

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 205-745-3060

2829 2ND AVENUE SOUTH, SUITE 282
BIRMINGHAM, AL 35233-2838

Facsimile 205-745-3064

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Via Facsimile, Electronic Mail, and U.S. Mail

Birmingham Metropolitan Planning Organization
C/O Regional Planning Commission of Greater Birmingham
ATTN: Cissy Edwards Crowe
1731 First Avenue North-Suite 200
Birmingham, Alabama 35203

RE: FY 2012-2015 Transportation Improvement Program

Dear Members of the Birmingham Metropolitan Planning Organization:

The Southern Environmental Law Center (“SELC”) submits the following comments concerning the proposed FY2012-2015 Transportation Improvement Program (“TIP”) on behalf of Black Warrior Riverkeeper, Inc. Our comments primarily concern the inappropriate inclusion of various parts of the proposed Birmingham Northern Beltline in the draft TIP. In addition to its high cost and substantial environmental impact, the Northern Beltline has no place in the TIP because the Alabama Department of Transportation (“ALDOT”) has yet to complete the required studies of this project’s impacts and alternatives, and has not applied for nor been issued any permits. Thus, many uncertainties remain as to whether this project will move forward to construction, and if it does, on what timeframe, alignment and design. Many of the comments below were also raised in an earlier letter submitted on August 21, 2007 (attached as Exhibit 1).

In the current draft 2012-2015 TIP, the Birmingham Metropolitan Planning Organization (“MPO”) has allocated \$419,848,262 to the Northern Beltline, approximately three times the amount of funds for the Beltline as in the past June 2010 TIP. Of this, \$337,641,561 is designated to construction, \$62,855,668 to right-of-way acquisition, \$14,405,334 to preliminary engineering, and \$4,945,699 to utilities. The MPO is prematurely allocating significant resources to this project before all the details of the project are known.

Because of the ballooning price tag of the Northern Beltline and the fact that its costs and benefits have not been adequately studied, the MPO should remove all construction, right-of-way and utility adjustments for the Northern Beltline from this TIP and focus instead on transportation projects that will bring sustainable economic growth to the region in the most cost-effective manner.

I. The Northern Beltline is not a cost-effective way of spending limited funds.

The Federal Highway Administration (“FHWA”) has currently estimated that the Northern Beltline will cost \$4.734 billion, or roughly \$90 million per mile.¹ This project would

¹ <https://fhwaapps.fhwa.dot.gov/foisp/publicActive.do>. Accessed Aug. 3, 2011.

rank as one of the most expensive highways ever built in the United States; by comparison, six-lane interstates in rural areas average just \$7 million per mile, according to the American Road and Transportation Builders Association.² Alabama taxpayers will be responsible for nearly \$1 billion of the Beltline's cost, which is close to ALDOT's entire construction and maintenance annual budget for the state of Alabama (\$1.2 billion).³ Not only is the projected cost of building the Beltline astronomical, but the significant additional costs that local governments will have to pay for new sewer, water, other utilities, school, public safety and secondary road improvements must also be considered.⁴ Because of all of the costs associated with projects like this, many cities – including a number in the Southeast – have abandoned or held off on plans for beltways.⁵

Even the MPO has given the Northern Beltline a middle to low priority ranking. Appendix 5D of the 2035 Regional Transportation Plan (“RTP”) gives a numeric score based on how the MPO prioritizes a project. This number is a combined score based on 1) how well the project maintains the existing system, 2) how well it improves the ability to travel 3) how well the project reflects the community's vision and values and 4) how well it fairs in the “congestion management process”.⁶ The Northern Beltline was given a score of 28.1, where the highest was 63.6. This score placed the Northern Beltline in the middle priority, two-tenths of a point away from scoring in the low priority range. However, the total amount (both federal and state funding) allotted for the Northern Beltline in the 2012-2015 TIP is \$419,848,262. This is approximately 40% of all federal and state funds allotted for all projects in the 2012-2015 TIP, demonstrating that the draft TIP is completely out of synch with the priorities in the RTP and should be revised to be consistent with those priorities.

ALDOT intends to spend a total of \$81,691,940 on the Northern Beltline in the next three years. This represents 47% – almost half – of the spending for all projects in the entire Birmingham area during this time period. If the state spends this massive amount on the Northern Beltline, it will be forced to limit how much it can pay for other much higher-priority projects, leaving only \$93,490,374 to spread over all other projects in the six-county region. This includes projects such as Safety Projects, which currently are only allocated 0.03% of funding; Maintenance Projects, which will receive only 1.5% of funds; Bridge Projects, which would get 5.3%; and Congestion Mitigation and Air Quality Projects, which are allotted a mere 0.6% of funds. Furthermore, the state does not assist most local municipalities with the bill of providing sidewalks, pedestrian overpasses and greenways.⁷

² <http://www.artba.org/about/faqs-transportation--general-public/faqs/#20>. Accessed Aug. 2, 2011.

³ <http://www.dot.state.al.us/tpweb/FY2010%20ALDOT%20Annual%20Report.pdf>. Accessed Aug. 3, 2011.

⁴ “Along the Northern Beltline...the one big question mark is how do you get infrastructure, mainly sewer, to those areas. You just cannot have a lot of development on septic tanks and expect to see the sort of things you've seen on I-459 repeated on the Northern Beltline...”⁴ Tom Howard, head of southeast development of USS Real Estate property, *On the Record: Tom Howard of USS Real Estate Talks About the Largest Landowner in County*, BIRMINGHAM NEWS, March 20, 2011.

⁵ For example, legislators in Nashville, TN and city council members in Charleston, SC have either abandoned or put their plans for the completion of their Beltlines on hold. (http://www.tdot.state.tn.us/news/2003/ut_projects/10-31-2003sr840n.pdf; <http://www.postandcourier.com/news/2011/apr/14/charleston-county-council-i-526-road-plan/>. Accessed Aug. 5, 2011.)

⁶ See the 2035 Regional Transportation Plan, Chapter 5 for an explanation of the Congestion Management Plan. <http://www.rpcgb.org/transportation/regional-transportation-plan/>. Accessed Aug. 4, 2011.

⁷ TIP-2012-2015 Transportation Improvement Program, p. 59-61; 83-88; <http://www.rpcgb.org/transportation/regional-transportation-plan/tip/> Accessed Aug. 5, 2011.

In reviewing the draft TIP, the state portion of money projected to be expended on the Northern Beltline could be better spent on projects that the state truly needs, such as system maintenance, resurfacing, safety projects and bridge repair. It could also help fund some of the visionary projects (projects that are not in the TIP because of funding limitations but are in the RTP). One such project is de-elevating I-20/59. The City of Birmingham, through its City Center Master Plan, has proposed that an elevated 1.5-mile segment of I-20/59, which passes through downtown Birmingham beginning at 31st Street and terminating at I-65, be removed and the rebuilt roadway lowered. This section of I-20/I-59 currently has a crash rate more than 2 ½ times the statewide Alabama average rate, and includes two of the top four highest statewide crash locations.⁸ It is a project that the Community Foundation and Operation New Birmingham both support, and is estimated to cost between \$600 million and \$800 million, a fraction of the \$4.7 billion price tag of the Northern Beltline. Unlike the Northern Beltline, whose need and economic benefit compared to other projects have yet to be demonstrated despite its escalating costs, a project like upgrading I-20/59 in downtown Birmingham would bring obvious economic, safety, and quality of life benefits that will boost the entire metropolitan area.

The Northern Beltline is also out of step with the general goal of bringing balanced transportation options to cities, including transit, especially given that Birmingham recently ranked as the number two gas-guzzling city in the country.⁹ The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (“SAFETEA-LU”) provides broad goals in the development of transportation plans, including the goal of “minimizing transportation-related fuel consumption and air pollution.” 23 U.S.C. § 134(a)(1). The statute specifically states that the “MPO should develop long range plans and transportation improvement programs to accomplish these objectives.” 23 U.S.C. § 134(c)(1). The transportation plans should also consider projects and strategies that will “protect and enhance the environment” and “promote energy conservation.” 23 U.S.C. § 134(h)(1)(E); 23 C.F.R. 450.306(a)(5).

Of the \$879 million in federal funds planned for all transportation projects in the region over the next four years, 38% will be Northern Beltline spending, compared to only 12% for all transit spending. With limited federal resources, ALDOT and local public officials could refocus energy to support and promote regional public transit investment that can meet growth and economic needs at a lower cost to our water resources and air quality, with potentially a more cost-effective economic growth return on regional investment. Tellingly, the proponents of the Beltline are much quieter on the promotion of transit improvements for Birmingham, either in the city itself or in the area where the Beltline would be located. The MPO must undertake a more serious analysis of potential transit investments in order to satisfy SAFETEA-LU’s requirements and to be more economically competitive. (Virtually all of the 50 largest metro areas in the country are planning transit expansions.)

The Northern Beltline’s primary purposes as identified in the project’s 1997 Final Environmental Impact Statement (“FEIS”) are “to increase cross-region accessibility and for its

⁸ <http://www.yourcitycenter.com/Home.aspx?ContentID=837>. Accessed Aug. 2, 2011.

⁹ <http://www.mint.com/blog/trends/mint-data-shows-where-the-gas-money-goes/?display=wide>. Accessed Aug. 4, 2011.

potential to stimulate economic development.” FEIS at 1-1.¹⁰ As a starting point, building a six-lane interstate is not the only option for increasing cross-region accessibility. Improving existing roads, increasing the connectivity of the existing network, or constructing a smaller newly located parkway could just as easily meet this purpose. More importantly, there is no data or study that demonstrates that the Beltline will stimulate any economic development at all, particularly when compared to other transportation investments. Indeed, there have been similar beltline-type projects in the Southeast that were also touted to stimulate economic development but never did.

For example, the Southern Connector around Greenville, South Carolina was intended primarily to generate economic growth. The road is now considered an abject failure at delivering the promised economic growth; the U.S. Strategic Highway Research Programs’ Transportation Project Impact Case Study states that “no major economic development can be attributable to the Southern Connector.”¹¹ The report also states that while there are a few minor firms that have developed facilities in the surrounding industrial areas, the employment levels are a tiny fraction of those predicted by the project’s cheerleaders and may not even be attributed to the road because they are also so close to I-85.¹² Area employment has risen by a mere 2.9% after the construction of the road.¹³ The Wall Street Journal’s Smart Money Magazine called it “too much road for the actual pace of development.”¹⁴ Because the purpose of the Northern Beltline is similarly limited to economic development and it is also located in a rural setting, the Northern Beltline carries a high risk of suffering a similar fate to the Southern Connector.

The I-469 bypass of Fort Wayne, Indiana, is another example of a failed bypass. Completed in 1995, the road still remains lightly traveled, and has not delivered much economic growth, even around its interchanges. A study on the economic impacts of highway bypasses by the Economic Development Research Group states that I-469 has led to little economic growth in some places and almost none in others.¹⁵ The study attributes this lack of development to the road’s rural setting and the corresponding lack of infrastructure like sewer, tertiary roads, and utilities needed for development along interchanges.^{16,17} Like Fort Wayne, Indiana, the Northern

¹⁰ Traffic congestion reduction was identified as only a secondary purpose of the road but will likely not happen at all because of the Beltline’s spiral shape around Birmingham.

¹¹ Transportation Projects Impact Case Study. US Strategic Highway Research Program. <http://transportationforcommunities.com/t-pics/#app=19ba&87c3-selectedIndex=0&511-selectedIndex=0>. Accessed May 27, 2011.

¹² Id.

¹³ Id.

¹⁴ Will Swarts. *Toll Road Less Traveled Leads to Bankruptcy*, Smart Money Magazine (Jul. 7, 2010). http://www.smartmoney.com/invest/bonds/toll-road-less-traveled-driven-to-bankruptcy/#article_tab_articleV. Accessed May 27, 2011.

¹⁵ *Economic Impacts of Freeway Bypasses on Medium Sized Cities*. Economic Development Research Group. September, 2000; See also <http://www.journalgazette.net/apps/pbcs.dll/article?AID=/20080720/LOCAL/807200426/>. Accessed Aug. 3, 2011.

¹⁶ Id.

¹⁷ Studies conducted by the Wisconsin Department of Transportation suggest that the cost of developing this necessary infrastructure at bypass interchanges could be greater than the economic benefit brought by the businesses. Collins, Margaret and Weisbrod, Glen. *Wisconsin Department of Transportation, The Economic Impacts of Highway Bypasses on Communities*. 1998.

Beltline will also be built in a rural area with little available infrastructure; economic development is therefore far from a certainty.

Further, even if the Northern Beltline does result in some economic development in northern Jefferson County, this growth is unlikely to be “new” growth. Rather, projects such as these more often merely redistribute existing businesses or growth to new places, to the detriment of other parts of the metropolitan area.¹⁸ Beltways generally pull growth opportunities out of central cities and inner-core suburbs and do not bring any net economic benefit. The MPO can ensure that this result does not happen by making investments in transportation options that benefit the metro area as a whole and result in economic growth and prosperity. The MPO should therefore be taking a much harder look at its project list with an eye towards enhancing the quality of life for all Birmingham residents and visitors, which includes both maintaining existing infrastructure and adding new transportation options that are not all automobile-dependent. Beltlines are not linchpins of economic prosperity. In fact, numerous southern cities such as Greensboro, Winston-Salem, Charleston, Knoxville, Chattanooga, Tampa, and Orlando are thriving without a complete beltline loop, and several have no beltline at all. Further, unlike Atlanta and Charlotte, which do have complete loops, the Northern Beltline would not even be a complete loop since it will not connect with I-459.

II. The Northern Beltline will harm Birmingham’s air and water quality.

As stated earlier, TIPs must consider projects and strategies that will “protect and enhance the environment” and “promote energy conservation” pursuant to federal law. 23 U.S.C. § 134(h)(1)(E); 23 C.F.R. 450.306(a)(5). In addition to its high cost and dubious economic benefits, the Northern Beltline will have substantial environmental impacts. The interstate will worsen air pollution in the region by increasing the number of miles driven by the cars and trucks on the road. These mobile sources of air pollution will emit more ozone precursors, fine particulate matter pollution (PM), and greenhouse gases. The Birmingham area has long battled problems with smog and other air pollution; the American Lung Association’s 2010 State of the Air Report ranked Birmingham metropolitan area in the top 10 for annual and daily PM pollution and in the top 20 for ozone pollution. Although air quality in the area has improved somewhat due to a number of factors, the Birmingham metropolitan area has not yet been re-designated by the EPA as in attainment for PM pollution under the Clean Air Act. In addition, the Birmingham metropolitan area is teetering on the threshold of violating EPA’s current ozone standard; if EPA sets a lower, more protective ozone standard, which has been announced to happen within the next several weeks, the Birmingham area will certainly be in non-attainment for ozone. With the recent science on the public health effects of PM pollution likely compelling EPA to tighten the PM air quality standard as well, Birmingham’s attainment problems for both ozone and PM are far from over. Projects like the Beltline will only hinder Birmingham’s ultimate ability to meet these standards, and failure to meet them carries high costs in terms of negative public health impacts and being unable to attract new businesses and industries.

Equally important, the Northern Beltline will damage Birmingham’s water resources. According to the 1997 FEIS, the road will cross approximately 25 streams in the Black Warrior

¹⁸ Sivaramakrishnan Srinivasan and Kara Maria Kockelman, *The Impacts of Bypasses on Small and Medium-Sized Communities: An Econometric Analysis*, 5 J. TRANSPORTATION & STATISTICS, No. 1 (2002) at 57.

and Cahaba River watersheds. In fact, the six-lane interstate is currently routed directly through the sensitive headwaters of the Black Warrior River and the Upper Cahaba River watersheds, which feed the major drinking water source for much of Jefferson and Shelby Counties. The Cahaba and Black Warrior River basins also serve as valuable freshwater habitats of global significance¹⁹ and are sources of recreation and beauty that add great value to the quality of life of the region's residents. The United States Environmental Protection Agency ("EPA") has independently noted that ALDOT has chosen of the alignment for the Beltline that will have the most impacts to natural resources and wildlife of all potential routes.²⁰

The area of the Beltline between I-65 and I-59 is home to several endangered species, including the vermilion darter and the watercress darter (both in the Turkey Creek watershed, a tributary of the Black Warrior River) and the threatened Alabama snowwreath. In fact, the United States Fish and Wildlife Service ("FWS"), the agency charged with the protection of these species, has expressed concerns about the Beltline in letters dated July 16, 2009 and February 1, 2010. In its letter of July 16, 2009, FWS stated, "[T]he Service is concerned that the listed species in the area could experience substantial adverse impacts as a result of the direct and indirect effects of the project caused by secondary development, habitat fragmentation, population isolation, road kills, increased predation and road right-of-way maintenance activities... such development would disrupt the normal behavioral patterns such as feeding, mating, nesting, and sheltering of resident wildlife."

On March 9, 2011, the FWS sent another letter to FHWA expressing concerns over the inadequate environmental reviews being conducted for the Northern Beltline. Stating that "the landscape around Birmingham has changed both economically and environmentally" in the 14 years since the original EIS, the FWS called on FHWA to conduct a full supplemental EIS for the project. In its letter, the FWS noted its recent designation of 13 miles of streams within Turkey Creek's watershed as critical habitat for the endangered vermilion darter, pursuant to the federal Endangered Species Act.²¹ This critical habitat is located around Pinson, AL, in the vicinity of and downstream from the footprint of the Northern Beltline, and it will likely be impacted by construction sediment, stormwater runoff, grease, fuel, and other pollution coming off of the Beltline. The FWS also referenced the number of endangered and threatened species in the Cahaba River watershed and expressed concerns about the direct and indirect impacts of the Northern Beltline on this river system in addition to the Black Warrior River.

¹⁹ The Cahaba River was named by the *Nature Conservancy* as one of eight "hotspots of aquatic biodiversity" in the U.S. that must be saved, and by the *National Geographic College Atlas of the World* (2007), as one of six global examples of biological diversity. According to *Eastern Fly Fishing Magazine* (Fall 2005), the National Park Service rated the Black Warrior's three forks in the top 2% of U.S. streams for "outstandingly remarkable values." *Boating magazine* (Sept. 2005) called the Black Warrior River one of America's best kept secrets for recreational boating. The Sipsey Fork and the headwaters of Smith Lake (BWR watershed) is Alabama's only federally designated Wild & Scenic River. <http://www.rivers.gov/wsr-black-warrior.html> Accessed Aug. 8, 2011.

²⁰ See September 8, 1997 letter from Heinz Mueller to Jimmy Butts (attached as Exhibit 2). Notably, this letter was written when the Beltline was proposed as only a four-lane interstate, not a six-lane interstate. The environmental impacts of this larger project will be even greater.

²¹ See 75 FR 75913 (Dec. 7, 2010).

The inadequate environmental reviews of the Beltline's impacts have resulted in a lawsuit against ALDOT and the FHWA that is ongoing. Whole categories of environmental effects have never been studied for this project, in violation of the National Environmental Policy Act ("NEPA"), the long-standing bedrock of federal environmental law. These studies are an important chance for the agencies and the public to make informed decisions about how to invest wisely in economic growth while minimizing impacts to air, water, and other resources. Since the primary purpose of the Northern Beltline is to spur economic development, the agencies ought to ask objectively whether this \$4.7 billion project is really the best way to do that, particularly given the serious environmental impacts of a new 52-mile-long, 6-lane interstate. Instead of conducting the comprehensive study that the law requires, the agencies are improperly continuing forward with this project in violation of the law. The MPO should not include projects on the proposed TIP that are not in compliance with the law, including all Northern Beltline projects. Indeed, further land acquisitions in the Beltline footprint as proposed in this TIP will prematurely lock the project into a route before a complete study of the impacts of and alternatives to the entire project is completed, which violates both the letter and the purpose of NEPA.²²

Conclusion

In summary, there are numerous unresolved concerns about the Northern Beltline's high cost, its impact on the overall regional economy and on the economic health of communities, and its environmental impacts, many of which have not been studied. Therefore, it would be premature to devote a significant portion of the TIP to funding for any segments of the Northern Beltline. We request that all funding for right-of-way, utilities and construction be removed until these issues are resolved. Beltline segments proposed in this TIP should be removed as a priority for funding until these concerns are addressed.

Thank you for consideration of these comments. Please let me know if you have any questions.

Sincerely,



Sarah Stokes
Associate Attorney

Cc: John Cooper, Director, ALDOT
Mark Bartlett, Division Administrator, FHWA
Heinz Mueller, EPA Region 4
William Pearson, Field Supervisor, FWS
Mayor William Bell, Birmingham

²²http://www.southernenvironment.org/uploads/fck/file/northern_beltline/Complaint_4_11_11_Final.pdf (link to complaint).

Mayor Scott McBrayer, Homewood
Mayor Terry Oden, Mountain Brook
Mayor Alberto Zaragoza, Vestavia Hills
Mayor Tony Petelos, Hoover

EXHIBIT 1

SOUTHERN ENVIRONMENTAL LAW CENTER

THE CANDLER BUILDING
127 PEACHTREE STREET, SUITE 605
ATLANTA, GA 30303-1800

Telephone 404-521-9900
Facsimile 404-521-9909
selcga@selcga.org

Charlottesville, VA
Chapel Hill, NC
Atlanta, GA

August 21, 2007

Via Facsimile, Electronic Mail, and U. S. Mail

Birmingham Metropolitan Planning Organization
c/o Regional Planning Commission of Greater Birmingham
Attn: Cissy Edwards Crowe
1731 First Avenue North-Suite 200
Birmingham, Alabama 35203

RE: FY 2008-2011 Transportation Improvement Program

Dear Members of the Birmingham Metropolitan Planning Organization:

The Southern Environmental Law Center submits the following comments concerning the proposed FY 2008-2011 Transportation Improvement Program (TIP) on behalf of the Alabama Rivers Alliance, Black Warrior Riverkeeper, Cahaba River Society, Conservation Alabama Foundation, and Friends of the Locust Fork. Specifically, these comments concern the inclusion of a substantial number of projects related to the Northern Beltline in the draft TIP.

This alliance of conservation organizations has been studying the potential environmental and economic impacts of the proposed Northern Beltline for the past several years. We recognize that the communities of our region want economic growth, and we have therefore tried to work with the Alabama Department of Transportation (ALDOT) with an aim to influence the Northern Beltline to enhance the conservation of our watersheds and benefit the region as a whole.

However, for the reasons below, our organizations ask the Metropolitan Planning Organization (MPO) to remove the segments of the beltline from the TIP until federal transportation and environmental laws are adequately addressed, ALDOT agrees to design the Beltline in ways that will protect our water resources, and crucial questions are answered about the best investment of funds for economic growth that will benefit the entire region. Our organizations support economic growth in the region that is equitable, cost efficient and environmentally sound. Unfortunately, ALDOT has not presented information to either the MPO or the public demonstrating that the proposed high-priority sections of the Beltline in the draft TIP meet these criteria.

Introduction

The TIP's prioritization of the Northern Beltline runs afoul of language contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU). SAFETEA-LU provides broad goals in the development of transportation plans, including the goal of "minimizing transportation-related fuel consumption and air pollution." 23 U.S.C. § 134(a)(1). The statute specifically states that the "MPO should develop long range plans and transportation improvement programs to accomplish these objectives." 23 U.S.C. § 134(c)(1). The transportation plans should also consider projects and strategies that will "protect and enhance the environment" and "promote energy conservation." 23 U.S.C. § 134(h)(1)(E); 23 C.F.R. 450.306(a)(5).

The Northern Beltline, if it is constructed, will undoubtedly increase air pollution in the region by increasing the number of mobile sources of ozone precursors, particulate pollution, and greenhouse gases. The Birmingham area is currently not attaining the particulate matter standard under the Clean Air Act and is only barely attaining the ozone standard. The MPO should therefore be taking a much harder look at its project list with an eye towards enhancing the quality of life for all Birmingham residents and visitors, which includes both maintaining existing infrastructure and adding new transportation options that are not automobile-dependent.

Furthermore, even if funding for the Beltline stays in the TIP, the proposed projects are inappropriately focused on segments of the Northern Beltline in the most environmentally-sensitive areas of the planned route: the upper Cahaba watershed, which encompasses the region's drinking water source, and biologically valuable streams of the Black Warrior watershed.

In fact, ALDOT has not completed federally-required environmental studies for the Northern Beltline, yet the agency is making substantive decisions to move forward with road design and land acquisition as if the outcome of the studies is irrelevant. ALDOT is ignoring substantial public concerns raised about the proposed design and location of these sections of the Beltline. The agency has made no serious commitment to design the highway in ways to avoid damage to our water resources.

Fundamentally, crucial questions have not been answered about the best uses of limited funds for the region's transportation needs and for economic growth that would equitably benefit the region as a whole. We therefore ask the MPO to revisit the project list and remove segments of the Beltline until the proper environmental studies have been completed and until the MPO takes a more holistic look at transportation alternatives that will provide more long-term benefits to the Birmingham area.

I. Environmental Impacts of the Beltline

The segments of the Northern Beltline included in the TIP east of I-65, and the development those segments will generate, could substantially and unnecessarily degrade

now planned. These river basins serve as valuable freshwater habitat of global significance, are sources of recreation and beauty that add great value to the quality of life of the region's residents, and are the primary drinking water supply for the people of Birmingham and the metro area – about one fourth of the people of Alabama.

The area of the Beltline between I-65 and I-59 is home to several endangered species, including the vermilion darter and the watercress darter (both in the Turkey Creek watershed) and the threatened Alabama snowwreath.

Incomplete Environmental Review and Premature Land Acquisition

ALDOT is already beginning to acquire land and finalize design and route aspects of the Beltline before re-evaluating studies that are both outdated and inadequate. The original environmental impact statement (EIS) for the project is a decade old and gave short shrift to drinking water issues and overall environmental and watershed degradation. Conditions in our rivers have deteriorated since then due to unintended development impacts such as mud runoff and increased storm flows and flooding. Furthermore, the original EIS was legally deficient under the National Environmental Policy Act (NEPA), which calls for a complete study of a project's direct, indirect, and cumulative impacts. The latter two categories of impacts are missing entirely from the original EIS, and ALDOT does not intend to allow public review of and comment on these impacts before submitting its study to FHWA for approval.

Worse still, even though ALDOT has not finalized the federally-required updated environmental review of these potential impacts, it is prematurely moving ahead with land acquisition and preliminary design of the most environmentally-sensitive sections of the interstate. The endangered species survey from the 1997 EIS is out-of-date. ALDOT's piecemeal environmental review of the Highway 79-Highway 75 segment has ignored cumulative impacts of the entire Beltline and other projects in the area such as the completion of Corridor X. This segment has also never been studied for archeological artifacts. Further acquisitions in the Beltline segments proposed in the TIP will prematurely lock the project into a route alternative that will be particularly damaging for Birmingham's drinking water supplies, especially construction in the upper Cahaba watershed.

Extension to I-20 and Further Impacts to Cahaba System and Drinking Water Supply

The route chosen by ALDOT and proposed to be fast-tracked in the TIP ends at I-59 well above I-20. To complete the loop as currently designed will require a further extension that would spread these impacts through the Little Cahaba watershed above Lake Purdy, one of our region's significant dry weather back-up supplies for drinking water. In winter 2007, ALDOT suspended the initial environmental study of potential routes for the extension due to substantial public and political opposition. However, this extension is shown currently in the 2008 – 2011 State Transportation Improvement

Program (STIP) map of the Northern Beltline. We ask that the extension be removed from the STIP so that it will conform to the TIP map.

Unresolved Public Opposition in the Fast-Tracked Sections of the Beltline

The eastern section of the beltline through Clay and the Cahaba watershed is the only stretch with significant public opposition from the communities the interstate will impact. Clay and Trussville citizens in the group SOURCE have informed people in the area about the Beltline and have gathered numerous petition signatures urging ALDOT to move the route out of the upper Cahaba watershed. ALDOT held a design hearing for this stretch of the Beltline in October 2006 and received 405 written public comments after the hearing, 82% of which disapproved of the design and only 12% of which approved. ALDOT then discounted all comments received from people who were not able to actually attend the hearing, something they have never done before. Even so, the majority of comments were against this design. By proposing that this section of Beltline should be fast-tracked in the MPO TIP, ALDOT is ignoring substantial public concern. The MPO should not prioritize this segment of the Beltline until the controversy over location and design of the road has been resolved.

Design Features of the Beltline

Our organizations have met with representatives of ALDOT, the Federal Highway Administration, and their consultants on multiple occasions over the past two years to discuss low impact design solutions to reduce impacts to these rivers and our drinking water, which we have asked ALDOT to incorporate into the design of the Beltline. In spite of those discussions, ALDOT's proposed design of the first section that will impact the Cahaba River, which was revealed in October 2006, proposed to culvert the Cahaba River and 7 tributaries near the top of the watershed and would locate a major interchange at the point where these come together. Despite our cooperative efforts, ALDOT's design showed none of the low impact design innovations that are essential to reduce water quality impacts. For this reason our organizations had no choice but to collectively disapprove the proposed design of this section of the Beltline, and we hope that ALDOT will reconsider this destructive design alternative.

ALDOT is required by federal law under the storm water program of the Clean Water Act to improve its construction best management practices and to institute post-construction stormwater management techniques to better protect water quality, as are the local governments in Jefferson County. EPA and ADEM are currently discussing the upcoming storm water permit requirements that will apply to ALDOT and the local governments in the 5-year National Pollutant Discharge Elimination System (NPDES) permit revisions. It appears sure that the above will be instituted and that the permittees, including ALDOT, will also have legal responsibility to do their part towards implementing the Cahaba Total Maximum Daily Loads (TMDLs) for reduction of sediment and nutrients. The Beltline as currently designed will increase sediment and nutrient impacts to water quality, in opposition to stormwater permit and TMDL requirements.

It should be noted that proper implementation of adequate construction and post-construction controls could affect the precise location and the width of the construction zone, and thus the right-of-way, of the beltline. Right-of-way purchase should not proceed until ALDOT adequately addresses these design issues that are crucial to the future health of our water resources.

We do appreciate ALDOT's willingness to propose bridging much of Self Creek of the Black Warrior River, due to requirements imposed by the U.S. Army Corps of Engineers. We hope that ALDOT will bridge all water bodies in the Beltline footprint. While bridging is an important step, that alone does not preserve water quality without other design features and management practices. In addition to bridging the creek, we recommend that ALDOT undertake greater control of construction mud runoff and long-term minimization and filtering of pavement runoff to conserve the rivers and properties downstream, as discussed more fully below.

ALDOT needs to reduce both the velocity and volume of construction and post-construction stormwater runoff to prevent increased sediment pollution and ongoing erosion of streams below the Beltline's footprint. The typical runoff structure created by ALDOT is a concrete or rip-rap lined swale. These are not effective at reducing runoff velocities or volumes, or sediments, petroleum products, nutrients and other pollutants. Riprap and concrete are resource-intensive and unnatural when used to shore up disturbed land near streams. We have asked ALDOT to consider more natural means of soil stabilization and erosion control including use of grades with less intense angles and mulch, erosion control matting, use of non-toxic polymers where appropriate, fortified hydroseeding without chemical fertilizers, planting of native grasses and plants, etc. These and many new and progressive techniques are available and being used by transportation departments in other states, yet ALDOT has been unwilling to commit to any of them for the Beltline. For sediment control, we have recommended the use of vegetated swales, retention ponds, and constructed wetlands in addition to very basic BMPs used by ALDOT such as silt fences, hay bales, and riprap.

Another major issue during construction is land clearing. ALDOT clears massive areas of land at a time, exposing large amounts of earth to erosion. We have requested phasing during project construction, which will minimize the potential for offsite sedimentation.

Regarding post-construction, we have asked ALDOT to greatly reduce the erosion impacts that storm runoff from completed roads is having on local streams. We have asked ALDOT to use low impact development design to reduce the volume, velocity and pollutants caused by storm runoff and install stormwater treatment devices on their outfalls to treat pollutants coming from the road's impervious surfaces.

We urge ALDOT to adopt the management practices outlined above for the Northern Beltline and other transportation projects. While agency representatives have heard these recommendations, we have not seen any commitment from ALDOT to adopt

even a portion of them. We ask that the MPO and citizens in Birmingham and statewide require these practices – many of which would require little if any additional cost or time – from ALDOT. Apart from ALDOT’s own efforts, the communities planning to grow around the Beltline also need to incorporate these same low impact design innovations and improved storm water control into their local planning, zoning and development review in order to maintain the river systems that we rely on for drinking water, recreation, and other uses.

II. Unanswered questions about whether the Northern Beltline is the most cost-effective use of limited regional funds for economic growth that will benefit the region as a whole

ALDOT’s stated reason for the Beltline is to spur economic growth in the western and northern Jefferson County cities it would pass through. However, there are important regional economic questions that should be considered and answered before this project goes forward:

- The cost estimate of the Northern Beltline is currently \$2.45 billion. What will be the full cost of the highway, and sewer, water, other utilities, school, public safety and road expansions necessary to develop these areas? Will increased revenues from growth give an adequate return on the full range of actual costs for the region as a whole?
- Will those who pay many of these costs – the region’s residents – receive adequate economic benefit from those revenues? Or instead, will public subsidies for growth in the Beltline area drain more economic vitality and revenues from older communities, working against public and private investment in revitalization of established communities? Who pays and who benefits?
- Have environmental costs been factored in? Since Birmingham fails air quality standards, therefore limiting economic opportunities for the metropolitan area, how might adding more pollution from automobiles through the Northern Beltline limit economic opportunities for the region? What about increased costs to treat our drinking water and to offset reduced water supply due to development effects on water quality and quantity?
- Projects such as the Beltline often direct growth outward, not inward, and sometimes do not succeed in spurring growth at all (e.g. much of Interstate 16 in Georgia). Has the MPO fully analyzed the economic consequences of the Beltline, including the cities who will win and lose with regard to growth?

III. Funding for the Northern Beltline, compared to transit funding, shows misplaced priorities and will result in missed opportunities for our region

The TIP’s project list is improperly skewed towards road projects in general and the Northern Beltline in particular. Of the \$1 billion in federal funds planned for all transportation projects in the region over the next four years, fully 34% - \$344,720,000 - will be Northern Beltline spending, compared to only 8.4% for all transit spending. With

limited federal resources, why aren't ALDOT and local public officials promoting the Beltline also fully engaged in supporting regional public transit investment that can meet growth and economic needs at a lower cost to our water resources and air quality, with potentially a more cost-effective economic growth return on regional investment? The MPO must undertake a more serious analysis of transit investments in order to satisfy SAFETEA-LU's requirements.

Conclusion

In summary, our organizations are concerned that the segments of the Northern Beltline included in the TIP, as currently planned, and the development the interstate will generate, under current inadequate water quality protection standards, will substantially and unnecessarily degrade many sensitive areas of the Black Warrior and Cahaba watersheds, including important headwaters in both basins that ultimately supply drinking water to most of the residents of the Birmingham metro area. Coupled with the environmental impacts, we also are concerned about the project's impact on the overall regional economy and the economic health of communities, not only those this road will serve, but also others it will bypass. Therefore, we ask that those Beltline segments proposed in the TIP should not be included as a priority for funding until these critical regional issues are addressed.

Thank you for consideration of these comments. Please let me know if you have any questions.

Sincerely yours,



Gilbert B. Rogers
Staff Attorney

EXHIBIT 2

143290



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
100 ALABAMA STREET, S.W.
ATLANTA, GEORGIA 30303-3104

SEP 8 - 1987

AML/oea

Jimmy Butts, Director
Alabama Department of Transportation
1409 Coliseum Boulevard
Montgomery, Alabama 36130-3050

FILE

SUBJECT: Birmingham Northern Beltline
Final Environmental Impact Statement

Dear Mr. Butts:

The U.S. Environmental Protection Agency has reviewed the above referenced document in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act. The document presents alternatives and impacts associated with the construction and operation of a 34- to 50-mile long limited access, four-lane highway. The highway would connect I-59/20 west of the City of Birmingham to I-59 northeast of the City. Future traffic growth in the corridor would be accommodated by the roadway. Promoting development in the northern region of Birmingham is also stated as a project goal.

As stated in our letter on the draft document, all alternatives have major impacts on the natural environment. However, we had recommended that Alternative D, the shortest alignment at 34 miles, be selected. Not only would this alignment have a smaller "footprint" on natural resources but would probably generate fewer secondary impacts from future development. This alignment has subsequently been dropped because of Section 4(f) historic preservation impacts that apparently cannot be avoided.

Alternative A, the outermost alignment through the corridor, was selected as the preferred alternative. Alternative A is the longest route at 50 miles and, overall, has the most impacts to natural resources. Alternative A will disrupt streams at 14 crossings, will impact over 4050 acres forested lands within the ROW, and will destroy up to 68 acres of wetlands at 114 different sites. It also will have the greatest impact on wildlife of all the alignments discussed. Alternative A will likely generate a high level of secondary development and associated impacts to the environment.

We still believe that Alternative D is the environmentally best route. Consideration should be given to relocating its western terminus to the west of the historic district. This would avoid the Section 4(f) properties and the CERCLA site to east of the historic district.

The wetland mitigation proposal outlined in the document has merit. The two sites preferred by the U.S. Fish and Wildlife Service appear to be the best candidate sites presented. Jose Negron of our Wetlands Protection Section (404/562-9422) should be contacted to discuss details of the proposal.

All final design and construction activities for this project should be examined with the purpose of avoiding as much disruption to the natural environment as possible. Where high quality resources are in jeopardy, consideration should be given to moving the alignment. All best management practices listed in the document should be employed where needed, and should be monitored and strictly enforced.

We appreciate the opportunity to review this document. Any questions should be addressed to Allen Lucas at 404/562-9624.

Sincerely,



Heinz J. Mueller, Chief
Office of Environmental Assessment
Environmental Accountability
Division