merely the first segment. MDOT's failure to so disclose necessitates a complete reevaluation of the scope and impacts of the project and requires the preparation of a properly scoped DEIS for the entire corridor.

## **6.2 This 6.7-mile segment of the overall I-94 project does not have independent utility.**

MDOT has rejected other alternatives such as including transit because it would not "provide a stand alone solution." It is obvious from reading the purpose and need and justifications of this project that the center 6.7-mile segment of I-94 discussed in the DEIS does not provide a "stand-alone" solution, either. I-94 will have to be expanded to the same 24-lane width throughout the corridor for this segment of the project to be truly useful.

### **6.2.1 This Phase I of the expansion will actually create congestion at eastbound Conner and westbound I-96. not relieve it.**

The primary rationale for the scale of expansion proposed by the DEIS for I-94 is to connect border crossings with Canada to points West and South. The 6.7 mile segment discussed in the DEIS would not provide or enhance those connections if it were the only phase of the larger project to be completed. Indeed, expanding only the central 6.7-mile segment will actually increase congestion where the expansion ends. It deceives Michigan motorists to omit a discussion of the congestion and bottlenecks that the expansion will create at Conner and at I-96 where five lanes of mainline traffic and three service drives are reduced to three lanes overall.

Westbound traffic must merge from five lanes to three, at the I-96 interchange, just as large numbers of trucks enter I-94 westbound from the Ambassador Bridge. Likewise, this expansion will create another bottleneck just east of Conner where eastbound traffic will merge from five lanes (including the "flex lane" to three. Congestion will be further exacerbated at these two expansion-created pinch points where the three lanes of traffic on the service drive will have to merge with the through traffic. The thinly concealed strategy appears to be: expand first in the central section of the I-94 corridor where the fewest people will be displaced, and therefore the least resistance encountered. Once that expansion is in place, the congestion that will be created will provide the incentive to continue the massive expansion through more populous and more prosperous neighborhoods. This is a cumulative impact that the DEIS fails to address.

Thus after \$1.3 billion and the disruption of five to seven years of construction or more, traffic throughout the larger project area will actually move less well because the effective capacity in each direction will shrink from eight local and through lanes to three through lanes. This pinch point will create such pain, not to mention road rage, among the driving public, that an artificial pressure will have been created to pursue the expansion throughout the original study area.

The DEIS contains no discussion of the effect on congestion, air quality, crashes, road rage and safety where the capacity narrows from eight local and through lanes to only three through, and shoulders are greatly reduced.

## **6.3 The DEIS needs to address the Cumulative Impacts of the entire project.**

Because the I-96 to Conner section of the I-94 project is the linchpin, the DEIS needs to describe and develop a mitigation plan for the environmental impacts due to the entire project from Wyoming to I-696, not just the phase discussed in the current DEIS. This needs to include:

- Acquisition Impacts and Displacement Impacts caused by the same footprint of expansion through the entire corridor
- Environmental Justice Impacts along the entire corridor
- Economic Impact of the proposed investment in more pavement
- The potential for the project to adversely affect land use patterns in the entire corridor and beyond.
- Worsening Air Quality due to higher traffic levels and higher speeds along the entire corridor
- Noise and vibration impacts on the host communities
- The likelihood for more crashes and more injuries and death based on higher speeds and more traffic along the corridor

- Opportunity cost of spending tax dollars on more pavement rather than investing in transit solutions and diversifying our transportation options.

The region and the host communities are missing out on an opportunity to diversify our investment in transportation infrastructure if the "Build Alternative" is chosen. The real cost of deciding to move forward with the "Build Alternative" isn't just the \$1.3 billion on new pavement, but must include:

- The expected cost in pavement for the entire project from Wyoming to I-696, and
- The lost opportunity cost of making worse the lack of diversification of our transportation infrastructure.
- The environmental and energy cost of maintaining the status quo on our transportation infrastructure

The "Build Alternative" will increase our dependency on autos and trucks and provide for a dangerous lack of diversity of our transportation investment. The "Build Alternative" is not in the best interest of the public trust.

In this case, however, not only must the entire I-94 corridor be evaluated as a cumulative impact, given that the I-94 corridor between Wyoming and I-696 is both geographically and functionally related to activities in the area, a sufficient cumulative impact analysis requires the grouping of the following into one environmental review of cumulative impacts: the entire length I-94 Project, including its interchange with I-75, the proposed extension of I-375 in downtown Detroit, the proposed Oakland County expansion of I-75, the Lansing to Detroit commuter rail study being managed by CATA, The Metro Airport to Downtown Detroit study, SEMCOG's Transit Vision and MARP's initiative to implement commuter rail in the I-75 corridor from the Renaissance Center at least as far north as Pontiac. In Kleppe v. Sierra Club, 427 U.S. 390 (1976) the Supreme Court addressed the question of when the cumulative impact of other projects must be included in an environmental analysis. The Court stated that "when several proposals for actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together." Id. at 410. In clarifying how far this analysis of regional cumulative impacts must go, Kleppe establishes "that an EIS need not delve into the possible effects of a hypothetical project, but need only focus on the impact of the particular proposal at issue and other pending or recently approved proposals that might be connected to or act cumulatively with the proposal at issue. Society Hill Towers Owners' Ass'n v. Rendell, 210 F.3d 168 (3<sup>rd</sup> Cir. 2000)." Id. This reasoning supports a joint look at commuter rail and other transit components in both the I-94 corridor and the I-75 corridor as alternatives to pavement only expansions to meet capacity needs in these corridors.

Furthermore, the I-94 and I-75 expansions are functionally interdependent with each other and the potential to include transit as one component of meeting capacity needs. It would be "unwise or irrational to complete one without the other." Airport, 90 F.3d at 430. I-75 intersects with the I-94 corridor and, as of 1998, infused over 70,000 cars per day) into the I-94 corridor [MDOT Michigan 1998 Annual Average 24 hour Traffic Volumes map.] Likewise in 1998, I-94 between I-96 and Conner carried between 120 and 160,000 vehicle daily. The intersecting stretch of I-75 carried between 120,000 and 192,000 vehicles. The connection of these two highways not only establishes a geographical interdependence, it also creates interconnected mobility needs within the I-75 Corridor that result from the traffic flowing from I-94. With both roadways converging and being functionally dependent upon each other then, the requisite interdependence is established and requires a cumulative impact analysis addressing the resultant transportation, land use, and other environmental impacts at I-94 and I-75 interchange and in the region. That analysis is incomplete unless it addresses the role of transit as a contemporaneous and integrated component of meeting capacity needs.

An EIS for a highway project must include a "useful analysis of the cumulative impacts of past, present and future projects." City of Carmel, 123 F.3d at 1160. This requires "discussion of how [future] projects together with the proposed project will affect [the environment]." Id. at 1160. The EIS must analyze the combined effects of the actions in sufficient detail to be "useful to the decision maker in deciding whether, or how, to alter the program to lessen cumulative impacts." Id. Detail is therefore required in describing

the cumulative effects of a proposed action with other proposed actions. Neighbors of Cuddy Mountain v. USFS, 137 F.3d at 1379 (9<sup>th</sup> Cir. 1998).

In this case, however, the Draft EIS is devoid of specific, reasoned conclusions or a detailed evaluation of the cumulative of the expansion plans for both the I-94 and I-75 corridors. If anything, the environmental documents only give conclusory statements about the benefits of the Parkway without analysis of impacts.

Thus, in the absence of any detailed discussion of the cumulative impacts of the intersecting highways of I-94 and I-75, the agency has failed to look at a major proposed project (the I-75 Corridor expansion) in its cumulative impact analysis and thus failed to meet the "hard look" standard that courts have established. See, Blue Mountain Biodiversity v. Blackwood, 161 F.3d 1207, 1216 (9<sup>th</sup> Cir. 1998). This hard look requires more than general information or reference to other documents as complete analysis, but there must be quantified and detailed information sufficient to let courts and the public make a reasoned decision of the anticipated impacts of a project.

In summary, because both the I-94 and I-75 projects are reasonably foreseeable, both proposed expansions must be evaluated as a cumulative impact within the region and measured against commuter rail system and adjunct bus service as one alternative to meet capacity needs in both corridors. Furthermore, given that I-94 corridor is related both geographically and functionally to other proposed transportation facilities in the area, a sufficient cumulative impact analysis requires the: the entire length I-94 Project, including its interchange with I-75, the proposed extension of I-375 in downtown Detroit, the proposed Oakland County expansion of I-75, the Lansing to Detroit commuter rail study being managed by CATA, The Metro Airport to Downtown Detroit study, SEMCOG's Transit Vision and MARP's initiative to implement commuter rail in the I-75 corridor from the Renaissance Center at least as far north as Pontiac, into one environmental review of cumulative impacts.

#### **7 A PROGRAMMATIC EIS MUST BE PERFORMED TO EVALUATE REGIONAL IMPACTS AND GEOGRAPHICALLY AND GENERALLY RELATED HIGHWAY PROJECTS.**

As discussed supra, NEPA requires MDOT and FHWA to examine the indirect and cumulative economic, social, and environmental impacts of the various plans and proposals currently before the agency for transportation impacts within the context of individual EISs for each proposal. However, in order to conserve agency resources, maximize efficiency, ensure a process immune to pressures from project momentum, and make certain the appropriate detailed analysis is performed within the region slated for transportation planning, the agencies should combine individual analyses into one regional Programmatic Environmental Impact Statement (PEIS). In this case, a PEIS would address the net effects not only of the I-94 expansion but would simultaneously address the net transportation and environmental impacts of the transportation facilities proposed for the I-375 extension (proposed for inclusion in SEMCOG's 2025 RTP at the April 25 Transportation Advisory Council, the expansion of I-75 Oakland County (Study results pending), The Ambassador Bridge I-75 project, (construction underway) Detroit Intermodal Freight Terminal (DIFT) Study (ongoing), the Lansing to Detroit commuter rail study being managed by CATA, ( phase I route selection complete), the Metro Airport to Downtown Detroit (study underway), SEMCOG's Transit Vision Study (due to be completed and approved by October 2001), Metropolitan Air Pollution Control Corporation "SpeedLink" Bus Rapid Transit Feasibility Study (Conclusions due this summer and MARP's initiative to implement commuter rail in the I-75 corridor from the Renaissance Center at least as far north as Pontiac, (based in part on Regional Commuter Rail Study co sponsored by SEMCOG and MDOT, completed in 1997). SEMCOG's transit vision, which could likely enfold components of the other ongoing transit studies will be completed in time to be competitive in the federal funding cycle for NEXTEA in 2003.

The CEQ regulations state that PEIS's should "be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations." 40 C.F.R. § 1502.4(b). Further, when preparing statements on "broad actions" agencies "may find it useful" to evaluate issues geographically or generally (e.g., common timing, impacts, alternatives). Id. § 1502(c)(1)-(3). A PEIS

"should be prepared if it can be forward-looking and if its absence will obstruct environmental review." Foundation on Economic Trends v. Heckler, 756 F.2d 143, 159 (D.C. Cir. 1985).

Two considerations are "especially helpful" and therefore must be rendered in reviewing the official decision not to prepare a programmatic EIS:

- a) Could the PEIS be sufficiently forward thinking to contribute to the decision makers' basic planning of the overall program?
- b) Does the decision maker purport to 'segment' the overall program, thereby unreasonably constricting the scope of...environmental regulation?

National Wildlife Federation v. Appalachian Regional Comm'n, 677 F.2d 883, 889 (D.C. Cir. 1981).

Furthermore, as set forth supra, if a PEIS is not performed, the individual EAs or EISs for each specific transportation project must independently discuss, analyze, and compare the cumulative environmental, social, and economic impacts of the multiple transportation projects occurring in Southeast Michigan. Such individual analyses are legally mandated by NEPA and would represent a much greater burden on FHWA, FTA and other agencies than the creation of an overarching PEIS. Furthermore, completing a programmatic EIS would allow a discussion of the synergistic benefits of introducing multi-corridor transit as an adjunct to road projects in the corridor. Also a PEIS will provide a reason to perform a multimodal traffic zone analysis to better allocate finite transportation infrastructure resources within the region.

One of NEPA's goals was to ensure a comprehensive decision making approach so that long term and cumulative effects of small and unrelated decisions could be recognized, evaluated, and either avoided, mitigated, or accepted as the price to be paid for the federal action. NRDC v. Callaway, 524 F.2d 79 (2d Cir. 1975). Furthermore, and as stated supra, an agency "may not go to the extreme of treating a project as an isolated 'single-shot' venture in the face of persuasive evidence that it is but one of several substantially similar operations." Id. at 88 (emphasis added).

The U.S. Court of Appeals for the D.C. Circuit has noted the U.S. Supreme Court's far-reaching requirement that "[u]nder NEPA, proposals for related actions that will have cumulative or synergistic environmental [or economic] impact upon a region concurrently pending before an agency must be considered together. *Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action.*" NRDC v. Hodel, 865 F.2d 288 (D.C. Cir. 1988), quoting Kleppe v. Sierra Club, 427 U.S. 390, 410 (1976)(emphasis added). Thus, courts have recognized that a cumulative impact study of multiple proposed actions within the context of a programmatic analysis will both better serve the purpose of clearly defining the impact that each transportation project will have on the environment and other geographically or generally related transportation projects, and better conserve agency resources. Anything less would constitute a piece-meal effort that fails to consider total impacts on the region, that fails to give comprehensive consideration to alternatives such as rail transit from North Metro to the airport, and a waste of agency time and resources.

By way of example, in Colorado the Federal Highway Administration (FHWA), in cooperation with Colorado DOT [CDOT], is currently preparing a PEIS in compliance with the National Environmental Policy Act (NEPA) for the I-70 Mountain corridor. The purpose of the PEIS is to take a broad view of the transportation issues and alternative solutions to assist in identifying needed safety and mobility improvements and reducing congestion on the I-70 Mountain Corridor. See, I-70 Mountain Corridor website. According to the agencies, the programmatic EIS will enable CDOT and FHWA to address the potential impacts of alternative solutions to mitigate the transportation problems comprehensively as part of the overall I-70 Mountain Corridor transportation system. Id.

An analysis of the Southeast Michigan region, specifically capacity needs within the I-75 and I-94 corridors should:

- Utilize a systematic, interdisciplinary approach.
- Document the purpose and need for improving the safety and mobility in the I-94 and I-75 corridors and reducing congestion.

- Concentrate on issues and alternatives that are significant to the safety, mobility and congestion of Southeast Michigan, including alternative access by rail or other transit to Metro Airport.
- Include a thorough analysis of multiple alternatives, including no action.
- Respond to agency and public input obtained through the scoping process and public involvement program.
- Provide a level of detail that will allow FHWA and MDOT to make policy decisions on the transportation plan for the Southeast Michigan region on an understanding of the environmental consequences, performance, and costs associated with the proposed plan and alternatives.
- Study the cumulative effects of multiple projects on environmental receptors, such as: human exposure to and health risk from air contaminants from motor vehicles beyond those addressed by the conformity analysis of the RTP, air and climatology, geologic hazards, hydrology/water quality, floodplains/drainage, wetlands, ecology, threatened and endangered species, land use/recreation, cultural receptors, and the human environment, (which includes socioeconomics, aesthetics, noise, environmental justice, transportation/traffic, utilities/energy).
- Study growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

## **8 THE PURPOSE AND NEED FOR THIS PROJECT ARE FRAMED TO PREDISPOSE SELECTION OF A PAVEMENT SOLUTION TO MEET CAPACITY AND SAFETY NEEDS**

### **8.1 The DEIS Capacity fails to consider transit and mode shifting of freight to meet capacity needs in the I-94 corridor.**

One item to the purpose of the proposed action is to "improve capacity" in the 6.7 mile segment of I-94. The section states that the segment has inadequate capacity, especially during the morning and evening rush hours. TRU understands that the underlying need for this project is to reduce congestion in the 6.7-mile segment. MDOT's theory is that by adding more pavement, congestion will be reduced and the center section of the I-94 expressway will work better.

There are two ways to reduce congestion. One way that we have learned doesn't work too well is to add additional lanes for traffic. Frequently, this results in induced traffic and "double convergence"<sup>1</sup> which creates the same level of congestion or worse congestion during the 20-year planning period of the project. Drivers who for the last five years have avoided I-94 will be lured back to try the fresh pavement in the widened corridor. Drivers who have altered their personal lives to travel off peak will return to peak hour driving.

Currently, the preferred way to reduce congestion is to provide an alternative for people not to use the expressway, such as investing in transit. In many regions across the country, investments in transit have resulted in less congestion on the expressways. This DEIS has not even evaluated the feasibility of shifting to transit because SEMCOG and MDOT do not have a model in place to study the benefits of transit for relieving the congestion burden.

SEMCOG's Traffic projections are based on models, which assume continued sole reliance on the automobile. According to FHWA's own review of transportation planning in the SEMCOG region, MDOT does not have appropriate modeling tools to consider transit fully and fairly as a component of the region's capacity needs.

<sup>1</sup>MDOT, SEMCOG, and the transit operators do not have operational mode choice or transit network assignment models for the region. Without such tools, the ability to quantify choices; evaluate benefits and costs; and analyze tradeoffs among transit alternatives and between transit and highway projects is

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<sup>1</sup> The usual expression is triple convergence and the third source of induced demand traffic is those abandoning other modes to return to the automobile. Since Detroit has virtually no transit functioning in this corridor now there are no other modes from which to be lured.

extremely limited. If transit visions such as TransitChoice or SpeedLink are to be seriously considered, the decision makers should have the benefit of the information that these tools can provide.

Consequently, the FHWA and FTA recommended the following:

"MDOT, SEMCOG, and the transit operators develop and refine regional travel demand forecasting tools for both highway and transit modes, including methods for evaluating and establishing regional system wide priorities linked to area wide goals and objectives."

FY 2000 Transportation Planning Certification, Summary Report Detroit Michigan, Prepared by FHWA and FTA, June 14-15, 2000, pp.12-14. Ex. I.

Because the only mode considered was auto access, the modeling failed to consider the effect on traffic counts of the possibility of:

- The implementation of commuter rail in the I-94 and I-75 corridors
- Lowered trips downtown due to telecommuting
- Shorter, transit based trips due to residential expansion, both next to RenGen and throughout Downtown Detroit.

These omissions underscore the inadequacy of the DEIS. Whether the next step is redo the DEIS or a Supplemental EIS, MDOT must have access to appropriate multi-modal modeling tools and apply them to this project. No Final EIS should issue until this model has been applied to integrated regional transit system with a Rapid transit component – LRT, BRT or Commuter Rail.

Modeling for projected needs in 2024 did not test a scenario that acknowledged improvements to transit including enhanced public rapid transit, feeder buses and commuter rail. Modeling did not take into account growth in downtown and midtown residential that means a certain percentage of those who work downtown will walk, not drive.

The final EIS should include a thorough review of an alternative that adds capacity along the I-94 corridor through cost-saving transit components as part of the project. Specifically, the final EIS should include the TRU alternative consisting of:

- Keeping the current I-94 system design,
- Repaving the surface and fixing the bridges,
- Reducing speeds along this 6.7-mile section to maximize the capacity, reduce noise, reduce pollution, reduce crashes and improve energy efficiency.
- Updating and implementing a three-line regional commuter rail system between Detroit and Ann Arbor, Mount Clemens and Pontiac and
- Establishing SpeedLink down Gratiot, Michigan and Grand River Avenues.
- Limited stop buses with frequent rapid bus service along Warren Avenue, paralleling I-94. By speedy cross-town commutes via transit, usage of I-94 for trips within the city would fall.
- Ensuring that the ITS infrastructure is in place. (This means of meeting capacity needs was discussed in the August 1995 scoping packet, but omitted from the DEIS.

This alternative will be shown to be more effective in meeting the underlying needs of the I-94 corridor transportation system and the purpose and need of the project at significantly less cost than the "Build Alternative." In addition, this alternative will provide real benefits to the community where one third of the households lack access to a car. TRU's Transit Vision with estimated capital and operating costs. May 10, 2001. Ex. J.

#### 8.1.1 MDOT's own Level of Service analysis reflects that the project is being vastly overbuilt.

The analysis of future capacity needs does not support the addition of two additional traffic lanes and three lanes of service drive in each direction. Planners elsewhere in Southeast Michigan have indicated they are held to design their capacity needs for Level of Service (LOS) D or even E. Indeed LOS E was the stated Goal #5 of the Greater Detroit Area Freeway Rehabilitation Program. [GDAFRP].

GOAL # 5 The Greater Detroit Area Freeway Rehabilitation Policy Committee is committed to maintaining the present level of urban mobility along the freeway corridors. To this end, the

greater Detroit area freeway system should strive to maintain the system so that it operates at no lower than Level of Service E. If redesign is required, then every effort should be made to develop that design within existing right-of-way, using urban design standards.

#### GDAFRP Goal Statement.

In light of that, the I-94 expansion appears to be greatly over designed. Table 4-1, (DEIS p. 4-33) shows that all but one segment will have LOS D or better, and that 15 of 20 segments would enjoy LOS B or C during peak hours. Since that capacity creation far exceeds the 1990 GOAL of LOS E, it appears that significantly reduced paving project would satisfy capacity needs. Further, the DEIS does not discuss what mix of highway changes plus other capacity-increasing measures such as transit, freight mode switching and ITS, would yield LOS E, and what that cost would be.

Elsewhere in the GDAFRP, commenters urge that Freeway and Surface Arterials when considered together should give LOS D. For purposes of this analysis, are the service drives to be considered Arterials? It is not clear whether the local service drives' potential to pull traffic from the mainline were included in the LOS calculations. How many vehicles per peak hour are assumed to use the mainline, and how many the service drives? If the lanes of capacity for local traffic were omitted from the LOS calculation, it would seem that the proposed capacity increases are even more excessive.

Furthermore, the Table 4-1 on p 4-33 of the DEIS lumps the LOS estimates for both the "No Build" and "Enhanced No Build" [ENB] alternatives as though there were no capacity differences between the two. The Enhanced No Build (an oxymoron because it actually includes building a flex lane and shoulders) alternative would provide an additional flex lane [acceleration, deceleration and auxiliary] throughout the entire 6.7-mile corridor – the functional equivalent of a fourth lane of capacity. The enhanced no build would also provide wider shoulders to ease traffic incident management, which is responsible for 70% of congestion. See Figure C-5, p.334. L. Grenzeback, Impact of Changes in Highway Capacity on Truck Travel, printed as Appendix C, Expanding Metropolitan Highways, Transportation Research Board, pp. 310-44 (1995 National Academy Press) Excerpt attached. Ex. K. ENB could also address some of the more awkward and duplicative ramps, although the DEIS is silent as to details necessary to understand fully the benefits of the rejected alternative. It is inconceivable that the ENB alternative, which effectively adds a lane a capacity and significantly addresses the chief cause of congestion by adding wider shoulders to improve incident management, would show no better LOS than does the No Build Alternative.

The Assessment of LOS does not indicate what the anticipated vehicle mix is for the year 2020. Elsewhere the DEIS predicts that truck traffic will increase at a faster rate than passenger vehicle traffic. Trucks respond to peak hour congestion by altering schedules to drive off peak. L. Grenzeback, p. 310, 322. Furthermore for some types of freight, depending on which goods and length of trip, mobility needs can be met by shifting modes to ship by rail or water, or by using ITS to use existing capacity more wisely. There is no indication that the DEIS analysis of LOS and capacity needs took these factors into account.

We believe the LOS assessment deserves closer study. The DEIS is deficient because it fails to assess the potential of a well integrated, multi-modal regional transit system to reduce peak hour traffic, and for mode shifting of freight to reduce the need for addition of lanes.

#### **8.2 Safety problems and crash statistics in support of the "Build Alternative" are overstated.**

At the outset the review of crash data in Section 2.5.5 of the DEIS was hampered by MDOT's failure to categorize crashes based on severity. As presented the data is confusing and difficult to analyze, Property damage "fender benders" occur at a different rate and under different LOS than more serious injury accidents, and fatal crashes. MDOT states that safety is poor and I-94 needs to be expanded to improve safety. This statement is not borne out by a review of statistics provided in Appendix B of the DEIS. Based on the average number of annual crashes for this segment and based on an average of 140,000 vehicles per day along this length, we calculated 305 crashes per 100 mvm traveled. On the average, across the 6.7-mile segment of I-94, traffic crashes are therefore well below the state average of

350/100mvm. A detailed review of the crash statistics that MDOT offers in support of the capacity expansion demonstrates that the crash rate in that corridor, 305 per 100,000 vehicles traveled (mvm), is actually lower than the regional average of 350 crashes. Indeed, one could infer that the expansion would lead to increased traffic volume, speeding, property damage, injuries and deaths.

Higher crash statistics within the study area occur, not along I-94 but along I-75 and the Lodge where the lanes have been upgraded. Many of the ramp segments cited on DEIS p2-14 as having crash rates higher than the state average are within the I-94 Traffic Study Corridor, between Wyoming and I-696, but not within the 6.7 mile segment. Crash rates in this segment of I-94 do not justify the excessive widening and \$1.3 billion investment MDOT is proposing for the 6.7 miles east of I-96. The needs appear to be greater from the I-96 interchange west.

Thus, it appears that the current design of I-94 is safer than the Build Alternative, which is being proposed. The lower frequency of crashes is probably due to the need for lower speeds and higher level of driver caution through this section. L. Grenzeback at 334 ("As highways approach saturation levels with stop-and-go traffic conditions, the accident rate is thought to drop as travel speeds fall.") Lowering the speed limit to 45 mph permanently would probably reduce the number of crashes further while increasing the carrying capacity of the existing design. Noland, Robert, Traffic Fatalities and Injuries: Are Reductions the Result of 'Improvements' in Highway Design Standards? Nov. 2000. Ex. L.

Professor Noland has demonstrated the counter-intuitive hypothesis: modern road design widenings and expansions may actually lead to statistically significant, though small, increases in total fatalities and injuries, all else being equal. The drop in fatalities is due to better emergency medical care and other factors unrelated to road design such as the use of air bags.

The interplay between Trucks and crashes is especially important to assessing safety and capacity needs given MDOT's predictions that this corridor will experience a significant rise in truck traffic. Fatal crashes involving trucks may actually rise with an increase in capacity:

[I]ncreasing highway capacity and smoothing traffic flow during congested peak periods may reduce the rate of common accidents for both cars and trucks and the substantial delay and economic costs of these incidents; however, the findings also suggest that increased highway capacity alone may do little to reduce the frequency of major truck accidents, both because fewer trucks operate during peak periods and because most major accidents occur at night or at midday when trucks operate at full speed.

L. Grenzeback at 335-36.

As noted by SEMCOG and by the DEIS, most of the reason for congestion along our roads is due to crashes. The extra 2 minutes to travel along the section at 45 mph rather than 60 mph for a single trip would, over time and system-wide result in a net savings of time itself in benefit because crashes and the resulting congestion would be avoided by having driven at slower speeds. In comparison, the sections of M-10 and I-75 expressways in the study had significantly higher crash rates. Both of these sections are newer designs that more closely resemble the proposed "build alternative".

**8.3 This segment of I-94 is the least critical to international trade and truck traffic in the entire project corridor.**

**8.3.1 The international trade route rationale does not withstand close scrutiny.**

The Purpose states "Because of I-94's link to international border crossings and the growing economy in southeast Michigan, the volume of heavy truck traffic...is expected to grow." MDOT has asserted that importance of I-94 overall to commerce and international trade. Nevertheless, this particular segment of I-94 is not key to either potential connection between Canada and Chicago, Fort Wayne, or Toledo. For traffic using the Blue Water Bridge between Port Huron and Sarnia, I-69 is the primary link between Canada and the west and south. It is underutilized and for the most part does not pass through urban areas in Michigan. Traffic using the Ambassador Bridge to and from Canada will primarily travel I-94 only west of I-96 and never use the segment discussed in the DEIS. Indeed, as early as 1990, highway planners recognized the increased traffic in the I-96 and I-94 interchange, GDAFRP Comments, p2,

("Problems exist at the I-96 and I-94 interchange more so than at I-94 and I-75. A significant increase in commercial traffic (semi-trucks) has been noticed recently.") The 6.7-mile segment east of I-96 is not the most critical to this network.

The justification for the \$1.244 billion road expansion investment as described on pages 4-38 and 4-39 of the DEIS seems tenuous. The proposed I-94 improvement at the outside will reduce travel time for commercial trucking by not more than 5 or 10 minutes for probably not more than 3,000 trucks per day (one-third of the upper bound of the 5,000 to 9,000 trucks that use the Ambassador Bridge daily. (Communication from Alex Bourgeau, Transportation Coordinator, SEMCOG, to Dietrich R. Bergmann, Ph.D., P.E., May 2, 2001). The proposed investment will not generate more than a 5 or 10 minute travel time reduction for trucks traveling to Canada from the east side of Detroit. The commercial value of such a small travel time reduction is inconsequential, inasmuch as the vagaries of congestion on parts of the highway network not included within the 6.7-mile segment proposed for widening probably would have zero impact on the scheduling of trucks.

### 8.3.2 The expected Increase in Truck Traffic due to NAFTA has peaked and leveled off.

NAFTA trade is the supposed reason for the anticipated increase. DEIS p 2-1. Nevertheless, after a steady increase from the inception of NAFTA to 1999, actual truck crossings at the Ambassador Bridge increased only 1.69 % in 2000, not the 5-7% the DEIS predicts. Total Truck Movements on Highway Crossings between Southeast Michigan and Ontario. May 11, 2001. Ex. M. It appears that the anticipated higher growth rate was a short-term phenomenon rather than a continuing trend. The DEIS acknowledges the difficulties in modeling VMT growth for trucks. DEIS, p. 2-1; Ex H, pp. 336 – 339. More analysis and greater certainty than the speculation in the DEIS is necessary to justify the magnitude of investment the "Build Alternative" would require.

### 8.3.3 There are Alternate Routes between Canada and points south and west.

Traffic from Toronto and Canadian points east would use either

- the Blue Water Bridge to I-69 west to Chicago or south to Indianapolis, or
- the Ambassador Bridge to westbound I-94 or to I-75.

None of this Canadian trade would need to use the 6.7 mile segment of I-94 except for trucks making a delivery within the east side of Detroit. Traffic from the south would take these same routes; however, they would be traveling in the other direction.

I-69 between Port Huron and Battle Creek has a tremendous amount of capacity for additional truck traffic. There is no need to make another path to funnel lots of truck traffic onto I-94, which travels through residential communities in Detroit. Focusing on encouraging better use of the I-69 link between Port Huron and where I-69 intersects with I-94 at Battle Creek as an alternative in the DEIS needs to be considered.

### 8.3.4 The DEIS does not adequately explore the potential for other modes to address capacity needs in the I-94 trade corridor.

#### *8.3.4.1 Detroit Intermodal Freight Terminal Study*

MDOT is sponsoring a feasibility study concerning the development of the Detroit Intermodal Freight Terminal Study [DIFT] in Southwest Detroit, which would include the Intermodal (truck to rail) freight facilities of the following railroads:

- Burlington Northern Santa Fe [BNSF]
- Canadian National Railway [CN]
- Canadian Pacific Railway [CP]
- CSX Transportation [CSX]
- Norfolk Southern Corp. [NS]
- Union Pacific [UP]

The purpose of the DIFT project is to support the economic competitiveness of southeastern Michigan by improving freight transportation opportunities and efficiencies for business and industry. The goal is to develop a regional intermodal facility with sufficient capacity to provide for existing and future intermodal demand. Detroit Intermodal Freight Terminal Study Ex. N. In defining the study MDOT acknowledges the role of intermodal freight shipments in reducing congestion on I-94 and I-75. DIFT Background Paper Ex. O. <http://www.mdot.state.mi.us/projects/dift/> The DEIS does not even mention the existence of the DIFT project, DEIS p3-5, let alone address the effect of the proposed DIFT on highway capacity needs for truck traffic in the I-94 corridor. THE DIFT project may have the potential to increase the viability to shift freight to rail. The DEIS should address the interaction between the intermodal project and the need for highway expansion; it has not.

#### *8.3.4.2 Other intermodal opportunities that obviate the need for highway expansion to manage freight*

There are additional ways to expedite the movement of trucks other than the expansion of highways. For example, Canadian Pacific during CY1999 or CY2000 began its "CP Rail Expressway" service running between Detroit, Toronto, and Montreal. At present two trains are operated in each direction for the service, with each train capable of carrying 60 semi-trailers. Although the present Detroit terminal for the service is located about one mile south of the Fisher Freeway/Lodge Freeway interchange, additional terminals for the service could be established along the Detroit-area railroad network, diminishing the value of the proposed highway expansion. In addition the number of daily train trips can be easily increased.

Another railroad, Norfolk Southern, operates its "Triple Crown" intermodal service, which includes the operation of trains pulling specially designed semi-trailers. The maximum number of trailers that can be placed in a single train is 125. Norfolk Southern for several years has operated these trains between Toronto, Detroit, and Fort Wayne. Several years ago Norfolk Southern extended the service to Texas and during CY2000 it extended the service to Monterrey and Mexico City. Increasing the number of "Triple Crown" terminals in the Detroit area is another means for reducing considerably the truck traffic demand that MDOT anticipates serving with its \$1.244 billion investment in expanding I-94 between Conner and the Jeffries Freeway.

#### *8.3.4.3 Potential for ITS enhancements to reduce need for highway expansion*

MDOT should consider whether an investment in modernized customs clearance procedures at the Ambassador Bridge might not have a greater impact in travel time reduction. Pursuit of this development was proposed by Michael Kergin, Ambassador of Canada to the United States during his 30 April 2001 speech to the Economic Club of Detroit. Other ITS enhancements were proposed in the August 1995 Scoping Packet but according to City of Detroit employees, there are no current plans to install the supporting information technology infrastructure as part of the I-94 expansion. Although ITS may not address capacity needs in isolation, it certainly should have a role as one aspect of a multimodal solution. The DEIS must address whether basic ITS infrastructure is being included as part of the proposed project, and justify its exclusion.

## **9 THE DEIS DOES NOT CONSIDER ALL REASONABLE ALTERNATIVES**

The core requirement of NEPA is to consider all reasonable alternatives in depth and this DEIS does not do this. This failure makes the DEIS inadequate. For a highway project, all possible alternatives, including changes in design, changes in the route, different systems of transportation and even abandonment of the project entirely must be considered. In addition, it is not appropriate "to disregard alternatives merely because they do not offer a complete solution to the problem." (See *Natural Resources Defense Council v. Morton*, 458F.2d 836, 836-37 (D.C. Cir. 1972)(finding that the agency must consider partial remedies even if the remedies are outside of the agency's statutory authority).

**9.1 The DEIS did not consider the alternative of meeting capacity and safety needs by implementing transit as an integral and contemporaneous component of the project as proposed by Transportation Riders United.**

Specifically, MDOT and FHWA are required to evaluate the holistic alternative proposed by Transportation Riders United (TRU) in another version of a DEIS or a supplemental EIS before completing the Final EIS. TRU's proposal includes.

- Repair I-94 to its original design. This takes care of the need to deal with the deteriorating condition of pavement and bridges. It also maintains the relatively high level of safety for this urban expressway. It is a more honest "rehabilitation." It doesn't render obsolete all of the previous and ongoing bridge replacement construction with the associated traffic delay cost that the public has paid.
- Eliminate the "reserved space in the median to accommodate future lane expansion or transit improvements on I-94." The center median is an undesirable location for transit, too much noise, pollution and hard to access. Freight capacity needs should be met with mode shifting. DEIS Section 1.4.3, line 9, p. 1-5.
- Reduce posted speeds along this 6.7-mile section to maximize the capacity, reduce noise, reduce pollution, reduce crashes and improve energy efficiency. Reduction in design speed for the ramps has the potential to reduce the land consumed by I-75/ I-94 interchange. The current dimensions of the interchange are eleven by thirteen football fields.
- Further add transportation capacity along the corridor by investing \$200 million in a modern commuter rail system with three lines initially to serve Ann Arbor, Mount Clemens, and Pontiac to Detroit. These lines were evaluated, costed, and recommended in an MDOT study concluded in 1997. Regional Passenger Rail – a concept for Southeastern Michigan, Summary Report, Southeastern Michigan Regional Rail Study, June 1997. Ex. P. See also Modern Detroit Renaissance Center – Oakland County Commuter Rail Service, Dietrich R. Bergmann, PhD, PE, April 25, 2001 Ex. Q
- Further add transportation capacity along the corridor by investing in Speed Link Bus Rapid Transit along Gratiot to Eastland, Grand River to City Limits and Michigan to Dearborn. These three lines, consisting of about 32 miles, would cost about \$385 million to establish based on SEMCOG's Transit Vision Forum. Levels of Service and their Characteristics, May 2001. Ex. R
- Implement Express limited stop bus service in the West Warren/East Warren corridor, which is parallel to and about 1 mile south of I-94 from Fairlane Mall to Mack and Moross.  
(TRU's Transit Vision, 2001.)

This alternative would meet the purpose and need of the proposed project while meeting the goals of the project as outlined below:

- Provide needed mobility along the corridor for people and freight
- Enhance the potential for economic development consistent with SmartGrowth philosophy
- Result in beneficial social, environmental and economic improvements to the host neighborhoods and the City of Detroit.
- Significantly reduced taxpayer investment while diversifying our transportation infrastructure

**9.2 MDOT should use Construction Traffic Maintenance and Congestion Mitigation funding to finance transit as a component of the "Rehabilitation" Project**

The DEIS (page 4-38) states that 20 percent of the total cost of \$1,244 billion (i.e., \$248,800,000) is for "traffic control", which apparently means traffic control during construction. This item is so large in itself, that a DEIS should be prepared for identifying alternative ways to accommodate the movement of people and freight during the construction period. That alternative should address implementing major public transportation improvements because of the disruptions caused during the construction period. There is even a model for leveraging shifting highway construction funds allocated for traffic maintenance and congestion mitigation to finance transit capital and operating expenses that would address the construction created congestion.

The Florida Department of Transportation secured a line item in a congressional appropriation bill that directed money to flow from the highway trust fund to manage construction related congestion in the I-95 corridor north of Miami by providing capital and ONGOING OPERATING FUNDS for commuter rail that paralleled the I-95 corridor. This capital and operating funding continued as long as the corridor was under construction, which enabled the Tri Rail system to become established and grow. This corridor is over 70 miles long, and so this approach has in effect created ongoing federal support for commuter rail in the corridor. After 5 years of a proven track record of operation, the three cities in the Miami area were able to go to the voters and secure an increase on the local gas tax to help pay for a second line of track built in the CSXT right of way, to be owned and eventually operated by Tri Rail. Miami voters in essence got a five year federally funded rail demonstration pilot project, and used that to build voter approval to pass the regional gas tax increase. J Rankin, PE, Evolution of a Commuter Rail System in South Florida (FDOT, July 1990) Ex. S. (Telephone communication with Mike Williams, Tri Rail, Manager of Planning and Capital Development, ph. 954. 788.7897).

For another example, Delaware had an innovative program with express commuter buses and enhanced commuter and AMTRAK service, guaranteed rides home midday, improved station and parking capacity which they put in place 18 mos. to two years ahead of Closing I-95 southbound for 10 miles between Philadelphia and Dover for rebuilding. The theory was to convert as much commuter traffic to using transit as possible well in advance of construction. The express bus service included such enticements as free papers on the bus to read, coupons for free coffee and bagel at the downtown terminus from a shop en route to the office. Mode shifting commuters to transit freed up the capacity on the detour route to be used primarily by through traffic that had no choice. (Personal communications with Darren O'Neil, Delaware Department of Transportation - 302.760.2274, [doneill@mail.dot.state.de.us](mailto:doneill@mail.dot.state.de.us), October 1999.)

Metro Detroit has been without a broad based transit system for over a generation, and much of the population is transit naive. They may have ridden transit in other cities, but can't visual this region ever having the sort of system that they would ride. The Tri Rail development and implementation model creates an unparalleled opportunity to educate the transit naive project via a mostly federally funded pilot that will aid highway construction projects as well as reduce overall capacity needs. In the region, the tracks are in place and mostly intact. There has been service in the Ann Arbor to Detroit Corridor in recent memory, having been discontinued in the 80's, and the remaining logical corridor, Detroit to Mt. Clemens has recently been studied and shown to have good ridership figures and fare box return potential. 1997 Commuter Rail Study Modern Rolling stock with same level boarding efficient less polluting engines and lower staffing requirements provide the potential to offer premier cost-effective service as a pilot during construction that can continue permanently, once the ridership base has been established.

Rising gas prices plus extreme construction induced congestion pain could inspire some conversions, but for a pilot to succeed, there needs to be a reasonable interval, at least 3 years, to build ridership, paired with an aggressive marketing effort and good public and private feeder bus support, especially to serve the reverse commuters who live in the project area. With gasoline at \$3 a gallon, I-75 and I-94 targeted almost perpetually to construction based lane reductions, the time is ripe to create a transit mode choice riders will switch to. Ex. T. This scenario is a reasonable alternative that the DEIS should have developed. This alternative provides a mix of various modes to meet capacity, access, and mobility needs, The DEIS is deficient for not having included this; travelers in Southeast Michigan could be enticed to mode switching, if there were other modes available.

**9.3 To allow comparison of reasonable alternatives, the DEIS must address and justify the four components of the "Build Alternative" separately:**

**9.3.1 Addition of a fourth travel lane**

**9.3.2 Addition of wider shoulders and auxiliary lane**

These benefits would be provided by the "Enhanced No Build Alternative" as well, yet the DEIS fails to acknowledge their contribution to capacity enhancement in assessing LOS under the less intrusive "enhanced no build" alternative. Creation of space for future expansion (truck lanes or transit)

*Space saved in the median for 'possible future transit' is a cruel hoax. Light rail doesn't belong among 10 lanes of interstate traffic. Space 'maybe for transit' in the distant future is a ruse to create more space for truck lanes and the likely first phase of building I-94 24 lanes wide all through Detroit.*

### 9.3.3 Creation of 3 to 4 lane continuous service drives.

MDOT has failed to justify an ongoing need for the capacity that 40 feet of continuous service drives would create.

Nothing, beyond it would be nice, is substantiated for providing 40 feet wide (minimum) service drives. Such expansive surface streets will encourage speeding and the width will require vehicles to perform dangerous weaving maneuvers to get into the right hand lane to turn. This will result in higher crash rates along the service drives. Ironically, cross lane weaving is the same malady, MDOT proposes to alleviate in the depressed mainline as part of the justification for the \$1.3 billion build alternative. These streets may not be the ideal route for buses because of the distance to walk across the expressway to get to the other side of the freeway and the reduced number of pedestrian crossovers, and the loss of north-south route for buses at Cadillac, due to the redesign of the Gratiot interchange. (pp4-31). The continuous service drives, bounded by walls to reduce noise and cul de sacs to do not promote neighborhood connectivity or pedestrian and other nonmotorized access.

#### 9.3.3.1 *Population loss within the project area*

There are no growth projections within the 6.7 mile phase I of this project which would justify creating this much capacity. Indeed, MDOT cites SEMCOG's statistics predict an 18.6% decline in population in the City of Detroit by the year 2020. (Table 5-2, p5-4.) Until 2000 census figures, the DEIS assumes the project area will suffer at least the same rate of loss. The DEIS notes that the project area has lost 32.5% of its population since 1980. It fails to note, that a significant portion of that loss was due to the destruction of that viable community just north of I-94 at Chene to accommodate the building of the Poletown Plant for GM. MDOT's purpose and need are inadequate to support the scale of expansion of the "Build Alternative" proposed by the DEIS.

#### 9.3.3.2 *The continuous service drives threaten pedestrian safety.*

The DEIS does not disclose any analysis as to whether the local community population supports to the need to create a surface level expressway which will duplicate the existing capacity of the depressed mainline freeway. The DEIS states that "the Enhanced No Build Alternative would rebuild the pedestrian and vehicular bridge in existing locations with no opportunity to enhance pedestrian access within the community," DEIS, p5-19, creating the impression that replacing existing pedestrian facilities is inferior to eliminating all free standing pedestrian overpasses and combining fewer pedestrian facilities with a reduced number of combined vehicular and pedestrian bridges. This is outright deception and should be stricken from the DEIS. Continuous service drives, even with adjacent sidewalks, are likely to be separated from the local street network by noise walls and cul de sacs. A seven-mile sidewalk to nowhere, adjacent to heavy, speeding traffic, is hardly fair compensation for loss of north-south connectivity.

#### 9.3.3.3 *Potential Use of Continuous Service Drives for Construction traffic Management is not fully and fairly disclosed in the DEIS.*

In summarizing the benefits of the three lane continuous service drives, the Sec 2.7, Summary of Purpose and Need adds almost as an afterthought "reduce traffic disruption during construction of the I-94 mainline. (p2-16). Only once does the Draft EIS discuss the primary purpose for creating continuous service drives. The answer is revealed in the 1995 Scoping packet as Alternative C-1 Continuous Service Roads. "Several design options for parallel service roads will be considered. Such roads provide access to nearby residences, businesses and institutions. *They could also serve as detours during the construction of I-94.* p11. Likewise the DEIS notes in summarizing the statement of purpose and need that "the I-94 Rehabilitation project is needed to: [p]rovide continuous service drives to: . . . reduce traffic disruption during construction of the I-94 mainline.

We submit that the primary purpose of creating the excessive continuous service drives, is not promote local connectivity among neighborhoods or create a place for parallel sidewalks as a sop to EJ concerns.

Rather the continuous service drives appear to be intended to function as the expressway during the intended construction of the 18 lane wide mainline facility in the depressed area. This means that neighborhoods will be forced to endure high levels of traffic at surface levels for the duration of the expansion project. We note that the DEIS is silent on this crucial point of construction timing and phasing. Nevertheless, some planners estimate that it could take five to seven years to rebuild both the Lodge and I-75 interchanges if traffic could be totally eliminated from the mainline and diverted elsewhere for the duration. If that is indeed the purpose of the creation of continuous service drives, MDOT and FHWA must be forthright so that those adjacent can evaluate the impacts. The DEIS is intended to disclose the components of a project likely to impact human health and the environment. Thus the DEIS does not do, and therefore it is deficient.

## **10 THE DEIS'S ASSESSMENT OF AND MITIGATION FOR ENVIRONMENTAL JUSTICE IMPACTS IS TOTALLY INADEQUATE.**

### **10.1 MDOT's response to environmental justice concerns is an insult**

This project will displace 130 people from their homes and force the relocation of 15 for-profit and not-for-profit enterprises. Added emission burdens threaten violation of the National Ambient Air Quality Standards. The Host community is 80% African American and 40% poor. Nevertheless the he DEIS lavishes seven pages addressing visual aesthetics in the project right of way, DEIS 5-40-47, and less than three pages, DEIS 5-23 to 5-27, discussing the Environmental Justice implications of this massive expansion. One can readily infer that MDOT is more solicitous of the sensory experience of those passing through than the residents forced to host the disparate impact.

MDOT is touting sidewalks along service drives (where no one wants to walk because of the pollution, noise, and safety concern of speeding cars.) At the same time, it appears that the pedestrian overpasses that link communities across the expressway will be removed and not replaced, thus pedestrian access will actually be worsened. The sidewalks that MDOT is proposing are directly at the curb of the service drive with no buffer between pedestrians and speeding cars along the service drives. Actually, trees are placed beyond the sidewalks because trees do not thrive when planted adjacent to the curb. Thus MDOT plans to let the pedestrians buffer the greenery from the adverse effects of traffic. Walkability expert cite the instinctive desire of pedestrians to be at least four feet from the traffic lane – the margin of safety is reflected by a "desire line," the path beaten by pedestrians along the side of the road when no sidewalk exists. Sidewalks are a fine amenity, but only when appropriately placed, and certainly not as a rationale for accepting oversized intrusive service drives or as the sole environmental justice mitigation for a project as destructive as this one is. The failure adequately to buffer pedestrians from traffic on the continuous service drive must be addressed.

The telephone survey cited on page 5-26 is one example of MDOT's insensitivity to EJ considerations. See also Appendix C. The survey indicated that only 24% of the households were car less. One test for applying an EJ analysis is the poverty rate in a community. In this corridor, 40.4% of the residents live below the 1989 poverty level. (DEIS 5-6). There is an extremely high correlation between lack of access to an automobile and poverty, since in this region – no car often means no job. Therefore, we challenge the validity of the lower rate of carlessness indicated by the telephone survey. One plausible explanation for the lower number is that the survey – being telephone only, was inherently biased to those with the means to afford a telephone. Those without phones, who might also have been without cars, were therefore never surveyed.<sup>2</sup>

### **10.2 Air Toxic Impacts need to be addressed**

The Environmental Justice section is grossly inadequate for its failure to even mention the increase of air toxics due both to the construction of this project that increased traffic burden, especially from truck traffic

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<sup>2</sup> This is reminiscent of the telephone survey indicating that Republican Dewey had beaten Democrat Truman. The survey was biased because more Republicans than Democrats owned telephones.

that this project is designed to serve. The information is not presented in a manner designed to inform the lay reader of the air quality status of the region and the worsening impact this project will have on them. Even if the conformity analysis for criteria pollutants does not require an air toxics analysis, a thorough assessment of disparate impacts on EJ populations. This Section of the DEIS is clearly deficient for its failure to even mention the issue, and therefore must be redone. Air Toxics are addressed in detail below as part of the air quality discussion.

### **10.3 The Proposed Alternative will benefit only those with access to automobiles**

The misallocation of transportation resources to benefit only those with access to automobiles raises grave environmental justice concerns. This project focuses on providing transportation access only to those who have access to cars to the exclusion of transit and pedestrian access. Since Detroit has an 80% minority population, this project must be evaluated for its impact on environmental justice must be considered. At the same time, one third of Detroit households lack access to an automobile. Thus any infrastructure project that provides only for auto access confers no benefit on one third of the city's residences that can't use them.

The host neighborhoods along the corridor have even lower rates of automobile access than Detroit as a whole.

### **10.4 Contrary to the DEIS's assertion, The "Build Alternative" actually reduces pedestrian access.**

The DEIS addresses pedestrian access as "nonmotorized mobility." Section 5.1.2.4, p5-21. It asserts that it is a benefit to consolidate of pedestrian bridges with vehicular bridges where pedestrians would be provided with adjacent sidewalks. The DEIS does concede, " A minor effect would occur for those who would have to travel farther if the consolidation results in a longer route to the bridge. Furthermore, the DEIS notes:

The Third Street bridge (that serves the WSU community, possibly the most pedestrian-based community in the entire corridor) would be removed for the Build Alternative. Fourth Street neighborhood pedestrians and Bicyclists would use the Second Street Bridge to access WSU. This would add two blocks to the walk.

This statement, on its very face, contradicts the assertion that the "proposed "Build Alternative" would have a positive impact on pedestrians." The DEIS does not address the elimination of convenient pedestrian access between the Research Park apartments, north and west of the I-94 Lodge interchange, and the athletic facilities south of I-94. Potential users would have to walk an additional four blocks out of their way.

Finally, The DEIS asserts, without explanation that the three lane continuous service drives would have a "beneficial impact" on pedestrians. TRU's analysis of the Continuous Service above rebuts that.

### **10.5 MDOT'S I-94 project significantly interferes with pedestrian access within the I-94 corridor**

In an environment where the number of pedestrians on the street measures vitality, pedestrian access will be lost, not improved. In urban areas, pedestrian access is a significant element of the human environment. The lack of pedestrian friendliness inherent in this design is a significant reason to reevaluate the project. As the Partnership for a Walkable America notes, "Our standard of living is reduced because the very design of many communities makes it difficult or dangerous for those who want to walk." <http://www.nsc.org/walk/wkabout.htm> The partnership's checklist highlights features of communities which are highly walkable and pedestrian friendly. It is no revelation that MDOT's project design receives an extremely low score for walkability and materially worsens an already poor situation. By contrast, relying on transit to add capacity would promote a much more walkable neighborhood.

**10.5.1 MDOT'S proposal widens the divide for pedestrians and eliminates multiple pedestrian overpasses.**

"Free flow" for cars results in "less flow" for pedestrians, and those in wheelchairs or on bikes. Pedestrian access will be further limited and made less attractive if this proposed alternative is built. As compared to the TRU alternative, pedestrian access will be reduced because overpasses will be removed. The resulting expansion will be much wider and therefore more expensive and difficult to bridge. For those areas that have pedestrian bridges, the attractiveness of walking across the expressway will be much less because of the much wider footprint of the "build alternative". MDOT's response has been to combine pedestrian facilities with a reduced number of vehicle bridges for convenience and cost savings, without regard to natural pedestrian patterns. In urban areas, pedestrian access is a significant element of the human environment. The lack of pedestrian friendliness inherent in this design is a significant reason to review other alternatives.

**10.5.2 Poor Pedestrian Access degrades quality of life.**

As the Partnership for a Walkable America notes, "Our standard of living is reduced because the very design of many communities makes it difficult or dangerous for those who want to walk." Walkable America Checklist. June 3, 1999 Ex. U. The partnership's checklist highlights features of communities, which are highly walkable and pedestrian friendly. It is no revelation that MDOT's project design receives an extremely low score for walkability and will materially worsen an already poor situation. A narrower footprint for I-94 would promote a much more walkable neighborhood consistent with neighborhood revitalization and the safety and health of the people who live and walk there. See generally, Mean Streets 2000, Pedestrian Safety Health and Federal Transportation Funding. Surface Transportation Policy Project, Ex. V.

**10.6 Poor pedestrian access reduces levels of physical exercise and creates serious health consequences.**

Pedestrian access and walkability are more than aesthetic values. Community design for walkability has a significant impact on human health. The Center for Disease Control, Department of Health and Human Services [CDC] states that drastically reduced levels of physical activity has led to an epidemic of obesity across the country. CDC, Promoting Physical Activity, A Guide for Community Action, L. Frank, Ph. D. Ex. W. See also R Pate, Ph. D., *Physical Activity and Public Health*, 273 *Journal of the American Medical Association* 402-06 (Feb. 1, 1995) Ex. X. Lack of physical activity due to auto-dependence has led to higher levels of obesity, N. Peirce, Obesity, Detroit Free Press, p9A, April 24, 2001, Ex. Y that have caused an epidemic jump in diabetes, Ex. Z.

The CDC cites community design that favors the auto as the sole mode of access as a cause for reduced physical activity. It is promoting "Active Community Environments" to address that problem: Most communities today were designed to favor one mode of travel – the automobile – and usually do not have many sidewalks or bicycle facilities. Building roads, schools, shopping centers and other places of interest only for convenient access by cars often keeps people from safely walking around town, riding bicycles or playing outdoors. This is one important reason why people in the United States are not as active as they used to be. Executive Summary How Land Use and Transportation Systems Impact Public Health, ACEs Working Paper #1, Ex. AA.

The daily walk to and from a transit stop is one form of physical activity that we have lost because we no longer have transit facilities to walk to. MDOT'S proposed design is a continuation of auto-only planning. MDOT's proposal is a single mode solution. It may or may not provide better access for cars. It definitely provides worse access for pedestrians, and, once their cars are parked, EVERY traveler is a pedestrian out of their cars. In an urban setting, expressways don't provide a stand-alone solution either, unless your only goal is to move cars. Urban centers depend on the movement of people for their vitality. We have an opportunity to redesign I-94 to promote an Active Community Environment. MDOT has failed to do so, and its failure will have a significant impact on the human environment locally and region wide.

## **10.7 This project does not provide job access for the transit dependent**

Seventy five percent of the new jobs created in the region in the last decade were beyond the reach of either the SMART or DDOT bus systems. At a February 1, 2001, hearing before the Detroit Planning Commission, the transportation director of SEMCOG emphasized that the region does not have enough buses to get transit dependent citizens to work, school or medical services. Nevertheless this project will not be viable without the city's commitment of \$35 to 40 million of local match toward the project. (*costs discussion.*) The preliminary engineering alone for this project is slated to cost \$66 million, of which Detroit will be asked to contribute \$8 million, in part because the state has decided to tap Build Michigan III funds for this project. Clearly local dollars spent on this project will not be available to buy new buses, or upgrade or maintain Detroit's current fleet, or repair Detroit's seriously degraded local street network. The diversion of significant amounts of general fund dollars away from transit and to road building has a disparate adverse impact on those who have no access to cars.

Commuter rail has traditionally provided transportation to the Central Business District for suburban workers, but it also has potential to connect city worker to suburban jobs quickly, comfortably and cost effectively. This option has been totally overlooked in the benefits analysis. Establishment of commuter rail supported with feeder buses at suburban stations will go a long way to solving the jobs access and mobility needs of the environmental justice population in the city.

## **11 THE DEIS DOES NOT APPROPRIATELY ADDRESS COMMUNITY NOISE CONCERNS.**

### **11.1 Comparison of Alternatives**

The noise analysis shows that multiple locations will exceed the Federal Highway Administration's Ambient Noise Level Criterion with noise levels increasing by 2 decibels (this is a sound power level increase of 60 percent) over existing levels due to the MDOT proposal. Rather than make things better in terms of noise, the MDOT proposal will make things worse.

Try to attend a church service where there is a high background noise level and the entire experience of attending the service is significantly reduced. Based on Table 5-13 of the Noise Impact Evaluation, a number of sensitive noise receptors are expected to have noise levels that exceed the FHWA criterion. Additional work is needed to ensure that there is no reasonable alternative that can be built that would result in noise levels being within the FHWA noise criterion.

The DEIS needs to compare the bad-noise levels from the MDOT proposal to other designs that may actually result in a decrease in community noise rather than an increase. The environmental conditions within this area will be enhanced, if, rather than making a bad condition worse, a proposed design option could improve conditions in terms of community noise.

The Transportation Riders United (TRU) alternative of maintaining the current design of I-94, reducing speeds and adding capacity through a mix of transit opportunities may have lower noise impacts, along with lower air quality impacts and higher social enhancements.

This alternative needs to be reviewed rigorously. Only by comparing different reasonable alternatives can the public be assured that the best alternative is developed for the City of Detroit. The chosen design should ensure that community noise levels either meet criterion levels or are the best that can be done.

### **11.2 Criteria Used for Noise Barrier Locations**

The criteria for location of noise walls have significant environmental justice aspects. This corridor passes through well-established modest urban neighborhoods consisting mostly of African Americans. The criteria requiring a minimum length of 590 feet results in difficulty in putting noise barriers along a road in an urban area with multiple car and pedestrian bridge crossings. The inclusion of continuous service drives makes it extremely difficult to meet this criterion. The logical place for the noise wall is between the edge of the service drives and the homes. Thus to gain the benefit of the noise barrier, local residents

will have to sacrifice easy connectivity to the service drive. Adding a noise barrier and cul de sacs to the landscape separates the pedestrian on the much-touted service drive sidewalks from the origin and destination neighborhoods that are supposed to benefit from connectivity with the service drives.

The difficulty of this choice – easy access or noise protection, underscores the fact of how massive and intrusive this project is.

On page 5-64, the DEIS describes a noise barrier that would provide 6 to 8 dBA of attenuation for two separate schools, but would not meet MDOT's criteria for building a noise barrier.

The DEIS hinted that these two schools were just an example and that there were more schools along the project that would be adversely affected by noise due to the "Build Alternative" and wouldn't meet the criteria for noise mitigation.

Our children are our future. The learning environment and the playground need to not be subject to excessive noise. Reference the school in Ann Arbor along M-15. During the closing of M-15 for reconstruction, the learning environment improved significantly. Would you want your children going to a school exposed to excessive noise where they have trouble hearing the teacher and hearing what their friends say on the playground? Why is a school full of hundreds of our children subject to the same \$30,000 per structure cost as a single residence?

## **12 MDOT HAS ENGAGED IN ILLEGAL SEGMENTATION OF THE PROJECT.**

### **12.1 MDOT's own Five Year Plan provide the "smoking gun."**

As explained above in the discussion of cumulative impacts, MDOT has a larger plan than for the I-94 corridor than that addressed by the current DEIS. Multiple studies, internal communications and public declarations of studies demonstrate the I-94 corridor to be expanded is much longer than the 6.7 mile segment addressed in this DEIS. See the discussion above in Section 6.

### **12.2 MDOT and FHWA Must Conduct A Project-Wide EIS For Entire I-94 Corridor length from Wyoming Ave to I-696**

FHWA's attempt to analyze only the first segment of a larger project in the I-94 corridor from Wyoming to I-96 violates its own regulations prescribing the scope of NEPA analysis for highway projects. By evaluating only the first 6.7 mile phase, FHWA has improperly limited, or "segmented," its action. FHWA regulations state that "[i]n order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall:

- (1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
- 2) Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
- 3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

23 C.F.R. § 771.111(f) (the "section 771 factors"). The 6.7 mile segment of the longer I-94 corridor does not meet this test.

CEQ regulations require that "connected" or "interdependent actions" be reviewed together for their environmental impacts. See 40 C.F.R. § 1508.25(a)(1). MDOT, thus, is required under the National Environmental Policy Act to evaluate the environmental of an entire project, not merely this 6.7 mile stretch. The agencies should perform a project-wide EIS based on the cumulative impacts of the project.

The DEIS examines only the first phase of the expansion and ignores the larger I-94 corridor of which it is a part. As a result, the "actions" analyzed lack independent utility. Courts in two cases have rejected such an analysis when advocated by environmental groups. In Inman Park Restoration, Inc. v. MARTA, 414 F. Supp. 99 (N.D. Ga. 1975), plaintiffs challenged an EIS covering an entire rail system. They argued that NEPA required an EIS addressing an individual station on the system. The court rejected this argument, concluding that a single station had no "independent utility." 414 F. Supp. at 116. Similarly, in Village of Grand View v. Skinner, 947 F.2d 651 (2d Cir. 1991), plaintiffs argued that a new EIS was required for an interchange that was part of a highway project. The entire highway project (including the interchange) had already been evaluated in an EIS, but the planned interchange had since been substantially modified. The court rejected this argument, because the "[i]nterchange project would not be undertaken but for the overall [highway] Project." 947 F.2d at 656-67. It ruled that the interchange and highway were "connected actions" under NEPA and therefore should be evaluated in a single EIS. Id. As a result, NEPA was clearly applicable to the entire highway and rail system, not merely the interchange or train station. In a related fact situation involving a highway that had no terminus, the Fifth Circuit stated that "[a] highway segment to nowhere . . . should not be evaluated apart from later connectors that will be necessary to make the initial segment useful." Fritiofson v. Alexander, 772 F.2d 1225, 1241 (5<sup>th</sup> Cir. 1985). The proposed expansion of the central 6.7 mile segment of the longer I-94 corridor can not be evaluated in isolation. The analysis must discuss the impacts of 24 lane wide footprint throughout the entire corridor. Assessing the impact on the eastern and western segments after completion of the central phase will be too late; other alternatives will have been foreclosed by a pavement-only solution of this design and there will have been an irreversible and irretrievable commitment of resource far beyond those acknowledged in sec. 5.17, (5-96). Nevertheless, the cumulative impact analysis totally ignores

In this case, the central 6.7 mile segment lacks independent utility and therefore cannot be analyzed completely in isolation from the remainder of the entire I-94 corridor. In the statement of need for the projects identified by FHWA it is clear that both the main benefits of enhanced mobility for trucks will occur west of I-96. Completion of this Phase I alone will not satisfy the stated purpose and need of this project.

The DEIS in no way addresses the impact of a 20 lane expansion on neighborhoods west of I-96 and on parks and businesses east of Conner. ) Given the fact that the Jeffries Freeway-Conner segment of I-94 is just one part of the total project, it is incredible that the Federal Highway Administration (FHWA) allowed MDOT to release the DEIS for comment. The current DEIS has segmented a larger planned project in flagrant disregard of FHWA's and the Council of Environmental Quality's own regulations [23 CFR 771 and 40 CFR 1500-1508] requiring a complete review of the total project, not just a part of it. One answer to the highway lobby's painful wailing that compliance with environmental regulations impedes the construction of badly needed highway improvements. "Environmental streamlining" is a buzz word that has been echoing through the pages of the periodicals I read. Perhaps the best way to achieve "environmental streamlining" is to get FHWA to do the job right in the first place. Perhaps it's time for a GAO investigation of FHWA's compliance with National Environmental Protection Act, CEQ's regulations, and its own environmental regulations.

### **12.3 This 6.7 mile segment of the overall I-94 project does not have independent utility.**

#### **12.3.1 Segment I of the expansion will actually create congestion at Conner and I-96, not relieve it.**

It is clear from the above that the primary rationale for the scale of expansion proposed by the DEIS for I-94 is to connect border crossings with Canada to points West and South. The 6.7 mile segment discussed in the DEIS would not provide or enhance those connections if it were the only phase of the larger project to be completed. Indeed expanding the central 6.7 mile segment only will actually increase congestion. It deceives Michigan motorists to omit a discussion of the congestion and bottlenecks that the expansion will create at Conner and I-96. The potential for severe bottlenecks at the current project endpoints demonstrates conclusively that Conner and I-96 are not "logical termini."

Westbound traffic must merge from five lanes to three, at the I-96 interchange, just as large quantities of trucks enter I-94 westbound from the Ambassador Bridge. Likewise this expansion will create another bottleneck just east of Conner where traffic will merge from five lanes (including the "flex lane") to three. Congestion will be further exacerbated at these two expansion -created pinch points where the three lanes of traffic on the service drive will have to merge with the through traffic. The thinly concealed strategy appears to be expand first in the central section of the I-94 corridor where the fewest people will be displaced and therefore the least resistance encountered. Once that expansion is in place, the congestion that will be created will provide the incentive to continue the massive expansion through more populous and more prosperous neighborhoods. This is the classic paradigm of segmentation, to create an air of inevitability to later stages of a SINGLE project, by implementing a key segment first, or as stated by the Michigan Association of Road Builders, the "linchpin."

Thus, after 1.3 billion dollars and the disruption of 5-7 years of construction or more, traffic throughout the larger project area will actually move less well because the effective capacity will shrink from eight local and through lanes to three through. This pinch point will create such pain, not to mention road rage, among the driving public that an artificial pressure will have been created to pursue the expansion throughout the study area.

The DEIS is absolutely devoid of any discussion of the effect on congestion, air quality, crashes, road rage and safety where the capacity narrows from eight local and through lanes to only three through, and shoulders are greatly reduced.

"Transit space" in the median for a length of only 6.7 miles does not have independent utility. A significant element of this project is the creation of 54.5 feet of median - the equivalent of four and half traffic lanes of space variously described as "future lane expansion or transit improvements." 1.4.3 Build Alternative, p1-5. This creation of median space is the primary reason that 130 persons and 15 for profit and non-profit entities will be displaced. In sections of the DEIS, transit is the alleged beneficiary of this expansion. Nowhere else in recent memory has MDOT suggested that a mere 6.7 miles of transit would have independent utility; indeed, such a short segment which did not directly connect pedestrian and transit traffic generators and destinations is not in the least useful. Expanded space possibly to accommodate transit, which goes only 6.7 miles and connects nothing would be dismissed out of hand, precisely because it does not have independent utility. This ambiguous median space would have no utility or purpose until the other two segments - west to Wyoming and east to I-696. It is obvious that MDOT has intentionally segmented the project to conceal the true cumulative impacts on the community and the exorbitant overall cost for the entire project. This is legally impermissible. DEIS would justify the adverse impact on the community

## **12.4 Segmentation**

The Final EIS needs to describe the plans for I-94 beyond this 6.7 mile segment. Either the plan is to expand I-94 both east and west of this initial segment, or there will be significant bottlenecks at the ends of the project where traffic needs to narrow from as many as eight lanes to three. The larger community needs to know what they are getting into by saying yes to this project. This is not a stand alone project. The DEIS ignores the incredible pressure a potential expansion will create to increase the number of lanes beyond the project. The DEIS must address cost and the impact to neighborhoods, businesses and parks of an expansion the entire length of the corridor.

## **13 ENVIRONMENTAL IMPACTS: DEIS CH. 5**

### **13.1 Air Quality Impacts: DEIS Section 5.5**

Although the EA provides generic background information on air quality issues, it actually says very little useful, accurate or specific to MDOT's proposed I-94 expansion project. An initial indicator that this section of the DEIS is inadequate is the attempt to identify pollutants of national concern. Without so labeling them it appears the discussion is focused on criteria pollutants for which National Ambient Air Quality Standards [NAAQS] have been established. This discussion is out of date. Hydrocarbons [HC]

were removed from the list of criteria pollutants prior to the enactment of the Clean Air Amendments of 1990.

At the same time, the discussion is grossly inadequate for its failure to even mention the increase of air toxics due both to the construction of this project that increased traffic burden, especially from truck traffic that this project is designed to serve. The information is not presented in a manner designed to inform the lay reader of the air quality status of the region and the worsening impact this project will have on them.

The most glaring defect occurs in the microscale analysis for CO when a remote suburban monitor in Livonia ( page 5-51) was selected to provide the background measure against which test the conformity of the "Build Alternative" rather than more representative nearer monitors (Detroit 6050 Linwood, and Detroit Penobscot Building, Fort Street) which would have modeled exceedances of the NAAQS at four of the eight receptors for the worst case eight hour scenario.

#### 13.1.1 Southeast Michigan's air quality status is maintenance for Ozone, PM10 and CO.

The DEIS describes SE Michigan as "attainment" for the criteria pollutants of Ozone, PM10 and carbon monoxide. (pages 5-49 to 5-50). Actually, because the seven quality Air Quality management region in southeast Michigan has in the past violated the NAAQS for CO, PM10 and ozone standards and then regained attainment, the status for these three criteria pollutants is actually "maintenance" not attainment. The Southeast Michigan region continues to teeter between attainment and non-compliance of the current ozone NAAQS of 120 ppb per hour. Because of our past nonattainment status, this area is designated a "maintenance area" for several Criteria pollutants: Ozone, PM10 [particulate matter smaller than 10 microns], and CO, carbon monoxide, not simply attainment. This distinction is significant because there are stricter requirements on a region that is maintenance than one, which has never been out of attainment.

Because this region has been a "maintenance area" for these pollutants, regional air quality modeling must demonstrate that this new road project will not make air quality worse, that is, that it is in conformity with Michigan's State Implementation Plan. The EIS is deficient in that it fails to directly and clearly state that because of our maintenance status for O3, CO and PM10, this project must be tested for its "conformity."

#### 13.1.2 Conformity Analysis and traffic counts

Conformity must be demonstrated before this project can become a part of the Regional Transportation Plan [RTP] and receive federal funding. This analysis has yet to be completed, so it is not possible to say at this time that the projection will have "no significant air quality impacts." Because the RTP prepared by SEMCOG has a 25 year horizon the conformity demonstration must show regional compliance with the NAAQS through the year 2025. The MPO has not yet performed the conformity analysis for this project, a prerequisite for its inclusion in the TIP. The discussion of expected growth in vehicle traffic is imprecise, confusing and vague (120,000 to 160,000 AADT with an expected growth rate of 25 % for "vehicles" as well as an estimate that truck traffic will grow three times faster than "passenger vehicles." This formulation is difficult to decipher because "passenger vehicles" is a subset of "vehicles" and there is no guidance to determine 25% of what.) These vague and imprecise traffic estimates and growth rates are not an adequate basis for either justifying the purpose and need of this project or for performing a modeling analysis to demonstrate that emissions during construction and when completed will not interfere with the attainment and maintenance of air quality standards.

#### 13.1.3 Regional impacts of mobile source emissions

Ozone is a regional pollutant, forming from precursors miles away and traveling for miles downwind. Therefore full impacts of this project cannot be understood without evaluating the contribution this 6.7 mile segment of I-94 will make to regional transportation when its capacity has been widened three fold. Air impacts of this project are not limited to immediate vicinity, because the development allegedly enabled by this project will attract employees, patrons and visitors from the entire region. The Detroit Medical Center, Cultural Center and Wayne State University are "indirect sources" increasing pollutants

as they increase vehicle traffic, especially since this project is totally auto based. The secondary air quality impacts of this project are not addressed in the DEIS. The No-Build or Enhanced no "Build Alternative" combined with transit will provide access in the corridor with less impact on the environment than this auto-only design.

### **13.2 MDOT's selection of the Livonia monitor for CO background levels conceals air quality violations.**

#### **13.2.1 MDOT selected a Background Concentration for Carbon Monoxide that would allow the expansion to be built.**

It is inappropriate to use the Livonia monitoring station results when the Linwood monitor is just upwind of the site. If the Livonia monitoring site is used, the model input needs to include emissions from carbon monoxide sources that are not accounted for by the Livonia monitor. This would include carbon monoxide emissions due to both stationary sources and mobile sources such as the carbon monoxide from cars and trucks along the sections of I-94, I 96, and Lodge Freeway between the project area and the Livonia monitor. The use of the Livonia monitor with a background reading of 3.0 led to modeled results of 8.8 at Sites 5, 6 and 8 and 8.5 at site 1 for the "Build Alternative" for the "predicted worse-case 8 hour CO concentrations (ppm). Table 5-11. (I assume that is for the year 2020, the table does not say.) DEIS p 5-53. Had the modeling been done using the background readings at the closer Linwood Monitor, with a background level 3.5 PPM, the modeled results would have been 9.0 at Site 1, and 9.3 at Sites 5, 6 and 8, all of which violate the NAAQS for Carbon monoxide. Federally financed projects, which demonstrate the potential to violate an NAAQS are not "in conformity" and cannot be built as designed. The excessive scale of the I-94 expansion threatens Southeast Michigan's ability to maintain healthy air for its population. The project must be redesigned.

#### **13.2.2 Other nearby sources of Carbon Monoxide must be included in the analysis to gauge CO hot spots accurately**

There is no indication that the model modeled all sources in the area in addition to the traffic within the I-94 expressway. In addition to the background monitor, it is necessary to include the impact of all sources of emissions that are not included in the background. For the Livonia monitor, at a minimum, this would include the emissions from the other expressways and emissions from stationary sources such as the Detroit Resource Recovery Facility, the DTE steam plants, and the GM Poletown plant

#### **13.2.3 Using 2020 data is likely to understate the Worst Case assumption**

Modeling needs to be performed to predict for impacts during the worse case, which is not necessarily during the design year 2020. No information was provided showing that the year 2020 would show the highest impacts. For many similar studies, the highest CO impacts occur earlier than 2020 due to continuously improving fleet makeup and higher fleet CO emissions in earlier years. TRU expects that 2010 would have higher impacts than the design year of 2020.

#### **13.2.4 MDOT must verify that the Cold start default average is appropriate.**

Specifically, the study indicates that the national default averages were used to model the cold start vehicle operating modes. The model-input value is that only 20.6 percent of the vehicles for any one-hour period would be operating under a cold start condition Until the exhaust from the car engine has warmed the catalyst sufficiently to activate the carbon monoxide removal process, carbon monoxide emissions from cars (even newer cars) is very high.

The national default averages is inappropriate for cold start vehicle use in certain areas along this study corridor. In order to determine whether the proposed project will adversely impact microscale carbon monoxide levels and meet the requirements that this project protect the National Ambient Air Quality Standards for carbon monoxide, the model must use the appropriate input parameters to predict the worst case ambient impact.

The model needs to include receptor grids that include receptors near locations which are likely to serve traffic during peak hours originating within a fifteen minute drive of the project area. Parking facilities,

which serve office and industrial facilities where a large percentage of employees leave work within a limited time period are likely sources of a significant number of "cold start" vehicles. Likely candidates for receptor placement according to this criteria are the nearest on ramps parking facilities that serve Wayne State University, Henry Ford Hospital, The Detroit Medical Center, New Center offices, and the General Motors Assembly plant. The discussion concerning **Site Selection/Receptor Locations** in Appendix G states that 56 intersections were selected for analysis, and six intersections and two interchanges were selected for detailed analysis. The discussion also refers to Table 4, which actually lists 64 intersection Sites. The discrepancy is confusing.

Modeling should be performed to predict for impacts during the worse case CO time, which would probably be wintertime between 4:00 and 6:00 pm on a workday. At this time, in this location, many of the cars would be operating under cold-start operation.

#### 13.2.5 MDOT needs to Mixing Height

The model needs to be adjusted to account for the surface roughness due to the large buildings in the area. The surface roughness factor of 108 is typical for single family home residential areas. The combination of the depressed mainline and large buildings in the area may require a higher surface roughness factor. With a higher surface roughness factor, dispersion is impeded and impacts would be higher. The choice of mixing factors should be made to ensure modeling the worst case scenario for CO as required.

#### 13.2.6 Persistence Factor

The DEIS must provide a justification for using a persistence factor of 0.6 rather than using the EPA default persistence factor of 0.7.

#### 13.2.7 Carbon monoxide model summary

As required by law, a project like this cannot threaten the National Ambient Air Quality Standard for Carbon Monoxide. Detroit's Linwood monitoring site would appear to be a more appropriate site to as a background, than the more distant Livonia monitor. At 3.5 parts per million [ppm], the Linwood background level is .5 ppm higher, than the Livonia monitor (3.0 ppm). If MDOT had used the more appropriate background reading from Linwood Avenue the projected increased emissions would have created several CO hotspots and MDOT's preferred "Build Alternative" would result in modeled exceedances of the National Ambient Air Quality Standard, making the "Build Alternative" illegal, because it would interfere with maintenance of health based standards in the region.

Without justification, MDOT has used air quality data from the suburban air monitor in Livonia to under-predict the air pollution impacts from this massive expansion. If MDOT had used Detroit-based data from the Linwood monitor, it would be obvious that this project will violate health-based national air quality standards for CO.

#### 13.2.8 Increasing travel speeds by adding capacity actually increases CO and VOC emissions

For years, traffic engineers and planners have assumed that increasing capacity and reducing congestion would reduce air pollution from cars, because cars theoretically emitted fewer pollutants at higher speeds. Recent data has proven that conventional wisdom wrong. Whether using MOBILE5a or EMFAC7F, emissions of CO measured in grams per mile experience a sharp jump, when speeds rise above 55mph. Figure 2-4 Comparison of MOBILE5a or EMFAC7F emission factors for CO as function of average trip speed, 1990 fleet average for light-duty gasoline vehicles, TRB, Expanding Metropolitan Highways, chapter 2, p. 50. Ex. BB. Further, at all speeds acceleration and deceleration cycles that occur in both congested and smooth driving conditions lead to higher emissions of both VOCs and CO than MOBILE5a would predict. In sum, adding capacity does not necessarily improve air quality; indeed creating conditions for increased speed is more likely to increase emissions rather than reduce them. See also TRB, Expanding Metropolitan Highways, Appendix E, Minority Statement of Michael A. Replogle, pp354-380. Ex. CC

### **13.3 The DEIS does not address new health based standards PM 2.5 and Ozone.**

The DEIS does not discuss the new standard of 80 ppb for ozone over an 8 hour average as well as the new PM2.5 standard for particulate matter (a pollutant from all combustion sources). Modeling for ozone indicates that Southeast Michigan does not meet the new 8-hour standard. Data from monitoring for PM2.5 shows the annual average concentration to be in the range of 16-20 micrograms per cubic meter, whereas the new standard is only 15 micrograms per cubic meter. Thus under the new PM standard Southeast Michigan will also be nonattainment. The conformity analysis should address the air quality impact of the new stricter standards.

The DEIS does not address the fact that under these Air Quality Standards recently upheld by the US Supreme Court, the region will likely be nonattainment for both PM 2.5 and Ozone, major air pollutants from car and truck emissions. Because of the unhealthy air quality in the project area, the Clean Air Act requires that the project not make air quality worse. If the project were built as planned, the Clean Air Act would be violated.

### **13.4 Air Toxics are not addressed.**

The Draft Environmental Impact Statement is totally silent about the increase in toxic pollutants during construction and from the increased traffic. Likewise, there is no discussion of the impact of mobile source toxics on human health or on the Great Lakes ecosystem due to air deposition.

The DEIS is devoid of any analysis of the health risks associated with toxic air pollutants stemming from the "Build Alternative." Evidence shows that the exposure to toxic air pollutants emitted by highway vehicles results in serious health impacts including a heightened risk of cancer. This discussion is repeated in part below:

This first issue is presented in response to recent evidence showing that people living in communities located near heavily traveled highway facilities are being exposed to concentrations of toxic and hazardous air pollutants emitted by motor vehicles that cause an extremely high and unacceptable risk of cancer, and other respiratory and cardiovascular disease.

The most compelling evidence is presented in a research report released in March 2000 by the South Coast Air Quality Management District in California that demonstrates both measured and modeled regional exposures to toxic air pollutants across a large portion of the Los Angeles air basin. The study demonstrates that toxic pollutants emitted by motor vehicles measured at eight sites accounts for an unacceptably high cancer risk in the range of 1 in 1,000 exposed individuals to 1 in 700. See, *Multiple Air Toxics Exposure Study-II (MATES-II)*, March 2000, Ex. DD. The study found that the total cancer risk in the Los Angeles Basin from toxic air pollutants measured at these 8 monitoring sites ranges from 1,100 in 1 million (or 1 in 900) to 1,700 in 1 million (or 1 in 670), and that 90% of the total cancer risk is attributable to toxic air pollutants emitted by mobile sources. MATES-II pp. ES-3, ES-5.

Most of the mobile source cancer risk is associated with exposure to the toxic pollutants diesel particulate matter (DPM), benzene, 1,3-butadiene and formaldehyde. The concentrations measured at these eight sites appear not to measure the actual high exposure site since the Compton monitoring site measured the highest concentrations of other mobile source-related toxic pollutants, but DPM was not measured at that site. If DPM concentrations at that site are proportionally higher compared to other sites in the study in the same ratio as benzene, 1,3-butadiene and formaldehyde, the actual peak cancer risk would likely exceed 1 in 500 exposed persons.

In addition, concentrations of toxic pollutants estimated by a regional air quality model show that neighborhood exposures near heavily traveled highways, such as this segment of I-94, are significantly higher than exposures monitored at the regional monitoring stations, producing a cancer risk as high as 1 in 130 (5800 in 1 million) in some receptor areas. MATES-II, Fig. 5-3a, p.5-11. In comparison, the Michigan Department of Environmental Quality rules do not allow an incremental cancer risk higher than 1 in 100,000 (580 times more stringent than 1 in 130) for a stationary source requesting a permit to install.

Other research provides evidence of increased incidence of other adverse health outcomes for residents of neighborhoods near heavily traveled highways. Current research shows that adverse health outcomes including premature mortality and increased morbidity through increased respiratory and cardiovascular effects are associated with the increase in ambient fine particulate matter, e.g., particles less than 2.5 microns in diameter (PM2.5) from roadway sources, especially diesel sources. The Diesel Sourcebook, Ex. EE.

Taken together, this evidence requires that a comprehensive risk assessment be performed to determine the cumulative impact and health risks for neighborhoods located near heavily-traveled roadways that are proposed to be expanded in densely-populated portions of the metropolitan area (such as the I-94 corridor between Wyoming and I-696 and specifically the mid section for which this DEIS is prepared), and that alternatives to the development of high-cancer-risk-travel corridors be chosen as the preferred alternative or that mitigation be adopted to prevent the incremental-health risk attributable to toxic-air pollutants emitted from these projects.

### **13.5 The DEIS ignores the link between increased highway traffic and health**

#### **13.5.1 Air Pollution due to highway expansion and auto dependence is a major threat to our health and our families.**

Detroit's children suffer from asthma at three times the national average. Sly RM, Changing prevalence of allergic rhinitis and asthma, Ann. Allergy Asthma Immunol. 1999 Mar;82(3):233-48; quiz 248-52 Ex. FF. Air pollution causes 60,000 premature deaths each year, according to a 1995 Harvard study. That is more deaths than murders and car deaths combined. Asthma is the number one reason kids miss school, according to the American Lung Association. Although the air in many cities is getting cleaner, new studies show that air pollution from roads and highways creates a corridor of cancer, asthma, and other health problems.

The Journal of the American Medical Association reports that traffic controls imposed during the Atlanta Olympics decreased in morning peak traffic counts by 23%. During this period, Medicaid-related emergency room visits and hospitalizations for asthma dropped by 42%. This study of asthma hospitalizations around the time of the 1996 Olympic Games in Atlanta concludes that decreasing vehicle use and promoting mass transit dramatically reduces hospitalizations for asthma attacks. Published in the 2/21/01 edition of Journal of the American Medical Association, the study found that the city's strict limits on personal vehicle use, coupled with heavy promotion of mass transit during the 1996 Summer Olympic Games, resulted in a 23% decrease in morning rush hour traffic and a 42% drop in daily hospitalizations for asthma among children between the ages of one and sixteen. To read the study, see Ex. GG

#### **13.5.2 The DEIS for the I-94 expansion ignores transit and rail alternatives that could reduce traffic, the pollution it causes and the health impact on Detroit children.**

Children in Detroit suffer from asthma at three times the national average. Because the population of Detroit is 80% African American, minority children are affected at a disproportionate rate, and suffer an increase in hospital admissions on days when the NAAQS for ozone is exceeded. To be truly protective of the health of our region's children and to promote the goals of environmental justice, the air impacts of the I-94 expansion should be modeled to demonstrate conformity with the new eight hour health based standard which is likely to take effect during the twenty five year life of the RTP.

#### **13.5.3 NAFTA –related international truck traffic for trade creates special concerns**

The DEIS does not address the anticipated increase in emissions that will result from predicted increases in NAFTA related truck traffic. Special considerations include extended idling at customs, dead heading trailer and creating excess capacity that actually induces increased truck VMT and creates an incentive to prefer trucks to rail for freight movements. All of these behaviors will contribute to increased diesel emissions, particularly if there is a delay in implementation of the recently enacted stricter Heavy Duty

Diesel [HDD] emission standards, or fleet turnover is slower than predicted. North American Trade and Transportation Corridors: Environmental Impact and Mitigation Strategies, North American Commission for Environmental Cooperation, Feb. 21, 2001. Ex. SS. The DEIS is deficient because its discussion of increased emissions of both toxic and criteria pollutants from trucks is incomplete.

13.5.4 The DEIS is devoid of any analysis of the health risks associated with toxic air pollutants stemming from the I-94 project.

For example, in the relevant sections on Air Quality in the DEIS, it is simply concluded that the "expansion alternative" only needs to be tested against the National Ambient Air Quality Standards (NAAQS). But these conclusions are not enough to end the inquiry required by NEPA, or to ensure that the project will have no disparate impact on EJ Populations. No estimate was made of human exposures to air pollutants known to be harmful to health and likely to result from motor-vehicle emissions in the corridor and at the interchanges. Evidence of adverse health effects developed since EPA closed its last review of the NAAQS for fine particles in 1996 show that significant adverse health effects occur at levels of exposure well below the level allowed by the 24-hour NAAQS for PM 2.5. In addition, the MATES-II study discussed above, demonstrates that high cancer risks are associated with exposure to toxic air contaminants not subject to a NAAQS. NEPA requires analysis to determine the health risks associated with the given levels of emissions that will result from vehicle travel in the corridor and in the vicinity of interchanges where the cumulative impact of emissions from vehicles will be greatest.

13.5.5 The community must be protected from adverse air quality impacts during construction.

The proposed construction mitigation measures proposed in the DEIS do not go far enough. Furthermore, Construction and related off road vehicles are for the most part unregulated and their emissions are largely uncontrolled. These vehicles are excess emitters of all mobile source pollutants, especially toxic fine particulates. Given the immense scale of this construction project, in close proximity to homes, schools and churches it is imperative that all construction vehicles working on or traveling to the site, including trucks used for hauling debris from and materials to the site be retrofitted with after market particulate traps. There is precedent to require aftermarket controls; they were installed on equipment used in Boston's "Big Dig" This air quality mitigation measure is dictated by health and environmental justice concerns. No construction should proceed, whether the "build Alternative or some more modest variation, until such precautions are in place.

13.5.6 According to the EPA, trucks, buses and cars are the largest cancer pollution source.

Mobile Source emissions are responsible for about 10 pounds of cancer-causing and hazardous air pollution per person per year. In the Los Angeles basin, diesel pollution accounts for almost three-fourths or 71% of cancer risk, according to South Coast Air Quality Management District. MATES II. For example, with over 160,000 vehicle trips per day in the corridor, and growing because of no real transportation options, cancer risks are probably substantially higher than EPA's traditional threshold of 1 in 10,000 for triggering actions to protect against unacceptable adverse effects on public health. (EPA and other federal agencies have generally acted to reduce cancer risks greater than 1 in 10,000).

To make matters worse, the I-94 project premise is to create highway capacity for an anticipated faster than normal increase in truck traffic. Diesel trucks are a large part of the air toxic and health risk issue. A study by state and local air pollution professionals showed that diesel engine pollution caused 125,000 cases of cancer. STAPPA and ALAPCO, March 15, 2000. Ex. HH. Equally troubling is that air pollution costs us all with higher medical bills. A National Institute for Medicine study credited pollution as a significant contributor to the \$1 trillion in medical bills each year. A study in The Lancet found that air pollution caused one of every sixteen deaths in three European countries.

EPA's recent update of the research providing evidence of the adverse effects of particulate matter shows that significant adverse health effects are being documented at levels well below the 24-hour NAAQS for PM-10 and PM-2.5. See Air Quality Criteria for Particulate Matter, External Review Draft (US EPA, Office of Research and Development, October 1999)[a further update of the Criteria Document (CD) is scheduled to be released in April, 2001]. See Ex. II concerning Clean Air Network Testimony. At a

minimum, NEPA requires that the research evidence identified in EPA's CD should be included in an assessment of the effects motor vehicle emissions in the corridor will have on human health.

#### 13.5.7 Highways and roads create a cancer corridor for children.

A new study from the Denver metro area shows that children living near streets or highways with just 20,000 vehicles per day are six times more likely to develop childhood leukemia. A 1997 study in the Journal of Epidemiology and Community Health showed a cancer corridor within 3 miles of highways, airports and other major polluters. The adverse health effects of motor vehicle emissions include increased incidence of cancers that add greater risk of mortality and morbidity, and the increased exposure to fine particles that have been found by EPA to be associated with increased mortality, morbidity, hospital admissions, increased asthma attacks, lost work and school days, and other serious effects. Exposure to these air contaminants presents sufficient impact on the human environment to require an EIS that evaluates the magnitude of these impacts on exposed populations, and the alternatives available to eliminate or mitigate these impacts. See Ex. JJ for references to these impacts. As one of the mitigation measures for expansion of this scale, we request that FHWA and MDOT, as a part of the construction costs of this project, finance the installation and operation of cancer pollution monitors at schools and neighborhoods near roads.

#### 13.5.8 MDOT and FHWA are poised to commit billions of dollars on highway expansions throughout southeast Michigan without considering the cancer risk.

MDOT is planning expansions in both the I-75/I-375 corridor and the I-94 corridor. There is no guarantee that the MDOT's proposals will reduce traffic gridlock, but the expansions are guaranteed to increase air pollution. Bigger highways will put more polluting trucks on our streets, increase sprawl, and threaten more people with air pollution. After spending 1.3 billion dollars to expand I-94 for 6.7 miles, as currently proposed air quality will actually worsen. Any potential air quality benefit from capacity, which we do not concede will happen, expansion will be lost at the end of the expansion where capacity necks down from 5 main line and 3 local lanes to 3 main line lanes.

There is also increased risk to the drivers just passing through on this section of I-94, (which will be most of them, since the interstates are designed more for distance throughput than local access.) A California study found that commuters in their own cars breathed the most polluted air, having sucked in pollution from other vehicles. In Car Air Pollution, International Center for Technology Assessment. Ex. KK.

### **13.6 Project impact on VMT within region in the absence of transit**

The number of vehicle miles traveled [VMT] have a direct impact on the total amount of emissions. Well-designed, modern, attractive transit is an important and cost effective tool in reducing VMT and aiding in compliance with the ozone standard. Indeed, throughout the Great Lakes states and around the country, mode shifting from roads and single occupancy vehicles to transit is an important component of maintenance plans and attainment demonstrations. See, e.g. Bay Area Air Quality Ex A.. Bay Area Air Quality. <http://www.sierraclub.org/sprawl/transportation/air.asp> To assist in improving the air quality in this region, MDOT must compare the air quality analysis for the MDOT's pavement-only auto based solution to a transit-friendly and nonmotorized modes ( pedestrians, bikes, wheelchairs, etc.) solution. It may be that the multimodal solution would result in many tons per year of pollution avoidance. It is impossible to tell without the full analysis of alternatives an EIS will provide.

The overall emissions budget for air pollutants throughout the region includes both mobile and stationary sources. The more pollution from mobile sources- as this project will ensure, the less room in our region's airshed for manufacturing and power generation growth. The more of our emissions budget consumed by emissions from mobile sources, the less ability there is for industry to expand within the region, because major industrial emission sources must meet air quality control requirements known as BACT [best available control technology], which becomes ever more stringent as mobile source contributions grow. Implementing transit with a goal to reduce overall VMT, positions the region to attract more jobs. Failure to implement transit makes us less competitive.

### **13.7 Interrelationship of congestion, speed and air quality.**

It is a perverse irony that cars emit less at a constant speed of 45 miles per hour than when moving more slowly or idling in congestion. This fact creates a perverse incentive for traffic engineers to design ways for cars to travel faster, which they justify by invoking air quality concerns, without accounting for the traffic inducing effect of the expansion in subsequent years. It appears that this project is driven by the same perverse incentive. Providing mode choice for transit may have a more direct and beneficial effect on air quality than widening lanes. The DEIS is deficient in that it fails to discuss any alternatives that are not exclusively auto- and road-based and therefore it is not possible to assess whether a multimodal alternative including transit and rail for freight will have a lower impact on regional air quality. Since the US Supreme Court has upheld the authority of the EPA to set health-based air quality standards, this area may well be nonattainment for both Ozone and PM 2.5 before the project is built, the DEIS must be revised to determine the relative merits of transit, versus increased highway capacity within both the immediate the project area and the regional airshed. Should the Final

### **13.8 Traffic projections are based in part on SEMCOG's flawed 2020 Land Use Projection.**

Traffic growth forecasts are taken as a fait accompli.

The 2020 need projections only modeled continued sole reliance on the automobile. According to FHWA's own review of transportation planning in the SEMCOG region, MDOT does not have appropriate modeling tools to consider transit fully and fairly as a component of ERFA access.

"MDOT, SEMCOG, and the transit operators do not have operational mode choice or transit network assignment models for the region. Without such tools, the ability to quantify choices; evaluate benefits and costs; and analyze tradeoffs among transit alternatives and between transit and highway projects is extremely limited. If transit visions such as *TransitChoice* or *SpeedLink* are to be seriously considered, the decision makers should have the benefit of the information that these tools can provide.

Consequently, the FHWA and FTA recommended the following:

"MDOT, SEMCOG, and the transit operators develop and refine regional travel demand forecasting tools for both highway and transit modes, including methods for evaluating and establishing regional system wide priorities linked to area wide goals and objectives. Ex. LL

Because the only mode considered was auto access, the modeling failed to consider the effect on traffic counts of the possibility of:

- the restoration of commuter rail in the corridor
- the introduction of SpeedLink in the corridor
- the introduction of Light Rail in the region
- lowered trips downtown due to telecommuting
- shorter, transit based trips due to residential expansion throughout Detroit.

These omissions underscore the inadequacy of the DEIS. The final EIS needs to develop appropriate multi-modal modeling tools and apply them to this project.

Modeling for projected needs in 2020 did not test a scenario that acknowledged improvements to transit including enhanced public rapid transit, SpeedLink, feeder buses and commuter rail. Modeling did not take into account growth in downtown residential that means a certain percentage of those who work downtown will walk, not drive.

### **13.9 MDOT's proposed expansion will actually induce demand, worsening rather than relieving congestion.**

Evidence suggests that there is a real effect of induced demand that stems from the construction of additional highway capacity. This induced demand goes beyond levels of projected travel associated with simple population growth and actually draws vehicle trips that otherwise would not have been made. Of particular concern is the lack of transportation options in Southeast Michigan.

Looming large over all assessments of the adverse effects of vehicle use, the conformity analysis under the Clean Air Act, and the evaluation of alternative transportation investments is the failure to account for the widely recognized phenomenon known as "induced demand." The failure to account for this effect of the construction of new highway capacity results in the serious underestimation of Vehicle Miles of Travel (VMT) in a region or corridor, and consequently the failure to accurately estimate motor vehicle emissions for conformity purposes or for performing a risk assessment to predict the adverse health effects of mobile source air toxics, the overestimation of the mobility benefits of new capacity, the failure to account for the land use effects of temporarily improved travel times in a corridor, and the under-valuation of the benefits of non-highway transportation alternatives.

A report, *The Need to Account for the Effects of Induced Demand to Support Reliable Travel Demand and VMT Estimates for Metropolitan Planning, Project Need and Alternatives Analyses and Conformity*, Ex. MM by Norman Marshall, a respected expert in this field, summarizes the latest research quantifying the magnitude of this effect in the U.S. This evidence demonstrates that the effect is large, is relatively consistent wherever it has been measured, and can significantly undermine the reliability and usefulness of travel demand and VMT forecasts for virtually all purposes if it is not taken into account.

Based upon his experience reviewing the transportation planning tools applied in four of the nation's largest cities, Mr. Marshall also documents that induced demand is generally not being addressed in a comprehensive way by MPOs in the planning process. It is difficult to determine whether the DEIS accounts for induced demand. Perhaps the reason for proposing the excessive design in the "Build Alternative" is to account for induced demand, but then the DEIS needs to account for the effect that this demand will have on the environmental impacts. Mr. Marshall concludes that this failure casts into doubt the acceptability of VMT projections developed for conformity determinations, the travel demand assumptions used to justify the need for individual projects, and the meaningful comparison of alternative projects and services.

Based on this evidence, TRU requests that the I-94 project expressly address this phenomenon in the regional planning process and in making conformity determinations under the Clean Air Act, and in all corridor-level estimates of VMT or ADTs that are made available to implementing agencies for the purpose of preparing EISs under NEPA. Tools for reliably assessing the effect of this phenomenon are rapidly emerging, and will quickly evolve into the planner stock-in-trade as planners commit to account for this effect. The failure to account for this effect will merely invite frequent legal challenges to regional plans, conformity determinations and EISs on the ground that these analyses are fundamentally flawed by the failure to adequately address this statistically proven effect of new capacity. The failure to address this effect has often contributed to conflict and need for reanalysis of controversial transportation projects and has been a major source of delay to transportation project implementation.

### **13.10 MDOT's "Build Alternative imposes adverse social and economic impacts**

#### **13.10.1 Regional Environmental Impacts of single mode transportation planning**

Under Project Purpose, The DEIS states that inadequate roadway capacity is a need for expanding I-94. From the moment the need of the project were scoped so narrowly, MDOT had a written a prescription for road-only capacity increase. There are significant opportunity costs for continuing with our auto-dependence, investing in roads to the exclusion of transit, as this project does, and rejecting the opportunity to create a commuter rail link that could serve to reduce VMT, and promote repopulation of the older urban core.

To view this section of I-94 in isolation is to miss the opportunity to plan and act regionally by creating an integrated multi-modal solution to mobility and access. Without this integrated effort, the region will continue to sprawl, consuming 40% more land for 6% more people. Indeed Metro Detroit ranks third in sprawl nation wide. Urban disinvestment and farmland loss both have grave environmental consequences. This project promotes the same auto only access for the entire region by precluding transit from solving the capacity needs of I-94 corridor. This is arbitrary and capricious. This design inflicts heavy opportunity costs. As now designed this project will commit the entire region to auto-only access,

compelling building of additional parking spaces, and eliminating those parcels dedicated to parking structures from higher uses, such as residential, retail and commercial development.

The "Build Alternative" will increase our dependency on autos and trucks and provide for a dangerous lack of diversity of transportation investment. The "Build Alternative" is not in the best interest of the public trust.

### 13.10.2 The I-94 expansion project will cost the region vitality.

Modern commuter rail through the corridor (as distinguished from light-rail transit (LRT)) is a very cost-effective method for handling primary-corridor, long-trip, peak-time travel. Commuter rail uses existing rail corridors that do not compete with space on roadways so that it can result in very high reliability. At a capital cost of \$2-3 million per mile, the capital costs are a fraction of that for any other transit system and a fraction of the cost to increase transportation capacity by expanding roads. Operating costs are also very low at about \$0.10 per seat mile (assuming about 130 seats per vehicle.) A commuter rail line could accommodate from 2,000 to 8,000 passengers per hour in each direction. This information was provided by SEMCOG during the Transit Vision Forum. Because so much of the infrastructure is already in place (the rail corridor and most of the track), these systems can be implemented very quickly. With daily traffic flow at 160,000 cars per day, peak hourly flow may be 15,000 cars per hour or maybe 10,000 cars per hour in the rush-hour direction. No specific traffic figures were provided in the DEIS, so TRU cannot substantiate the 10,000 cars per hour rush hour rate. Commuter rail from both Ann Arbor and Mount Clemens would include two lines that could take a total of 4,000 to 16,000 cars per hour off of I-94. This would have the potential to significantly reduce congestion along this segment for a cost far below that presented in the "Build Alternative."

The same analysis can be made for Bus Rapid Transit along the Grand River, Michigan, Gratiot and Jefferson routes. Each of these routes can further take cars off of I-94 further reducing congestion and adding capacity to the corridor for far less money and far more opportunity for transit oriented investment than the "build alternative."

MDOT sponsored a commuter-rail study published in 1997 that showed cost-effective service to Downtown and the Renaissance Center. SEMCOG has been studying a rail link between Metro Airport and Downtown Detroit. CATA is studying commuter rail from Lansing to Detroit via Ann Arbor. Also, SEMCOG is in the midst of a regional transit visioning process where commuter rail is being considered.

The MDOT preferred "Build Alternative" I-94 expansion project would impede the establishment of commuter rail services from Oakland County, Ann Arbor, Mount Clemens, and/or Metro Airport to the Renaissance Center in the following ways:

- The MDOT proposal is a car and concrete solution that would tip the balance towards continued sole reliance on the automobile and away from reestablishing commuter rail service. Capacity would be opened up for the automobile. This will result in a reduced need for capacity increases that could be supplied by commuter rail. Now, at this location, is the window of opportunity for the community to increase capacity using cost-effective transit, rather than concrete.
- The cost of the MDOT proposal is so high that it would be difficult to find additional resources for improving transportation access and adding transportation capacity using commuter rail. MDOT and others will ask: That area already got \$1,300,000,000 in our scarce transportation improvement money, why should we spend any more transportation money bringing in commuter rail to that area?

MDOT never seriously considered the feasible alternative of adding capacity using transit along the available corridor. This feasible alternative will provide the needed capacity and access through the region, enhance the vitality of the community while promoting a safe and secure transportation system. This alternative needs to be fully considered in the final EIS.

#### **14 SECTION 4(F) PRECLUDES DESTRUCTION OF PROTECTED 4(F) HISTORIC RESOURCES BECAUSE PRUDENT AND FEASIBLE ALTERNATIVES EXIST.**

##### **14.1 MDOT fails to properly analyze the impacts of the "build alternative" on protected historic sites under Section 4(f) of the Department of Transportation Act, 49 U.S.C. Section 303 (1999).**

Section 4(f) provides that the Secretary of Transportation may not approve the use of land from an historic or archeological site or a publicly owned park unless a determination is made that "there is no feasible and prudent alternative to using that land." 49 U.S.C. Section 303(c); Federal Highway Administration (FHWA) NEPA Regulations, 23 C.F.R. Section 771.135(a). The FHWA regulations specifically require that the agency evaluate the use of 4(f) land "early in the development of the action when alternatives to the proposed action are under study." 23 C.F.R. Section 771.135(b). The DEIS does not include an analysis of whether feasible and prudent alternatives exist which would minimize or avoid the impacts to the archeological and historic resources. Instead, MDOT glosses over the real harm that the "build alternative" will cause to these protected sites. MDOT has essentially proposed the less protective Section 106 assessment approach as its proposed compliance with the more demanding Section 4(f). MDOT's proposed actions do not constitute Section 4(f) compliance.

MDOT proposes to demolish one residence, 5287 Hecla Street and a corner store in The Historic Woodbridge District which is listed on the National Registers of Historic Places. This neighborhood has enjoyed a renaissance with many of the owner-occupied homes refurbished and upgraded. It is one of the last remaining intact and viable historic neighborhoods of its era. It is an eminently walkable and pedestrian friendly community, and should not be sacrificed to MDOT's excessive expansion of the Build Alternative. The purpose and Need of this project can be met by implementing the less intrusive No Build or Enhanced No Build alternatives in conjunction with transit and mode shifting for freight to meet capacity and safety needs. The destruction of these buildings is not essential. Prudent and feasible alternatives exist, and therefore Section 4(f) precludes their demolition.

Contrary to what the DEIS states, there is no complete description of the United Sound Systems Recording Studios in 5.10, which discusses Natural Resources. This threatened structure has particular historic relevance to the African American committee, and therefore targeting this building for demolition raises Environmental Justice concerns as well Section 4(f) As was the case with the Woodbridge District, the purpose and need of this project can be met by implementing the less intrusive No Build or Enhanced No Build alternatives in conjunction with transit and mode shifting for freight to meet capacity and safety needs. The destruction of these buildings is not essential to this project. Prudent and feasible alternatives exist, and therefore Section 4(f) precludes the demolition of the United Sound Systems Recording Studios, in order to save a parking structure. It is time to halt the destruction of Detroit's past.

The "build alternative" will significantly impact the use and very existence of several historic properties. The DEIS does not include an analysis of whether the requirements of Section 4(f) have been met. The plan to address the historic status of the threatened structures does not comply with either the letter or spirit of the law. Despite acknowledging this impact to a Section 4(f) property, MDOT makes no attempt to analyze whether a feasible and prudent alternative to using this property exists as required by the law. A proper analysis of the impacts to this area and all reasonable alternatives to the "Build Alternative" would clearly reveal that TRU's alternative, which includes establishment of transit improvements, presents a feasible and prudent alternative which would greatly reduce the impact to the historic resources. . It is time to halt the destruction of Detroit's past. Section 4(f) precludes implementation of the "Build Alternative" as currently proposed. The project can and must be redesigned to preserve these historic structures.

## 15 THE ALTERNATIVES ANALYSIS IS WOEFULLY INADEQUATE.

### 15.1 Alternative NEPA Claims: Cumulative And Connected Actions And Programmatic EIS.

#### 15.1.1 Consideration of Reasonable Alternative to the I-94 expansion are best considered with a Programmatic EIS Because The Agencies' Actions Are Connected.

The multiple phases of the I-94 corridor expansion as well as the other two projects planned for the I-75 corridor (i.e. the I-375 extension, and the Oakland county expansion considered in combination, in addition to the 2 miles of I-75 reconstruction at the I-94 interchange which is integral to the phase of the project discussed in the DEIS.) must be considered altogether in a programmatic EIS because they represent (a) connected actions and (b) cumulative actions. The CEQ regulations require consideration of both types of actions in a NEPA analysis. 40 C.F.R. §1508.25. Furthermore, I-94 corridor's environmental impacts, its effect on travel demand and on the development of transportation alternatives in the I-75 corridor must be considered in a programmatic EIS. The CEQ regulations require such a broad analysis to evaluate issues related both geographically or generally (e.g., common timing, impacts, alternatives). 40 C.F.R. § 1502.4(c)(1)-(3).

The "connected actions" requirements are synonymous with the section 771.11 segmentation factors required by the FHWA regulations. See Clairton Sportsmen's Club v. Pennsylvania Turnpike Comm'n, 882 F. Supp. 455, 474 n. 21 (W.D. Pa. 1995) (analyzing "connected actions" claim in terms of independent utility). However, the "connected actions" requirement provides an additional basis for analyzing the I-94 project, the interchanges, I-375 and I-75 project in Oakland County as a single action.

Connected actions are defined as actions which are (I) closely related, (II) should be evaluated in the same EIS, and (III) either (a) cannot or will not proceed unless other actions are taken, or (b) are interdependent parts of a larger action and depend on the larger action for their justification. 40 C.F.R. § 1508.25(a)(1). Clearly the three phases of the I-94 project are (I) closely related and (III) depend on the entire corridor for their justification. Furthermore, the I-94 corridor and including its interchange with I-75 and the transportation needs of the I-75/I-375 corridor (II) should be evaluated in the same EIS, for the purpose of evaluating the role of an integrated regional transit system in meeting the capacity needs of the mostly east-west I94 corridor , and the north-south. At least one federal court has recognized that an interchange and the overall highway project are "connected," and thus should be part of a single EIS. Village of Grand View v. Skinner, 947 F.2d 651, 656-57 (2d Cir. 1991).

There is no discussion of intermodal alternatives that do include a transit or rail component as part of the solution to mobility needs within the region. MDOT currently lacks the tools to perform the appropriate multimodal analysis.

### 15.2 Cost Estimates for the various alternatives lack adequate substantiation and detail to make a meaningful comparison of alternatives

The only cost estimates provided for this project are outlined on Table 4-2 of the DEIS. This is inadequate. The DEIS needs to include sufficient detail on the costs so that it is possible to determine whether the estimated costs make sense. TRU's initial analysis is that the cost to repave I-94 consistent with the "No-build alternative" would be somewhat more than \$16 million, and included no allowance for bridge work. This was reinforced at the City of Detroit City Planning Commission meeting, May 5, 2001, when Andy Ziegler, MDOT's Project Manager stated that the cost of the "No Build" alternative would be approximately \$100 million. There is no way to know whether MDOT is including the same components in the two differing estimates for the "No Build" Alternative. Is MDOT actually suggesting that continued cold patch once a year is sufficient to properly maintain the existing I-94 facility?

MDOT estimates that the "Enhanced no Build" [ENB] alternative would cost approximately \$842 million. The ENB includes the following improvements and enhancements to the existing facility:

- Improvements to shoulders and ramps
- Construction an additional flex lane [acceleration, deceleration and auxiliary] throughout the entire 6.7 mile corridor – the functional equivalent of a fourth lane of capacity.

- Replacement of existing Bridge Structures, ramps and pavement to current dimensions
- Reconstruction of existing interchanges

By contrast " Build Alternative, at a cost of \$1.244 billion would entail:

- Acquisition of Right of Way.
- Creation of two additional Through Lanes
- Creation of 4.5 lanes of reserve space in the center (surface treatment is not indicated)
- Creation of 40 foot wide service drives on either side
- Construction of Noise Barriers
- Construction of new, extra –wide, combined vehicular and pedestrian bridges. These structures will be much longer than existing bridges they will be replacing to accommodate 8-10 extra lane widths in the depressed mainline.
- Total rebuilding of the I-75/I-94 and M-10/I-94 interchanges and ramps
- Construction of new ramps throughout the 6.7 mile segment.

It is inconceivable that all of these additional components will cost only an additional \$400 million. The staggering difference in costs between the two projects raises several competing sense inferences. Either the costs of the ENB are overstated to make it less attractive, or the costs of the "Build Alternative" are understated to make it more attractive, or both estimates are wrong. Before one can fairly assess the impacts of this project from the perspective of opportunity costs and economic development benefits, a new DEIS must resolve this conflict.

The DEIS is severely deficient for not providing a more detailed costing analysis. The public is entitled to enough information to be able to evaluate opportunity costs of committing to another 30 years of pavement dependence and continued neglect of transit investment. The public should not be asked to sign a blank check for a project that has the potential to be perpetually under construction and to be plagued with the same magnitude of cost over runs as Boston's Big Dig.

## 16 ECONOMIC IMPACT

### 16.1 At a cost of \$1.3 Billion, the "Build Alternative" would drain public money from transit Investments

There is a significant difference in cost between repairing I-94 to its existing design and the "Build Alternative" Putting \$1,300,000,000 into the "Build Alternative" is not the highest and best use of scarce taxpayer money to revitalize Detroit through transportation. TEA-21 requires that transportation projects:

- Provide accessibility and mobility for all people and goods,
- Invest strategically in transportation infrastructure to enhance the vitality of the community;
- Promote a safe and secure transportation system,
- Protect and enhance the environment

On the contrary, MDOT's "build alternative" for the expansion of I-94 meets none of these goals. In fact, MDOT's current design subverts these goals:

- It provide no accessibility and mobility for those people living along the corridor without a car
- It will suck the vitality out of the community by building a poisonous snake-like structure through the community that makes it easier for cars and trucks to get out of Detroit fast
- It will increase hazards along the I-94 corridor in terms of both traffic crashes and health impacts
- It will degrade the environment, modeled impacts show that there will be CO exceedances when the model uses the correct background monitor.

## **16.2 MDOT's Decision to finance Preliminary Engineering with Build Michigan III dollars increases the Financial Burden on Detroit.**

MDOT's plan for the I-94 expansion is also financially harmful to Detroit. The economics of Build Michigan III (BMIII) are interesting, because BMIII increases Detroit's forced share. The usual funding formula for federal highway construction projects is: 80% federal, 17.5% state, 2.5% Detroit. When MDOT decides to put up 100% state money, Detroit's share jumps to 12.5%. Thus Detroit's share for preliminary engineering for I-94 with BMIII is 8.25 million; under the standard formula which relied on federal funds for 80% of the costs, it would be only \$1,650,000, not the \$8 million it is now slated to cost. The same incremental cost burden was imposed on Detroit by the decision to use BM III money for I-375.

MDOT has conveniently avoided publicizing the fact that it expects, pursuant to State law, the City of Detroit to pay part of the \$1.24 billion cost of MDOT's I-94 expansion proposal. TRU's preliminary estimates of MDOT's expectations of the City of Detroit is that the City will have to pay about \$37,500,000 as the City's share of the project cost. The City will be forced either to raise local taxes to pay that amount or to defer already badly-needed maintenance of its existing street network.

The \$37,500,000 estimate is based on the following calculations.

(1) State law [MCL 247.651c], quoted in (4) below, appears to require that the City of Detroit pay for 12.5 percent of the non-federal share of the project investment.

(2) MDOT's Build Michigan 3 bonding resolution approved by Michigan's State Transportation Commission on October 26, 2000 states that early preliminary engineering and preliminary engineering for the I-94 project are estimated to involve a total outlay of \$66,000,000, of which the City of Detroit will pay \$8,250,000 (i.e., 12.5% of \$66,000,000, consistent with state law as referred to above) and the remaining \$57,750,000 will be paid from the "Build Michigan 3" bond proceeds.

(3) If MDOT's \$1.24 billion cost estimate for the I-94 expansion is correct and if we deduct the \$66,000,000 outlay from that total, the net outlay after engineering for the project will be \$1.174 billion. If the Federal Highway Administration is persuaded to fund eighty percent of the project cost, then the City of Detroit has to pay MDOT another \$29,350,000 million for the privilege of acquiescing to their proposal.

This Analysis is based Act 51 of 1951 regarding STATE TRUNK LINE HIGHWAY SYSTEM, Sec. 247.651c Cost of opening, widening, and improving state trunk line highways. Ex. NN

The cost for congestion management and traffic maintenance during construction at 20% of the project budget seem excessive and are unjustified. Other regions have used Interstate highway funds to develop transit alternatives for traffic management during construction. The DEIS misses the opportunity to implement a pilot transit system at federal expense (capital and operating) to help educate Detroit's transit naïve population as an integral component of reducing construction induced congestion.

## **16.3 Failure to invest in transit deprives Detroit of economic development opportunities**

Transportation projects that focus solely on pavement primarily benefit the paving industry. Road building contractors tend to hire few workers from urban project areas. MDOT implicitly acknowledges this when they include as a positive effect:

The economy of the Region would benefit from long-term and short-term construction related jobs provided by the freeway projects. DEIS p5-95, Emphasis supplied.

There is little expectation that a significant number of construction jobs created by this project will go to local residents. Nevertheless, the community will bear the burden:

The sum of these construction impacts would result in inconvenience and some frustration as residents travel, work, and live with various projects. DEIS p 5-95.

By contrast, transit capital investment creates 314 jobs for each \$10 million invested returns dollars to the community benefit. That is a significantly higher job creation rate than pavement investments. Public Transportation and the Nation's Economy, Cambridge Systematics, Inc. October, 1999. Ex. OO.

The DEIS concedes that Detroit will lose tax revenues as privately held property is converted to MDOT ownership. Clean air falls just behind clean water and crime as the third most important factor people consider when deciding where to live, according to Money Magazine. Based on that, the increased emissions that this project will generate will actually reduce community development opportunities, not enhance them, and will result in the lowering of property values and reduce the Detroit's tax base. By contrast, transit oriented development [TODs] encourages more efficient development in existing communities and leads to less traffic, more travel choices, and less air pollution.

#### **16.4 No Cost Benefit Analysis was performed.**

##### **16.4.1 Mode Shift**

The DEIS does not address potential air quality benefits that could flow from fewer vehicle miles traveled because of a mode shift to transit from single occupancy vehicles, because transit was never considered.

##### **16.4.2 Transportation Diversity Benefit**

All investors know the importance of maintaining a diverse portfolio. We need to increase our diversity of investment in transportation, not continue to rely almost solely on pavement. Southeast Michigan pays a huge cost for its lack of diversification. The average Michigander wasted 41 hours sitting in congestion, and suffers from a congestion burden that is the third worst in the nation, after Los Angeles and Las Vegas, because our region lacks adequate alternative modes to the single occupancy vehicle driven on pavement. Easing the Burden, Surface Transportation Policy Project, May 2001, Ex. PP

On page 4-38 of the DEIS, there is discussion of the opportunity cost associated with not increasing the capacity of pavement. In reality, our region will pay a huge opportunity cost if we continue to rely on pavement alone for our transportation investment. Lack of transportation alternatives forces Southeast Michigan households to spend over 18% of household income, the highest expense after housing on transportation needs. Ex. QQ. One reason these costs are so high is that region provides little mode choice. Lack of access to an automobile also raises transportation costs and precludes those without a car from active participation in and contributions to the region's economic growth. Ex. RR

This DEIS defines a crossroad regarding the future of Michigan's transportation system. Do we continue to pour billions of dollars into new and wider highways, or do we steer Michigan in a better direction. The better direction is to diversify our transportation investment portfolio by investing in congestion-fighting transit options in our urban areas.

##### **16.4.3 Community Investment benefit**

The impoverished neighborhoods along the project corridor would benefit greatly from enhanced housing, retail and commercial developments. The DEIS has not made the case that \$1.3 billions in pavement will directly benefit the local community in that same way that a comparable investment in transit and transit oriented development would. In lieu of the pavement-only Build Alternative, we propose that at least half of the budget for this project be redirected to installing cleaner transportation choices such as commuter rail, light rail, SpeedLink, and enhanced bus services that would support community reinvestment. We should move forward with commuter rail and increased bus service in these corridors as well as high speed train rail between Detroit and Chicago. Recent transportation studies showed such transit improvements were the most cost-effective ways to reduce air pollution, congestion and give people more choices. The DEIS for the I-94 expansion ignores transit and rail alternatives that could reduce traffic and the pollution it causes.

#### **16.5 SEMCOG Transit Vision**

No Final DEIS should issue until after SEMCOG's transit vision is completed in October and Wayne County's Air Toxic Monitoring projects have been completed. It would be premature to commit resources

to preliminary engineering and design, without knowing what transit alternatives SEMCOG will offer and whether the project can be built given the air quality status of Southeast Michigan.

## **17 MISCELLANEOUS**

### **17.1 The I-75/ I-94 interchange is overdesigned and consumes too much urban land.**

The "build alternative" proposed design for the I-75 Interchange consumes way too much space including the space used by the historic Ann Arbor to Detroit Commuter rail line. Real estate so close to downtown Detroit should not be squandered on such a large interchange. The ramp geometry appears to be designed to enable truck traffic to transfer between the I-94 and I-75 at 70 miles per hour without slowing. We submit that that both the design and the speed that it would enable it are excessive. The Lodge ( M-10) interchange is more compact. MDOT must justify making the I-75 interchange design so expansive.

### **17.2 Rail right-of-way southwest of the I-75 interchange must be preserved for commuter rail.**

There is no discussion in the DEIS as to why this historic Ann Arbor to Detroit linear corridor is being squandered for entrance ramps and a garbage truck road as depicted on "Build Alternative" Sheet 13-4. Linear corridors are very difficult to recreate once lost. This particular right of way is necessary to allow the Lansing – Ann Arbor Detroit Commuter rail route, now under study by CATA, to reach its logical terminus near the Renaissance in the Central Business District efficiently. Loss of this rail right of way will add at least an additional two minutes to the travel time and adversely impact the feasibility of the service.

### **17.3 Connection of the I-94 expansion to other I-75 projects should be reviewed as a whole in a programmatic EIS.**

Because the "build alternative" would widen and reconstruct about 2 miles of I-75, this segment of the project should be evaluated along with the other proposed changes of I-75 in Oakland County and I-375 along the East Riverfront Area to avoid project segmentation and obtain a complete review of alternatives. When all three of these separate I-75 projects are combined, commuter rail between Pontiac and the Renaissance Center would be considered as a viable alternative for the three projects. All of these pavement expansion projects are connected actions which must be evaluated in the same EIS in order to properly evaluate potential for a regional transit system, including commuter rail in both the I-94 and I-75 corridors.

### **17.4 The apparent removal of the GTW railroad bridge, which separates the main rail line from I-94 must be explained.**

The existing railroad bridge for the mainline Grand Trunk Western, Conrail, Amtrak line between the Detroit Amtrak Station and Dearborn is shown to be removed and not replaced in the plans. (See Sheet 1) This must be a mistake in the "build alternative" design because of the extensive traffic across the existing railroad bridge and the importance of this rail corridor. At the very least the omission of this key piece of railroad infrastructure raises the question of the level of Review and Quality Control to which this document was subjected. If such an important element as the Grade separation between an Interstate Freeway expansion and the main rail line has been omitted, how carefully has the rest of the document been prepared?

### **17.5 Linear and Lateral Segmentation**

The "build alternative" has 3 subsets in both the linear and lateral directions. The "build alternative" project is only the center segment and would need segments to the east and west of it to be complete. This cannot be a successful stand-alone project.

In addition, nothing, outside of the feeling that it would be nice, is provided to justify the expansive-wide service drives proposed, the real need for the additional capacity of I-94 and the need for the space in the

middle. "The agency must go beyond mere assertions and indicate its basis for them." (Rankin, 394 F. Supp. at 658 (quoting *Environmental Defense Fund v. Froehike*, 473 F.2d 346, 350 (8<sup>th</sup> Cir. 1972)). Where the DEIS goes beyond assertions and provides data such as on the projected level of service information provided, the "build alternative" is clearly excessive design even without the extra space in the middle for future expansion. The design should be for a level of service of E during rush hour in 2020, not a level of service of C and D as is proposed.

#### **17.6 The DEIS Fails to address increased energy consumption and potential increases in emissions of greenhouse gases from mobile sources.**

Capacity increases that induce increases in vehicular miles traveled [VMT] of both passenger vehicles and trucks contribute to increased fuel consumption and the attendant increase in emissions from combustion of gasoline and diesel fuel. Emissions of particular concern are oxides of nitrogen, and Carbon Monoxide[CO] from both cars and trucks, Volatile Organic Compounds[VOCs], primarily from cars and fine particulate matter [PM2.5] primarily from diesel exhaust.

The DEIS total fails to address the emission of green houses gases, primarily Carbon dioxide [CO2]. The expansion of I-94 by adding capacity will increase fuel consumption, decrease energy efficiency by favoring trucks over rail for freight movement, and exacerbate global climate change. THE DEIS does not adequately address any of these cumulative, indirect and secondary impacts.

### **18 PUBLIC PARTICIPATION PROCESS WAS INADEQUATE**

The opportunity to comment on this proposed project, which will take place entirely within the city limits of Detroit, should have been very well publicized, throughout the entire study corridor. In fact the information was neither published on MDOT's website nor the subject of MDOT's press releases until more than halfway through the comment period which began with legal notice published on February 9, 2001. Many government officials, and public organizations listed in Chapter 9 – Distribution of the DEIS – did not receive copies of the DEIS in a timely fashion. The Detroit Planning Commission had to request their copy at the March 5 public hearing.

#### **18.1 MDOT's chosen Public "hearing" format frustrates community interaction and the public participation process.**

MDOT'S public participation procedures were inadequate. We have serious concerns about the adequacy and effectiveness of MDOT's public "hearings". MDOT prefers an open house format with lots of maps, a biased slide show riddled with factual misstatements and inaccuracies, reassuring consultants and MDOT employees with no knowledge of the project, or even the local geography. The presence of a reporter off to the side taking individual comments does not convert this charade into a public hearing.

"Public hearings provide the community and the decision makers a forum for the free and contemporaneous exchange of ideas. It is a dynamic process which has at its core the idea that it is only through a public meeting that details and intricacies of controversies can be best explored and understood."

*City of South Pasadena v. Slater*, F. Supp.2d, 1106, 1132, (CD Ca. 1999).

We believe that MDOT rejected the traditional public meeting format because it was not interested in fostering a "free and contemporaneous exchange of ideas" and or allowing for exploration of the "details and intricacies of controversies." Coalition members of TRU requested that when the FEIS is complete, MDOT hold a true public hearing that includes an opportunity for community members to publicly address MDOT and local officials as well as each other. It is acceptable if MDOT chooses to continue with the open house displays and a court reporter for individual comments, but we insist that there be a change in the format to allow such a public sharing of comments. We also request that the meetings occur between 5 and 7pm to facilitate participation by commuters, for whose benefit the project is allegedly being built.

**18.2 MDOT's wrongful segmentation of this project and overly narrow definition of stakeholders has effectively deprived impacted communities the opportunity to comment.**

Because MDOT has wrongfully segmented this project, it did not include those beyond the 6.7 mile segment as stakeholders. Community groups, governmental entities and ordinary citizens living within the larger project corridor, but not within the 6.7 mile sub-segment, including the southwest Detroit community, did not receive information about the scale of expansion and its eventual impact on their communities. City managers in the communities of Harper Woods, Grosse Pointe Woods, St. Clair Shores, Roseville and Eastpointe were only vaguely aware of the project and totally oblivious to its potential impact on their communities if built out to the full total 24 lanes of width as proposed. These communities and their citizens will ultimately bear the brunt of cumulative impacts this DEIS fails to disclose. The wrongful segmentation of this project has effectively deprived those impacted of their right to comment and participate in the development of this public project.

**19 CONCLUSION**

This project is a suburban-style, automobile-centric expansion that isn't appropriate for the urban environment. The DEIS is inadequate in terms of justifying the project through the statement of purpose and needs. In addition, the I-94 expansion reduces the opportunity to invest in better transit in the region such as bus rapid transit and commuter rail.

The DEIS serves more as a sales prospectus in support of the extravagant "build alternative." The DEIS has not presented a balanced impartial assessment of the relative benefits, costs and adverse impacts of the project proposed, or provided enough information fairly to evaluate the "build alternative" against other alternatives, most of which are not found within this document. It would be arbitrary and capricious to determine that this document has satisfied MDOT and FHWA's Draft environmental review obligations of the I-94 project.

Because of the considerable impact on the human environment in the City of Detroit, this project needs to be thoroughly reevaluated to determine a more holistic solution. Repaving I-94 within the existing design and investing the taxpayer's money in transit capital and neighborhood redevelopment would be a significantly more efficient use of taxpayer money, would provide for the needed capacity and result in a stronger, more vibrant Detroit.

## 20 EXHIBITS

- A Greater Detroit Area Freeway Rehabilitation Program, [GDAFRP] (1990) The program is a collection of Goal statements, charts, maps and individual reports. Much of the information is unpaginated and undated. Relevant Excerpts have been reproduced as a single exhibit.
- B Memo from G. Robert Adams to Highway Steering Committee re the Greater Detroit Area Freeway Rehabilitation Freeway Program, Feb. 15, 1991
- C Greater Detroit Area Freeway Program Immediate period ( thru 1997) Needed Construction Work and Recommended Corridor Studies. – Maps I and II and Summary of Immediate Actions – Chart.
- D August 1995 Scoping Packet
- E WJR 760am interview evening of March 22, 2001, 9:45 pm David Newman show.
- F Volume I - 5 Year Road and Bridge Program 1999-2003– Metro Region, . Pp 53-54
- G Volume II- 5 Year Road and Bridge Program 1999 [sic]-2004 – Capacity Improvements and New Roads – Wayne County, pp. 66-7
- H Volume III - 5 Year Road and Bridge Program 2001-2005. p.81
- I FY 2000 Transportation Planning Certification, Summary Report Detroit Michigan, Prepared by FHWA and FTA, June 14-15, 2000, pp.12-14.
- J TRU's Transit Vision with estimated capital and operating costs. May 10, 2001
- K L. Grenzeback, Impact of Changes in Highway Capacity on Truck Travel, printed as Appendix C, Expanding Metropolitan Highways, Transportation Research Board, pp. 310-44 (1995 National Academy Press) Excerpt attached.
- L Noland, Robert, Traffic Fatalities and Injuries: Are Reductions the Result of 'Improvements' in Highway Design Standards? Nov. 2000.
- M Total Truck Movements on Highway Crossings between Southeast Michigan and Ontario. May 11, 2001.
- N Detroit Intermodal Freight Terminal Study
- O DIFT Background Paper, <http://www.mdot.state.mi.us/projects/dift/>
- P Regional Passenger Rail – a concept for Southeastern Michigan, Summary Report, Southeastern Michigan Regional Rail Study, June 1997. [1997 Commuter Rail Study].
- Q Modern Detroit Renaissance Center – Oakland County Commuter Rail Service, Dietrich R. Bergmann, PhD, PE, April 25, 2001
- R SEMCOG's Transit Vision Forum. Levels of Service and their Characteristics, May 2001
- S J Rankin, PE, Evolution of a Commuter Rail System in South Florida (FDOT, July 1990)
- T P. Hands, Editorial Cartoon Grosse Pointe News, p. May 10, 2001 ("Quit complaining [about gas prices] you could always take the bus, ha ha ha!")
- U Walkable America Checklist. June 3, 1999. <http://www.nsc.org/walk/wkabout.htm>
- V Mean Streets 2000, Pedestrian Safety Health and Federal Transportation Funding. Surface Transportation Policy Project,
- W CDC, Promoting Physical Activity, A Guide for Community Action, , L. Frank, Ph. D
- X R Pate, Ph. D., Physical Activity and Public Health, 273 Journal of the American Medical Association 402-06 (Feb. 1, 1995)
- Y N. Peirce, Obesity, Detroit Free Press, p9A, April 24, 2001
- Z Diabetes Considered Emerging Epidemic, Detroit Free Press, September 28, 1999, <http://www.freepress.com/news/health/gdtype28.htm>
- AA . Executive Summary How Land Use and Transportation Systems Impact Public Health, ACEs Working Paper #1 ??? *balance of document available at (web address)*
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