



Superior Court of Washington
County of King

Seattle Citizens Against the Tunnel and Elizabeth
Campbell, Plaintiffs

v.

Washington State Department of Transportation et al,
Defendants.

NO. 09-2-36276-9SEA Consolidated
09-2-40939-1SEA

NOTICE FOR HEARING
SEATTLE COURTHOUSE ONLY
(Clerk's Action Required)

TO: THE CLERK OF THE COURT and to all other parties per list on reverse side:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this
issue on the calendar checked below

Calendar Date: April 7, 2010 Day of Week: Wednesday

Nature of Motion: Motion for Issuance of Subpoenas Duces Tecum

<p>CASES ASSIGNED TO INDIVIDUAL JUDGES - Seattle <input checked="" type="checkbox"/> Without oral argument (Mon - Fri) <input type="checkbox"/> With oral argument Hearing Date/Time: _____ If oral argument on the motion is allowed (LR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. Judge's Name: Richard Eadie Trial Date: April 30, 2010 Working Papers: The <u>Judge's name</u>, date and time of hearing must be noted in the upper right corner of the Judge's copy. Deliver Judge's copies to C203.</p>	<p>EX PARTE MOTIONS [LR 0.13] - Seattle Motions are scheduled 9:00-11:30 a.m. & 1:30-3:45 p.m. in W325 (except as indicated): <input type="checkbox"/> Eviction Hearing Time: 9:30 a.m. <input type="checkbox"/> Other ExParte Mot. Hearing Time: _____ <input type="checkbox"/> Adoption Hearing Time: _____ <input type="checkbox"/> Final Decree <input type="checkbox"/> Atty to Appear Hearing Time: _____ <input type="checkbox"/> No Attorney Hearing Time: 1:30 p.m. <input type="checkbox"/> Probate/Grdnshp Hearing Time: 10:30 a.m. Deliver Working Papers (on contested cases) to W325. ExParte hearings do not require confirmation.</p>
<p>FAMILY LAW MOTION [LR 94.04] - Seattle in W291 <input type="checkbox"/> Domestic Motion (10:00) <input type="checkbox"/> Sealed File Motion (1:30) <input type="checkbox"/> Parenting Plan Modification (threshold) (1:30) Must confirm at 296-9340 (LR 94.04). Deliver Commissioner's copies to W292. SEE BACK OF THIS PAGE FOR IMPORTANT NOTICE!</p>	<p>RALJ READINESS CALENDAR - Seattle <input type="checkbox"/> Fridays only (1:00 p.m.) PARTIES: The Seattle Courthouse address is 516 Third Ave, Seattle, WA 98104. You must bring this document and appear as scheduled. <input type="checkbox"/> Room: [] See Posted Signs</p>
<p>CHIEF CIVIL DEPARTMENT - Seattle (Please report to E917 for assignment.) <input type="checkbox"/> Extraordinary Writs (Show Cause Hearing) 1:30 p.m. Tues/Wed E942 <input type="checkbox"/> Supplemental Proceedings 1:30 p.m. Tues/Wed <input type="checkbox"/> Contested Motion to Disburse 1:30 p.m. Tues/Wed <input type="checkbox"/> Public Use and Necessity Hearing 1:30 p.m. Tuesday Non-Assigned Cases: <input type="checkbox"/> Non-Dispositive Motions M-F (w/o oral argument) <input type="checkbox"/> Dispositive Motions 1:30 p.m. Tues/Wed <input type="checkbox"/> Revisions 1:30 p.m. Tues/Wed <input type="checkbox"/> DOL Stays 1:30 p.m. Tues/Wed <input type="checkbox"/> Certificates of Rehabilitation (Adoptions & Employment) 1:30 p.m. Tues/Wed Deliver working copies to Room C203. In upper right corner write <input type="checkbox"/> Chief Civil Dept <input type="checkbox"/> and the date of hearing on working copies. CHIEF CRIMINAL DEPARTMENT - Seattle in E1201 <input type="checkbox"/> Bond Forfeiture 3:15 p.m. 2nd Thurs of each month <input type="checkbox"/> Certificates of Rehabilitation-Weapon Possession (Convictions from Limited Jurisdiction Courts) 3:30 p.m. 1st Tues of each month</p>	<p>To be completed by party filing this notice: Sign: _sent electronically, signature on file Print/Type name: Elizabeth A. Campbell Address: 3826 24th Avenue W. City, State, Zip: Seattle, WA 98199 Pro Se Telephone: 206-769-8459 Date: March 29, 2010</p>

Party requesting hearing must file motion & affidavits separately along with this notice. List names, addresses and telephone numbers of all parties requiring notice (including GAL) on reverse side. Serve a copy of this notice of hearing, with motion documents, on all parties. The original of this notice must be filed at the Clerk's Office not less than six court days prior to the requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance), Family Law Motions (14 days), Revision of Commissioner's Rulings (6 court days), and RALJCalendar (5 court days).

**NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES
REQUIRING NOTICE:**

Deborah Cade, Attorney General's Office
State of Washington
7141 Clearwater Drive SW
Tumwater WA 98501

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HONORABLE RICHARD EADIE

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

SEATTLE CITIZENS AGAINST THE)
TUNNEL and ELIZABETH A. CAMPBELL,)
Plaintiffs,)

NO. 09-2-36276-9SEA
(CONSOLIDATED WITH
NO. 09-2-40939-1SEA)

vs.)

WASHINGTON STATE DEPARTMENT OF)
TRANSPORTATION; PAULA HAMMOND,)
IN HER OFFICIAL CAPACITY AS)
SECRETARY OF THE WASHINGTON)
STATE DEPARTMENT OF)
TRANSPORTATION,)

MOTION AND DECLARATION OF
ELIZABETH A. CAMPBELL FOR
ISSUANCE OF SUBPOENAS DUCES
TECUM

Defendants.)

ELIZABETH A. CAMPBELL,)

Plaintiff,)

vs.)

CITY OF SEATTLE, a municipal corporation,)
Defendant.)

MOTION

1. The Defendant moves the court for issuance of a subpoena duces tecum to each
of the

1
2 following persons:

3 Christine Gregoire

David Dye

4 Ali Amiri

Margaret Haugen

5 John White

Robert Powers

6 for depositions on April 19, 2010, at Ballard Elks - Meeting Hall, 6411 Seaview Avenue
7 North West, Seattle, Washington, at the following times:

8 Christine Gregoire April 13, 2010 @ 10:30 AM

9 David Dye April 13, 2010 @ 11:45 AM

10 John White April 13, 2010 @ 2:00 PM

11 Ali Amiri April 15, 2010 @ 10:30 AM

12 Margaret Haugen April 15, 2010 @ 11:45 AM

13 Robert Powers April 15, 2010 @ 2:00 PM

14 EVIDENCE RELIED UPON

15 This motion is based on the case record in the above captioned cases, and the
16 Plaintiff's Declaration attached hereto dated March 29, 2010.

17
18 Respectfully submitted this 29th Day of March, 2010.

19
20 Elizabeth A.
21 Campbell

Digitally signed by Elizabeth A. Campbell
DN: cn=Elizabeth A. Campbell, o, ou,
email=campbell.beth@comcast.net, c=US
Date: 2010.03.29 16:37:05 -07'00'

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23 Elizabeth A. Campbell

24 Pro Se
25 3826 24th Avenue W.
26 Seattle, WA 98199

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DECLARATION

I, Elizabeth Campbell, declare as follows:

1. I am the Plaintiff in this action.

2. It has taken me several weeks to “come up to speed” from a discovery standpoint in this case one, because I was represented by an attorney who was going to conduct these depositions but did not, and two, I have been waiting a considerable time for Defendants WSDOT and the City to provide me information for this case before the court, through the public disclosure process under RCW 42.56.

I am respectful and mindful of the Court’s prior allowance to the Defendants, its order of March 12, 2010 directing that they would not have to provide any kind of discovery materials to the Plaintiffs. However, I did mention to the Court that I was not concerned as I had pending public disclosure requests to the City of Seattle (“City”) and to the Washington State Department of Transportation (“WSDOT”) regarding the progress of the Alaskan Way Viaduct and Seawall Replacement Program and the environmental reviews that are being conducted in relation to it. My remarks to the Court were that the Defendants would still provide before the hearing on April 30, 2009, the information related to this case that I have requested both last year and this year.

Such has not been the case however. Since the hearing on March 12th, as of even date I have received maybe 25 pages of miscellaneous emails from WSDOT, the subjects of which were not entirely related to this case. The rest of the materials requested (see attached Exhibit A) remain undisclosed, neither WSDOT nor the City has provided the documents requested, and in fact has indicated they will not provide them for several months.

3. This failure by WSDOT and the City to timely supply information, previously to my attorney, and now to me, is essentially a refusal to disclose in contravention of RCW 42.56, and it has essentially created an information embargo in this matter.

1 What documents I have received pursuant to my requests, even before the present
2 requests, the information in them is months old, therefore I am constantly and presently at a
3 disadvantage in this case in comparison to the Defendants. The Defendants who control all
4 the information about their activities in the Alaskan Way Viaduct project, they know what
5 is going on in the present with the project while I do not, they will get to come to court
6 fully prepared, armed with their exclusive internal knowledge, which puts me at a
7 disadvantage.

8 4. Between March 15th and March 22nd I made additional attempts to informally
9 cajole information from the Defendants. During the week of March 15th I spoke with Fred
10 Chang at WSDOT, asking (not the first time) about speeding WSDOT's public disclosure
11 releases to me up, and I spoke with Michael Canavan of the Federal Highway
12 Administration (the co-lead agency with WSDOT in the preparation of the environmental
13 reviews) about getting information requested from WSDOT. They both stated they would
14 work on my requests.

15 On March 22nd I sent a follow-up letter to both individuals and to counsel for the
16 Defendants, (attached hereto as Exhibit B), reiterating my request, describing the pattern of
17 failing to timely respond to my public disclosure requests. I included a detailed recap of my
18 requests (see attached Exhibit C), when WSDOT had responded and how it had responded,
19 as well as included the dates that I had made entreaties to WSDOT to timely respond to my
20 requests, to accelerate the pace of its releases (September 23, 2009, September 28, 2009,
21 November 25, 2009, December 11, 2009, December 31, 2009, and February 4, 2010); I set
22 out the problem:

23 "...on the one hand in the state court case WSDOT has sought a stay on having to
24 produce discovery materials, while on the other failing to produce documents that
25 since early 2009 I have sought through the PDR process. What in essence is occurring
26 is an embargo on information, and what information does come through is not timely
27 in terms of its age. One way or the other I have a right to the information that I need
28

1 for the case; the idea that I do not have a right to discovery with a pending motion to
2 oppose is untenable.

3 This is an informal request to WSDOT and the FHWA to provide the documents
4 requested in item #1 and a solution to item #2 in the next two days [by March , that
5 addresses these issues, and to arrange for the deposition of the persons that are
6 identified in the attached motion for subpoenas.”

7 WSDOT/Fred Chang responded the next day to my demand letter by asking me,
8 “Are you making a public records request”, for documents which I had already made
9 requests for months ago, and the FHWA/Michael Canavan responded on March 25th stating
10 that it was his understanding WSDOT had agreed to provide me with information; I wrote
11 back that same day to the FHWA/Michael Canavan, asked who I should talk to; as of even
12 date (March 29th) I have not received a response from him or WSDOT.

13 3. Accordingly, I am requesting the court to approve my motion for issuance of
14 subpoenas duces tecums to depose each of the following persons for oral examination on
15 dates of April 13, 2010 and April 15, 2010: Christine Gregoire (Governor, State of
16 Washington), David Dye (Deputy Secretary, WSDOT), John White (Alaskan Way Viaduct
17 and Seawall Replacement Program Director), Ali Amiri (PE, WSDOT), Margaret Haugen
18 (State Senator, Transportation Committee Chair), and Robert Powers (Deputy Director,
19 Seattle Department of Transportation). The foregoing individuals are all persons who have
20 knowledge of the matter pending before the court, the Defendants’ motion to dismiss; they
21 can provide some of the information which I was seeking through my public disclosure
22 requests to both the City and WSDOT.

23 4. The Defendants’ motion to dismiss is predicated on their claim that they have
24 not made a final decision to proceed with a bored tunnel to replace the Alaskan Way
25 Viaduct, or in the alternative, that they have not, are not taking final actions. The above
26 individuals have direct knowledge of whether that is true or not.
27
28

1 I declare under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct.

3
4 DATED this 29th Day of March 2010 in Seattle, Washington.

5
6 Elizabeth A.
7 Campbell

Digitally signed by Elizabeth A. Campbell
DN: cn=Elizabeth A. Campbell, o, ou,
email=campbell.beth@comcast.net, c=US
Date: 2010.03.29 16:36:37 -0700'

8 Elizabeth A. Campbell
9 Pro Se
10 3826 24th Avenue W.
11 Seattle, WA 98199

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DECLARATION OF SERVICE

I declare that a true and correct copy of the following documents:

1. Note for Motion
2. MOTION AND DECLARATION OF ELIZABETH A. CAMPBELL FOR ISSUANCE OF SUBPOENAS DUCES TECUM and Exhibits.
3. Proposed Order
3. Proposed Subpoenas Duce Tecum
3. Declaration of Service.

were served on the following as indicated below:

Amanda Phily, Attorney General's Office
Deborah Cade, Attorney General's Office
State of Washington
7141 Clearwater Drive SW
Tumwater WA 98501

Via Electronic Filing and Email Delivery

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 29th Day of March 2010 in Seattle, Washington.

Elizabeth A. Campbell

Digitally signed by Elizabeth A. Campbell
DN: cn=Elizabeth A. Campbell, o, ou,
email=campbell.beth@comcast.net, c=US
Date: 2010.03.29 16:36:00 -07'00'

Elizabeth A. Campbell, Plaintiff

Pro Se
3826 24th Avenue W.
Seattle, WA 98199

206-769-8459

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EXHIBIT A

*** November 20, 2009 09-1336 NO DISCLOSURES**

1. Documents, including but not limited to, those related to any licenses, permits, or other federal, state, city, or county approvals (legislative or agency issued) sought by WSDOT, or required for any aspect of the deep bored tunnel portion of the Alaskan Way Viaduct and Seawall Replacement Program. For example, if a license is required to dispose of the spoils for the tunnel, or a permit, or other approval required, the documents which are related to that permitting device; application, engineering material, letters of inquiry, studies, legislation etc. (please see definition of “documents”). Possible entities might include any city, county, or state agencies or departments, a private person, company, corporation, or regional authority/quasi-government, or even a tribe. Also requested is any master list, schedule, or other inventory document that is tracking such permitting devices, from whatever source within or without of WSDOT, public or private, including but not limited Department of Ecology, Department of Natural Resources and/or the Governor’s Office, City of Seattle, King County.
2. Documents related to the transition from a 54’ diameter bore to a 56’ diameter bore for the tunnel – from whatever source within or without of WSDOT, public or private, including but not limited Department of Ecology, Department of Natural Resources and/or the Governor’s Office, City of Seattle, King County.
3. Documents related to three highway design deviations sought by WSDOT from FHWA in April, 2009, the responses to the requests and other inter-governmental communications about those, then a copy of any further design deviations being sought by WSDOT.
4. A copy of all public disclosure requests made to WSDOT from September 1, 2008 to even date, along with WSDOT’s responses to those – do not include the documents that were provided, only the documents which transmit the request, respond to the request, reply to the response.
5. Any documents related to communications between any person representing the following businesses and WSDOT or the Governor’s Office:
 - a. Graham & Dunn PC
 - b. Vulcan Inc.

1 *** January 25, 2010 10-0143 NO DISCLOSURES**

- 2 1. Documents related to the inception of deliberations, questions or decision(s) about
3 pursuing central waterfront redevelopment planning activity, including but not limited to
4 those documents related to any meetings, discussions, informational materials created and
5 disseminated, all documents, related to the following activities or actions:
- 6 a. 2000 Ordinance 120045 Relating to the Department of Parks and Recreation;
7 authorizing the Superintendent to proceed with consideration of planning options
8 for the development of a new aquarium facility and waterfront park in the area
9 covered by the Central Waterfront Master Plan
 - 10 b. 2003 “Central Waterfront Plan Background Report Precedent Study”
 - 11 c. 2003 “Blue Ring, Seattle's Open Space Strategy for the Center City” that will
12 “serve as the critical guide to the numerous plans currently underway downtown,
13 and the many more sure to come in the next 100 years. Among others, the Alaska
14 Way Viaduct replacement”.
 - 15 d. 2004 Resolution 30664 Adopting Principles for Development of a Central
16 Waterfront Plan.
 - 17 e. 2004 Resolution 30717 Relating to the Central Waterfront Master Plan; amending
18 the Central Waterfront Master Plan - Portal to the Pacific to reconfigure the site
19 plan
 - 20 f. 2005 “Administering Financing & Implementing Seattle’s Waterfront Vision”
21 report written concurrently with the Draft Central Waterfront Concept Plan; report
22 relating to a strategic effort for decision makers as they begin codifying the
23 process and administrative structure for managing and implementing Seattle’s
24 Central Waterfront plan; including how to ensure that “with removal, of the
25 Alaska Way Viaduct, properties along the city’s western edge will become highly
26 desirable”.
 - 27 g. 2005 Resolution 30724 Adopting Guiding Principles for decisions related to the
28 Alaskan Way Viaduct and Seawall Project.
 - e. 2006 Ordinance 122247 Relating to the central waterfront, declaring that an aerial
highway along the central waterfront is discouraged by adopted City of Seattle
("City") policies, stating that construction of an aerial highway structure is
inconsistent with current use and height regulations, and stating the City's intent
to amend existing regulations and policies to further clarify that an aerial highway
structure in the central waterfront area is inconsistent with the City's
Comprehensive Plan.
 - f. 2006 Final Environmental Impact Statement for the Central Waterfront Master
Parks Plan
 - g. 2006 US Army Corps of Engineers (USACE) Environmental Assessment
pursuant to expired NOI
 - e. 2006 USACE Scoping Report. Elliott Bay Seawall, WA General Investigation
(Alaskan Way Seawall Feasibility Study Environmental Impact Statement)
pursuant to expired NOI
 - f. 2007 Ordinance 122406 Relating to the development of a Mobility Plan to replace
the central waterfront portion of the Alaskan Way Viaduct

- g. 2009 Seattle Pedestrian Plan
 - h. 2009 Ordinance 123142 Establishing Central Waterfront Partnerships Committee – redevelopment and master use planning related to AWVSRP.
 - i. 2009 Ordinance 123212 Amending Ordinance 123142 to alter the composition of the Central Waterfront Partnerships Committee.
 - j. 2009 \$225 Million appropriated for seawall replacement and SDOT issues Request for Qualifications for design of seawall; no SEPA, NEPA, or other environmental review precedes.
2. Any documents between the City of Seattle (from any of the above named City of Seattle agencies (or from any contractor, consultant, or private party that has been hired or enlisted by the City (at any time) to convey such information) to the State of Washington Department of Transportation (including to any contractor, consultant, or private party that has been enlisted by the State (at any time) to receive such documents), or the office of Governor, and in the converse, any document from those same State sources to the same above named/defined City sources/recipients, about items a. through j. as set out in above in section 1. – relating to the inception, coordinating, strategizing, notifications, implementation, or any other City activity/activities related to items a. through j., as they relate to the AWVSRP.
3. Documents, all concerning the AWVSR Project or Program, all related to proposing, implementing, or pursuing City of Seattle, State of Washington, or USACE legislative strategies, legislative goals, legislative actions, on behalf of the City, or the above named City departments/agencies, related to the use of any language or narrative to use in any Regulation, Resolution, Bill, or Ordinance or Statute, related to any strategy for pursuing the adoption of a Regulation, Resolution, Bill, Statute or Ordinance, any records/documents related to any discussions, meetings, memos or studies or other documents that are from the post-legislation adoption time period of a Regulation, Resolution, Bill, Ordinance, or Statute, the time following any of those legislative acts or no legislative action, and including but not limited to the implementation of legislation, or efforts by the following entities to attain “public buy-in” of any aspect of the AWVSRP, the administration, funding of these legislative or public buy-in vehicles, by the City of Seattle/WSDOT/USACE or through the City’s, WSDOT’s, or USACE’s delegation of any aspect of those same activities – to any contractor, consultant, or any private party that has been enlisted by them to participate in such activity.
4. All documents related to the strategies, methods, or plans employed or to be employed by the US Army Corps of Engineers or the City of Seattle to prepare for or acquire any permit (federal, state, or local), or to prepare for or conduct an environmental review of the AWVSRP project, Central Waterfront redevelopment project, or the Seawall replacement project, all documents related to any public participation plans, plans for public/stakeholder buy-in, intergovernmental buy-in/legislative actions to facilitate or eliminate permitting or environmental review of the AWVSRP, Central Waterfront redevelopment, or Seawall projects, documents for the projects’ permitting or environmental review related to USACE or COS messaging - all prepared or

1 disseminated by either the Corps, WSDOT, or the City – the time period covered by this
2 request is from 2000 forward to even date, January 25, 2010.

- 3 5. All permit applications or pre-application documents received or prepared by either the
4 USACE, COS, or WSDOT, received by either the USACE or COS from whatever
5 source, all pre-application/post-application permit or environmental review related
6 communications received by USACE or the COS from any applicant or lead agency
7 regarding any permit or environmental review effort; all related to the AWVSRP, Central
8 Waterfront redevelopment, or seawall replacement.
- 9 6. All documents related to the RFQ issued for the Central Waterfront redevelopment,
10 including but not limited to the deliberations leading to the decision to undertake the
11 RFQ, to implement the RFQ, and to administer the RFQ process; any communications
12 with any potential or actual recipient or responder to the RFQ, any documents related to
13 disseminating the RFQ to potential applicants, other parties; any communications
14 regarding the RFQ, to or from WSDOT or the USACE, or interdepartmentally (COS).
- 15 7. To the City of Seattle only: All documents related to the selection, solicitation, and
16 empanelling of the Central Waterfront Partners Committee – the composition of the
17 committee, who was considered for the committee, who was not, who was asked to sit on
18 the committee, all communications with any committee member, accepted or not
19 accepted, any non-disclosure or other agreements executed between the COS and a/the
20 committee members, any instructions or other guidelines issued to the committee
21 members regarding expected behavior, participatory activity on theirs or the City's part,
22 qualifications as to what they will be or are asked to do or not do. Any contract or other
23 agreement with any consultant or contract hired by the City to participate or manage any
24 aspect of the Central Waterfront redevelopment project, the seawall replacement, the
25 RFQ/RFP process, the Central Waterfront Partners Committee activity; including but not
26 limited to, any communication with them, any study, report, memo, or other document
27 that relates to their participation in any of those four previously described "projects" – to
28 or from the contractor(s)/consultant(s), from January 1, 2004 to even date, January 25,
2010.

21 *** January 26, 2010 10-0158 NO DISCLOSURES**

- 22 1. Documents related to the inception of deliberations, questions or decision(s) about risk
23 events associated with the bored tunnel project including but not limited to those
24 documents related to any meetings, discussions, informational materials created and
25 disseminated about those risk events, and all documents that provide information about
26 how the probabilities used in the December 9, 2009 520/AWV Quarterly Report were
27 arrived out, the models and data used to establish the probabilities and the associated
28 dollar ranges they represent, along with documents that enumerate all the possible risk
events that may be associated with a deep bored tunnel, and a copy of all the successive

1 drafts of the Risk Register that was part of the December 9th report (see attached). Time
2 period covered is all of 2009.

- 3 2. AWVSRP project transportation discipline reports for the years 2008 and 2009.
- 4
- 5 3. According to WSDOT information, one of the strategies it employs to ensure projects are
6 being delivered on time and within budget include “Providing early payment provisions
7 (“materials on hand”) so contractors can “lock in” materials prices near to the time they
8 bid so as to minimize the inflation risk of their bids. This request is for any document
9 which evidences an effort by WSDOT to “lock in” prices by acquiring any materials,
10 services, or other components of the deep bored tunnel. Further request is made for all
11 WSDOT communications related to the manufacture and purchase of a tunnel boring
12 machine, to and from any TBM manufacturer, or to and from any manufacturer’s
13 representative, agents of any kind or associates of the same.
- 14 4. All documents, writings, communications of every kind between WSDOT and the
15 following persons - John Reilly , Harvey Parker, Con Phelps, Bruce Agnew (or any
16 person connected with the Discovery Institute/Cascadia), Dick/Richard Robbins, Kern
17 Jacobsen, Casper Paludan-Müller, Gerhard Sauer, and from the following firms, Arup,
18 Sauer, from January 1, 2005 to even date.

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*** January 27, 2010 10-0164 NO DISCLOSURES**

1. Documents/contract(s) related to the employment of Sally Arany, including but not
limited to as a “Senior Administrative Assistant”, for the time period before, during, and
after holding that position.
2. A copy of all emails, letters, and documents produced by or sent to Sally Arany for the
time period covering since her employment on the AWVSRP to even date.
3. A copy of all emails, letters, and documents produced by or sent to and received by John
White for the time period covering January 1, 2008 to even date.
4. A copy of all emails, letters, and any other communications between WSDOT and the
Federal Highway Administration, regarding any design deviations for the AWVSRP deep
bored tunnel, regarding the NEPA or SEPA environmental reviews for any
aspect/element of the AWVSRP, and regarding any litigation or legal matters related to
the AWVSRP, between January 1, 2007 to even date.

1 *** January 28, 2010 10-0173 NO DISCLOSURES**

- 2 1. All documents in the possession of the respective addressees herein, related to any audit,
3 study, report, review, opinion, or other approval or oversight activity undertaken by them,
4 that establishes an opinion or conclusion of any kind about the financial/economic
5 viability, truthfulness, trustworthiness, credibility, or veracity of any of the
6 financial/economic conclusions or representations (cost/revenue/economic) made about
7 the AWVSRP as issued by either WSDOT, the Auditor’s office, or the Treasurer’s office,
8 to any party/person/entity, or retained internally by them. Time period covered:
9 September 1, 2006 to even date.
- 10 2. A copy of all communications of any panel member of the Expert Review Panel
11 convened in 2006 to any party, or from any party to the panel members, and a copy of
12 any legal agreements or other binding contract(s) that were required from any panel
13 member as a pre-requisite to or condition of their serving on the Expert Review Panel.
14 Time period covered: September 1, 2006 to even date.
- 15 3. A copy of all communications between WSDOT, the State Treasurer’s office, related to
16 any financing instrument/bond issue proposed, pending, or sold, that will provide/has
17 provided funds for the AWVSRP; and a copy of all communications between those same
18 parties and any potential/existing: bond counsels, bond underwriters (or broker(s)),
19 financial advisors, or other persons enlisted to sell, promote, or otherwise facilitate any
20 type of financing for the AWVSRP. Time period covered: January 1, 2007 to even date.
- 21 4. A copy of all bond issue statements, proposed, pending, or sold that will provide/has
22 provided funds for the AWVSRP. Time period covered: January 1, 2007 to even date.

23 *** January 28, 2010 10-0174 NO DISCLOSURES**

- 24 1. According to the “SR 99 Alaskan Way Viaduct Replacement Updated Cost and Tolling
25 Summary Report to the Washington State Legislature”, issued by WSDOT, “The Office
26 of the State Treasurer’s financial advisors applied a financial model to determine the toll
27 funding contribution that could be supported by borrowing against future net toll
28 revenues for each of the five scenarios.” A copy of all documents related to the Office of
the State Treasurer providing the alluded to assistance, input, and other work product for
the above report and for the report that was issued by WSDOT prior to this recent report
“issued on or about January 19, 2010”; according to the title of the report – it is an
“updated cost and tolling summary report”, implying that there was a prior report or
reports to the legislature.
2. A copy of all communications between WSDOT and the treasurer’s office regarding the
funding, financing or tolling for the AWVSRP; from January 1, 2007 to even date.
3. A copy of all communications between the following parties, WSDOT, the governor’s
office, the treasurer’s office, or any federal or state legislative office or its elected

1 official, either senate or house at either level, regarding the funding, financing or tolling
2 for the AWVSRP, the reports set out above, or the economic impacts, positive or
3 negative of the AWVSRP; from January 1, 2007 to even date.

- 4 4. A copy of all contracts, change orders, or work orders for any consultant, contractor, or
5 other entity employed or enlisted by WSDOT to prepare any funding, financing or tolling
6 report, study, review, or public outreach related to the same. Time period covered:
7 January 1, 2007 to even date.
- 8 5. A copy of all polls, surveys, public opinion inquiries or other device intended to inform
9 the recipient of such of the public's opinion, that has been shared with or commissioned
10 by WSDOT or the Governor's office, by any person or entity, all related to *any aspect* of
11 the AWVSRP. Time period covered: July 1, 2006 to even date.

12 * **February 18, 2010 10-0292 NO DISCLOSURES**

- 13 1. On October 28, 2008 John White wrote in an email to Helena Kennedy Smith and
14 Theresa Greco, "Subject: Bored Tunnel tolling analysis We have concurrence on the
15 need to advance this..." Documents which identify, which set out the source or the
16 statements, or the individuals, or the process of deliberation, or the series of
17 communications, or directive(s) of any kind that led to Mr. White's conclusion and
18 statement in this email.
- 19 2. Multiple WSDOT emails between mid-summer 2008 on through to January 13, 2009
20 indicate that WSDOT consultants and employees were extensively involved in preparing
21 a range of materials that would bolster the case for a bored tunnel to replace the Viaduct.
22 They indicate that at a certain point in mid-December 2008, that a decision was made
23 within the State structure that a bored tunnel was the de-facto choice to replace the
24 Alaskan Way Viaduct – *this despite* – a year's long AWV Stakeholders Advisory
25 Committee process that had resulted in two other alternatives being the "choices", an
26 elevated structure and a hybrid surface option, that were presented to and accepted by the
27 Governor, the Mayor of Seattle, and the King County Executive as their choices – at a
28 very public meeting/media event. These emails also show that despite a certain
settlement of the question of what replacement options were going to be considered,
WSDOT retainers of every kind, with the aid of outside interests, civic and tunneling
industry, were assembling estimating, tolling/revenue forecasts, financial scenarios, basic
engineering and design information, and public relations materials. In addition they were
writing back and forth, holding meetings, all about this bored tunnel alternative they
wanted instead.

It is clear from the reviewed public disclosure materials that the Governor was one of the
first targets that all this effort by "WSDOT" was intended for. Reference is made to
David Dye needing all the materials that were being created and assembled for a meeting
with her. Thereafter the materials were disseminated to other parties. None of this
activity was disclosed to the public – it remained, with the exception of a cadre of

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1 “outsider insiders”, unaware that a deep bored tunnel was even being considered. In fact
2 it had been informed through a series of public information releases by WSDOT and
3 SDOT that a deep bored tunnel was too expensive and not in active competition with the
4 two alternatives that were said to be the final choices.

5 This request is for the documents which identify, which set out the source or statements,
6 or the individuals, or the process of deliberation, or the series of communications, or
7 directive(s) of any kind that directed WSDOT’s efforts throughout the months October,
8 November and December 2008 that a deep bored tunnel option was to be “pursued” –
9 that WSDOT resources of every kind were to be expended, not only post haste, but on as
10 large a scale as necessary to achieve the outcome, intentional or not, that a deep bored
11 tunnel would become the sole choice, the front runner choice, the preferred alternative for
12 replacing the Viaduct.

13 The documents I am requesting include documents from any source within Washington
14 State’s government, including the governor’s office or the secretary of transportation’s
15 office specifically that establish what persons directed WSDOT’s bored tunnel related
16 activities to be undertaken – especially those between June 2008 and January 13, 2009.
17 Someone gave directive(s) that this WSDOT activity regarding the bored tunnel be
18 pursued, someone issued even initial or successive directives that the work within
19 WSDOT start/continue, that WSDOT consultants should perform work related to the
20 bored tunnel pursuant to certain contracts that they held, that WSDOT employees should
21 do the same. There are documents that state why these things in regards to the bored
22 tunnel were being done, who was asking to use the resources of the State to do all of this.

23 The documents that substantiate the foregoing conclusions are being requested. It is
24 settled knowledge that WSDOT consultants for example are directed to do certain
25 activities under a specific contract, that they are told what the deliverables are – the same
26 for WSDOT employees; so that all the activities being carried out regarding the bored
27 tunnel were not ad hoc, they were deliberate, and in general conformance with
28 established lines of command and control within and without of WSDOT for carrying out
executive officials, elected and appointed directives. All those documents that indicate
these things are requested.

In addition the following documents are being requested:

3. All emails for 2008 and 2009 received or sent from the WSDOT email account assigned to Amy Grotefendt.
4. All communications between December 14, 2008 and January 13, 2010 that relate to any meeting proposed and subsequently occurring between anyone associated with WSDOT and any person in the governor’s office, including the Governor – requested are any pre/during meeting notes, and any communications/notes prepared after the meeting(s) about the meeting(s) and held or disseminated by the preparer of such documents.

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Requests for Production or Disclosure and Reevaluation Monday, **March 22, 2010**

Materials 1:02:11 PM

From: campbell.beth@comcast.net

To: ChangF@wsdot.wa.gov; DeborahC@ATG.WA.GOV; Michael.Canavan@fhwa.dot.gov

Attachments: Motion4Subpoenas03-22-10.pdf (26.4KB)

WSDOTPDRReview.xlsx (13.9KB)

PDRRequestsLog03-22-10.pdf (323.6KB)

20090416-Viaduct-Donegan.pdf (12.8KB)

20090713-Dye-Donegan.pdf (67KB)

Dear Parties,

Please see the attached - I have recapped all of the requests from May 2009 to date. Out of 18 requests, 4 were completed, 6 are partially fulfilled, that leaves 8 with nothing done on them.

Some observations -

Looking at the consecutive numbers it becomes clear that there are intervening requests being made, and there are in some of the disclosed emails I have received, indications that numerous requests have been getting completed prior to mine being fulfilled. The thing is - I am told that the PDR's I have out are to be filled in the order of their receipt, however, what this means is that other PDR's are getting filled ahead of mine.

I also noticed when Bob Donegan wants something direct from WSDOT, he gets it - see representative attached emails. He doesn't even have to make a PDR request *and* WSDOT even custom makes presentations for his use; question - what task contract is that in, which project, and what is the budgeted amount for providing lobbying materials to the public? How does one gain access to that program?

According to a February 26, 2010 letter from the FHWA, "there have been two environmental reevaluations performed to date for this project as a result of modifications to design". On Friday I spoke with Mike Canavan from FHWA and he thought that WSDOT would have the most readily accessible copies of the documentation associated with the two reevaluations.

1. There is a federal lawsuit pending regarding the segmentation and other irregularities associated with the H2K project. Phase 2 bids are set to be opened at the end of April. In order to determine in part whether to pursue an injunction to stop the opening of the bids, I would like to review the materials for the two reevaluations by Wednesday, March 24th, in Seattle.

2. In addition, on the one hand in the state court case WSDOT has sought a stay on having to produce discovery materials, while on the other failing to produce documents

Exhibit B

through the PDR process. What in essence is occurring is an embargo on information, and what information does come through is not timely in terms of its age. One way or the other I have a right to the information that I need for the case; the idea that I do not have a right to discovery with a pending motion to oppose is untenable.

This is an informal request to WSDOT and the FHWA to provide the documents requested in item #1 and a solution to item #2 in the next two days, that addresses these issues, and to arrange for the deposition of the persons that are identified in the attached motion for subpoenas.

I look forward to your timely response about this matter.

Thank you in advance for your time and consideration,

Elizabeth Campbell

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2. In addition, on the one hand in the state court case WSDOT has sought a stay on having to produce discovery materials, while on the other failing to produce documents through the PDR process. What in essence is occurring is an embargo on information, and what information does come through is not timely in terms of its age. One way or the other I have a right to the information that I need for the case; the idea that I do not have a right to discovery with a pending motion to oppose is untenable.

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Thank you in advance for your time and consideration,

Elizabeth Campbell

*** eSafe1 scanned this email for malicious content ***

*** IMPORTANT: Do not open attachments from unrecognized senders ***

DISPOSITION OF WSDOT PUBLIC DISCLOSURES REQUESTS
WSDOT Acknowledgement Letter Log

WSDOT #	Date of WSDOT Response	# of Days will Respond In
09-0943		30
09-0545	6/19/2009	30
09-1031	9/16/2009	30
09-1077	9/28/2009	30
09-1079	9/28/2009	30
09-1082	9/28/2009	30
09-1290	11/13/2009	30
09-1034 or 09-1304	11/17/2009	30
09-1336	11/23/2009	30
10-0143	2/1/2010	150-180
10-0158	2/2/2010	150-180
10-0164	2/2/2010	150-180
10-0173	2/4/2010	150-180
10-0174	2/4/2010	150-180
10-0183	2/5/2010	180
10-0267	2/19/2010	180
10-0275	2/23/2010	180
10-0292	2/24/2010	180

DISPOSITION OF WSDOT PUBLIC DISCLOSURES REQUESTS

Dates		Request #'s		Disposition					
EAC Request	WSDOT Response	Other Agency Response	WSDOT #	Other Agency #	Whole	Partial	Partial	Partial	Closed
1	5/7/2009		09-0943		5/29/2009				5/29/2009
2	5/19/2009		09-0545		6/19/2009	7/17/2009		7/17/2009	7/17/2009
3	5/19/2009		09-1031					10/15/2009	10/15/2009
4	9/23/2009	Gov. Office 10/05/2009	09-1077		10/19/2009				
5	9/23/2009		09-1079		10/19/2009	2/5/2010			
	9/28/2009								
6	9/23/2009		09-1082		10/28/2009	10/29/2009		10/28/2009	10/29/2009
7	11/8/2009		09-1290		12/30/2009	2/8/2010	2/23/2010		

COLOR KEY

- COMPLETED
- PARTIALLY FILLED
- PROMPT FROM EAC TO COMPLY
- NO DISCLOSURE

DISPOSITION OF WSDOT PUBLIC DISCLOSURES REQUESTS

8	11/16/2009	11/17/2009	Gov. Office and AG's Office	09- 1034 or 09- 1304 09- 1336	1/13/2010 2/24/2010
9	11/20/2009 11/25/2009	11/23/2009			
	12/11/2009 12/31/2009	12/11/2009			
10	1/25/2010	2/1/2010		10- 0143	
11	1/26/2010	2/2/2010		10- 0158	
12	1/27/2010	2/2/2010		10- 0164	
13	1/28/2010	2/4/2010	Auditor & Treasurer	10- 0173	
14	1/28/2010	2/4/2010	Treasurer & Governor's Office	10- 0174	
15	1/29/2010 2/4/2010	2/5/2010		10- 0183	3/10/2010
16	2/14/2010	2/19/2010		10- 0267	2/19/2010
17	2/19/2010	2/23/2010		10- 0275	
18	2/18/2010	2/24/2010		10- 0292	

COLOR
KEY

COMPLETED

PARTIALLY FILLED

PROMPT FROM EACTO.COMPLY

NO DISCLOSURE