



TO: Mr. Bob Parsons  
MDOT

3 December 2008

BY: FAX AND REGULAR MAIL

Subject: Comment Final EIS

Mr. Parsons:

There are fundamental faults with this documents which were in fact present in the draft copy of the report, again as before *serious issues and facts* are being ignored to push forth this project irrespective of problems and facts which are clear to any one.

1)The Need For A Bridge:

The facts and figures from all sources have shown a down turn in traffic over the years, MDOT ignores these factors, further MDOT own projection show that traffic will not reach gridlock for some time, accepting the facts that any bridge will take time to build and the need for planning there is time to build this bridge at a latter date, MDOT also has ignored *fundamental issues* relating to trade based upon NAFTA and the shift of jobs relating to Automobile production and components based both upon current and projected levels and changes to UAW contracts made in 2007 which makes some areas of production in Canada uncompetitive.

2)An Option Being Built:

The Ambassador Bridge is planning to build a second span, using private funds aside from upgrades government is making under the so called "Gateway Project", the fact that the new bridge increases capacity by fifty percent further reduces the projected level of traffic that any "second crossing" would have, further reducing the second span from recovering the cost of construction.

3)The Real Cause Of Congestions:

The Gateway project provides a *direct* link from the bridge to the interstate, Windsor refused the plan present in 2005, the so called "Ring Road", Windsor has *repeated* refused any and all solution to traffic on Huron Church which would improve the flow of traffic, its reasons are more or less vague and further dictate what is more over "acceptable" to Windsor to the other alleged partners.

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4) Concerned About The True Cost Of The Project:

There have been repeated and detailed printed statement about the true cost of this project, many have said that MDOT has "low balled" the figures, the true cost of any project of this size and scope can not be projected to the last cent, but issues have been brought forth that there is a serious gap between the figures present.

5) Funding Issues:

The current states of the credit market are well known, there have also been again any number of printed statement that FDOT will not provide funds in either the 2010 or 2011 Federal Budget, there is to my knowledge ever been present a detail plan of who will at the end of day pay for this project.

6) NAFTA:

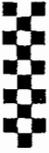
NAFTA under the current in coming admisnstration may be altered, the true amount of any alternations are unknown, yet this project assumed a "business as usual" in the projected traffic which may make any bridge a "White Elephant" to the people of this State.

7) The People In The Target Area:

We have maintained our homes over the period of this study, we have welcome DRIC and most of us have accepted the fact that we will have to go at some point, the so-called "No Build Option" which is presented lacks any funding, is at odd with the current alleged "Master Plan" of the City Of Detroit and amount to pipe dream in the view of a number of persons, I addressed that issue on 27 October 2007 and again in May of this year, in June there was no resolution of any compensation for maintaining these home in the face of this project.

8) MDOT Conduct:

In recent months MDOT personal have without either verbal or any written authorization been found on private property, including ours, in addition comments have been made by person "claiming" to be MDOT personal which I find to be un-called for, including threats, I also as in the pass been told that "it is not MDOT", that statement rings hollow and tried, it is an MDOT car, yet it is not MDOT, the plate is MSG yet it is not MDOT, these actions call into question the motive and erode trust, trust which I will say in some cases is damaged be on repair.



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9) Fair And Reasonable Compensation For Property

The so called idea of "a willing seller and willing buyer" as a base for the idea of what our property is alleged to be valued at, which I agree is the law as stated, fails to account for the true value, there are many alleged "statement" of what is alleged to being offered for homes, the fact is that given the credit market the State will turn "home owners" into "renters" and to be blunt in my own view point the State and DRIC really do not care one bit, people can not replace a home for the "alleged" sale price which the State has some time ago determined, a price which the State refuses to disclose.

IN view of the many fundamental problems with EIS and current economy conditions the project should be delayed or terminated.

Respectfully Submitted

Steve Toth  
[REDACTED]

--- On Sat, 12/13/08, Mario Hernandez [REDACTED] wrote:

From: Mario Hernandez [REDACTED]  
Subject: bridgetown  
To: [stevetobocman@house.mi.gov](mailto:stevetobocman@house.mi.gov)  
Cc: [REDACTED]  
Date: Saturday, December 13, 2008, 3:29 PM

Mr. Tobocman

I'm writting to say, I believe that the study for the bridge in the delray area, has been totaly misleding. a new bridge there would only bring polution from trucks, it will turn the main streets in southwest to freighthauling roads.Much more than it already is. And the Delray area will probably be it's freightyard, or wharehousing area. And the jobs will be where the freight comes from and where it goes. Southwest Detroit will only get the polution and the sickness it brings As the jobs and money just go through.

Also I wonder who else has been misled. I have talked to Mr Harvey Santana (from the Corridino Group) on the drilling site near my house, he was working there I see Mr. Santana at meetings, the Corridino labor cost sheet, I believe says Mr Santana is a planner.I would like to know if this qualifies him as someone who should be working on the drilling site of such a impotant study.

Thank you for your time Mario Hernandez

Southwest resident

Arthur Simons  
Chairperson  
Susan Glaser  
Vice Chair/Secretary

Marcell R. Todd, Jr.  
Director  
M. Rory Bolger, AICP  
Deputy Director

# City of Detroit

**CITY PLANNING COMMISSION**  
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December 16, 2008

Mohammed Alghurabi  
Senior Project Manager  
Michigan Department of Transportation  
Bureau of Transportation Planning  
425 W. Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909

Mr. Alghurabi:

The Detroit City Council and various agencies of the City have received and are in review of the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing (DRIC) Study. On Tuesday, December 9, 2008 the Detroit City Council held its last scheduled session of the year and during that session the staff of the City Planning Commission was directed to send this communication on the Council's behalf. At the close of that session the Council began its winter recess from which it will not return until January 6, 2009.

As a result of the Council's recess it will not be possible for the Council to prepare, act upon and forward to you any comments or concerns it may have with the FEIS prior to the close of the review period on January 5, 2009. Shortly after the Council's return from recess, it will consider the findings and recommendations resulting from the review of the document and subsequently prepare and forward comments on the FEIS as appropriate and necessary.

Should you have any questions, please contact this office.

Regards,



Marcell R. Todd, Jr., Director

***Community Benefits Coalition***

*420 Leigh  
Detroit, MI 48209  
(313) 842-1961*

December 10, 2008

Mr. Robert H. Parsons  
Public Involvement and Hearing Officer

Mohammed Alghurabi, P.E.  
Senior Project Manager  
Michigan Department of Transportation  
Bureau of Transportation Planning  
425 W. Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909

The Community Benefits Coalition is concerned that the timing of the release and comment period on the Final Environmental Impact Statement (FEIS) is unfortunately a disadvantage for the community to be apprised and engaged in the process.

The community needs adequate time to read through and process the FEIS for the following reasons: the vast number of pages and technical nature of the FEIS documents; the need to accurately process this sensitive material; the release of the FEIS and duration of the comment period coinciding with the holiday season which unduly overburdens the community; and the strain on families to overcome all of these disadvantages when they are already struggling in a difficult economic period and the implications if this FEIS directly relates to their future economic concerns.

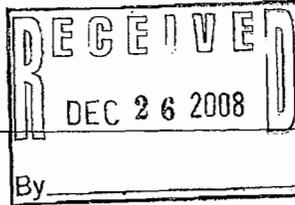
Therefore the CBC believes further time is needed and is asking for a minimal extension of one week to better inform the community of specifics within the FEIS. Please accept our request for the comment period time extension to be moved to the 12th of January of 2009.

Sincerely,



Scott Brines, president

CITY OF DETROIT  
MAYOR'S OFFICE



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December 19, 2008

Mr. James Steele, Administrator  
Federal Highway Administration  
315 West Allegan Street  
Room 201  
Lansing, MI 48933

Mr. David Wresinski, Administrator  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

**SUBJECT: City of Detroit Final Environmental Impact Statement (FEIS) Official  
Comments for the Detroit River International Crossing (DRIC) Project.**

Dear Mr. Williams and Mr. Wresinski,

The City of Detroit is in receipt of the Detroit River International Crossing Final Environmental Impact Statement and Final Section 4(f) Evaluation, dated December 2008.

We appreciate the opportunities to meet with representatives from the Michigan Department of Transportation prior to, and following the publication of the Draft Environmental Impact Statement dated February 2008. As a result of these meetings, the City of Detroit and MDOT were able to resolve some of the issues that were of concern. However, other issues were raised which remain a concern and which the City request be included and acknowledged in the Record of Decision for future discussions between the City, MDOT and the U.S. Department of Transportation Federal Highway Commission. A list of those issues are enclosed with this letter.

The comments presented are based on the information developed pursuant to and required by the National Environmental Policy Act process. They represent the opinions and concerns of the City of Detroit and, as substantive comments, should be incorporated into the Record of Decision for future discussion.

Thank you for your attention to this matter. If you have questions or concerns, feel free to contact Mrs. Willa J. Williams, Interim Director of the City's Department of Environmental Affairs. She can be reached at 313 471-5115.

Sincerely,

Mayoral Kenneth V. Cockrel, Jr.

Enclosures

KVC/WJW/lew

(cc) Darchelle Strickland Love, Mayors Office  
Mohammed Alghurabi, MDOT  
Willa J. Williams, DEA  
Raymond A. Scott, DEA  
LaReina E. Wheeler, DEA  
Douglass Diggs, P&DD  
Alicia Minter, PRD.  
Dr. Phyllis Meadows, DHWP  
Alfred Jordan, DPW  
Stan Topolewski, PLD  
Kathleen Leavey, DLD  
Pamela Turner, DWSD  
Norman White, DDOT  
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Marcell Todd, CPC  
Terrence King, GSD  
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Daryl Lundy, Homeland Security  
Commissioner Tyrone Scott, DFD  
Chief James Barren, DPD  
John Prymack, GDRRA  
Julie Castone, Finance Assessors

**Enclosure A**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Department of Environmental Affairs**

CITY OF DETROIT  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS  
OFFICE OF THE DIRECTOR

660 WOODWARD AVE.  
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DETROIT, MICHIGAN 48226  
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December 23, 2008

Mr. James Steele, Administrator  
Federal Highway Administration  
315 West Allegan Street  
Room 201  
Lansing, MI 48933

Mr. David Wresinski, Administrator  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

**SUBJECT: DETROIT RIVER INTERNATIONAL CROSSING**  
**Comments on the Final Environmental Impact Statement**

The Department of Environmental Affairs (DEA) has reviewed the Final Environmental Impact Statement (FEIS), on the Detroit River International Crossing (DRIC) Project, prepared by MDOT and U.S. Federal Highway Administration (FHWA), dated December 2008. The majority of the comments previously submitted from DEA by letter dated April 25, 2008, on the Draft Environmental Impact Statement (DEIS) were not adequately addressed in the FEIS. Consequently, DEA is submitting the following comments along with their responses from MDOT & FHWA's for inclusion in the Record of Decision. DEA's April 25, 2008, letter is reflected as Letter 22, City of Detroit, Department of Environmental Affairs, in Appendix F of the FEIS. MDOT and FHWA's responses to DEA's comments can be found on Letter 22 of the FEIS and are referenced below.

Following are DEA's comments that still need to be addressed in detail by MDOT and FHWA prior to the development of the International Bridge Crossing:

**MDOT/FHWA: Response #1 - FEIS Page F-36**

**DEA's Comment/Concern:**

- The response to DEA's comment stated, "The effects of other projects is almost negligible in a regional context." No comment was made on the cumulative impacts to the direct/host community from the six important transportation projects that affect the study area. What consideration has been given to and what steps will be taken to address these impacts to the immediate community within the study area? DEA is concern with impacts on both the region and local levels; however your response addresses only the "region."

**MDOT/FHWA: Response #2 – FEIS Page -36**

**DEA's Comment/Concern:**

- DRIC provides comparisons of 2013 and 2030 Daily Pollutant Burden Emissions on Mobile Source Air Toxics (MSATs) for each Build Alternative. The DEIS state that air pollutants will increase in the Plaza and Crossing areas. MSAT increase within the DRIC project area will be offset by a MSAT decrease at the Ambassador Bridge when referring to the No Build Alternative. This statement assumes a net balance in MSAT. Additional data/analysis is required to support this assumption. Furthermore, The FEIS failed to provide a comparison for MSAT No-Build verse Build Alternatives.

**MDOT/FHWA: Response #3 - FEIS Page -36**

**DEA's Comment/Concern:**

- In DEA's comment we agreed that further evaluation of the noise wall is required. However the response received was regarding the bridge type and its final design. Further evaluation of the noise wall is needed.

**MDOT/FHWA: Response #7 - FEIS Page -37**

**DEA's Comment/Concern:**

- The response to DEA's comment stated, "Most businesses want to relocate in or near to Delray." What businesses are you referring to in your response? What percentage of businesses impacted by the project want to stay in the Delray area?
- You also stated, "Second, a number of construction jobs are likely to be held by city residents, some of whom live in and near Southwest Detroit." Based on previous MDOT projects, the jobs often do not go to local residents. The Gateway project is a good example of jobs being outsourced.

***General questions to be asked:***

**MDOT/FHWA: Response #11 - FEIS Page -38**

**DEA's Comment/Concern:**

- Again, the response to DEA's comments was based on state and national levels. The comment was regarding the "local" economy. What are the local impacts?

**MDOT/FHWA: Response #13 - FEIS Page -38**

**DEA's Comment/Concern:**

- Your response is a direct contradiction to the language in response #7. Is the assumption being made that Detroit/Delray residents will construct the bridge?
- During the construction period – how many or what percentage of contracts will be specifically allocated to Detroit/Delray businesses?
- What percentage of the project's budget will be allocated for work completed by Detroit/Delray businesses?
- Will Detroit based or Detroit headquartered businesses be provided a preference during the contractor selection process?

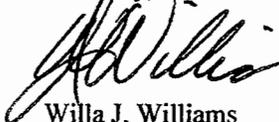
**MDOT/FHWA: Response #14 - FEIS Page -38**

**DEA's Comment/Concern:**

- In the current economy, the federal Uniform Relocation Act procedures you reference may not address the recent problems and burdens placed on new home buyers. Since many residents own their homes and will have to be relocated for the project, addition consideration must be given to those who will have to be purchased outright to eliminate any potential of foreclosure due to non-payment of new mortgages.
- A resident relocation plan confirming the residents will be made "whole" upon the purchase of their property needs to be provided to the City of Detroit Planning & Development Department, prior to the acquisition of any residential property.

We look forward to an opportunity to discuss the comments above. If you have any questions please feel free to contact me at (313) 471-5115 or Mrs. LaReina E. Wheeler at 313-471-5110 or via email at [williamsw@detroitmi.gov](mailto:williamsw@detroitmi.gov) and [wheelerla@detroitmi.gov](mailto:wheelerla@detroitmi.gov), respectively.

Sincerely,



Willa J. Williams  
Interim Director

WJW/RAS/lew

cc Raymond A. Scott, DEA  
LaReina E. Wheeler, DEA

**Enclosure B**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Department of Public Works**

December 19, 2008

**To: Mr. Mohammed S. Alghurabi  
DRIC Project Manager  
Michigan Department of Transportation  
Bureau of transportation Planning  
425 W. Ottawa  
P.O. Box 30050  
Lansing, MI- 48909**

**Re: FEIS for the proposed DRIC Project  
Comments from Traffic Engineering Division-DPW**

**With reference to the copy of the FEIS document provided to the Traffic Engineering Division (TED), on December 12, 2008, DPW would like to offer following comments for its inclusion in the Record Of Decision (ROD) and for follow up of mitigation measures by MDOT. It should be noted that the comments are strictly related to the concept of the project; additional comments would be provided as the project details are further developed.**

- 1. MDOT's denial of City's request: The draft of the single page document (copy attached) sent to us on December 10, 2008 indicates that MDOT is unable to accommodate the City's requests for (1) Designated truck route and (2) continuous service drive (northbound).*

**The DPW would like to mention that the various alternatives presented in the DEIS has maintained the continuity of northbound service drive between West End and Clark. Subsequent to issuance of the DEIS, MDOT has stated that the City's request for retaining the continuity can't be accommodated. The reasons cited are the impact on the Berwalt Manor, the building that MDOT suggests is eligible for Historic designation and acquisition of eight dwelling units (about 2 % of the total number of properties to be acquired for the project) located in the close proximity of the proposed FWY-Entrance Ramp-A, connecting the proposed Bridge and I-75 FWY.**

**In pursuit of a best scenario for traffic circulation, DPW (as confirmed in first paragraph of page 5 of 14 of the Technical Memorandum dated September 11, 2008, prepared by MDOT's consultant) is strongly suggesting a continuous service drive. The usage of continuous service drive now and many years to come cannot be overlooked. In addition maintaining long-term usage as continuous service drive should be for all types of vehicles (cars and trucks), as it would be expected from roadway classified as service drive.**

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However, on page 12 of 14 of the Technical Report dated September 11, 2008 indicates that trucks would not be allowed on this portion of service drive due to inadequate geometric, where as the City Council mandates that the geometric of the roadway must be such that the roadway can be used by all types of vehicles, consistent with the roadway classification. Therefore, proposed concept of the non-continuous service drive included in the FEIS is not acceptable to the DPW.

The MDOT's recommended option of the north bound service drive configuration as depicted in the FEIS document is not acceptable to DPW for the following reasons:

- a) Under the preferred alternative, northbound exit Ramp "F" to Campbell forms a T intersection. Cars exiting the freeway are expected to turn left at this intersection followed by a sharp right turn to continue on the service drive. However, the trucks are expected to use other route, turn right on Campbell and access their final destination via Fort and Campbell intersection.

The capacity of the service drive will be very limited due to the 90-degree right turn and reduced lane width to a single lane on west side of Berwalt Manor, thus the service drive will not operate efficiently for incident management.

- b) Creates driver confusion, due to unusual termination of exit ramp "F" and the separation of the truck traffic and car traffic at the T intersection (Campbell - Ramp "F") to use different route for trucks and different route for cars. At the end of exit ramp the motorist would expect to merge with service drive and travel further. Therefore, the proposed design concept is in contrary to driver expectation and will cause driver confusion.
- c) In the event of an incident on northbound I-75, forcing the Freeway traffic to exit at the exit Ramp "F" terminating at Campbell Street, the proposed configuration of the narrow and 90-degree turn near Berwalt Manor will not accommodate the traffic flow as a continuous service drive would. In addition, since the proposed configuration of narrow and sharp turn (at west end of Berwalt Manor) can't accommodate truck traffic, the truckers will have to make right turn on Campbell - Ramp "F" intersection and immediate left turn on Fort Street. This will significantly increase the time required for incident clearance.
- d) The proposed alignment creates day-to-day operational issues for the cars and trucks exiting from the Ramp "F". This is because cars are diverted to northbound service drive, requiring to make left turn at the T intersection of Campbell - Ramp "F", and negotiate immediately a right turn and a narrow one lane roadway to lead to the north bound service drive. Trucks are forced to take

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different route, turn right on Campbell and reach their destination via Fort-Campbell intersection

Therefore, in our view, it is imperative that MDOT revisit the design options offered so far and propose design option(s) that provides for continuous service drive that can be used by all types of vehicles and sensitive to the stated concerns of Berwalt Manor, if the Berwalt Manor is determined as a Historical structure.

2. *Discontinuation of Dragoon over I-75 and Discontinuation of Livernois south of railroad: The proposed project has taken away the continuity of Dragoon, (the truck route) over the freeway as well as to south of I-75 and Discontinuation of Livernois south of railroad tracks. Thus it must be part of the project scope to mitigate the impacts of it by providing alternate routes to maintain the functionality as City's major thoroughfare, as well as truck routes, within close proximity of the DRIC project.*

The proposed concept of using I-94 could work for FWY to FWY traffic but not for local truck traffic. Therefore, MDOT continue to explore further the viable routes for local truck traffic to access local businesses as well as to the DIFT facility. The community and City's review with a lead role by MDOT needs to continue to find optimal truck route(s) in close proximity of the routes proposed for elimination to accommodate the DRIC project. Any cost associated such as but not limited to achieve street width, geometric and pavement structure including riding surface that is suitable to function as truck route must be part of the project cost.

3. *Local street traffic analysis: The DPW has asked for traffic analysis of surface roadways in the vicinity of the DRIC project. The Traffic Analysis Report Level 3, prepared as part of the FEIS, evaluated few local street intersections within the study area.*

DPW is requesting MDOT to perform traffic analysis of the following intersections to determine the impact of DRIC project on these local streets.

- Campbell-Fort St.
- Junction-Jefferson
- Campbell-Jefferson
- Melville-West End
- West End-Jefferson
- Green-Fisher Freeway South Service Drive
- Green-Fisher Freeway North Service Drive
- Livernois-Lafayette Blvd.
- Lafayette Blvd.-Dragoon
- Waterman- South Service Drive
- Junction-South Service Drive
- Junction-North Service Drive
- Proposed intersections along Campbell

- 
4. *Disruption to DDOT Bus Route: FEIS discusses about the Route 30, which is disrupted due to the closure of Livernois under the Preferred Alternative.*

The DPW is requesting to continue working with the service providers such as DDOT/SMART and the street designing agencies TED and CED to ensure appropriate and acceptable route is provided and uninterrupted services to the citizens are maintained.

5. *Access to Fort Wayne: Under the preferred alternative, Livernois which serves as the gateway to Fort Wayne is being eliminated to accommodate the DRIC project, causing problem for direct access to the Fort Wayne.*

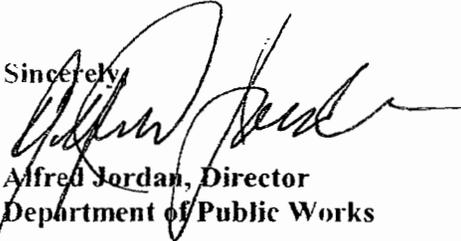
Therefore, DPW is requesting MDOT work with operating agency (Parks and Recreation Department) of the Fort Wayne to provide a gateway route that is inviting and user friendly. Also, in coordination with Parks & Recreation Department, explore the possibility of expanding the Boulevard treatment of Campbell north of railroad tracks up to Ramp "F" to have a user friendly and attractive access from both surface streets and the Freeway.

6. *Impacts to Livernois, Lafayette, and Dragoon: Under the preferred alternative, Dragoon is discontinued over the I-75 Freeway. Therefore, the vehicular traffic potentially would access Dragoon via Livernois and Lafayette.*

TED is requesting MDOT to ensure that all the required improvements (including but not limited to resurfacing) are in place to accommodate these changes in the traffic pattern.

7. **All access to the surface roadway infrastructures either impacted by or newly constructed under the project must be ADA compliant as per the Court Order issued to the City.**
8. **All City's permit requirements must be complied and all requests for the permits must be submitted to DPW, thirty days in advance for City's review and approval.**

Sincerely,



Alfred Jordan, Director  
Department of Public Works

Copy: Willa Williams, EAD  
Ron Brundidge, DPW  
Alicia Minter, Parks & Recreation Dept.  
Manilal Patel, TED  
Jessy Jacob, CED

- Provide for storage of heavy volumes of traffic to avoid backups on the freeway itself;
- Maintain local access points to businesses and residences; and
- Serve as an alternate route in the event of incidents on the mainline freeway.

Alternative routes are much more attractive to motorists, and can most optimally serve traffic demand, when the number of turns and direction changes are minimized through the use of continuous service drives.

### Environmental

#### *Relocation Impacts*

In the vicinity of Berwalt Manor, Option 1 requires acquisition of the northern half of the block bounded by the northbound I-75 service drive, Campbell, Junction, and Fort Streets. Option 1 takes Berwalt Manor at 64 dwelling units, plus 6 single family residences on I-75 northbound service drive, plus 1 residence on west side of Junction Street for a total of 71 dwelling units. Removal of Berwalt Manor means less City of Detroit taxes and the residents would be displaced.

#### *Environmental Justice*

The population of Berwalt Manor that would be acquired are reported to be of Hispanic origin, therefore, they are protected by Environmental Justice regulations. In Option 1 these individuals would be displaced constituting a disproportionate impact.

#### *Historic Resources*

In Option 1, Berwalt Manor would be acquired and demolished. Required mitigation would include creation of a permanent record of Berwalt Manor's history and current conditions at the time the project commences. Relocation of the building is not feasible.

Land use planning for the project places a high degree of importance on the treatment of Fort Wayne due to its historic importance. This includes simplified way finding and routing to the Fort around the proposed Plaza and improvements, along with aesthetic improvements to both the routes and surrounding area. A parkway type boulevard roadway, where possible, has been considered along this improved route.

Plaza P-a, which is common to all options, would route local traffic to Campbell Street south of the railroad line where they could then travel to Fort Street or Jefferson Ave. Campbell Street south of the railroad line can be transitioned into a boulevard section without the acquisition of additional properties by widening on the Plaza side of the street.

In Option 1, the local traffic exiting northbound I-75 would use Junction Street to access Fort Wayne. This is not the same route as traffic exiting the Plaza would utilize, which is Campbell Street. Junction Street cannot be improved to a boulevard section without acquiring right of way. This situation would; 1) create less consistent access to Historic Fort Wayne; and, 2) eliminate the ability to provide an improved parkway effect from I-75.

#### *Noise*

Removal of the properties along the service drive would eliminate noise receptors; however the remaining buildings fronting Fort Street would have an active service drive behind them. This would have no noise

### ***Benefits and Impacts***

#### Engineering

To avoid Berwalt Manor, the horizontal radius of Plaza Ramp A is approximately 1340 ft. to accommodate a ramp speed of 40 mph. Variations on the ramp curvature among Options 1, 2 and 3 do not significantly affect the vertical profile, therefore, the bridge length and its associated cost is not a differentiator among options.

The local exit ramp from northbound I-75 exits at Campbell Street where traffic would turn right to access Fort Street, or turn left to access Berwalt Manor or the northbound I-75 service drive.

The northbound I-75 exit ramp is projected to have 135 cars and 7 trucks in the AM peak hour in the design year 2035. The service drive adjacent to Berwalt Manor would have approximately 111 cars in the AM peak hour in the design year 2035. No trucks would be allowed on this portion of the service drive due to inadequate geometry.

From an operational perspective Option 3 does not provide a continuous service drive along I-75. Existing service drive traffic would need to utilize Livernois to Fort to Junction. Therefore, the operational benefits noted in Options 1 and 2 are not realized with Option 3. However, in the area, Fort Street is in close proximity to I-75 and has adequate reserve capacity to handle this service drive traffic.

#### Environmental

##### *Relocation Impacts*

In the area of Berwalt Manor, Option 3 does not require acquisition of any properties on the block bounded by the northbound I-75 service drive, Campbell, Junction, and Fort Streets. Campbell Street properties access to the street would be eliminated and replaced by alternate access as shown in **Figure 8**.

##### *Environmental Justice*

The population of Berwalt Manor is reported by the owner to be of Hispanic origin, therefore, they are protected by Environmental Justice regulations. In Option 3, residents would not be displaced; however, mitigation is required due to impacts caused by the introduction of Ramp A in close proximity to the building. Mitigation would consist of replacing the existing building windows with triple pane low-e windows consistent with Secretary of the Interior Standards for Rehabilitating Historic Buildings and by providing central heating ventilation and air conditioning (HVAC). Due to the current low-energy efficiencies based on poor windows, older equipment, and window air conditioners, it is likely that a modern HVAC system coupled with window improvements would not increase the building's utility costs. Although the above described improvements to the building could make it more desirable, potentially increasing rents which could force low-income residents out, this is doubtful given its close proximity to Ramp A and the mainline I-75.

##### *Historic Resources*

Through consultations with the SHPO, the Option 3 treatment of Berwalt Manor would not result in a finding of adverse impact.

12/10/2008

**The following items have been raised numerous times by the City of Detroit, and after much discussion at meetings and through correspondence, MDOT is unable to accommodate the City's requests.**

1. Designated truck road
2. Continuous service drive

**The following will form the core list of items on which MDOT will continue to engage the City of Detroit and other parties as appropriate as the Detroit River International Crossing (DRIC) project advances to implementation after the signing of the Record of Decision (ROD) by the U.S Department of Transportation/Federal Highway Administration.**

1. Acquisition of city-owned properties
2. Coordinate the relocation of city-owned utilities
3. Improvements to local streets as referenced in the FEIS "Green Sheet"
4. Traffic control devices along the I-75 service drives
5. Access control at the Fort Street police/fire station
6. Enhancements to Fort Wayne, including updating the master plan as it relates to the entryway
7. Relocating DDOT transit routes
8. Buffering Southwestern High School
9. Job training
10. Livernois Avenue as a two-way street
11. Number of lanes on Jefferson Avenue and provision of bike lanes
12. Act 51 issues
13. Placement of way finding signage
14. Traffic management at Fort Wayne events
15. Design of the Green and Campbell Boulevards

**\*Please note, this is not meant to be a comprehensive list at this time; please inform me of any additional items the City feels need to be added to either of the above lists.**

*Draft – Subject to Change*

**Enclosure C**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Detroit Water and Sewerage Department**

December 23, 2008

Mr. David W. Wresinski, Administrator  
Project Planning Division  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

Dear Mr. Wresinski:

**Regarding: Detroit River International Crossing (DRIC) Study  
Final Environmental Impact Statement and Final Section 4(f) Evaluation**

Previously, under our letter of April 2, 2008 to Mr. Robert Parsons, Public Involvement/Hearing Officer, Michigan Department of Transportation (MDOT), copy attached, the Detroit Water and Sewerage Department (DWSD) reviewed and forwarded comments on the Draft Environmental Impact Statement and Draft Section 4(f) Evaluation for the proposed Detroit River Crossing (DRIC) in Wayne County, Michigan.

In reference to your letter, dated November 24, 2008 (copy attached) regarding an enclosed copy of the **Final Environmental Impact Statement (EIS) and Final Section 4(f) Evaluation** for the DRIC, consistent with instructions contained in your letter, we are forwarding our attached comments to date on this final document direct to your office. However, as before, we respectfully reserve the right to comment further should circumstances warrant.

Furthermore, please give careful consideration to our remarks and apprise of advances to best coordinate this endeavor. You may contact my office at (313) 224-4701, or Ramesh Shukla at (313) 964-9894, or Mirza Rabbaig at (313) 964-9880, with any questions, or to make arrangements to meet on this.

Sincerely,



Pamela Turner  
Interim Director

PT/MR/GS

Enclosures

cc: Mr. Robert Parsons, MDOT  
Ms. Willa Williams, Detroit Environmental Affairs



**Final Environmental Impact Statement and Final Section 4(f) Evaluation  
The Detroit River International Crossing Study**

Prepared by

**U.S. Department of Transportation**

**Federal Highway Administration**

**Michigan Department of Transportation**

**December 2008**

Reference above titled report describing the mapped area for the proposed new river crossing and plaza. In general, the following DWSD facilities, water distribution and wastewater collection infrastructure will be impacted and require modifications.

Provisions for the acquisition and relocation of DWSD's **Industrial Waste Control facilities, operations and staff** located at 303 South Livernois will need to be arranged and implemented, at least 1 year in advance, to DWSD's satisfaction.

Regarding water infrastructure, provisions for the relocation, alteration and/or protection of major transmission mains, including but not limited to, **54-inch Livernois main, 42-inch Jefferson main** and affected branch connections serving customers outside the plaza area need be designed and approved for construction by DWSD, including appropriate decommissioning (capping off) of abandoned or modified branch connections. Also, an approved **new distribution loop main** need be designed/built/placed into operation to provide alternative service to customers in vicinity immediately outside of affected plaza area and to accommodate City fire protection system modifications.

Regarding wastewater infrastructure, provisions for relocation, alteration and/or protection of **5 large diameter sewers (>6-foot effective diameter)** running beneath *Campbell, Cavalry/Military, Dragoon, Waterman, and Schroeder* including, but not limited to: a) affected connecting upstream hydraulic siphons existing beneath the current I-75 corridor, b) affected interconnecting hydraulic regulator structures to the **Detroit River Interceptor** (*also running beneath Jefferson Avenue*), and c) corresponding affected interconnecting outfall sewers to the Detroit River need be designed/built/placed into operation to provide alternative sewerage service to otherwise bypass the proposed plaza area. As well, such provisions shall take into consideration DWSD's planned **Long Term CSO Programming** within this area, which involves the potential design/construction of a major CSO control facility located south of Jefferson just east of Campbell. The preliminary design calls for the diversion of flow from 6 existing outfall sewers (*McKinstry, Summit-Clark/Ferdinand, Morrel, Junction, Dragoon and Schroeder*) to a **proposed new 16 million gallon CSO retention basin** located south of Jefferson.

**Final Environmental Impact Statement and Final Section 4(f) Evaluation  
The Detroit River International Crossing Study  
December 2008  
Page 2 of 2**

Also, the proposed 100-foot wide utilities relocation corridor around the plaza area will need to be **expanded to 200-foot minimum.**

Additionally, please reference attached supplemental comments on system hydraulic for consideration.

Questions on this review may be directed to:

Mirza Rabbaig, Head Engineer  
DWSD, CSO Control Group  
[rabbai@dwsd.org](mailto:rabbai@dwsd.org)  
313 964 9880

Issued: December 15, 2008

## ADDITIONAL COMMENTS ON HYDRAULICS

It was difficult to identify the proposed modifications and relocations from the attached information. The attached information included an e-mail write-up with attached tables and figures.

Accordingly, DWSD offers the following comments based on the information provided.

1. The proposed sewer connections to relocate upstream flow from the Dragoon, Military and Cavalry sewers is not feasible. The basic concept of a combined sewer system with a regulator connection to an interceptor and excess flow diversion through an outfall sewer to a receiving water is violated. The proposed alternative is to pick up and route these sewers directly to the Detroit River Interceptor (DRI) without relief to the Detroit River. The proposed alternative would obviously have severe adverse impacts on upstream tributary sewers and associated house connections as the DRI regularly experiences surcharged conditions.

2. The proposed sewer connections to relocate flow from Solvay-Schroeder and Waterman sewers assumes a manning roughness factor of 0.015 for the existing brick sewers and 0.012 for the proposed new concrete sewers. The decrease in roughness provides a hydraulic benefit to the proposed new sewer (smaller size requirement) as compared to the existing sewer. DWSD design practice and Greater Detroit Regional Sewer System (GDRSS) hydraulic evaluations utilize a manning roughness factor of 0.013 for all sewers. Also, the calculations presented do not calculate the upstream existing hydraulic grade line at the proposed points of diversion for both existing and proposed conditions, therefore there is no way to determine if the proposed modifications do not impose additional hydraulic risk on the upstream tributary sewers and associated house connections.

3. The proposed sewer connections to relocate upstream flow from the Dragoon and Military sewers assumes an easement under the entrance and exit roads from the proposed plaza area. No easement for this alternative is provided within the MDOT documents provided previously.

4. The information provided does not address the Scotten and Casgrain sewers which will be abandoned by the proposed project. It should be noted that these sewers are not shown on paper plan sewer drawings but are shown on the electronic plan sewer drawings. These sewers will have to be addressed by the project.

5. No cost data is provided for the proposed relocations and modifications. It is imperative that MDOT bears all associated costs involved in the implementation of this project--in particular, all such costs necessitating modifications to DWSD and City owned/operated infrastructure.

6. The information presented does not identify the existing DWSD sewer siphons under I-75.

7. The information does not provide a review of the existing status of DWSD real estate acquisition in the area and the DWSD land to be acquired by MDOT.

8. The information does not address the impact on potential CSO facilities in the area.

In summary, please provide in detail proposed relocations to DWSD sewers and associated costs to support a planning level estimate of the impact that the DRIC Project will have on the DWSD sewer system in that area.

CITY OF DETROIT  
WATER AND SEWERAGE DEPARTMENT  
GENERAL ADMINISTRATION

735 RANDOLPH STREET  
DETROIT, MICHIGAN 48226-28  
PHONE: 313-224-4800/224-48  
FAX: 313-224-6067

April 2, 2008

Mr. Robert Parsons  
Public Involvement/Hearing Officer  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

Dear Mr. Parsons:

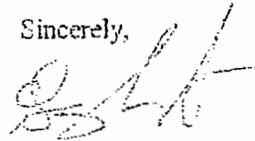
**Regarding: Detroit River International Crossing (DRIC) Study  
Draft Environmental Impact Statement and Draft Section 4(f) Evaluation**

Reference is made to the enclosed letter from Mr. David W. Wresinski, dated February 21, 2008 regarding the subject study.

The Detroit Water and Sewerage Department (DWSD) appreciates early involvement with the initiatives MDOT has advanced specific to the proposed Detroit River International Crossing. Pursuant to Mr. Wresinski's request, involved DWSD staff reviewed the Draft Environmental Impact Statement and Draft Section 4(f) Evaluation. Consistent with further instructions contained in the reviewed document, we are forwarding our attached comments to date direct to your attention. However, we respectfully reserve the right to comment further should circumstances warrant.

Please give careful consideration to our remarks and apprise of advances to coordinate this endeavor. You may contact me at (313) 224-4784, Ramesh Shukla at (313) 964-9894, or Mirza Rabbai at (313) 964-9880 with any questions or to make arrangements to meet on this.

Sincerely,



Gary Fujita, P.E.  
Deputy Director

GF/MR/GS

Enclosures

cc: David W. Wresinski, Administrator, MDOT

bcc: R Shukla, M. Rabbai, E. Doshi, C Stanley, Master File, Suspense File

DD:\Gary Stoil\Detroit River Development\Matters\DWSD MDOT DEIC comments.doc:

ENGINEERING SERVICES DIVISION

DOCUMENT REVIEW



**Draft Environmental Impact Statement and Draft Section 4(f) Evaluation  
The Detroit River International Crossing Study**

Prepared by

**U.S. Department of Transportation  
Federal Highway Administration  
Michigan Department of Transportation  
February 2008**

Sixteen alternatives are presented in the report X-1 through X-15. The river crossing alternatives are situated as far south as Grosse Isle and as far north as Belle Isle. Alternative X-10 has two variations X-10A and X-10B.

Among the proposed alternatives evaluated located in the City of Detroit, Alternatives X-11, X-10B and X-10A are preferred with lesser impacts to current infrastructure than other alternatives in Detroit. These 3 alternatives are generally located north of West Jefferson between Campbell, Post south of Fort.

All of the proposed alternatives in Detroit city limits will require significant water distribution and sewer and outfall modifications to accommodate various proposed approach routes and plazas to new bridge locations. Costs allocated for such utility modifications for these alternatives range between \$143 million and \$183 million.

DWSD's future CSO facilities planned along the Detroit River are not considered in the DEIS. DWSD's future Summit CSO facility being finalized in our LTCSO Plan Amendment due to the MDEQ later this year will be located on portion of the Revere Copper property parcel adjacent the Campbell south of Jefferson will impact and may conflict with aspects of Alt. X-11. Similarly, our future Schroeder CSO facility will likely impact Alts. X-10A and X-10A.

With any of these alternatives between 324 and 414 residential dwelling displacements and between 43 and 56 business displacements are anticipated. The Delray community would be impacted if either of these preferred alternatives are implemented. U.S. dollar estimated cost for all alternatives range from \$1.2 billion to \$1.5 billion.

Questions on this review may be directed either to:

Mirza Rabbaig, Head Engineer  
DWSD, CSO Control Group  
[rabbaig@dwsd.org](mailto:rabbaig@dwsd.org)  
313 964 9880

Gary Stoll, Sr. Asst. Mechanical Engineer  
DWSD, CSO Control Group  
[stoll@dwsd.org](mailto:stoll@dwsd.org)  
313 964 9883

Issued: March 15, 2008

**Enclosure D**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Economic Development Corporation**



Economic Development Corporation of the City of Detroit

To: Larcina Wheeler  
Department of Environmental Affairs

December 6, 2008  
General Comments by EDC in anticipation of the Record of Decision  
Detroit River International Crossing Project

As the City's planning departments have only recently provide extensive comments to the EIS, and many of these important City and EDC concerns and objections are certainly not satisfied by the MDOT DRIC responses to date, EDC requests that all comments submitted by the City up to the Record of Decision date will continue to be a part of the record . As the planning process continues, it is further requested that all City and EDC open matters should be negotiated, facilitated, meaningfully responded to and eventually satisfied by MDOT.

The EDC re-asserts all the concerns and objections it has previously transmitted through the City Department of Environmental Affairs for the DRIC EIS. In particular, EDC submitted :

1. "DEGC Response to the MDOT DRIC preferred alignment plan 10-29-08
2. "Additional questions/ Responses to the MDOT / DRIC Issues document, dated 10-29-08

EDC respectfully requests a satisfactory resolution from MDOT on the issues raised by the EDC, The most notable of the issues from the above two memos include:

1. Satisfying the EDC's previously transmitted Springwells property sale conditions. (from paper #1 above)
2. Allowing the Planning Department and CPC to conclude its land use planning in the adjacent areas to the proposed bridge Plaza.
3. Satisfying the COD's previously expressed expectations to create multiple lane road expansions on the east and west of the Bridge plaza , on both Campbell and Green from Jefferson to Fort.
4. Moving the primary plaza egress for local area access to north of the rail line .
5. Allowing the Planning Department to negotiate more appropriate and more fairly mitigating community benefits programs, including park space buffers,



Economic Development Corporation of the City of Detroit

neighborhood road improvements, area economic reinvestment strategies, etc.  
This may require an additional study that is being suggested to be paid by MDOT  
with PDD as the client.

6. Requiring MDOT to define a comprehensive displaced person relocation assistance program, and allowing the Planning Department to review and approve.

cc.

Ron Flies DEGC

**Enclosure E**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Planning and Development Department**

December 10, 2008

Ms. LaReina E. Wheeler  
City of Detroit  
Department of Environmental Affairs  
660 Woodward, Suite 1800  
Detroit, Michigan 48226

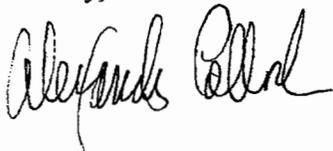
Re: FEIS review - MDOT/DRIC Tourist Information Center

Dear Ms. Wheeler:

As a staff member with the Engineering Section of the Planning & Development Department, I wish to inquire if the DRIC project is to include a MDOT Tourist Information Center, and if so, would it become part of the plaza gateway leading onto the bridge itself? Recently, MDOT completed a Welcome Center along Bagley Avenue in the vicinity of the Ambassador Bridge that is experiencing limited use due, in part, to the plaza construction now underway.

The inclusion of a MDOT Tourist Information Center should become an integral part of the DRIC planning process as it would fulfill a basic service for auto, bus, and truck traffic entering the United States. Construction of the present MDOT Tourist Information Center at the Ambassador Bridge took over two decades to achieve. To avoid a repeat of this installation's time-frame, this basic service should become an integral part of the DRIC planning process.

Sincerely,



Alexander Pollock AIA/AICP

cc: Chidi Nyeche  
John Saad, P.E.

**RECEIVED**  
DEC 11 2008  
CITY OF DETROIT  
DEPARTMENT OF  
ENVIRONMENTAL AFFAIRS

**Enclosure F**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Public Lighting Department**



CITY OF DETROIT  
PUBLIC LIGHTING DEPARTMENT

9449 GRINNELL  
DETROIT, MICHIGAN 48213  
PHONE: 313-267-7202 TTY:311  
FAX: 313-267-5118  
WWW.DETROITMI.GOV

December 18, 2008

LaReina E. Wheeler  
City of Detroit  
Department of Environmental Affairs  
660 Woodward, Suite 1800  
Detroit, MI 48226

**RECEIVED**

Re: DRIC - FEIS  
PLD Comments

DEC 27 2008  
CITY OF DETROIT  
DEPARTMENT OF  
ENVIRONMENTAL AFFAIRS

Dear Ms. Wheeler:

The Public Lighting Department has reviewed the draft D.R.I.C. - F.E.I.S document and the records in the Department's possession covering the project area. We've determined the following with regard to the potential impact of existing Public Lighting facilities on the project:

- West Jefferson from approximately Waterman Avenue to Junction Avenue on the north side has a high voltage overhead transmission line on wood poles.
- The West Jefferson roadway on the entire southern boundary of the project has extensive existing underground electrical conduit and cable.
- The bridges across I-75 being replaced at Springwells, Green, Livernois and Clark have power, streetlighting and traffic signal cables in or suspended below the bridge roadway and extending out into the service roads.
- Any change in I-75 roadway or ramp elevations may affect the electrical conduit crossings under I-75 in the vicinity of Wilke, Ferdinand and Morrell Streets.
- West End from Jefferson to Melville will require relocation of an overhead primary lead with realignment of road.

**RECEIVED**

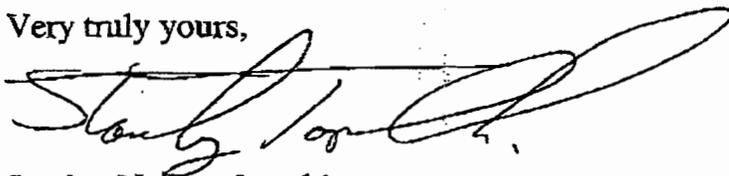
DEC 22 2008  
CITY OF DETROIT  
DEPARTMENT OF  
ENVIRONMENTAL AFFAIRS

DRIC - FEIS PLD Comments

- Waterman from Jefferson to RR will require relocation of an overhead primary lead to outside of project boundaries.
- Fort Street has extensive electrical conduit installations. Any construction impacting Fort Street will have to accommodate existing conduits or involve reroutes.
- The Fisher Freeway Service Drives have extensive existing conduit installations. Any construction will have to accommodate this conduit or involve reroutes.
- Street lighting will have to be redone for realigned roads.
- Street lighting removals in the project zone may require circuit reroutes.
- There are streetlights within the project boundary currently serving residential and commercial streets that will have to be removed and presumably eventually replaced with project site lighting.

If you have any questions, please call David Graham at 313-267-5156.

Very truly yours,



Stanley N. Topolewski  
Director

CC: Graham, Tenney, Laskowski, file

**Enclosure G**

**DRIC  
FEIS Review Comments**

**City of Detroit  
Department of Health and Wellness  
Promotion**



CITY OF DETROIT  
DEPARTMENT OF HEALTH AND WELLNESS PROMOTION

1151 TAYLOR STREET  
DETROIT, MICHIGAN 48202-1732  
PHONE: 313 • 876 • 4300  
FAX: 313 • 876 • 0906  
WWW.DETROITMI.GOV

December 23, 2008

Mr. Robert Parsons  
Public Involvement/Hearing Officer  
Michigan Department of Transportation  
P.O. Box 3005  
Lansing, Michigan 48909

RE: Comments on the Detroit River International Crossing Final Environmental Impact Statement

Dear Mr. Parsons:

The City of Detroit Department of Health Wellness and Promotion has prepared the following comments regarding the Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS):

- There is no Health risk assessment included or referenced in the Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS). There is limited mention of sensitive or vulnerable populations (persons with chronic respiratory diseases). The FEIS focuses on community disruption, relocation and minimal environmental issues impacting residents. The only significant criterion to evaluate health impacts is air quality.
- The FEIS argues that there will not be a detrimental impact to the Delray community and its residents due to the projected continued reduction of air contaminants regulated by the United States Environmental Protection Agency (EPA). There have been air quality improvements in Southwest Detroit due to more stringent regulations and lower emissions from automobiles and industrial sources in the area. While the area has had some air contaminants that are at non-attainment, the FEIS concludes that the DRIC will not cause new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards. Future regulations, further limiting air emissions from vehicles and industrial sources, are expected to improved regional air quality whether or not the DRIC is constructed. The FEIS determines this forecast should be true even though the volume of traffic in the region will increase significantly by 2030. However, (P. 3-112) the Statement indicates that based on the ["Interim Guidance Air Toxics in NEPA Documents" (FHWA, February 3, 2006) there is not adequate science to reliably include exposure modeling or risk assessment in the air quality analysis.] This appears due to several issues, including multiple assumptions, limited testing, little knowledge on background pollution, and the complexities in determining extrapolations for multiple years. Therefore Public Health implications are missing in the assessment.



- The use of low-vapor-pressure gasoline in the SEMCOG region (P. 3-114) does not address the fact that the increase in traffic will mostly come from truck traffic and passenger vehicles originating from outside the area. If fuel reformulation is only local, there is less benefit from passenger vehicles that fill-up outside of the region. Only if reformulated gasoline fuel is sold nationwide, and in Ontario, Canada, will the projected passenger vehicle emissions decrease.
- The issue of increased future use of expensive hybrids by residents of the economically depressed region is speculative. It is highly likely that residents of the area will retain their older, poorly maintained, vehicles for extended periods of time because of the high replacement costs. (P. 3-115)
- The only feasible way to reliably evaluate the air quality in the immediate vicinity is to establish air monitoring station(s) in the neighborhood. This would be most effective as part of a comprehensive localized monitoring system within the City limits and possibly into the nearby suburbs.
- According to the FEIS, the anticipated reductions in air contaminants in the future will more than offset the expected increase in the volume of car and truck traffic in Southwest Detroit. An additional bridge would reduce the traffic, and resulting pollution, from the existing Ambassador Bridge and Gateway Plaza under construction on the east side of Delray. This local improvement of air quality would be a benefit to the increasing number of residents living east of and near the Ambassador Bridge, albeit an increased exposure to limited number of residents who would be living near the DRIC. Nevertheless, with the prevailing westerly winds moving pollution eastward, the DRIC would most likely increase air pollution in East Delray
- The  $PM_{2.5}$  and  $PM_{10}$  analysis guidance document cited in the FEIS (P. 3-127), the "FHWA/EPA Transportation Conformity Guidance for Qualitative Hot-spot Analysis in  $PM_{2.5}$  and  $PM_{10}$  Nonattainment and Maintenance Areas", March 29, 2006, states that the FEIS followed a hybrid of methods A and B. However we could find no reference in the document that recommends utilizing such a hybridization. (For your reference this document can be found <http://www.fhwa.dot.gov/environment/conformity/pmhotspotguid.pdf>). **This purposed use of a hybrid analysis may provide MDOT with data skewed in the project's favor.**
- With the uncertainty of projecting future trends in the  $PM_{2.5}$  levels in the region and in the Delray community, will the DRIC be responsible for future or continued nonattainment? The consequences of the DRIC could be that the SEMCOG region will continue to have nonattainment issues with  $PM_{2.5}$  and ozone levels.

• The FEIS states that CHASS (Community Health and Social Services, Inc.) would not be affected by the Preferred Alternative (P. 3-32). However, the relocation of residents may have an adverse impact on the ability of citizens being able to access the healthcare services provide by CHASS. CHASS is a major healthcare provider for citizens living in the Delray community. With a limited mass transportation system in Detroit, many residents within the relocated community may not have the transportation means available to receive vital health care. This will not only impact CHASS, but also could place an additional burden on Emergency Departments. Without means to obtain services at CHASS, residents may be forced to wait until an emergency arises before seeking healthcare.

**Recommendations:**

- Install additional air monitoring samplers capable for 24 hour collection of PM<sub>2.5</sub>, PM<sub>10</sub>, and ozone. These samplers should be strategically located throughout the community to assess local air quality. Regional samplers or samplers outside the impacted community will be of limited value when performing health assessments.
- Perform an in depth study for air quality impacts relating to outdoor activities at Southwest High School.
- Perform and establish a means for continuous health assessment at a localized level with focus on asthma and other chronic respiratory diseases.
- Provide documentation to justify using a hybrid of methods A and B analysis for PM<sub>2.5</sub> and PM<sub>10</sub> in Nonattainment and Maintenance Areas,
- Develop a plan to address the impact of relocating residents and providing healthcare services to those impacted by the project.

In conclusion, the FEIS specifically states that there is not adequate science to reliably assess air quality and the impact it may have on the health within the local community. We believe that though there will be many economic and homeland security benefits from the DRIC, further analysis and support to the health needs of the impacted community should be explored.

Sincerely,



William J. Ridella, MPH, MBA  
Deputy Director

CC: Phyllis Meadows, PhD, MSN, RN  
Bruce M. King, MPH  
Willa Williams



## **Coco Group of Companies**

6725 South Service Road  
Windsor, Ontario N8N 2M1  
Tel. 519•948•7133  
Fax 519•948•7469

Coco Paving (1990) Inc.  
Co-Pipe Products, Inc.  
Coco Development Group  
Coco Homes™

December 23, 2008

Mr. David W. Wresinski  
Administrator  
Project Planning Division  
Bureau of Transportation Planning  
Michigan Department of Transportation  
Murray D. Van Wagoner Building  
P.O. Box 30050  
Lansing, MI 48909

Dear Mr. Wresinski:

**Re: Environmental Impact Statement  
Detroit River International Crossing**

We acknowledge receipt of the Final Environmental Impact Statement and Final Section 4(f) Evaluation and wish to advise that we strongly support the DRIC initiative in Wayne County.

We would ask that we continue to be advised of any further developments in this regard.

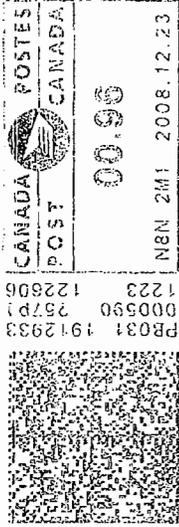
Should you require anything further from us in this regard, please do not hesitate to contact us.

Yours truly,  
COCO GROUP

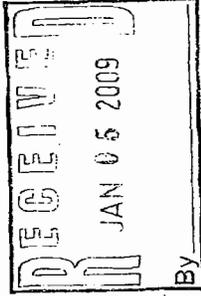
Jenny Coco, MBA

/pyf

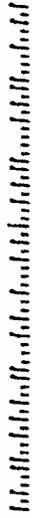
6725 South Service Road  
Windsor Ontario  
N8N 2M1



Mr. David W. Wresinski  
Project Planning Division  
Bureau of Transportation Planning  
Michigan Department of Transportation  
Murray D. Van Wagoner Building  
P.O. Box 30050  
Lansing, MI 48909



4490337850 B050





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DEC 23 2008

REPLY TO THE ATTENTION OF:

E-19J

Mr. James J. Steele  
Division Administrator  
Federal Highway Administration – Michigan Division  
315 W. Allegan, Room 201  
Lansing, Michigan 48933

**RE: Comments on the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing (DRIC), Wayne County, Michigan, EIS No. 20080488**

Dear Mr. Steele:

I am providing comments on the Final Environmental Impact Statement (EIS) for the Detroit River International Crossing (DRIC), consistent with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The United States Environmental Protection Agency - Region 5 (EPA) has worked with the Federal Highway Administration (FHWA) and the Michigan Department of Transportation (MDOT) on this project as a cooperating agency since 2005. We provided our input throughout the process, concurring on the milestones as described in the Interagency Streamlining Agreement for the DRIC. Our letter on the Draft EIS on May 14, 2008, provided comments on air quality (particulate matter and mobile source air toxics), mitigation for those impacts, stormwater, energy efficiency, and sustainability of the plaza.

Our comments have been addressed and appropriate mitigation has been proposed in the Final EIS. We understand that the measures proposed by FHWA, as stated in Ryan Rizzo's email message on December 4, 2008, will be included in the Record of Decision (ROD). Those measures include design, operational, construction, and enhancement measures (summarized below) that could be taken to minimize air quality impacts:

Design

- A) Selected alternative will allow trucks to use access roads to I-75 instead of neighborhood roads.
- B) Circulation on the plaza will minimize the time vehicles, especially trucks, need to traverse through the plaza.
- C) Landscaping will be considered to aid in improving air quality along the roadways.
- D) The storm water retention area on the plaza close to Southwest High School will buffer plaza operations from the school.

#### Upgraded Operations

- A) An increase in the number of Gamma Ray Inspection Technology (GRIT) lanes will reduce truck queuing and idling.
- B) An increase in trucking companies enrolling in NEXUS and FAST and additional lanes will streamline traffic flow.
- C) Customs and Border Patrol (CBP) standard operating procedures requiring trucks to turn off their engines while being inspected will be used.

#### Construction Measures

- A) Construction operations will follow best operational practices (i.e., engine shut down to reduce idling, loading operations away from sensitive receptors) to reduce any impact of diesel emissions.
- B) MDOT will work with contractors on an operational agreement to control construction air pollution. A construction emissions plan may include actions such as: retrofitting off-road construction equipment; limiting the age of off-road vehicles; minimizing engine operations; restricting activities around certain more-sensitive receptors, using diesel particulate traps and oxidation catalysts; and, using existing power sources or clean fuel generators, rather than temporary power generators.

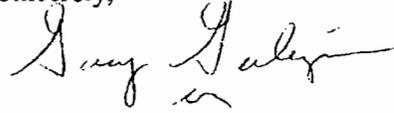
#### Long Term Air Quality Enhancement

MDOT will work with the Southeast Michigan Council of Governments (SEMCOG), the Michigan Department of Environmental Quality (MDEQ), the private sector and the community to create a community enhancement action plan comprised of projects addressing air quality. MDOT will work with its partners to identify short-term and long-term objectives aimed at reducing PM<sub>2.5</sub> emissions in the study area. MDOT, working with their partners, will commit to engage in a process to prioritize air quality improvement projects implemented during design and construction phases (Year 2011), and sustained through the maintenance and operation of the facilities. The projects will be focused on actions that address fugitive dust, diesel truck idling, fuel consumption, and diesel emissions to limit PM<sub>2.5</sub> emissions in the study area. The actual projects are not known at this time, as they will be developed through working with the community and the other partners. The action plan will identify priorities for future federal-aid-eligible transportation projects through programs such as Congestion Management and Air Quality (CMAQ) and the Midwest Clean Diesel Initiative. Activities could also include outreach activities to inform businesses and residents on air pollution control strategies.

Provided that FHWA and MDOT commit to these measures in the ROD, we have no objections to the project.

If you have any questions on our comments, please contact me at (312) 886-3000. Your staff is welcome to contact Sherry Kamke at (312) 353-5794 or [kamke.sherry@epa.gov](mailto:kamke.sherry@epa.gov) or Ken Westlake at (312) 886-2910 or [westlake.kenneth@epa.gov](mailto:westlake.kenneth@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Buhl". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lynn Buhl  
Regional Administrator

Enclosure

cc: Robert Parsons, Michigan Department of Transportation  
David Wresinski, Michigan Department of Transportation  
David Williams, FHWA



STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

DON KOIVISTO  
DIRECTOR

December 23, 2008

Mr. David E. Wresinski, Administrator  
Project Planning Division  
Bureau of Transportation Planning  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Dear Mr. Wresinski:

Re: Detroit River International Crossing Final Environmental Impact Statement

I received your request for review and comment on the Detroit River International Crossing Final Environmental Impact Statement (FEIS). I have reviewed the FEIS as well as attended the regular meetings of the State and Federal Agencies leading up to the development of the FEIS document.

As noted in our response to the DEIS, this area is a highly urbanized corridor. There are no impacts to agriculture within the site location. Neither have we identified nor do we anticipate any impacts on established county or intercounty drains.

Our main concern at this point remains that the plaza areas have sufficient facilities to conduct necessary inspections of incoming animals and plants to prevent potential introduction of unwanted insects, pests and disease before they travel a significant distance into the State. The discussions with, and feedback provided, by the Government Service Agency (GSA) is that they will continue to work with USDA-APHIS in developing adequate inspection facilities. We are satisfied that the current plans for the plaza development will result in significant improvement in the screening capabilities in this very busy international corridor.

We have no additional concerns regarding the issues identified in the FEIS. We appreciate being included in this NEPA process. Feel free to contact me at 517-241-3933 if I can be of further assistance on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Abigail S. Eaton".

Abigail S. Eaton  
Environmental Resource Specialist

CARL LEVIN  
MICHIGAN

RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-2202  
(202) 224-6221

**United States Senate**  
WASHINGTON, DC 20510-2202

COMMITTEES:  
ARMED SERVICES  
GOVERNMENTAL AFFAIRS  
SMALL BUSINESS  
INTELLIGENCE

December 30, 2008

Mr. Kirk T. Steudle, Director  
Department Of Transportation  
Murray D. Van Building  
PO Box 30050  
Lansing, MI 48909

Dear Mr. Steudle:

I am writing in regarding to the Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS) and the expected issuance of its Record of Decision (ROD) within the next few weeks. I understand the Community Benefits Coalition (CBC), an organization comprised of citizens concerned about the DRIC's impacts on Southwest Detroit, has requested an extension of time before your agency issues the ROD; I am also aware this request was recently denied. I hope you will reconsider the CBC's request and allow residents and other community members additional time to review the FEIS documents and provided comments as appropriate.

Thank you in advance for your assistance with this matter.

Sincerely,

  
Carl Levin

CL/gg

cc: Mr. Jim Steele, Federal Highway Administration  
Mr. Scott Brines, Community Benefits Coalition

**STATE OFFICES**

DETROIT  
477 MICHIGAN AVENUE  
SUITE 1880  
DETROIT, MI 48226  
(313) 228-6020

ESCANABA  
524 LUDINGTON STREET  
SUITE LL-103  
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(906) 785-0052

GRAND RAPIDS  
FEDERAL BUILDING  
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170 MICHIGAN STREET, N.W.  
GRAND RAPIDS, MI 49503  
(616) 466-2631

LANSING  
124 WEST ALLEGAN STREET  
SUITE 1810  
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SAGINAW, MI 48607  
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TRAVERSE CITY  
107 CASS STREET  
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TRAVERSE CITY, MI 49684  
(231) 947-8569

WARREN  
30500 VAN DYKE AVENUE  
SUITE 206  
WARREN, MI 48093  
(586) 573-9146

CARL LEVIN  
MICHIGAN

RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-2202  
(202) 224-6221

**United States Senate**  
WASHINGTON, DC 20510-2202

COMMITTEES:  
ARMED SERVICES  
GOVERNMENTAL AFFAIRS  
SMALL BUSINESS  
INTELLIGENCE

December 30, 2008

Mr. James J. Steele, Division Administrator  
U.S. Department Of Transportation  
Federal Highway Administration  
315 West Allegan Street, Room 201  
Lansing, MI 48933

Dear Mr. Steele:

I am writing in regarding to the Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS) and the expected issuance of its Record of Decision (ROD) within the next few weeks. I understand the Community Benefits Coalition (CBC), an organization comprised of citizens concerned about the DRIC's impacts on Southwest Detroit, has requested an extension of time before your agency issues the ROD; I am also aware this request was recently denied. I hope you will reconsider the CBC's request and allow residents and other community members additional time to review the FEIS documents and provided comments as appropriate.

Thank you in advance for your assistance with this matter.

Sincerely,

  
Carl Levin

CL/gg

cc: Mr. Kirk Steudle, Michigan Department of Transportation  
Mr. Scott Brines, Community Benefits Coalition

**STATE OFFICES**

DETROIT  
477 MICHIGAN AVENUE  
SUITE 1980  
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WARREN  
30500 VAN DYKE AVENUE  
SUITE 206  
WARREN, MI 48093  
(586) 573-9145

**Community Benefits Coalition**  
420 Leigh  
Detroit, MI 48209  
(313) 842-1961

December 10, 2008

Mr. Robert H. Parsons  
Public Involvement and Hearing Officer

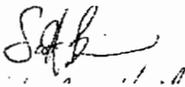
Mohammed Alghurabi, P.E.  
Senior Project Manager  
Michigan Department of Transportation  
Bureau of Transportation Planning  
425 W. Ottawa Street  
P.O. Box 30050  
Lansing, Michigan 48909

The Community Benefits Coalition is concerned that the timing of the release and comment period on the Final Environmental Impact Statement (FEIS) is unfortunately a disadvantage for the community to be apprised and engaged in the process.

The community needs adequate time to read through and process the FEIS for the following reasons: the vast number of pages and technical nature of the FEIS documents; the need to accurately process this sensitive material; the release of the FEIS and duration of the comment period coinciding with the holiday season which unduly overburdens the community; and the strain on families to overcome all of these disadvantages when they are already struggling in a difficult economic period and the implications if this FEIS directly relates to their future economic concerns.

Therefore the CBC believes further time is needed and is asking for a minimal extension of one week to better inform the community of specifics within the FEIS. Please accept our request for the comment period time extension to be moved to the 12th of January of 2009.

Sincerely,



Scott Brines, president

**Govaere, Gale (Levin)**

---

**From:** Scott Brines [REDACTED]  
**Sent:** Tuesday, December 30, 2008 2:18 PM  
**To:** Govaere, Gale (Levin)  
**Subject:** RE: DRIC Time Extension request Legislators assistance  
**Attachments:** DRIC-CBC TimeExtensionon Request on FEIS,12-10-08.doc; MDOT Response re Time Extension 12-23-08.pdf

Dear Senator Levin and other representatives,

The Community Benefits Coalition requested a time extension of (1 week) to submit comments on the Final Environmental Impact Statement for the Detroit River International Crossing Study, which has a present deadline of January 5, 1009. The Federal Highway Administration has denied our request (FHWA letter attached). We seek your assistance for any influence you may have to secure this time extension in order to minimally inform the community and allow time for public comments.

We feel that our request of only one week is fair, reasonable, and appropriate. The timing of the comment period and the task of processing the FEIS has been an extreme disadvantage to the community. The FEIS was released the day before Thanksgiving and final comments are due January 5, 2009. Our request is also attached.

Our understanding of the purpose of the EIS process is to assess all environmental impacts and to adequately engage the public, especially those who will be directly impacted. The task of processing the study and the potential impacts on the community is huge, and the study concludes that there will be significant environmental justice impacts. It is essential to the community to have this minimal time extension.

Thank you for any assistance you can provide.

Respectfully,  
Scott Brines, President

[REDACTED]

cc: Senator Carl Levin  
Senator Debbie Stabenow  
Congressman John Conyers  
Congresswoman Carolyn Cheeks-Kilpatrick  
Senator Buzz Thomas



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

**Detroit Airports District Office  
11677 South Wayne Road  
Suite 107  
Romulus, MI 48174**

December 31, 2008

Mr. David W. Wresinski, Administrator  
Michigan Department of Transportation  
Bureau of transportation Planning, Project Planning Division  
Murray D. Van Wagoner Building  
P.O. Box 30050 Lansing, MI 48909

Dear Mr. Wresinski:

Detroit International River Crossing (DIRC)  
Final Environmental Impact Statement (EIS) Comments

Thank you for the opportunity to comment of the Detroit River International crossing final environmental Impact statement. The Federal Aviation Administration (FAA) Detroit Airport District Office (ADO) has reviewed the document. From an environmental review standpoint we have no concerns. However, from an airspace review we offer the following comments:

1. At the time of the Draft EIS we encouraged you to file an FAA Form 7460 with the general location and height of the bridge so that the FAA could conduct the required airspace analysis under Federal Aviation Regulation (FAR) Part 77. See FAA letter dated May 6, 2008, Appendix F-49 of the EIS. As requested you file the form with the FAA (study number 2008-AGL-6220-OE). The FAA completed its review by letter dated December 5, 2008, copy enclosed. The FAA Office of Air Traffic Airspace Branch determined that the proposed height of 879' AGL is a hazard to air navigation.
2. We recommend that Section 2.2.5.2 "Bridge Engineering Criteria", page 2-54 of the EIS be changed to reflect the FAA determination. It currently states "The proposed bridges have been checked against the flight clearance needs of the Detroit Metropolitan Wayne County Airport, the Windsor Airport, the Coleman Young Airport and Grosse Ile Municipal Airport. The bridge tower heights of all candidate bridges can be designed to fall below the regulated flight paths of these airports."

In summary you will need to continue to coordinate the final bridge height with the FAA Office of Air Traffic Airspace Branch, ASW-520, 2601 Meacham Blvd. Fort Worth, TX 76137-0520. This office must determine that the height of the bridge will not be a hazard to air navigation.

Sincerely,

Ernest P. Gubry  
Environmental Protection Specialist  
Detroit Airports District Office

cc: w/enclosure: ASW-520, Fred Souchet  
AJV-C, Annette Davis



Federal Aviation Administration  
Air Traffic Airspace Branch, ASW-520  
2601 Meacham Blvd.  
Fort Worth, TX 76137-0520

Aeronautical Study No.  
2008-AGL-6220-OE

Issued Date: 12/05/2008

Mohammed Alghurabi  
Michigan Department of Transportation  
425 West Ottawa Street  
P.O. Box 30050  
Lansing, MI 48933

**\*\* DETERMINATION OF HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Bridge Detroit International Bridge
Location:	Detroit, MI
Latitude:	42-17-24.21N NAD 83
Longitude:	83-06-06.43W
Heights:	879 feet above ground level (AGL) 1464 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure as described above would have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft and/or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would be a hazard to air navigation.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before January 04, 2009. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace and Rules Division - Room 423, Federal Aviation Administration, 800 Independence Ave., Washington, D.C. 20591.

This determination becomes final on January 14, 2009 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Office of Airspace and Rules via telephone -- 202-267-8783 - or facsimile 202-267-9328.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and enroute procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed

structures. The study disclosed that the described structure would have a substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact Fred Souchet, at (847)294-7458. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2008-AGL-6220-OE.

**Signature Control No: 595981-103754595**

(DOH)

Kevin P. Haggerty

Manager, Obstruction Evaluation Service

Attachment(s)

Additional Information

Map(s)

**Additional information for ASN 2008-AGL-6220-OE**

NARRATIVE AERONAUTICAL STUDY NO. 2008-AGL-6220-OE

Abbreviations:

AGL - above ground level  
MSL - mean sea level  
RWY - runway  
VFR - visual flight rules  
IFR - instrument flight rules nm- nautical mile  
MVA- Minimum Vectoring Altitude  
MOCA-Minimum Obstruction Clearance  
Altitude  
Ft - foot/feet  
nm - nautical miles  
sm - statute miles

Part 77 - Title 14 Code of Federal Regulations (CFR) Part 77, Objects Affecting Navigable Airspace

**1. LOCATION OF PROPOSED CONSTRUCTION**

The proposed 879 ft AGL (1,464 ft MSL) Detroit International Bridge would be located approximately 8.23 nm southwest of RWY 07 threshold at the Coleman A. Young Municipal (DET) Airport. This proposed Bridge would be located on aeronautical sectional charts approximately 1.8 SM of Federal Victor Airway (V116) Between the Delow intersection (SVM) and the Windsor Initial Approach Fix (YQG).

**2. OBSTRUCTION STANDARDS EXCEEDED**

The structure is identified as an obstruction under standards in Part 77:

Section 77.23(a)(1) -- a height taller than 500 AGL established under 77.23, 77.25, or 77.29. The proposed bridge would exceed 500 ft AGL by 379 ft.

Section 77.23 (a) (3) a height that increases a minimum instrument flight altitude within a terminal area (TERPS Criteria).

The proposal would necessitate the increase of the Detroit / Grosse Ile Municipal Airport (ONZ) MI, initial approach altitude to 2,500 ft MSL. The proposed bridge would also increase the Detroit Metropolitan Wayne County (DTW) Airport and the Oakland County International Airport (PTK) Section B MVA from 2,400 ft MSL to 2,500 ft MSL. And increase the MOCA on V116 between SVM and YQG from 2,400 ft MSL to 2,500 ft MSL.

**3. EFFECT ON AERONAUTICAL OPERATIONS**

a. The impact on arrival, departure, and en route procedures for aircraft operating under VFR follows:

Adverse Impact - The proposed bridge would be at 879 AGL, 379 feet above 500 feet AGL.

b. The impact on arrival, departure, and en route procedures for aircraft operating under IFR follows:

There are impacts to the MOCA on Federal Airway V-116, and the DTW/PTK Minimum Vectoring Altitude (MVA) for section B instrument approaches which would both be increased 100 feet from 2,400 ft AMSL to 2,500 ft AMSL.

The DTW Airport Master Record (<http://www.gcr1.com/5010web>) lists there are 13 DTW based aircraft and there were 481,740 operations ending 31 December 2006.

The PTK Airport Master Record (<http://www.gcr1.com/5010web>) lists there are 487 based aircraft and there were 202,973 operations ending 31 December 2006.

The ONZ Airport Master Record (<http://www.gcr1.com/5010web>) lists there are 71 based aircraft and there were 52,820 operations ending 31 December 2006.

c. The impact on all-existing public-use airports and aeronautical facilities follows: no additional IFR impacts.

d. The impact on all planned public-use airports and aeronautical facilities on file with the FAA or for which the FAA has received adequate notice: None.

e. The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures follows: None.

#### 4. CIRCULATION AND COMMENTS RECEIVED

The proposal was circulated for public comment on 17 October 2008 no letters objecting to the proposal were received.

#### 5. DETERMINATION - HAZARD TO AIR NAVIGATION

It is determined that the proposed construction would have a substantial adverse effect on the safe and efficient use of navigable airspace by aircraft.

#### 6. BASIS FOR DECISION

The proposed bridge would exceed the Part 77 obstruction standards by 379 feet and adversely impact IFR procedures to ONZ, DTW and PTK. The maximum allowable height, to include all appearances, at this location is 500 AGL/1,085 MSL.

FAA Order 7400.2G, Procedures for Handling Airspace Matters, Section 3, Identifying/Evaluating Aeronautical Effects, paragraph 6-3-3 Determining Adverse Effects lists the following criteria for determining adverse effects:

A structure is considered to have an adverse aeronautical effect if it first exceeds Part 77 obstruction standards, and/or is found to have physical or electromagnetic radiation effect on the operation of air navigation facilities. A proposed structure has an adverse effect if it would:

a. Require a change to an existing or planned IFR minimum flight altitude, a published or special instrument procedure, or an IFR departure for a public-use airport.

- b. Require a VFR operation, to change its regular flight course or altitude.
- c. Restrict the clear view of runways, helipads, taxiways, or traffic patterns from the airport traffic control tower cab.
- d. Derogate airport capacity/efficiency.
- e. Affect future VFR and/or IFR operations as indicated by plans on file.
- f. Affect the usable length of an existing or planned runway.

This proposed bridge would require raising minimums to existing ONZ, DTW and PTK, IFR Procedures and Instrument approach minimums which designed and protected for the lowest possible altitudes for aircraft landing during inclement and marginal weather conditions.

Furthermore, the proposed bridge will also derogate the airport capacity and efficiency by impacting DTW/PTK minimum en route vectoring altitude (MVA) with the elimination of 2,400 MSL altitude for air traffic control procedures.

FAA Order 7400.2G, Procedures for Handling Airspace Matters, Section 3, Identifying/Evaluating Aeronautical Effects, paragraph 6-3-8 Evaluating Effect ON VFR OPERATIONS (c) EN ROUTE OPERATIONS (1) A structure would have an adverse effect upon VFR air navigation if its height is greater than 500 feet above the surface at its site, and within 2 SM of any regularly used VFR route.

The proposed bridge would be located within 1.8 SM of Federal Victor Airway (V116) Between the Delow intersection (SVM) and the Windsor Initial Approach Fix (YQG).

A proposed structure would have a substantial adverse effect if a significant volume of aeronautical operations would be affected. The ONZ, DTW and PTK Airport Master records confirm there is a significant volume of aeronautical operations. Therefore, it is determined that the proposed construction would have a substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft and would be a hazard to air navigation.

Sectional Map for ASN 2008-AGL-6220-OE



December 31, 2008

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Email: parsonsb@michigan.gov  
Fax: (517) 373-9255

Re: Detroit River International Crossing Final Environmental Impact Statement

We submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing.

The Detroit River International Crossing would bring \$1.8 billion in U.S. investment and can be a tremendous opportunity for economic development of the region, as well as sustainable development of the local community in exchange for hosting the project.

A publicly-owned bridge can provide greater public safety and responsible development into the future.

The host community of Delray and southwest Detroit already bear significant burdens of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the waste-water treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

Based on this impact and the additional burdens that will be created, the FEIS does not guarantee adequate remedies for the community.

Detroit and the DRIC should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future.

We want to emphasize the following concerns and recommendations for this project to move

forward:

The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.

A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.

**Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.

**Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.

**Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.

**Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,

Young Detroit Builders  
Jerry Pausus/Construction Manager

[REDACTED]  
[REDACTED]

January 2, 2008

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Email: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)  
Fax: (517) 373-9255

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Mr. Robert Parsons

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We want to emphasize the following concerns and recommendations for this project to move forward:

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**Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.

**Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.

**Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.

**Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,  
Thomas Reinke  
Self Reliant Energy Company  
10192 Sargent Rd.  
Fowlerville, Michigan 48836

[REDACTED]  
[REDACTED]

January 3, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909

**Submitted via email to [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)**

Re: Detroit River International Crossing Final Environmental Impact Statement

Dear Mr. Parsons:

I am writing to provide comments on the Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS). As you are aware I do not think the public planning process was adequate. After outreach was conducted within the Delray neighborhood, the Michigan Department of Transportation (MDOT) did very little to keep the larger area impacted by the project, specifically residents and stakeholders north of I-75, informed on the progress. I have raised this in countless community meetings or public hearings, as well as spelling out more details on this issue in my correspondence to Governor Jennifer Granholm on August 23, 2007 and to MDOT Director Kurt Steudle on November 29, 2007. When there are mailings sent the brochure is vague and lacks originality in order to catch residents' attention of the importance of the issue. According to Joe Corradino of the Corradino Group, consultant to MDOT, it is only mailed to about 10,000 recipients throughout the metro-Detroit area, a far cry from the 100,000 or more residents heavily impacted by the DRIC project. Furthermore, MDOT and the Corradino Group have deflected responsibility for outreach and put the onus on the "community leaders"—in short, are nonprofits and residents who are struggling to conduct every day business or make a living. Surely MDOT could have set aside part of the enormous budget of the DRIC planning for outreach to the entire Southwest Detroit area impacted by it.

A related issue is the expansion of the project during 2007 to take property along the I-75 Southbound Service Drive. Throughout the process, I regularly attended numerous meetings and there was never any declaration that this had occurred until I discovered at a public meeting that property owned by my church (Military Ave. Presbyterian Church) could possibly be taken. Prior to that meeting, no formal correspondence was received until well after church members and our pastor raised serious concerns at public meetings. To begin looking at this property without making the owners aware is completely unconscionable, and yet it occurred. This happened to other property owners along Fort Street and W. Lafayette. Military Ave. Church has offered programming to area youth and adults that will sorely be missed if the church were forced to move locations. We have also invested in a Family Center with a gymnasium and are renovating a former seedy party store into a productive coffee shop, youth hangout, and other uses. This investment has occurred in a neighborhood that rarely has seen any new activity and would likely not be replaced.

Assuming the FEIS will be approved, I have many serious concerns with this project. The host community of Delray and southwest Detroit already bear significant burdens of several infrastructure projects that service the entire region, including the Ambassador Bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the wastewater treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate 693 residents, at least 685 jobs, 43 businesses, and 7 churches, including the historic St. Paul AME church. Based on this impact and the additional burdens that will be created, the FEIS does not guarantee adequate remedies for the community.

MDOT has continually shown a disinterest in studying cumulative effects of all the existing industrial and transportation uses in the area combined with the additional impacts from the DRIC and the proposed Detroit Intermodal Freight Terminal (DIFT), as well as the Marathon Oil refinery's expansion. Air quality is poor in the area already—it does not take a scientist to determine that. Additionally, asthma rates are significantly higher in Southwest Detroit—amongst children particularly—when compared to nationwide averages. This is similar for rates of other diseases and illnesses. As someone recently diagnosed with asthma, likely due to the quality of air I breathe in daily, I am heightened to the significance of the pollution created by this projected and disheartened by MDOT's lack of attention to the issue. A study of the cumulative effects of the existing and land uses and proposed projects absolutely must be done before any part of the DRIC project is approved.

In addition to the study, MDOT must commit to long term mitigation of any effects projected from the study's results or actually created from the project. This should include regular testing of air quality—indoor and outdoor--and monitoring the results at various locations around the area. A particular focus should be on Southwestern High School and other nearby schools. Natural mitigation (trees and other vegetation) should be considered and utilized whenever possible in addition to air filtration, emission controls, noise elimination, and other mitigation systems and policies. Additionally, MDOT should provide education for area residents on the various health impacts that will result from construction of the project. Truck routes away from schools and residential areas should also be devised and compliance of the truck drivers regularly monitored and enforced.

This project is also expected to remove homes and residents from Delray. Homeowners and renters must be adequately compensated for their need to relocate, including the ability to acquire or rent a new home/apartment in the neighborhood of their choice. The consideration of new housing in other parts of Delray and Southwest Detroit should also be a part of the project, including conducting a market study to determine housing types, prices, and possible locations. Improvements of housing units that will remain is also a priority.

Businesses that will need to be relocated also should be given fair remuneration for their trouble. This should include assistance in finding a new location as well as offsetting any losses of business due to closure or lower customers. Jobs must be provided for the residents who are

staying in the area, as well as for current employees of businesses located in the proposed project footprint. MDOT's work with area businesses during the Gateway Project was less than adequate and should not be used as a model for the DRIC. Funding area business associations and other nonprofits should be provided.

Furthermore, other quality of life issues must be a part of any project. This would include park and greenway development, pedestrian and bike paths, landscaping, access to the waterfront (including a renovated boat launch), renovation of Historic Fort Wayne, and other historic preservation efforts.

There has also been the idea floated that access to the Southwest Detroit community could be negatively affected by the closure or redesigning of the Clark Street and Springwells Avenue intersections with I-75. With the complete closure of the Livernois/Dragoon intersection with I-75, these two intersections must be preserved and improved. Access to I-75 in both directions cannot be affected. Reducing access at Springwells would also negatively impact the success of any revitalization of the Delray neighborhood.

If the project is to move forward, MDOT needs to work with the Community Benefits Coalition (CBC) and follow the best practices of entering into a legally binding Community Benefits Agreement with this community to offset all the negative and harmful effects of the DRIC project. Other similar projects around the country have invested 15% of total project costs in the host community, versus the paltry 1.2% proposed in the DRIC FEIS. The CBC has compiled a list of issues that need to be addressed and MDOT must work with this group of residents and stakeholders to implement strategies on each one. In addition to many of the issues delineated above, a long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.

Lastly, if a new border crossing is built, it must permanently be under public ownership. Allowing a private entity to run rough-shod over the community as with the Ambassador Bridge's owner is completely unacceptable. Additionally, an authoritative oversight body consisting of publicly designated representatives along with area residents and other stakeholders should be created.

Sincerely,

Victor L. Abla



January 4, 2009

Mr. Robert H. Parsons  
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**Final Environmental Impact Statement (FEIS) - Detroit River International Crossing (DRIC)**

Mr. Parsons, my comments relating to the FEIS, which espouse many of the Environmental Justice principles, are mine and are essentially the same as those presented for the Draft Environmental Impact Statement (DEIS) which I have also attached.

Since summer 2005, when I became a member of the (DRIC) local advisory council (LAC), I have primarily focused on Southwestern High School. Throughout my involvement with this proposed project, I have stated I am opposed to anything that will impact the health of the community. Specifically, erecting a bridge and a plaza in the backyard of a school, to me, is unconscionable. While the FEIS does address the negative impact upon the Environmental Justice community, the study does not project the possible long-term health impacts on children or the people who will remain in the area.

The plaza will abut the football/track field at Southwestern High School. Michigan Department of Transportation (MDOT) consultants have suggested the air will be cleaner once the project is completed than the current air quality based upon the industry now in the area and the 2009 regulations on truck emissions. Logic suggests if there is more of something that does not already exist, then there will be more of something new that will exist--air pollution. I do not foresee students being able to utilize the field without encountering more pollution. Research studies indicate the healthy development of children's lungs is critical. If their lungs do not develop properly as children, inevitably as adults they will have problems. Already at Southwestern High School, there are many children who suffer with asthma. Additionally,

research studies cite negative mental and physical impacts upon children who are exposed to prolonged pollutant emissions.

Another area that the FEIS does not fully explore is that pollution is not static. Because Michigan Department of Environmental Quality (MDEQ) now receives reduced federal funding for air quality testing, they have reduced their testing efforts at the Southwestern High School air monitor even though the area is known as a “hot spot.” Additionally, the wind blows downwind. Pollution that is produced in the Delray area filters down to the Fort and Schaefer area and in some cases is more concentrated. In the Fort and Schaefer area there are three elementary schools--Mark Twain, Pierre Toussaint and Boynton. Boynton School is already heavily impacted by pollution because it is approximately 7 houses away from the Interstate 75 highway, sits at Visger and Fort Streets which has heavy car and truck traffic and is one city block from the Marathon Oil Refinery. It is conceivable these children will also become affected by additional pollution.

In reviewing the “Green Sheet: Project Mitigation Summary” that appears in the FEIS, there are no mitigation measures cited for Southwestern High School. Under “Community Enhancements, Enhancement Measures, Air Quality,” MDOT commits to work with contractors during the construction phase of the project. There is no specific mention what MDOT will do once the project has been completed, the trucks begin rolling and the children are exposed to additional pollutants. There is mention of an action plan “that will be implemented during design and construction phases, and sustained through the maintenance and operations of the facilities.” Hopefully, MDOT will work closely with the Detroit Public Schools’ facilities superintendent in developing meaningful, viable and workable remediation and procedures that will protect the children inside and outside the school’s physical plant from additional compounded pollution.

Even stating my opposition and based upon the data presented to the LAC, I recognize a bridge is needed in the area. I support the concept of a publicly owned rather than a privately owned bridge. Publicly owned bridge revenues should be prorated and used for the enhancement of those specific communities that will be impacted. This should be in the form of a binding agreement between MDOT and those specific communities rather than MDOT and city governments that tend to place such funds in general funds that do not reach the impacted communities.

DOLORES V. LEONARD, ED.D., NCC, LPC  
Member, National Sierra Club  
Member, National Environmental Justice Committee  
Member, Michigan Chapter Sierra Club

CC: Mr. M. Alghurabi, DRIC, Project Director

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
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**Re: Detroit River International Crossing Final Environmental Impact Statement**

Bagley Housing Association (BHA) would like to submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing.

We want to emphasize the following concerns and recommendations for this project to move forward:

- The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
- A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
- **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.
- **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.

- **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,

DSL

Daniel S. Loacano  
Executive Director, BHA

>>> "Gerardo Evangelista" [REDACTED] 1/5/2009 9:05:45AM >>>

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
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Re: Detroit River International Crossing Final Environmental Impact Statement

We submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing.

Detroit and the DRIC should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

We want to emphasize the following concerns and recommendations for this project to move forward:

- \* The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
- \* A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
- \* Sustainable Redeveloped Host Neighborhood: Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
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- \* Green development: Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,

***Community Benefits Coalition***

*c/o 420 Leigh, Detroit, MI 48209*

*(313) 842-1961*

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
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Re: Public Comments on the Detroit River International Crossing Final Environmental Impact Statement

Dear Mr. Parsons,

Attached please find a PDF file (84 pp.) containing comments from the Community Benefits Coalition on the Detroit River International Crossing Final Environmental Impact Statement.

The Community Benefits Coalition is a community-initiated organization with an elected community board that has been working on behalf of hundreds of residents and other community stakeholders to identify the community's needs for mutually beneficial development in exchange for hosting the DRIC project. The coalition acknowledges some improvements made in the FEIS from the DEIS, however commitments are mostly vague and do not go far enough to address impacts and needs of the community.

Southwest Detroit is already host to a number of transportation projects and heavy industries and residents bear many negative environmental burdens as a result. The FEIS acknowledges that the DRIC will have significant environmental justice impacts, adding to burdens for the impacted population. Specific impacts on the immediate community and cumulative impacts have not been adequately assessed by the DRIC.

The DRIC project with its \$1.8 billion in U.S. investment could be a pivotal project to bring economic growth to the region as well as redevelopment of the host community of Delray, just as other successful projects around the country have done with investments of 15% of total project costs in the host communities, compared to the 01.2% that the DRIC proposes.

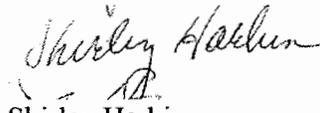
Please find the coalition's list of mitigation requirements along with our full comments attached.

Sincerely,

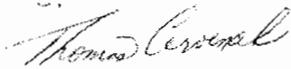
The undersigned Board Members



Scott Brines



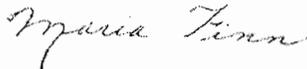
Shirley Harbin



Tom Cervenak



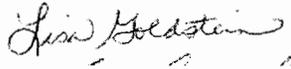
Mary Loubriel



Maria Finn



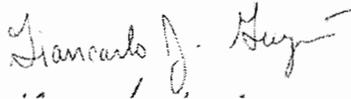
John Nagy



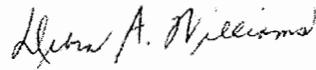
Lisa Goldstein



Denise Pike



Giancarlo Guzman



Debra Williams

**COMMENTS FROM THE COMMUNITY BENEFITS  
COALITION TO THE FINAL ENVIRONMENTAL IMPACT  
STATEMENT FOR THE DETROIT RIVER INTERNATIONAL  
CROSSING**

**January 5, 2009**

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## I. Environmental Justice

The Final Environmental Impact Statement (hereinafter “FEIS”) presents serious problems under the National Environmental Policy Act<sup>1</sup> (hereinafter “NEPA”) and environmental justice guidelines. It fails to comply with the Federal Highway Administration’s (hereinafter “FHWA”) Environmental Justice policy to “identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision making process--from early planning through implementation.”<sup>2</sup> The FEIS, unlike the DEIS, has identified discriminatory effects and adverse impacts but it fails to discuss mitigation that will address the real impact that the Detroit International River Crossing (hereinafter “DRIC”) will have on the “host” community of Delray and adjacent areas.

### A. The community’s history<sup>3</sup>

Delray was founded in 1898 as an agricultural community, primarily by Hungarian immigrants. The village was incorporated into Detroit in 1905. Other dominant ethnic groups during that time included Poles and Armenians. WWI brought an influx of Southern African-Americans looking for jobs. As the area’s residents became more prosperous, they moved out of Delray and were replaced increasingly by African-Americans, Mexicans, Puerto-Ricans and southern whites looking for affordable housing. Like the rest of Detroit, Delray suffered significant racial tension and African-Americans and other minorities experienced high housing costs, deteriorating housing stock and declining jobs. Although Delray suffered racial polarization, it was a community that remained calm during the 1967 riots in Detroit. Unfortunately, de-industrialization and white flight have led to decay and abandonment of the city of Detroit. The quality of life for residents of Delray deteriorated over the years as a result of disinvestment in infrastructure and decline of the housing stock.

Additionally, four major events in the last 60 years have drastically changed the character of Delray. Industrial development in Delray became increasingly concentrated by the mid twentieth century.<sup>4</sup> The expansion of the water treatment plant relocated a large portion of the Polish population and the construction of the I-75 freeway completed Delray’s isolation from the rest of Detroit. Finally, the passage of the North American Free Trade Agreement<sup>5</sup> (hereinafter “NAFTA”) led to the increase in truck traffic and trade moving through the community.<sup>6</sup>

The DRIC will be the fifth major character change for the community. In order to prevent this being a final blow to Delray, the DRIC needs to bring benefits to the community through mitigation measures triggered by environmental justice obligations.

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<sup>1</sup> 5 U.S.C. §§500-705.

<sup>2</sup> FHWA ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS, FHWA Order No. 6640.23 (Dec. 2, 1998) (hereinafter “FHWA Order No. 6640.23”), available at [http://www.fhwa.dot.gov/legregs/directives/orders/6640\\_23.htm](http://www.fhwa.dot.gov/legregs/directives/orders/6640_23.htm)

<sup>3</sup> This summary of Delray’s history is taken from THE UNIVERSITY OF MICHIGAN URBAN AND REGIONAL PLANNING PROGRAM, A LOCAL RESPONSE TO THE DETROIT RIVER INTERNATIONAL CROSSING: RECOMMENDATIONS TO GUIDE A COMMUNITY BENEFITS AGREEMENT (2007) (hereinafter “Local Response”).

<sup>4</sup> *Id.*

<sup>5</sup> Entered into on December 17, 1992 and approved and entered into force by Congress. 19 U.S.C. §3311.

<sup>6</sup> FEIS at 1-13.

## **B. Environmental justice obligations**

### **1. Federal executive order on environmental justice<sup>7</sup>**

On February 11, 1994, President Clinton issued Executive Order No. 12,898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations.” The order directs each agency to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.”<sup>8</sup> The order further directs agencies to ensure “programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.”<sup>9</sup> Additionally, the order requires agencies to work to ensure effective public participation.<sup>10</sup>

President Clinton also sent an accompanying memo to the heads of all the federal agencies, which emphasized that the purpose of the order was to “focus federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice.”<sup>11</sup> The memorandum directs agencies to use NEPA to “analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act.” Further, “mitigation measures outlined in or analyzed in an...environmental impact statement...should address significant and adverse environmental effects of proposed Federal actions on minority communities and low-income communities.”

Pursuant to Exec. Order No. 12,898, the Council on Environmental Quality (hereinafter “CEQ”) has issued Environmental Justice Guidance under the NEPA.<sup>12</sup> The order states that “agencies should recognize that the question of whether agency action raises environmental justice issues is highly sensitive to the history or circumstances of a particular community population, the particular type of environmental or human health impact, and the nature of the proposed action itself.”<sup>13</sup>

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<sup>7</sup> FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS, Exec. Order No. 12,898, 59 Fed. Reg. 7,629 (Feb. 11, 1994) (hereinafter “Exec. Order No. 12.898.”)

<sup>8</sup> *Id.* at Sec. 1-101.

<sup>9</sup> *Id.* at Sec. 2-2.

<sup>10</sup> *Id.* at Sec. 5-5.

<sup>11</sup> Memorandum from the President to the Heads of Department and Agencies. Comprehensive Presidential Documents No. 279. (Feb. 11, 1994).

<sup>12</sup> Council on Environmental Quality, ENVIRONMENTAL JUSTICE GUIDANCE UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT. Dec. 10, 1997, (hereinafter “CEQ, ENVIRONMENTAL JUSTICE GUIDANCE”) available at [http://www.epa.gov/compliance/resources/policies/ej/ej\\_guidance\\_nepa\\_ceq1297.pdf](http://www.epa.gov/compliance/resources/policies/ej/ej_guidance_nepa_ceq1297.pdf).

<sup>13</sup> *Id.* at 8. The CEQ offers the following guiding principles for environmental justice analysis:

- Agencies should consider the composition of the affected area, to determine whether minority populations, low-income populations or Indian tribes are present in the area affected by the proposed action, and if so whether there may be disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or Indians tribes.

- Agencies should consider relevant public health data and industry data concerning the potential for multiple or cumulative exposure to human health or environmental hazards.

Additionally, the guidance explains that the finding of a disproportionately high and adverse human health or environmental effect on a minority or low-income population should heighten the agency attention to alternatives, mitigation strategies, monitoring needs, and preferences expressed by the affected community or population. The guidance directs agencies to “state clearly in the EIS ... whether, in light of all the facts and circumstances, a disproportionately high and adverse human health or environmental impact...is likely to result from the proposed action and any alternatives. This statement should be supported by sufficient information for the public to understand the rationale for the conclusion.” Mitigation measures include steps to avoid, mitigate, minimize, rectify, reduce or eliminate the impact associated with the proposed agency action.<sup>14</sup>

As an addendum to the CEQ guidance, the Interagency Working Group on Environmental Justice (hereinafter “IWG”), which was established by Exec. Order No. 12,898, has issued guidance on how to interpret the executive order.<sup>15</sup> The guidance states:

When determining whether environmental effects are disproportionately high and adverse, agencies are to consider the following three factors to the extent practicable:

- a. Whether there is or will be an impact on the natural or physical environment that significantly (as employed by NEPA) and adversely affects a minority population, low-income population, or Indian tribe. Such effects may include ecological, cultural, human health, economic, or social impacts on minority communities, low-income communities, or Indian tribes when those impacts are interrelated to impacts on the natural or physical environment; and
- b. Whether environmental effects are significant (as employed by NEPA) and are or may be having an adverse impact on minority populations, low-income populations, or Indian tribes that appreciably exceeds or is likely to appreciably exceed those on the general population or other appropriate comparison group; and
- c. Whether the environmental effects occur or would occur in a minority population, low-income population, or Indian tribe affected by cumulative or multiple adverse exposures from environmental hazards.

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- Agencies should recognize the interrelated culture, social, occupation, historical or economic factors that may amplify the natural and physical environmental effects of the proposed agency action. These factors should include the physical sensitivity of the community or population to particular impacts; the effect of any disruption on the community structure associated with the proposed action; and the nature and degree of impact on the physical and social structure of the community.

- Agencies should develop effective public participation strategies.

- Agencies should assure meaningful community representation in the process...Agencies also should be aware that community participation must occur as early as possible if it to be meaningful. *Id.* at 9.

<sup>14</sup> 40 C.F.R. § 1508.20.

<sup>15</sup> CEQ, ENVIRONMENTAL JUSTICE GUIDANCE, Appendix A: Text of Exec. Order No. 12,898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” Annotated with proposed guidance on terms in the executive order (hereinafter “CEQ Environmental Justice Guidance”).

## 2. U.S. Department of Transportation order implementing environmental justice<sup>16</sup>

The Department of Transportation's (hereinafter "DOT") Order on Environmental Justice follows the Executive Order in spirit and in policy. The DOT Order states that "it is the policy of DOT to promote the principles of environmental justice through the incorporation of those principles in all DOT programs, policies, and activities" and that they will do this by: including "explicit consideration" of the effects on minority and low-income populations by planning and programming activities that may have a disproportionately high and adverse effect<sup>17</sup> on these communities; "taking steps to provide the public... access to public information concerning the human health or environmental impacts of programs, policies, and activities"; and preventing disproportionately high and adverse effects on any group protected from discrimination based on race, color, or national origin under Title VI.

DOT is also committed to "actively administer[ing] and monitor[ing] its operations and decision making to assure that nondiscrimination is an integral part of its programs, policies, and activities." The statutes governing DOT are administered to "identify and avoid discrimination and avoid disproportionately high and adverse effects on minority and low-income populations." They are supposed to do this by identifying and evaluating the effects of DOT programs, policies, and activities, proposing measures to avoid discrimination or adverse effects by DOT programs, considering alternatives to proposed programs with high risks of discrimination or disproportionately high adverse effects, and "eliciting public involvement... and input... from affected minority and low-income populations in considering alternatives."

To address programs and policies that will have a disproportionately high and adverse effect, DOT policy is to take into account all mitigation and enhancement measures that will offset the discrimination and will only continue the programs that will have a disproportionately high and adverse effect if "further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable."

## 3. Federal Highway Authority order<sup>18</sup>

The FHWA order implementing Exec. Order No. 12,898 states that "[i]t is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision making process--from early planning through implementation."<sup>19</sup> The FHWA order defines "adverse effect" and "disproportionately high" the same as the DOT guidance document and adheres to the same policies.<sup>20</sup> The FHWA order further requires that:

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<sup>16</sup> US Department of Transportation Order on Environmental Justice, 62 Fed. Reg. 18377 (April 15, 1997) (hereinafter "DOT Order") available at [http://www.fhwa.dot.gov/environment/ejustice/dot\\_ord.htm](http://www.fhwa.dot.gov/environment/ejustice/dot_ord.htm).

<sup>17</sup> The DOT Order defines "adverse effects" as the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects. The DOT Order defines "disproportionately high and adverse effect on minority and low-income populations" as an adverse effect that: (1) is predominately borne by a minority population and/or low-income population, or (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

<sup>18</sup> FHWA Order No. 6640.23, *supra* note 2.

<sup>19</sup> *Id.*

<sup>20</sup> FHWA Order No. 6640.23(2)(f) & (g), *supra* note 2.

FHWA will administer its governing statutes so as to identify and avoid discrimination and disproportionately high and adverse effects on minority and low-income populations by...proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities, where permitted by law and consistent with Exec. Order No. 12,898; and considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with Exec. Order No. 12,898.<sup>21</sup>

#### 4. Michigan's environmental justice directive<sup>22</sup>

Governor Granholm has issued an executive directive that directs the Michigan Department of Environmental Quality (hereinafter "MDEQ") to "develop and implement a state environmental justice plan to promote environmental justice in Michigan. The plan shall... [a]ssure implementation in a manner that maximizes the promotion of environmental justice while minimizing or eliminating potential adverse or disproportionate social, economic, or environmental impact."<sup>23</sup> Further, the directive defines "environmental justice" as "the fair, non-discriminatory treatment and meaningful involvement of Michigan residents regarding the development, implementation, and enforcement of environmental laws, regulations and policies by this state."<sup>24</sup>

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<sup>21</sup> *Id.* at (5) (c).

<sup>22</sup> PROMOTING ENVIRONMENTAL JUSTICE, Exec. Directive No. 2007-23 (Nov. 21, 2007). One of the preambles to the directive states "WHEREAS, state government has an obligation to advance policies that foster environmental justice, social well-being, and economic progress."

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* This closely parallels the Environmental Protection Agency's (hereinafter "EPA") definition of environmental justice, which states:

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. **Fair treatment** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. **Meaningful involvement** means that: (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) their concerns will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected. Environmental Protection Agency, Environmental Justice Basic Information: Background, <http://www.epa.gov/compliance/basics/ejbackground.html> (last visited Oct. 26, 2008) (emphasis in original).

## C. The FEIS analysis of the DRIC's impact on minority and low-income populations

### 1. Minority impact analysis

In general, the FEIS, unlike the DEIS, finds there is a “disproportionately high and adverse impact” on minority or low-income populations. The characteristics of the Delray community clearly require a finding of “disproportionately high and adverse impact.”

#### a. Adverse effects

The FHWA and DOT Orders define “adverse effects” as the “totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to:<sup>25</sup>

- bodily impairment, infirmity, illness or death;
- air, noise, and water pollution and soil contamination;
- destruction or disruption of man-made or natural resources;
- destruction or diminution of aesthetic values;
- destruction or disruption of community cohesion or a community's economic vitality;
- destruction or disruption of the availability of public and private facilities and services;
- vibration;
- adverse employment effects;
- displacement of persons, businesses, farms, or nonprofit organizations;
- increased traffic congestion;
- isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and
- the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.

The Delray community will suffer all of these impacts as a result of the DRIC. For instance, air quality will likely deteriorate and impact community members' health.<sup>26</sup> The demolition of historical buildings and loss of park space will destroy community resources and aesthetics.<sup>27</sup> Destruction of affordable housing and the relocation of community members and vital businesses will disrupt community cohesion, economic vitality and employment opportunities.<sup>28</sup> The trucks will bring increased noise, traffic congestion and problems on residential streets, as well as presenting significant public safety concerns.<sup>29</sup> The train tracks and I-75 already physically isolate the community, while the closing of streets, rerouting of buses,

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<sup>25</sup> DOT Order, *supra* note 16; FHWA Order No. 6640.23. *supra* note 2.

<sup>26</sup> As compared to the no build alternative. *See* Air Quality comments, *infra* Section VI for a more detailed analysis.

<sup>27</sup> *See* Historic Preservation and Parks & Recreation comments, *infra* Sections IX and X, for a more detailed analysis.

<sup>28</sup> *See* Economic Development and Housing comments, *infra* Sections II and III for a more detailed analysis.

<sup>29</sup> *See* Noise, Traffic, and Public Safety comments, *infra* Sections V, VII and XII for a more detailed analysis.

and relocation of pedestrian crossings will further isolate the community.<sup>30</sup> Finally, the DRIC will make access to the Community Health and Social Services Center (hereinafter “CHASS”), a vital health care provider which serves low-income members of the Delray community, more difficult.<sup>31</sup> All of these factors demonstrate that the community will suffer adverse impacts as a result of the DRIC.

**b. Disproportionate and adverse effects**

The Delray study area is 69% minority.<sup>32</sup> The Southeast Michigan Council of Governments (hereinafter “SEMCOG”) region is 28% minority and Detroit is 87% minority.<sup>33</sup> The demographics can more easily be compared in the chart below:

	Delray study area	Detroit	SEMCOG
	9.3	81	21.8
	58.3	5	2.8
	28	10.6	70.5

The community most affected by the DRIC will be the Delray neighborhood, which is 62.5% minority (32.3% African-American and 30.2% Hispanic) and approximately 32% non-minority.<sup>34</sup> In the Delray study area, the minority population rose from 43 to 69% from 1990 to 2000.<sup>35</sup> The Hispanic community almost doubled in those ten years, to about 58%.<sup>36</sup> Using 2006 data, the FEIS acknowledges that the non-minority population in the study area has increased (from 80% to 83%) since the 2000 census, with the Hispanic population showing the greatest increase.<sup>37</sup>

The FEIS concludes that the DRIC would have an adverse effect on minority and low-income population groups.<sup>38</sup> Three quarters of those that face relocating by the DRIC Preferred Alternative are minorities. The FEIS identifies the following impacts:

- 257 households would be relocated;
- The predominant minority and low-income residents of the Berwalt Manor Apts. will have a ramp (carrying traffic from the plaza to northbound I-75) 40 feet from the building, increasing noise levels and altering access to the building and parking spaces;
- 685 jobs would be lost (some are held by minorities and low-income people)<sup>39</sup>;

<sup>30</sup> See Traffic comments, *infra* Section V for more detailed analysis.

<sup>31</sup> Last year, CHASS provided services to over 13,000 patients. 28% of these patients were non-white, 46% were best served in a language other than English, and 98% lived below the 200%-poverty line. See CHASS Annual Report, UDS No. 056770. Department of Health and Human Services (hereinafter “HHS.”) (Feb. 15, 2008) (hereinafter “CHASS Report”).

<sup>32</sup> FEIS at 3-26.

<sup>33</sup> *Id.* 3-27.

<sup>34</sup> *Id.* at 3-8. The Delray neighborhood consists of a smaller neighborhood within the Delray Study Area.

<sup>35</sup> *Id.* at 3-27.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 3-34.

<sup>38</sup> *Id.* at 3-32.

<sup>39</sup> The FEIS acknowledges that this is particularly the case because those businesses taking advantage of the Empowerment Zone tax credits must employ local residents to gain those credits. FEIS at 3-32.

- Two cultural resources would be lost, including St. Paul African Methodist Episcopal (hereinafter “AME”) Church<sup>40</sup>;
- Up to seven places of worship would be lost;
- A park, a recreation center and a play lot will be lost;
- Normal travel patterns would be disrupted and travel will become more difficult, especially crossing between north and south of I-75;
- Two bus lines would be re-routed (especially important since the population affected has “relatively low access to an automobile”);
- Elimination of a pedestrian crossing over I-75 and changes in several others.<sup>41</sup>

The FEIS reaches the conclusion that “the project’s impacts will be disproportionately high and adverse to minority and low-income groups.”<sup>42</sup> The impacts will be predominantly borne by minority and low-income groups and these impacts are appreciably more severe than the impacts that would be experienced by non-minority population groups in the area.<sup>43</sup>

## 2. Low-income population impact

The DRIC will also substantially and predominately impact the low-income population of Delray. In the 2000 census, almost 32% of the households in the study area had annual incomes below the poverty level.<sup>44</sup> The 2006 data shows that poverty had grown in Detroit and Southwest Detroit to 36% and 39% respectively.<sup>45</sup> In 2000, over 40% of Delray households<sup>46</sup> lived below the poverty rate, above City, state and national averages.<sup>47</sup> That rate has likely increased as well. To assess the low-income population impact, MDOT uses the poverty line defined by the HHS, which is currently \$21,200 for a family of four.<sup>48</sup> Even though these statistics demonstrate that a substantial portion of the community is low-income, the HHS statistics are not the best measure of the low-income nature of the community. The U.S. Department of Housing and Urban Development’s (hereinafter “HUD”) income limits are a better measure of income since they are based on a region’s median income. In Wayne County, HUD considers families of four earning less than \$55,900 as low-income (80% of median income).<sup>49</sup>

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<sup>40</sup> The hallmark of the African-American community in Delray has historically been the Church. It is the “lone surviving structure associated with the early African-American settlement in Delray. It is the only AME church constructed in Delray and the oldest resource in Delray left standing that can attest to the community’s early 20<sup>th</sup> century African-American heritage. FEIS at 5-12 and 5-13.

<sup>41</sup> FEIS at 3-110.

<sup>42</sup> *Id.* at 3-37.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 3-27.

<sup>45</sup> *Id.* at 3-34.

<sup>46</sup> *Id.* at 3-8.

<sup>47</sup> The national poverty rate is 13%. U.S. Census Bureau, INCOME, EARNINGS, AND POVERTY DATA FROM THE 2007 AMERICAN COMMUNITY SURVEY, 20 (Aug. 2008). Michigan’s poverty rate is 14%. *Id.* at 21.

<sup>48</sup> 2008 HHS Poverty Guidelines, *available at* <http://aspe.hhs.gov/POVERTY/08poverty.shtml> (last visited October 27, 2008). The HHS Poverty guidelines are national.

<sup>49</sup> HUD FY 2008 Income Limits Documentation System. Summary for Wayne County, *available at* [www.huduser.org/dataset/il/il2008/2008summary.odn](http://www.huduser.org/dataset/il/il2008/2008summary.odn) (last visited October 27, 2008). A family of four is considered very low-income (50% of area median income) at \$34,950; and extremely low-income (30% of area median income) at \$20,950. *Id.*

The FEIS acknowledges a trend of increases in the minority and low-income populations in the Delray Study Area,<sup>50</sup> which suggests that the trend will continue and thus that a greater number of minority and low-income populations will be affected by the DRIC.

### 3. Cumulative and indirect impacts

The FEIS fails to consider all the cumulative human health and environmental effects including social and economic effects. The EPA's Environmental Justice Guidance provides that MDOT "must" consider the cumulative impacts on a vulnerable population by addressing the "full range of consequences of a proposed action" as well as "other environmental stresses which may be affecting the community."<sup>51</sup> These include other sources of environmental stresses in the region, including those that have "historically existed," those that "currently exist," and those that are "projected for the future."<sup>52</sup> Indirect effects include increased air pollution, lower housing values, loss of sacred sites. Actions that result in business failure (and associated unemployment), erosion of tax bases, and reduced public services may be exacerbated in low-income and minority communities due to an inability to travel long distances to find alternative means of employment or a failure to attract new industry or commerce.<sup>53</sup> MDOT has failed to analyze the impacts of other planned transportation projects on the community as well as the impact of other sources of pollution that already exist in the community.

The CBC agrees with MDOT's conclusion that the project will have a disproportionately high and adverse effect on the minority and low-income community of Delray. The CBC is encouraged that MDOT has acknowledged several adverse impacts on the community of Delray. The FEIS, however, fails to consider the true combined cumulative impact of this project on Delray, a minority and low-income community. The FEIS recognizes the adverse impacts of relocation of 693 residents; lost jobs for 685 people; loss of two cultural resources, including a church that has played a central role in African-American life in the community; loss of seven places of worship and five non-profit organizations; re-routing of two bus lines that travel through a community where 30% of the people do not have access to an automobile; loss of two parks and a recreation center; elimination of one crossing over I-75 and changes to several others; more difficult travel patterns within the community as well as outside the community because of the plaza and the closure of several streets including those crossing I-75; and increased noise and decreased access to the building and parking lot for residents of the Berwalt Apt. since a new ramp will be located 40 feet from their homes. These are already substantial impacts for any community, let alone one facing the challenges that residents of Delray already face.

The residents of Delray will face additional impacts which the FEIS does not consider when discussing cumulative impacts. These include increased truck traffic in its neighborhood streets; loss of neighborhood cohesion; difficulties in finding replacement housing that is affordable to residents and decent, safe and sanitary given the compensation they will receive and the probably rise in real estate taxes; difficulties in finding new jobs for those that will lose jobs; loss of livelihood for those whose businesses will have to close as well as the possible loss

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<sup>50</sup> FEIS at 3-34.

<sup>51</sup> Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses, April 1998, Section 2.2.2.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

of tax revenues in region as a result of that; possible loss of businesses in the community; loss of tax benefits to residents and neighborhood businesses in the Renaissance and Empowerment Zones; possible loss of neighborhood schools due to decrease in the area's population; increased noise for area residents; increased light pollution for residents and the area's most important cultural resource, Ft. Wayne; increased air pollution and the health issues associated with such; and changes in response times for emergency services. The FEIS needed to consider these additional impacts.

#### **D. The FEIS fails to adequately address mitigation**

The FEIS fails to comply with the FHWA's order. According to FHWA Order 6640.23, "it is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision making process--from early planning through implementation."<sup>54</sup> Pursuant to Exec. Order No. 12,898, FHWA and MDOT are obliged "to the greatest extent practicable" to make "achieving environmental justice part of [their] mission." This means that the presence of disproportionately high and adverse effects on minority and low-income populations "should heighten agency attention to alternatives, mitigation strategies, monitoring strategies, monitoring needs, and preferences expressed by the affected community or population."<sup>55</sup> Even though MDOT finds a "disproportionate and adverse impact," the FEIS fails to give mitigation the "heightened" attention that Exec. Order No. No. 12,898 contemplates. Most mitigation proposals are vague, promise to mitigate by complying with the law,<sup>56</sup> or promise to mitigate by coordinating without providing any real measures that mitigate the adverse impacts.<sup>57</sup> By inadequately addressing mitigation measures, the FEIS has raised a significant environmental justice concern because environmental justice is supposed to ensure the meaningful involvement of the minority and low-income community being affected. The EPA defines "meaningful involvement" as (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) their concerns will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.<sup>58</sup> The CEQ guidance requires, and the community needs, heightened attention to mitigation strategies. The FEIS mentions the numerous community meetings held, implying the community supports the "mitigation" offered by MDOT. The Community Benefits Coalition has suggested a number of mitigation measures to MDOT that have not been considered in the FEIS.

The mitigation that is proposed is merely the legal minimum. It completely fails to give the environmental justice "heightened consideration" factor that is mandated by Exec. Order No. 12,898. Simply providing the legal minimum, without providing provisions to offset the disproportionate injustices suffered by the Delray community is not acceptable mitigation.

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<sup>54</sup> FHWA Order No. 6640.23, *supra* note 2.

<sup>55</sup> CEQ, ENVIRONMENTAL JUSTICE GUIDANCE, *supra* note 15 at 10 (emphasis added).

<sup>56</sup> For instance, the FEIS at 4-1 to 4-3 promises to follow relocation and acquisition laws.

<sup>57</sup> As a result of the economic/job impacts, the FEIS promises to coordinate and explore. The only concrete proposed mitigation is a study of economic opportunities. FEIS at Table 3-6D at 3-38.

<sup>58</sup> <http://www.epa.gov/compliance/basics/ejbackground.html>.

The mitigation that MDOT specifically relates to environmental justice are avoiding the Berwalt Manor Apartment Building; minimizing noise to the residents of the apartment building; displacing a smaller number of housing units; replacing all five pedestrian bridges; avoiding the CHASS Center; controlling air pollution during construction; identifying projects that would reduce particulate matter pollution; exploring job training opportunities; and funding a study of economic opportunities. Most of these mitigation measures are required by law, and would be required regardless of the environmental justice status of the impacted community. MDOT's proposed mitigation measures do little to provide offsetting benefits and opportunities to enhance Delray as a result of FHWA's activities, as required by the Environmental Justice executive orders and directives.

If MDOT decides that there are no reasonable alternatives to constructing the DRIC in Delray, then the impacts on this diverse and low-income neighborhood need to be mitigated beyond the minimums that would be required by law even if Delray was not an environmental justice community. To require less of MDOT would create incentives to choose low-income and minority communities as the sites for transportation projects having substantial environmental impacts since the mitigation in these communities is merely less expensive. Part of the goal of the Environmental Justice Executive Orders is to counter this very economic incentive. Delray cannot be allowed to suffer a reduction in receipt of benefits of FHWA programs as a result of being populated by low-income and minority people.

The following comments will more thoroughly detail the shortcomings of the FEIS. These shortcomings need to be addressed in the Record of Decision (hereinafter "ROD").

## **II. Economic Development**

The Delray community is being asked to bear a disproportionate burden of the economic impacts of the DRIC. The Preferred Alternative will require relocation of 43 businesses supporting 685 jobs.<sup>59</sup> Delray already suffers from higher poverty and unemployment rates.<sup>60</sup> More than 40% of the population in Delray lives below the poverty line, while the Detroit city average is 26.1%.<sup>61</sup> At the time of the 2000 census, the unemployment rate in Delray was nearly twice that of Southeastern Michigan (11% as opposed to 6%).<sup>62</sup> Detroit's unemployment rate is currently almost twice that of the region's (16.7 as opposed to 8.8%).<sup>63</sup> Given that, all indications are that Delray's unemployment rate is higher today than it was in 2000. Despite the hardships that Delray already faces, the DRIC will compound these problems. As a matter of environmental justice, MDOT must mitigate the economic impacts to prevent this largely minority and low-income neighborhood from bearing disproportionately high and adverse effects.

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<sup>59</sup> FEIS at 3-49.

<sup>60</sup> *Id.* at 3-8, 3-12.

<sup>61</sup> FEIS at 3-8; Local Response, *supra* note 3 at 12.

<sup>62</sup> FEIS at 3-12.

<sup>63</sup> *See*, U.S. Department of Labor, Local Area Unemployment Statistics, [www.bls.gov/web/laummtrk.htm](http://www.bls.gov/web/laummtrk.htm) and [www.bls.gov/lau](http://www.bls.gov/lau) (last visited October 26, 2008).

**A. The FEIS fails to fully and adequately discuss the adverse impacts it identifies**

**1. The importance of vehicular and pedestrian traffic in Delray**

The FEIS does not adequately address the effect of changing traffic patterns in Delray. Commercial establishments within Delray largely provide services to other businesses or to pass by traffic on Fort Street.<sup>64</sup> The FEIS fails to study how a disruption in current traffic patterns will adversely affect businesses that remain or relocate within Delray. While the FEIS notes that altering current interchanges will affect major employers, there is no mention of how other employers will be affected.<sup>65</sup> Moreover the FEIS completely ignores how altering current interchanges may affect small businesses.<sup>66</sup> In addition, the elimination of some pedestrian crossings and changes to others, including increased distance between them, will be especially detrimental in a neighborhood that relies heavily on non-motorized transportation.<sup>67</sup> Furthermore, a number of residents will be forced to leave Delray further deteriorating the potential customer base of local businesses and making it harder for Delray to retain and attract businesses.

**2. Job loss and business relocation**

There are many marginal businesses in Delray that will not be displaced by the DRIC but likely could not survive a multi-year construction project. The FEIS fails to consider the impact of the project on these small businesses.

The FEIS finds that 43 businesses and 685 jobs will have to relocate in Delray as a result of the DRIC.<sup>68</sup> However, the FEIS fails to note how many total businesses are located within Delray and how many people they employ in total. This leads to a complete lack of analysis as to what percentage of economic activity in Delray will be displaced by the DRIC. According to a windshield survey conducted by the University of Michigan's Urban and Regional Planning Program, there are 76 businesses within Delray.<sup>69</sup> This means that over 50% of the local businesses will be displaced by the DRIC. However, this figure still does not speak to what percentage of the economy is being displaced, because MDOT has failed to analyze what percentage of total jobs in Delray are being displaced and what that translates to in terms of income and local economic benefit.

Forty-three of 50 businesses interviewed preferred to relocate in or near Delray.<sup>70</sup> However, the FEIS fails to take into account the feasibility of that option. The Local Response study appears to confirm that there are opportunities for businesses displaced by the DRIC to relocate within the boundaries of Delray.<sup>71</sup> That same study recognizes that this may minimize direct costs to the disruption of individual businesses.<sup>72</sup> The FEIS needs to explore the details of such mitigation.

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<sup>64</sup> Local Response, *supra* note 3 at 41.

<sup>65</sup> FEIS at 3-19, 3-21.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 3-32.

<sup>68</sup> *Id.* at 3-49.

<sup>69</sup> Local Response, *supra* note 3 at 41.

<sup>70</sup> FEIS at 3-49.

<sup>71</sup> Local Response, *supra* note 3 at 42.

<sup>72</sup> *Id.*

Instead the economic analysis of the FEIS focuses entirely on the economic impact on the region.<sup>73</sup> It does nothing to discuss mitigation for the job and businesses losses in the community most impacted by the DRIC. The FEIS finds that the jobs losses will be offset by jobs generated and money spent on construction.<sup>74</sup> Bridge and plaza operations are forecast to generate 775 jobs by 2035.<sup>75</sup> The FEIS states that the property tax losses to the City (in the \$500,000 range per year) will be “partially” offset by those relocating within Detroit and redevelopment and new development in the area as a result of the bridge.<sup>76</sup> The FEIS also predicts that construction expenditures and direct and indirect construction jobs would also produce revenue for local governments and the state. The FEIS contains no assurances to the community that this redevelopment would happen and contains no plans for funding this reinvestment. Without more specific plans for this new development, the FEIS asks the community to believe something will happen with no basis in fact or research that in fact the bridge will bring reinvestment in the community.

The FEIS implies that the job loss will be mitigated by other job gains. The FEIS is misleading in discussing job loss within Delray but job creation only within the larger region, thus making it impossible to determine the net job impact on Delray.<sup>77</sup> Delray is being asked to bear the greatest burdens without any assurances that it will benefit directly from the DRIC. The Delray community is being sacrificed for the good of the state and region.

#### **B. The FEIS has not adequately studied all potential adverse impacts**

The FEIS admits that the DRIC will have a “disproportionately high and adverse effect on minority and/or low-income populations within Delray.”<sup>78</sup> The DEIS found that such impacts “may include, but are not limited to disruptions to community cohesion, possible isolation, and loss of economic vitality.”<sup>79</sup> The FEIS finds that among the impacts is the relocation of 685 jobs, particularly given that many businesses are taking advantage of the Empowerment Zone tax credits that they receive by employing community residents.<sup>80</sup> But the FEIS does not fully analyze that impact on the community and does not analyze the “loss of economic vitality” identified in the DEIS.

#### **C. Mitigation suggested by the FEIS**

##### **1. The required legal mitigation is inadequate**

The FEIS promises all relocated business just compensation. Just compensation is defined as the fair market value for property rights acquired.<sup>81</sup> Because property values in Delray are so low, merely providing businesses with fair market value will not provide them the means to successfully relocate elsewhere. While the statute provides additional reasonable expenses

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<sup>73</sup> FEIS at 3-49.

<sup>74</sup> *Id.* at 3-50.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 3-32, 3-33.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 3-34.

<sup>81</sup> United States v. Miller, 317 U.S. 369, 374 (1943).

necessary to re-establish a business, it caps this amount at \$10,000,<sup>82</sup> which may not provide enough compensation to make relocation possible. Instead businesses may have to take the fair market value and close their doors for good. In addition, fair market value does not compensate for all aspects of a business' value. For instance, there is no compensation for loss of goodwill, loss of trained employees, or additional operating expenses in a new location.<sup>83</sup> The FEIS fails to analyze the businesses that may not be adequately compensated.

Most of the businesses in Delray have expressed the desire to remain within the community.<sup>84</sup> Appendix A of the FEIS states that "a review of the (Southwest Detroit) commercial real estate market indicates that there are a sufficient number of replacement sites available to relocate eligible displaced businesses."<sup>85</sup> It is not clear what additional research MDOT has done since the DEIS since Appendix A of the DEIS contained the exact language except the words "Tri-county" appear where "Southwest Detroit" now appear. The FEIS grossly overestimates the likelihood that a small business will be able to successfully relocate. The likelihood of higher property values and operating costs outside of Delray illustrates the above point that providing fair market value will not adequately compensate businesses in Delray.<sup>86</sup> Mitigation must include an economic development strategy with the goal of retaining these businesses in Delray, particularly since most indicated their intention and preference to stay. The only concrete mitigation that the FEIS provides is "funding a study of economic development opportunities that will support small business development in the DRIC study area."<sup>87</sup> The FEIS contains no other commitment other than coordination and exploration "if possible."

## **2. The FEIS fails to evaluate the impact on Delray of removing the Empowerment Zones**

Empowerment Zones are important to businesses and economic development because an employer receives a tax credit for each employee who lives and works for the employer in the designated zone.<sup>88</sup> The tax benefits of Empowerment Zones encourage businesses to locate within the zone and to hire locally. The plaza will take parts of the Empowerment Zone that exists in the Delray.<sup>89</sup> The FEIS acknowledges that the removal of businesses within the Empowerment Zone is an adverse impact on the community<sup>90</sup> but it fails to provide concrete mitigation for this problem. MDOT states that efforts will be made to will pursue the possibility of extending and modifying the Empowerment Zone.<sup>91</sup> However, the FEIS fails to acknowledge the difficulty of such and provides no other mitigation if it cannot be extended or modified. Empowerment Zones are set to expire in 2009 and their fate remains in Congress' hands.<sup>92</sup>

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<sup>82</sup> 42 U.S.C. § 4622 (4).

<sup>83</sup> "Your Rights and Benefits When Displaced By A Transportation Project." MDOT, Real Estate Division at 19.

<sup>84</sup> FEIS at 3-49.

<sup>85</sup> *Id.* Appendix A at A-2.

<sup>86</sup> Local Response, *supra* note 3 at 43.

<sup>87</sup> FEIS Table 3-6D at 3-38.

<sup>88</sup> IRS Publication 954; *see also*

<http://www.hud.gov/offices/cpd/economicdevelopment/library/taxincentivesez.pdf>.

<sup>89</sup> FEIS at 3-23.

<sup>90</sup> *Id.* at 3-32.

<sup>91</sup> *Id.* Table 3-6D at 3-38.

<sup>92</sup> *Id.* In June 2007, bills were introduced in the House and Senate to extend the life of Empowerment Zones. however, these bills have remained in committee and with no indication that Congress will act in the foreseeable future. S1627 and HR 2578.

Despite an expiration date of December 31, 2009, there is the potential for economic harm, in the form of increased tax liability to businesses forced to relocate before this date.<sup>93</sup> As such, MDOT needs evaluate the effect of the reduction of the Empowerment Zone and provide mitigation to businesses that suffer this additional loss.

**3. The FEIS fails to evaluate the impact on Delray of the elimination of the Renaissance Zone**

Michigan Renaissance Zones offer tax benefits similar to Federal Empowerment Zones. Renaissance Zones, however, differ in that the tax abatement is available to employers as well as residents within the Renaissance Zone.<sup>94</sup> The footprint of the DRIC project stands to consume much of the Renaissance Zone that provides economic stimulus to Delray.<sup>95</sup> The FEIS has suggested that MDOT will “coordinate with state and federal officials” and “if possible” extend or modify the Renaissance Zone,<sup>96</sup> but modifying the Renaissance Zone is a difficult task as well. Currently the Delray Renaissance Zone is set to expire December 31, 2011.<sup>97</sup> The FEIS fails to evaluate the impact of the loss of the Renaissance Zone on the community or to discuss the complexity of modifying and extending Renaissance Zones.<sup>98</sup> Unless the Delray Renaissance Zone is modified, businesses and residents forced to relocate will suffer economic harm in the form of increased tax liability. MDOT must evaluate this impact and compensate businesses and residents for this loss.

**4. The FEIS fails to provide local mitigation to counter local job loss**

The FEIS notes that there will be a number of jobs created by the DRIC construction (8,939 to 10,416 direct jobs and 22,986 to 26,784 indirect jobs over the periods of 2010 to 2013 from construction spending)<sup>99</sup> and bridge operation (775 by 2035),<sup>100</sup> but it is uncertain that local community residents will be given priority in obtaining these jobs. MDOT has made no commitments that it will make efforts to provide construction jobs for local residents. Since these jobs can only be considered temporary mitigation, the residents employed must be provided with the training that will enable them to become skilled laborers. MDOT at most promises to “coordinate with local and state agencies to explore job training opportunities.”<sup>101</sup> The effects of displacing as many as 43 employers and 685 jobs will last indefinitely.<sup>102</sup> The “estimated” 775 jobs by 2035 will come 26 years after 685 jobs are eliminated with no assurances that any of the 775 jobs will be held by residents. As a result, mitigation must counter that loss. Otherwise the 775 permanent jobs created for bridge operation will result in a net loss of jobs.<sup>103</sup> The FEIS instead chooses to focus on regional job growth at the expense of Delray.

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<sup>93</sup> IRS Publication 954.

<sup>94</sup> MCL 125.2689.

<sup>95</sup> FEIS Figure 3-9 at 3-23.

<sup>96</sup> *Id.* Table 3-6D at 3-38.

<sup>97</sup> See <http://www.ci.detroit.mi.us/Departments/RenaissanceZones/tabid/146/Default.aspx>.

<sup>98</sup> Specifically, the City of Detroit would need to submit an application for modification and extension to the board of the Michigan Strategic Fund. MCL 125.2684 (7). Wayne County must also consent to any extension or modification. *Id.*

<sup>99</sup> FEIS at 3-48.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* Table 3-6D at 3-38.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

#### **D. The FEIS needs to consider additional mitigation**

Delray needs to redevelop existing areas and create new commercial areas, which will attract new residents and visitors, and which will increase economic growth. Within the context of the DRIC, a number of commitments can be made to help fulfill this goal. The FEIS talks about exploring enhancements and mentions a number of possible mitigations, but it fails to detail any specific commitments.<sup>104</sup>

##### **1. Local businesses must be consulted on their traffic needs**

Delray needs to have a very hospitable business environment given the adverse impacts of the DRIC. It is imperative that businesses be consulted as to their traffic and truck routing needs, particularly those that may be located in close proximity to new bridge plaza and interstate connections. MDOT needs to evaluate its designs with this in mind. As an example, it appears trucks coming off Campbell onto Fort will have difficulty making the turns. It is critical that Delray maintain a reasonable amount of local traffic to support local businesses while at the same time minimizing truck traffic on residential streets. This is important to not only accommodate existing businesses, but to enable Delray to attract new businesses.

##### **2. Jobs to local residents**

Even though the FEIS recognizes that many jobs will be created because of construction and bridge operation, it fails to prioritize the hiring of local residents. Community residents have expressed concern because another transportation project, the Gateway Project, failed to hire a single local resident. MDOT must commit to provide a large percentage of these jobs to local residents. While MDOT may not be making the hiring decisions, it has the power to set bidding guidelines and negotiate with contractors to ensure that some local residents are hired. Moreover, these jobs need to pay a living wage<sup>105</sup> because many Delray residents already live below the poverty line. The community has also expressed interest in creating employment opportunities for the area youth. This is an additional opportunity to provide job training.

##### **3. Job training**

The FEIS needed to consider job training since many local residents may not currently have the training for jobs that will come to the area as a result of the DRIC. Because the majority of Delray residents lack a high school diploma<sup>106</sup> it is imperative that local residents be provided with job training that will expand their economic possibilities. The job training must be relevant and prepare the residents for the potential jobs available during construction and ongoing bridge operation. MDOT should set up a referral system to ensure that newly trained residents are able to contact DRIC contractors. Training should include apprenticeship programs in skilled trades. It is essential that the training be offered in Spanish and Arabic, in addition to English. Providing English as Second Language programs would also help expand the economic opportunities to local residents. In the FEIS, MDOT states that it will coordinate with local and state agencies to

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<sup>104</sup> *Id.* at ES-35.

<sup>105</sup> Even if the City of Detroit's Living Wage Ordinance does not apply.

<sup>106</sup> FEIS at 3-12.

explore job training opportunities.<sup>107</sup> The Delray community needs more than coordination from MDOT in order to counter the adverse economic impacts of the DRIC.

#### **4. Land use and study**

The FEIS sees only positive land use change under the build alternative.<sup>108</sup> The FEIS fails to analyze how a better link between Delray and the rest of Southwest Detroit could have a positive impact on the community without the DRIC. The FEIS recognizes that Southwest Detroit has rebounded, even as the rest of the City of Detroit lost population.<sup>109</sup> This is evidenced by investments in new and revitalized businesses and housing.<sup>110</sup>

Detroit's Master Plan, if approved and implemented through the City's zoning ordinance, has the potential to separate the industrial and residential uses in the community in a manner consistent with planning principles. MDOT should support the implementation of land use regulations and tools such as an overlay district for Delray. An overlay district would allow the community to plan future uses without rezoning the entire neighborhood. This is important to economic development because it will prevent the mixing of industrial and residential uses that often occurred in the past.

The DRIC has the potential to further isolate Delray from the rest of Detroit and even the rest of Southwest Detroit. Delray has been an isolated community since the construction of I-75, making it difficult to cross from the north to the south and vice versa. The plaza will further divide the community into east and west. A land use plan can help to integrate the neighborhoods north and south of the freeway. To further prevent Delray's isolation, the Detroit Intermodal Freight Terminal (hereinafter "DIFT") and the DRIC should work together to develop a larger community vision and land use plan.

#### **5. Fort Wayne as an anchor**

Fort Wayne is currently an underutilized economic asset. A market analysis can help to determine the viability of Fort Wayne as a tourist destination. The Fort Wayne Master Plan could help to jumpstart economic development in Delray by transforming it into a regional destination.<sup>111</sup>

#### **6. Development of logistics businesses**

The Foreign Trade Zone and Container Barge Operations at the port create a need for logistics support functions.<sup>112</sup> East Delray, located between the DRIC and Ambassador Bridge, might be an attractive location for logistics uses to complement the transportation function of the area.<sup>113</sup> This is an opportunity for new businesses to come into Delray. The job training programs mentioned above can also include support to help train local residents for logistics-related jobs.

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<sup>107</sup> *Id.* Table 3-6D at 3-38.

<sup>108</sup> *Id.* at 3-53, 3-54.

<sup>109</sup> *Id.* at 3-7.

<sup>110</sup> *Id.*

<sup>111</sup> See Section IX for further discussion of Fort Wayne.

<sup>112</sup> FEIS at 3-52.

<sup>113</sup> *Id.* at 3-54.

## **7. Incentives and support for local businesses**

It is crucial that everything possible be done to help nurture local businesses, especially locally-owned businesses. To this end, MDOT should fund a business incubator program that provides education and financial support to local residents wishing to start businesses in the area. In addition, MDOT should support a market analysis of Southwest Detroit in order to determine what kind of programs can be implemented to encourage and support the growth of local businesses.

## **8. Alternative energy**

The FEIS needed to consider alternative energy uses on the DRIC. The economic impact of alternative energy is well documented. Governor Granholm understands the potential that renewable energy and energy efficiency have to generate jobs.<sup>114</sup> Use of alternative energy and energy saving technology on the bridge could help alternative energy businesses in Southwest Detroit.

## **9. Welcome Center and signage**

Lastly, the FEIS provides renderings describing a new and revitalized Delray as a result of the DRIC. However, it does not provide for any serious plan to re-imagine or re-market Delray. This is important if Delray is to attract new business while preserving its identity. This could be done by establishing a welcome center or by placing signage around the DRIC and local highway routes inviting travelers to visit Historic Delray.

# **III. Housing**

## **A. The DRIC will result in significant disruptions to the quality of life for the community of Delray, including the relocation of hundreds of low-income and minority families, and adversely impact community cohesion**

The DRIC will have significant negative impacts on residential housing in the Delray neighborhood of Southwest Detroit. Not only will the bridge and plaza displace approximately 693 residents of Delray, but the project will also have serious, long-lasting effects on residential housing in the neighborhood long after the DRIC is completed. Housing units will be lost forever, and the remaining housing will face a reduction in value, lower quality of life, and more isolation from the broader community. The DRIC project implicates major concerns about environmental justice, the feasibility of relocation and readjustment, and community cohesion for the residents of Delray.

The FEIS discusses some potential adverse impacts, but it largely misses the most pressing housing issues in the neighborhood, and completely fails to plan for real mitigation of the housing problems caused by the DRIC. The Preferred Alternative will require relocating 257

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<sup>114</sup> See Press Release "Granholm Establishes Department of Energy, Consolidates Efforts to Grow Energy Section, Create Jobs," October 27, 2008, available at [www.michigan.gov](http://www.michigan.gov).

residential units.<sup>115</sup> The FEIS does not examine the likely consequences that will befall the Delray community if efforts to retain housing within Delray for displaced residents are not aggressively pursued. The FEIS also fails to analyze the potential adverse effects on households that are not displaced, specifically how proximity to the DRIC may adversely affect them.

**B. The FEIS fails to specify how affected residents will be impacted by the DRIC's disruptions, including relocation, isolation, and reduction in quality of life, compared to a "No Build Alternative"**

The FEIS fails to address many other adverse effects on residential housing in Delray, both short-term and long-term. These adverse impacts include concerns about the feasibility of relocating hundreds of low-income residents, effects on housing values in the neighborhood, effects on the quality of life in Delray, and concerns about increased isolation for some Delray residents.

For example, the FEIS makes no attempt to determine the realistic impact of displacement that will befall the affected population in light of the resources available to them. Delray is a low-income neighborhood, and thus especially vulnerable to the negative impacts of displacement. Offering only the bare minimum in relocation assistance, as prescribed by law, with little more, has the potential of leaving residents without sufficient funds to secure comparable housing in Delray or elsewhere.

The FEIS ignores the DRIC's effect on property values in the entire Delray neighborhood. The addition of an international bridge and plaza will likely cause neighborhood housing values to remain low or continue falling, thus squelching any chances of attracting new residents or revitalizing the area. Moreover, for renters in the area, there is a chance that rental rates will actually climb after the DRIC is completed. With less housing in the area after the DRIC, Delray's renters will have fewer housing options, thus driving rental rates higher. This is exacerbated by the fact that many Delray residents do not have access to motor vehicles – thus the ability to move away to find rental housing is severely limited.

The FEIS does not discuss the DRIC's impact on the quality of life in Delray's residential areas. With the DRIC adding more truck traffic and pollution, residents who remain in Delray will be forced to either suffer increased noise and health problems or spend money on efforts to modify their housing. The DRIC will likely cause new problems in terms of public safety, environmental hazards, and public health for those residents with affected property who are ineligible to receive compensation for their property, or any relocation assistance. These residents include those who fall outside of the DRIC's footprint, but whose properties are likely to suffer adverse effects due to their proximity to the DRIC.

The FEIS ignores the DRIC's impact on residential isolation and neighborhood identity in Delray. For example, the Preferred Alternative for the DRIC project will likely leave some homes cut off by the bridge or plaza from other residential areas. Both Bacon Street and Campbell Street have been identified as streets that will be left with five or fewer homes after completion of the Preferred Alternative. These homes will be isolated from the rest of the neighborhood and from other residential areas. This will destroy the cohesiveness of the

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<sup>115</sup> FEIS at 3-22.

neighborhood, and will likely lead to more abandonment and disinvestment in Delray's residential housing. On a larger scale, the DRIC project as a whole has a strong probability of isolating Delray from the rest of Southwest Detroit. Because Delray is already bounded on the north by I-75, the addition of the DRIC plaza and highway connections will further separate the neighborhood from the City. Such a prospect will probably preclude Delray from further participating and sharing in the on-going revitalization taking place in other Southwest Detroit neighborhoods.

**C. The FEIS proposes mitigating adverse housing impacts by complying with federal and state laws regarding condemnation and relocation assistance and ensuring that replacement housing exists in Southwest Detroit**

The FEIS includes only one section explicitly related to mitigating environmental impacts on residential housing within the DRIC project area. Section 4.1 of the FEIS discusses how relocation of residents displaced by the DRIC will occur.

The FEIS indicates that in order to mitigate the adverse impact of displacing 257 units of housing in the Delray neighborhood, MDOT will comply with federal and state laws regarding condemnation and relocation assistance. The FEIS specifically lists the federal and state statutes they are obligated to follow.<sup>116</sup> The FEIS acknowledges that these state and federal statutes require, among other things, MDOT to ensure comparable, decent, safe and sanitary housing is available for eligible displaced individuals.<sup>117</sup> The FEIS also concedes that MDOT will be obligated to pay just compensation for property it acquires, as required by law.<sup>118</sup> More details regarding acquisition and relocation programs are included in two information booklets published by MDOT. These booklets are available by mail, as well as through online access.<sup>119</sup>

In addition, the FEIS does not discuss the almost certain increase in real estate taxes that relocated residents will face. Residents relocating to other communities will most likely face higher real estate taxes since taxes will be re-evaluated upon the purchase. Many residents will be moving to communities with higher real estate values. Even if residents relocate within Delray, they will face "pop-up" taxes because of the way the state of Michigan taxes real estate. Finally, the FEIS fails to address and even mention the effect of higher real estate taxes for those residents currently living within the Renaissance Zone. The FEIS ignores and thus offers no mitigation for any of these adverse tax impacts on area residents.

Section 4.1 also describes a Conceptual Stage Relocation Plan, found in Appendix A of the FEIS. The Relocation Plan identifies the 257 residential relocations necessary for the Preferred Alternative. The rest of the Relocation Plan is simply an assurance to abide by state and federal law and a handful of paragraphs entitled, "Displacement Effects and Analysis." These paragraphs can be summarized as: MDOT ensures that sufficient replacement housing exists for displaced residents within Southwest Detroit, and that such housing is currently available and anticipated to be available throughout the DRIC relocation process.<sup>120</sup>

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<sup>116</sup> *Id.* at 4-1, 4-2.

<sup>117</sup> *Id.* at 4-2.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 4-2, 4-3.

<sup>120</sup> *Id.* Appendix A at A-1, A-2.

The FEIS recognizes that if displaced residents choose Southwest Detroit, it could place upward pressure on the price of housing because the supply of decent, safe and sanitary housing is limited and in high demand.<sup>121</sup> Southwest Detroit is the only area of Detroit that is growing. Much of that growth is attributed to the Hispanic population. The DRIC project would displace a “large number of Hispanics.”<sup>122</sup> The lack of sufficient decent, safe and sanitary housing in Southwest Detroit provides further support to the need for MDOT to provide housing of last resort for residents of Delray displaced by the DRIC.

**D. The DRIC will have a lasting negative impact on residential housing in Delray and proposing that the laws of eminent domain and relocation will be followed is not sufficient to mitigate the adverse housing impact on the community of Delray**

The FEIS is completely inadequate in providing mitigation for the adverse impacts on residential housing caused by the DRIC project. The mitigation proposed in the FEIS is: 1) insufficient to mitigate adverse impacts, 2) not responsive to adverse impacts, and 3) too vague and unspecific to provide any meaningful assessment of the merits of the proposed mitigation. Further, there are measures that have been omitted but that should be undertaken as mitigation for the adverse impacts on the community imposed by the DRIC project.

Section 4.1 of the FEIS proposes mitigating the displacement of 257 units of residential housing by indicating that MDOT would follow all state and federal laws related to condemnation and relocation assistance. This is not sufficient to mitigate the adverse effects of the DRIC project on residential housing in Delray. The DRIC project will displace approximately 693 people from the Delray community. Moreover, the DRIC will have a lasting negative impact on the residential housing market and neighborhood identity of Delray. The FEIS suggests that to mitigate this negative impact would simply require MDOT to adhere to the appropriate statutes for acquiring properties and relocating affected persons. That is not mitigation. That is simply restating the negative impact of the DRIC project. In essence, the FEIS says people will be displaced, albeit lawfully.

The FEIS needs to go farther in providing mitigation beyond following the statutory requirements of eminent domain and relocation assistance. Further, the FEIS includes too little information as to how those statutory requirements will be achieved in relocating impacted residents. Specifically, the FEIS does not mention utilizing housing of last resort procedures as mitigation.<sup>123</sup> In light of the magnitude of the adverse impact on the Delray community, MDOT should rely on housing of last resort to provide new housing within Delray for individuals displaced by the DRIC.<sup>124</sup> Without more information, the FEIS proposed mitigation cannot be assessed. It needs to provide specific details describing what steps will be taken to ensure that state and federal laws are followed.

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<sup>121</sup> *Id.* at 3-203.

<sup>122</sup> *Id.*

<sup>123</sup> *See* 49 C.F.R. § 24.404.

<sup>124</sup> The construction of new replacement dwellings is a method for replacing lost housing under housing of last resort procedures. 49 C.F.R. §24.404(c)(iii).

**E. The FEIS should have provided specific examples of actual mitigation for the DRIC’s adverse effects on residential housing in Delray**

In order to provide sufficient mitigation for the negative impacts on residential housing in Delray and the concomitant displacement of nearly 700 people from the community, the FEIS should reflect specific steps that will be taken to reduce the number of displaced people, to replace lost housing units on a one-for-one basis within the Delray community, and to preserve neighborhood identity and cohesion, particularly by facilitating displaced residents’ relocation within the neighborhood or to nearby neighborhoods. This approach to mitigation would come closer to what the FEIS states as the goal of mitigation: “to preserve, to the greatest extent possible, existing communities, land use, and natural resources, while improving transportation.”<sup>125</sup> These housing issues are discussed in greater detail below:

**1. Replace lost housing in the Delray neighborhood**

The ROD should include plans to replace residential housing units lost to the DRIC project on a one-for-one basis within the Delray neighborhood. Such replacement housing should consist of new housing developments on vacant lots (infill housing), or the redevelopment or rehabilitation of existing housing units within Delray. This replacement housing needs to be made available for sale or rent within a reasonable time after a decision is made to go forward with the DRIC. Replacement housing should also be of a type or form similar to the housing that is lost, or otherwise consistent with the needs of the Delray community. For example replacement housing should include a similar number of bedrooms, bathrooms, and square footage. Replacement housing should be within the financial means of Delray residents; therefore, a substantial percentage of replacement housing needs to be designated as affordable housing. Housing of last resort procedures allow MDOT to build new housing for mitigation.<sup>126</sup>

**2. Reduce neighborhood divisions and isolation**

The ROD needs to include plans that eliminate or reduce the possibility of the DRIC dividing the neighborhood and isolating housing units from other residential areas. Housing remaining after the DRIC project is completed should not be cut off from other residential areas by the plaza, bridge, or highways. For example, the ROD needs to include a plan to eliminate a scenario whereby five or fewer houses are left isolated on a single block as a result of the DRIC project. Under the Preferred Alternative there are several examples of such a situation occurring; e.g. Campbell Street and Bacon Street will have fewer than five houses each after the DRIC is completed, with no connection to other residential areas.

**3. Preserve and improve neighborhood identity and quality of life**

The ROD should include mitigation plans to preserve neighborhood identity and improve the quality of residential housing in Delray. Again, the ROD should include plans to facilitate the relocation of displaced persons to housing within the Delray neighborhood, or within nearby Detroit neighborhoods. Further, the ROD should include plans for improving the quality of life of Delray residential areas. For example, the ROD should include plans to responsibly demolish

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<sup>125</sup> FEIS at 4-1.

<sup>126</sup> 49 C.F.R. §24.404(c)(iii).

all dangerous, abandoned structures currently in Delray, provide financial incentives to developers for the creation or rehabilitation of residential housing in Delray, and integrate neighborhood amenities that promote and improve the quality of residential housing in Delray.

**F. The ROD should elaborate on and explain how relocation will be accomplished in compliance with state and federal statutes**

The FEIS states in conclusory terms that all state and federal statutes related to property acquisition and relocation assistance will be followed. However, the FEIS provides little to no information to explain how compliance will be achieved. This is problematic because Delray community residents will likely face unique problems finding replacement housing. For example, MDOT's obligation to ensure comparable housing for eligible displaced residents will likely be difficult given the strained housing market in Detroit and the typical household characteristics of Delray residents. This reality highlights the need for a broad use of housing of last resort procedures. The FEIS blithely states in Appendix A, based on an unseen housing "study," that replacement housing will be available in Southwest Detroit.<sup>127</sup> Yet, without actual analysis, the FEIS cannot be adequately scrutinized for compliance with the requirements found in state and federal statutes regarding comparable replacement housing.

The ROD needs to specifically explain how federal and state relocation statutes will be followed, using concrete examples and plans. With respect to housing relocation assistance advisory services, (required by MCL 213.322-213.332, as well as federal law) the ROD should provide significantly more detail. Each of the points listed below should be responded to in the ROD:

**1. Immediately adjacent properties**

Michigan law provides that residences immediately adjacent to acquired property may be eligible for relocation assistance.<sup>128</sup> MDOT should assess whether residences immediately adjacent to the proposed plaza, bridge, or noise walls will be eligible for relocation assistance. It is likely that the economic value of these homes will be severely impacted based on their proximity to the DRIC plaza. Therefore, relocation assistance for those properties that are next to the plaza or within 300 feet of the plaza should be part of the mitigation plan.

**2. Minimizing hardships to displaced persons**

MDOT should plan in substantial detail what steps it will take to "assist in minimizing hardships to displaced persons in adjusting to relocation."<sup>129</sup> For example, MDOT should commit to providing to displaced residents:

- Individual relocation counseling;
- Detailed maps of the neighborhoods and communities to which displaced residents will be relocated, including marked locations of public amenities, bus routes, social

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<sup>127</sup> FEIS Appendix A at A-2.

<sup>128</sup> MCL 213.321(2).

<sup>129</sup> MCL 213.323(3)(d).

services providers, gas stations, grocery stores, and other useful points of interest to relocated people;

- Handbooks with up-to-date information on neighborhoods, recreation, quality of life, where to obtain a driver's license or other governmental activities, the location and description of health care choices, locations and descriptions of daycare and schooling options, and any other relevant topics for displaced residents;
- A telephone hotline for displaced residents during the first 3 months of relocation
  - To provide assistance in finding services in the new neighborhood
  - To assist with any problems with each displacee's new housing situation.

### **3. Identifying comparable replacement housing**

MDOT<sup>130</sup> should demonstrate that it has conducted a housing study and created detailed plans to ensure that comparable replacement housing is available for displaced residents.<sup>130</sup> In particular, this research and planning should include or respond to:

- What is the process for identifying decent, safe, and sanitary dwellings?
- Is MDOT planning to identify housing closest to Delray first, before searching for available housing farther away?<sup>131</sup>
- How does MDOT plan to identify housing within the financial means of displaced families and individuals?
- Is the Southwest Detroit area an appropriate level of analysis for replacement housing, given that many Delray residents live below the federal poverty line and do not own motor vehicles?
- How does MDOT plan to ensure that comparable housing options are not located within racially segregated neighborhoods?
- Is there a realistic assessment of those housing options that are reasonably accessible to current places of employment

### **4. Financial assistance for displaced persons**

MDOT should also explain how financial assistance required by the federal Uniform Relocation Assistance Act will provide an adequate level of assistance to displaced homeowners in Delray, given that "just compensation" in many cases will be substantially lower than the market-rate price for comparable homes in other Southeast Michigan neighborhoods. Federal law allows a maximum payment of \$22,500 for a displaced homeowner in addition to other payments.<sup>132</sup> This amount may severely limit the housing options for displaced homeowners who seek to relocate to a new home elsewhere in Metro Detroit. The City of Detroit, Department of Environmental Affairs, has also raised this concern in its submitted comments, stating "Just

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<sup>130</sup> MCL 213.323(f).

<sup>131</sup> See 49 C.F.R. §24.403(a)(4) ("To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.").

<sup>132</sup> 42 U.S.C.A. §4623(a)(1).

compensation/Fair Market Value may not be appropriate nor feasible given the current economy and market particularly given ‘A house in need of repair can be purchased for as little as \$15,000,’ within the Delray community.”<sup>133</sup>

The ROD also needs to address in greater detail how state and federal statutes relating to condemnation procedures will be followed, including the Uniform Condemnation Procedures Act, and Act 367, Michigan P.A. 2006. Each of the issues raised below require a response in the ROD:

**a. “Just compensation” is not enough to mitigate displacement**

Michigan law requires that, for primary residences that are taken by eminent domain, compensation should be no less than 125% of fair market value (FMV).<sup>134</sup> While this amount seemingly ensures that displaced homeowners are no worse off after condemnation, in reality, the housing market in Delray will likely prevent homeowners from securing comparable housing because the market values of Delray homes are extremely low. Currently, there is no active market for home sales in Delray, thus making the computation of fair market value difficult and likely inaccurate. Moreover, the market for housing in Delray has been distorted by years of neighborhood disinvestment and housing deterioration – the fair market value of any Delray resident’s home will likely be significantly lower than the replacement cost of a comparable home in any other neighborhood in Southwest Detroit. When market values are drastically lower than the cost of securing a similar housing situation, the “just compensation” as required by law is not enough.

For example: A home with a FMV of \$10,000 would receive “just compensation” (FMV x 125%) of \$12,500. Even with receipt of the additional “housing supplement” maximum (\$22,500), a homeowner would have to find a comparable home with a cost of no more than \$35,000 (\$12,500 + \$22,500) in order to be put in a position similar to that prior to being displaced. In the case of a rental property: A renter who has been paying \$200 per month for a rental property, including utilities, must find a comparable replacement dwelling at a cost of no more than \$325, given that the maximum “rental supplement” is a total of \$5,250 (divided by 42 months for a maximum amount of \$125 per month).

The above examples and other “real world” examples need to be considered to make available more reasonable compensation in order to minimize the economic hardship that relocation is likely to place on displaced residents. Then, the ROD should provide additional plans based on housing of last resort procedures<sup>135</sup> for assisting displaced Delray homeowners in securing comparable homeownership opportunities in other parts of Delray, nearby neighborhoods, or elsewhere in the region. Michigan statutes provide guidance as to what constitutes comparable housing.<sup>136</sup>

Finally, “just compensation” does not address the additional tax burdens faced by Delray residents that will have to relocate.

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<sup>133</sup> City of Detroit, Department of Environmental Affairs, Written Comments to FEIS, Federal, State, Local Public Agencies at 53.

<sup>134</sup> MCL 213.23(5).

<sup>135</sup> See 40 C.F.R. § 24.404

<sup>136</sup> MCL 213.55(1)(a)-(f).

## 5. Delray residents may struggle in understanding legal rights

State and federal statutes regarding condemnation include provisions that protect the interests of residents undergoing eminent domain. However, these provisions are written in complicated legalese, and therefore it is unlikely that most Delray residents will understand their legal rights in the eminent domain process.<sup>137</sup> This is especially true for the many Delray residents who do not speak English as a first language. Moreover, the process of eminent domain includes actions that are time-sensitive; residents may lose their right to challenge an appraisal of their home, or other legal matters, if they do not do so within the statutory time restraints. Delray residents are thus especially vulnerable to a bad outcome when they are displaced because, without timely and professional assistance, they will likely not understand the condemnation process completely. The FEIS currently includes access to informational booklets published by MDOT as mitigation.<sup>138</sup> However, these informational booklets are not adequate because they are not provided in the languages used predominantly by many Delray residents, and they do not include an adequate explanation of the legal rights and obligations of condemnees. Rather, the FEIS should include individualized legal assistance with the condemnation process for affected Delray residents to mitigate the complex legal procedures they will endure during displacement. This legal assistance should include providing assistance to those for whom English is not a first language.

## IV. Schools and Community Facilities

### A. Schools

This section will focus on the impacts of the DRIC on area schools. It will primarily discuss Southwestern High School, the only currently-operating school in the area south of I-75 in the Delray neighborhood and the school closest to the planned site of the DRIC, and Beard Early Childhood Center, a historically significant school whose property overlaps with a proposed right-of-way of the DRIC project. However, it will also address concerns about access to other neighborhood schools located north of I-75, including the Roberto Clemente Academy and Maybury Elementary School.<sup>139</sup>

#### 1. The DRIC's impacts on schools

##### *Beard Early Childhood Center*

The FEIS notes that the Preferred Alternative will require taking several parking spaces in the lot to the rear of the Beard Early Childhood Center (hereinafter "Beard ECC").<sup>140</sup> Beard ECC was designed in 1896 and is listed on national, state, and local registers of historic sites.<sup>141</sup> Although a small amount of school property would be used for the DRIC project, this would not

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<sup>137</sup> Only 25.6% of the population has a high school diploma or passed a high school equivalency exam. FEIS at 3-12.

<sup>138</sup> *Id.* at 4-2, 4-3.

<sup>139</sup> A map of public school locations is available at [http://www.detroit.k12.mi.us/schools/map\\_SchoolLocations.pdf](http://www.detroit.k12.mi.us/schools/map_SchoolLocations.pdf).

<sup>140</sup> FEIS at 5-19.

<sup>141</sup> *Id.* at 5-13, 5-14.

include the building and adjacent play areas.<sup>142</sup> MDOT has determined there is “no use of this historic site” since the lot has been determined not to be part of the National Register site.<sup>143</sup>

### *Southwestern High School*

The FEIS finds “no adverse impact” on Southwestern High School and its grounds which are recommended for inclusion on the National Register of Historic Places.<sup>144</sup>

### *Other Impacts*

Several of the DRIC’s effects in other areas will have a substantial impact on education in the Delray neighborhood. For example, constructing the DRIC will require removing 257 dwelling units.<sup>145</sup> Many of the current residents of these units will leave the Delray area,<sup>146</sup> potentially leading to a reduced number of students attending local schools, at a time where declining student populations in the city are already leading to the closure of dozens of schools.<sup>147</sup>

Another indirect consequence of DRIC construction is the modification of the current bicycle/pedestrian and automobile crossings over I-75.<sup>148</sup> These crossings provide access for children traveling to and from school. The DRIC might also change how people travel from the neighborhood south of I-75 to schools north of I-75. Clark Street is the current route to many of these schools. Access between I-75 and Clark Street will be removed, leading to a reduction in truck traffic and an increase in local traffic.<sup>149</sup> Similarly, access between I-75 and Junction Street will be removed, changing travel patterns to and from Holy Redeemer Elementary School.<sup>150</sup>

## **2. The suggestions of the FEIS for mitigating the DRIC’s impact on area schools**

### *Beard Early Childhood Center*

The FEIS proposes no mitigation for Beard ECC even though the service drive will be closer to the school. It concludes that Beard ECC could not be protected by a wall considered to be “feasible.”<sup>151</sup> The FEIS does not consider triple pane windows or ventilation system as it does for the Berwalt Apartments.<sup>152</sup>

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<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 3-161.

<sup>145</sup> *Id.* at 3-33.

<sup>146</sup> According to the DEIS, approximately 28% of interviewed residents in the relocation zone plan to move within the Delray area, 25% plan to move elsewhere in the city of Detroit, and 13% are undecided. The other 24%, presumably, plan to move away from Detroit. *Id.* at 3-22.

<sup>147</sup> Detroit Public School’s press release detailing a plan to close 51 more schools notes that the district has lost nearly a third of its student population since 1996. <http://www.detroit.k12.mi.us/news/showNews.php?id=1580>. Many schools have already closed. A list of vacant schools currently available for leasing can be found at [www.detroit.k12.mi.us/admin/bs/bss/fm/properties/VacantDPSBuildingsAvailableforLease.pdf](http://www.detroit.k12.mi.us/admin/bs/bss/fm/properties/VacantDPSBuildingsAvailableforLease.pdf).

<sup>148</sup> *Id.* at ES-34, ES-35.

<sup>149</sup> *Id.* at 3-100.

<sup>150</sup> *Id.* at 3-105.

<sup>151</sup> *Id.* at 3-142.

<sup>152</sup> *See id.* at 3-37.

*Southwestern High School*

The FEIS proposes no noise mitigation for the high school. It predicts noise levels will decrease at the academic building and tennis courts.<sup>153</sup>

**3. Other mitigation could help reduce the DRIC's impact on schools**

*Beard Early Childhood Center*

MDOT should consider noise and air pollution mitigation for Beard since the service drive will come closer to the school. Triple pane windows and a ventilation system should be considered.

*Southwestern High School*

MDOT needs to perform a more accurate and complete traffic study as a critical first step toward estimating the air quality, noise, and vibration impacts on the high school. Concrete and vegetated barriers, improved air filtration systems, new windows, and an indoor sports facility are important methods of reducing these impacts on the school, as are the enforcement of no-engine-brake and no-idling zones. Finally, it is necessary to preserve safe outdoor areas that can be used for sports, as well as for assembly should the building require evacuation.

*Other Effects*

The FEIS needed to have included a more accurate analysis of the traffic impacts of the DRIC, including the number of cars and trucks that will travel across the bridge and along various routes through the neighborhood, and the air quality, noise, and vibration impacts that these vehicles and the bridge construction process will impose on Delray. Simply stating that improved automotive technology will reduce air pollution over time is insufficient and misleading; if the DRIC leads to more vehicles idling or passing through the neighborhood, air quality will suffer compared to the No-Build Alternative regardless of technological innovations.

To enhance its effectiveness, a Motorist Information Plan should be expanded into a Road User Information Plan, including information on detours and changes that affect not only drivers, but pedestrians, cyclists, and bus riders. This is especially important in Delray because 30% of area residents have no access to a car.<sup>154</sup> Including information at children's reading level, especially about traveling to school, recreation centers, and other frequent destinations for young people, would further increase the usefulness of this document and improve road safety. MDOT should also coordinate road closures and changes with Detroit Public Schools to minimize the re-routing of school buses.

The community has expressed the desire for more schools in the area south of I-75: while Southwestern High School provides sufficient capacity for students in grades 9-12, there have been requests for local day care/early childhood centers, elementary and middle schools, and adult education centers. Southwestern High School is not listed as a center for ESL or GED

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<sup>153</sup> *Id.* at 3-144.

<sup>154</sup> *Id.* at 3-12.

classes offered by the Detroit Public Schools.<sup>155</sup> In an area where nearly three-quarters of the adult population have not graduated from high school,<sup>156</sup> and where the DRIC promises to bring new jobs to the area, preparing local residents to fill those new jobs is essential.

Conducting baseline and follow-up health studies of students at area schools would help gauge the impact of the DRIC and indicate the need for mitigation, especially in light of high asthma rates among local students and the demonstrated health impacts of exposing children to diesel fumes.<sup>157</sup>

## **B. Community Facilities**

The Delray community today is an ethnically diverse low-income community. In 2000, over 32% of the community was African American and 30% was Hispanic.<sup>158</sup> More than 40% of the Delray households live below the poverty level.<sup>159</sup> Over 56.5% of the population does not have a high school diploma or has not passed a high school equivalency exam.<sup>160</sup> In 2000, the unemployment rate in Delray was 11% while the region's was 6%.<sup>161</sup>

The needs of the Delray community are served by several non-profit organizations. Buried in Appendix A, the FEIS mentions that the project "may cause the displacement of approximately 9 non-profit organizations."<sup>162</sup> Up to five places of worship will be lost with the building of the DRIC.<sup>163</sup>

The FEIS fails to analyze how the relocation and possible elimination of churches and non-profit organizations might impact this community. The Relocation Plan states that a "review of the (Southwest Detroit) real estate market indicates there is an adequate supply of properties available as replacement sites for eligible non-profit organizations."<sup>164</sup> The CBC is encouraged that MDOT is analyzing relocation possibilities for non-profit organizations closer to Delray since the DEIS analyzed the relocation possibilities in the Tri-county real estate market.<sup>165</sup> It is still not clear that MDOT analyzed the impact of relocating non-profit organizations that serve Delray to an area outside Delray given that bus lines will be re-routed, pedestrian crossings will be eliminated and vehicular crossings will be eliminated. The FEIS fails to discuss how the loss of population would affect the ability of the organizations to function. The FEIS does not mention which churches will be eliminated, other than St. Paul AME Church,<sup>166</sup> discuss the impact of their removal from the community, or discuss relocation possibilities for these churches. Non-profit organizations and churches serve vital roles in addressing the needs of low-income populations such as Delray. The loss of these community resources will further harm a

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<sup>155</sup> See [http://www.detroitk12.org/calendars/Adult\\_Enrollment\\_Flyer\\_2005-2006.pdf](http://www.detroitk12.org/calendars/Adult_Enrollment_Flyer_2005-2006.pdf).

<sup>156</sup> FEIS at 3-12.

<sup>157</sup> Gerald Vasquez, Principal of Earhart Middle School, Written Comments to DEIS, Federal, State, Local Public Agencies at 66.

<sup>158</sup> FEIS at 3-8.

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 3-12.

<sup>161</sup> *Id.*

<sup>162</sup> *Id.* Appendix A at A-2.

<sup>163</sup> FEIS at 3-36.

<sup>164</sup> FEIS Appendix A at A-2.

<sup>165</sup> DEIS Appendix A at A-2.

<sup>166</sup> FEIS at 3-36.

community already suffering from the social and economic dislocation being experienced in the region.

The Preferred Alternative does not include the relocation of the CHASS medical clinic, which serves the needy low-income population with little access to medical care or an automobile.<sup>167</sup> In 2007, CHASS served over 13,000 patients. The vast majority of patients served by CHASS in 2007 (83%) are uninsured.<sup>168</sup> The construction of the plaza, the re-routing of buses, the closing and relocation of pedestrian and vehicular crossings across I-75 will impact CHASS clients, something the FEIS fails to consider.

## V. Traffic

The FEIS does not adequately address the concerns related to traffic in the Southwest Detroit community of Delray where the DRIC will be built. The FEIS analyzes congestion but fails to consider the community's concern over traffic volume, especially truck volumes, on neighborhood streets. The FEIS offers insufficient information and strategies for mitigating possible harms that the DRIC will cause. The lack of information available to members of the Delray community about these issues raises serious concerns for their opportunity to address the potential impacts the DRIC may have on their quality of life as a community. Increased traffic can harm the quality of life of residents as a result of increased pollution and noise levels, degradation of roads overrun by commercial trucks, as well as the disruptions caused to the infrastructure of the community due to the placement of a major international crossing within a neighborhood already bearing the heavy burdens of its close proximity to industrial processes and other transportation infrastructure.

While the FEIS goes into significant detail about the traffic issues related to the justification of building the bridge itself, such as projected traffic increases over the next 30 years between Detroit and Canada,<sup>169</sup> it fails to provide adequate information regarding potential adverse impacts on Delray residents. The FEIS does not recognize Delray as a community already experiencing unacceptable levels of truck traffic as the result of NAFTA. In addition, the FEIS, read as a whole, fails to frame the concept of building an international bridge and plaza in an already economically depressed community as a major disruptive event. Instead, the FEIS pieces together specific areas of impact such as pedestrian bridges, bus routes and street closings, and deals with them as though there is no connection to the larger picture of a community that is already struggling to reclaim its identity and solidify its place in Detroit for generations to come. The reality is that a post-DRIC Delray community will be entirely different from what it is today. There is plenty of opportunity for that picture to be a positive one, but for that to happen the ROD must address many issues not accounted for in the FEIS.

Specifically, the FEIS lacks adequate information regarding the routing of truck traffic and what increases might be expected in the Delray neighborhood, it does not sufficiently address public transportation for area residents and how it might be affected by the potential increase of both truck and car traffic, nor does it address adequately the changes that will be made to pedestrian traffic routes affected by the DRIC project. The data on truck volume that

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<sup>167</sup> *Id.* at 3-24.

<sup>168</sup> CHASS Report, *supra* note 31.

<sup>169</sup> FEIS at 1-9, 1-10.

does exist in the FEIS is presented in an extremely confusing manner, with charts that are difficult for those who are not transportation experts to interpret.<sup>170</sup> This limits the ability of community members to provide input to the EIS process. Finally, the only mitigation listed in the study pertaining to traffic is in regards to disruption of traffic during the construction of the bridge.<sup>171</sup> Without accounting for these inadequacies, the FEIS cannot fully assess the impact that the DRIC will have upon the residents of the affected community.

#### A. The DRIC's impact on the community

The purpose of the DRIC, in part, is to address increases in traffic between the U.S. and Canada by providing increased border-crossing capacity.<sup>172</sup> While this provides significant benefits to both countries, it also comes at a significant cost to the community where the bridge will be built. The community already has limited access to viable methods of travel both within and beyond their community. Currently, only about 70% of the residents of Delray have access to an automobile<sup>173</sup> and many of their roads and sidewalks are in desperate need of repair.<sup>174</sup> The DRIC, however, represents a significant increase in the burdens that the Delray community will bear if adequate measures are not taken. The FEIS fails to adequately assess these burdens because it does not properly consider the impact of traffic induced by the DRIC in comparison with the No Build Alternative.

##### *Access Across I-75*

There are currently six streets between Springwell and Clark that allow access across I-75:

- Springwell
- Green
- Waterman
- Livernois/Dragoon<sup>175</sup>
- Junction
- Clark

For the residents who live south of I-75, these streets provide the most direct routes to the rest of the community located on the north side of I-75 as well as to the rest of Detroit. All of these connectors will be impacted either directly or indirectly by the DRIC. Under the Preferred Alternative, Delray will lose two of these connectors.<sup>176</sup>

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<sup>170</sup> For example, FEIS Fig. 3-11B at 3-61.

<sup>171</sup> FEIS at 4-13.

<sup>172</sup> *Id.* at 1-3.

<sup>173</sup> *Id.* at 3-12.

<sup>174</sup> *Id.* at 3-103.

<sup>175</sup> Livernois and Dragoon are currently one way streets. for purposes of this analysis they are counted together as a single north/south connector.

<sup>176</sup> FEIS at 3-97. Waterman and Junction will both be closed. Dragoon will also be closed but Livernois will be converted to a two-way street from Lafayette to Fort. FEIS at 3-70.

## *Pedestrian Access*

In addition to the automobile crossings, there are currently five pedestrian bridges in the community that provide similar access to residents who use non-motorized methods of travel. Approximately 30% of the residents do not have access to an automobile.<sup>177</sup> According to the FEIS, “the size of the ... plaza would limit north-south pedestrian flow through the Delray area.”<sup>178</sup>

Many of the at-grade pedestrian crossings will be removed if the DRIC is constructed.<sup>179</sup> Under the Preferred Alternative the at-grade pedestrian crossings at Waterman, Dragoon, and Junction will be removed.<sup>180</sup>

Additionally, the Preferred Alternative will close three of the pedestrian bridges that currently cross I-75 will be closed.<sup>181</sup> Under the Preferred Alternative the Casgrain, Calvary and Ferdinand pedestrian bridges will be closed.<sup>182</sup> New pedestrian bridges will be added at Waterman, Morrell and McKinstry.<sup>183</sup>

The increased distance some pedestrians will be required to travel as a result of the closure of the pedestrian bridges in the Preferred Alternative is over a quarter of a mile.<sup>184</sup> The FHWA notes that when such a “long detour is necessary, pedestrians and bicyclists will often choose to cross at-grade regardless of the safety conditions on the street.”<sup>185</sup> The percentage of travelers who use grade-separated crossings declines precipitously as the time required for the detour increases.<sup>186</sup> A report prepared for the FHWA states that in general, pedestrian crossings should be built at least 600 feet apart, but that routes to schools<sup>187</sup> may require special treatment and more closely-spaced crossings.<sup>188</sup> The community has made it clear that one quarter of a mile is the limit for acceptable walking distance between pedestrian crossings.<sup>189</sup>

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<sup>177</sup> *Id.* at 3-12.

<sup>178</sup> *Id.* at 3-104.

<sup>179</sup> *Id.* at 3-72. Table 3-17, listing pedestrian crossings that will be closed, the increase in travel distance, as well as the amount of use each crossing gets according to MDOT’s research.

<sup>180</sup> FEIS at 3-105.

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.* The closure of the Calvary pedestrian bridge will require individuals to walk almost half a mile to Livernois.

<sup>185</sup> FHWA Pedestrian Safety Guide for Transit Agencies, Chapter 3. [http://safety.fhwa.dot.gov/ped\\_bike/ped/ped\\_transguide/ch3.htm](http://safety.fhwa.dot.gov/ped_bike/ped/ped_transguide/ch3.htm).

<sup>186</sup> Pedestrian Crossing Guidelines for Texas, document FHWA/TX-01/2136-2 (2000) (hereinafter “Pedestrian Crossing Guidelines”) includes a graph of this “convenience measure” showing that 90% of pedestrians will use a grade-separated crossing when it requires no extra time, but only 5% will when it requires 50% more time. The percentage of people using crossings can be increased by reducing the length of the detour and creating a more gentle slope for the pedestrian crossing’s elevation gains and losses. <http://tti.tamu.edu/documents/2136-2.pdf> at 45.

<sup>187</sup> Many students cross I-75 to get to school, including children crossing southwards to Southwestern High School, and those going in the other direction to the many elementary and middle schools on north side of the highway.

<sup>188</sup> Pedestrian Crossing Guidelines at 47-48. A valuable resource for designing student-friendly pedestrian crossings is the Safe Routes to Schools group. Their information on bridges and tunnels for non-motorized transit is available at: [http://www.saferoutesinfo.org/guide/engineering/pedestrian\\_and\\_bicycle\\_bridges\\_and\\_tunnels.cfm](http://www.saferoutesinfo.org/guide/engineering/pedestrian_and_bicycle_bridges_and_tunnels.cfm).

<sup>189</sup> Southwest Detroit Environmental Vision, Written Comments to DEIS. Advocacy Groups, Churches and Non-Profit Agencies at 29.

## *Public Transportation*

The FEIS devotes only a small discussion to both current and future public transportation access within the Delray community, despite the fact that it recognizes this is a significant concern for this community given the high percentage of residents without access to a vehicle.<sup>190</sup> There are currently six Detroit Department of Transportation (hereinafter “DDOT”) bus routes within the neighborhood, and three SMART bus routes. These routes, even before the added burdens of the DRIC, are inadequate to meet the travel needs of many residents in the community.<sup>191</sup> According to the FEIS only two routes will be impacted by the DRIC: DDOT route 11 as result of the closing of Junction<sup>192</sup> would need to be rerouted via Vernor and Clark; DDOT route 30/Livernois would be rerouted around the Plaza.<sup>193</sup> This means that residents hoping to use these routes will face even more challenges than they currently face.

If DDOT route 11 is rerouted to travel down Clark instead of Junction, it will push that route farther away from individuals traveling to and from the portion of the community located between Green Street and Dearborn.<sup>194</sup> This could negatively impact people who live and work in this area. To access DDOT route 11, individuals who live on the west side of Delray will have to travel almost a half-mile farther to Clark, as well as navigate around the plaza itself.

Similar issues arise with the rerouting of DDOT route 30. Depending on how this is done, it could significantly decrease access to this crucial route, especially for individuals who work on the south side of the plaza. DDOT route 30 is the only bus route that travels through both the north and south portions of the community.<sup>195</sup> It is a vital connector between the portions of the community on both sides of I-75, as well as one of two routes accessible to the community, DDOT route 11 being the other, that travels farther north into Detroit.<sup>196</sup>

The disruption of these routes represents a potentially large impact on the community especially in light of the fact that, although there are a total of nine routes listed in the FEIS as serving the area impacted by the DRIC,<sup>197</sup> these two routes serve unique purposes that must continue to be served both during and after the DRIC process. The cumulative impact of rerouting these bus lines must be taken into account as well. This is a specific concern for routes 30 and 11 since they serve the similar purpose of connecting the north and south sides of I-75, but will both be changed to accommodate the DRIC.<sup>198</sup> Residents hoping to travel north and south by bus will find that their opportunity to do so will be completely different once the DRIC is in place.

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<sup>190</sup> FEIS at 3-109.

<sup>191</sup> Ruth Hart, Written Comments to DEIS, Individuals at 22.

<sup>192</sup> FEIS at 3-109.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.* at 3-108. Map showing current bus routes in the Delray neighborhood.

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

## *Local Traffic*

The FEIS claims that the local traffic will remain the same,<sup>199</sup> but access to I-75, the major freeway for accessing areas outside of the immediate community, will be changed.<sup>200</sup> These changes will be applied to all local traffic including the significant amount of truck traffic in the community. This will cause traffic traveling to and from I-75 to be diverted as far as Clark Street to the east, and Springwell to the west based on the remaining access points to I-75.<sup>201</sup>

All of these issues threaten the continuity of the Delray community. The DRIC as it is outlined currently in the FEIS will serve to divide the community even further and may create even more obstacles to be overcome before Delray can reestablish itself as a prosperous Detroit neighborhood.<sup>202</sup> More information must be provided, and successful mitigation strategies must be formed to help lighten the burden the residents of Delray will have to bear.

### **B. The FEIS mitigation strategies**

#### **1. Analysis and critique**

Despite the responsibility to address the issues of the Delray residents that the DRIC will cause, the FEIS lacks adequate mitigation strategies regarding traffic in the Delray community. The only mitigation mentioned specifically pertaining to traffic in the Delray neighborhood in the FEIS is in relation to “maintaining traffic during construction.” Even in this section, however, the focus is on I-75 because the FEIS claims that the plaza and crossing do not affect major roads except Fort Street and Jefferson Avenue, which will both be bridged.<sup>203</sup>

Mitigation will, however, be necessary beyond just the construction phase of the project given the vast amount of impact the DRIC will have on the Delray community’s transportation infrastructure. The projections of increased traffic over the next 30 years that justify the construction of the bridge in the first place will also serve to increase traffic in the border crossing area.<sup>204</sup> The Delray neighborhood already deals with significant, yet unacceptable, truck traffic. Increases in traffic in the area surrounding the DRIC will undoubtedly result in an increase in truck traffic in the local area unless measures are taken to ensure this does not happen. The fact that truck traffic currently exists where it is not supposed to in the Delray neighborhood is not cause to ignore the problem, instead the ROD provides an opportunity to correct the issue.

In the Green Sheet for the FEIS, the mitigation calls for a Green Street boulevard that is intended to improve north south circulation in West Delray.<sup>205</sup> It is possible, however, that the Green Street boulevard will be insufficient to meet the demands caused by the reduced access between Jefferson St. and areas north given the closure of Dragoon, Waterman and Junction streets. The concern is that diverted traffic from the closure of other street access points will

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<sup>199</sup> *Id.* at 3-82.

<sup>200</sup> *Id.* at 3-100.

<sup>201</sup> *Id.*

<sup>202</sup> Gladys Smith. Written Comments to DEIS, Federal, State, and Local Public Agencies at 68.

<sup>203</sup> FEIS at 4-13.

<sup>204</sup> *Id.* at 3-60.

<sup>205</sup> Green Sheet: Project Mitigation Summary (November 2008), FEIS Section 4.

begin using West End and Dearborn streets along with Green Street, which will have the unacceptable impact of increasing the already significant amount of commercial truck traffic in the Delray neighborhood. The second concern is that these access points are also shared by local non-truck traffic in the community, and that the efficiency of travel onto and from I-75 could be impaired more than it already is.<sup>206</sup>

### **C. Additional mitigation is needed**

Proper mitigation strategies must be created to deal with traffic concerns for the Delray neighborhood. In order for these strategies to be possible and effective, MDOT needs to provide more information to the residents of Delray. A more specific truck study is necessary to understand the dynamics of current truck traffic so that the community can anticipate what increases can be expected. The study should include information about current truck patterns, frequency, type of carrier, the times of day they travel, as well as information about truck operators for all local truck traffic.

One of the major pieces of information not included in the FEIS concerns the combined impact of the DRIC, the DIFT, as well as the Ambassador Gateway Project, and how these projects could cumulatively affect the residents of the affected neighborhoods.<sup>207</sup> Although these projects are being undertaken separately, it does not make sense to consider the effects of the DRIC without also having a complete analysis of the impacts the other major construction projects going on nearby will have on the community in the future.

Although more information must be gathered to determine the best methods for developing a successful transportation infrastructure for the Delray community with the DRIC in place, several issues of concern can be identified immediately. The community has already identified some necessary mitigations, such as the creation and enforcement of a designated truck route and maintenance roads to handle the issues that arise with channeling commercial truck traffic on surface streets.<sup>208</sup> This would provide trucks with a predetermined route for getting to and from I-75, while at the same time keeping them out of unacceptable areas of the Delray community and away from pedestrian and other non-truck traffic.

The community has identified one possible truck route that would cover both north/south and east/west truck travel. The proposed route would run adjacent to the railroad tracks by Zug Island and along the Norfolk Southern railroad tracks that run between the plaza and Fort Street behind Southwestern High School and Arvin Meritor. This route would allow the trucks coming out of Arvin Meritor to pass behind Southwestern High School and off of Fort Street reducing truck traffic on that street and other neighborhood streets while at the same time providing truck only routes to access points for I-75. This is a route that is currently unused and that travels through brownfields, but only through limited parts of the residential portions of the Delray community. This would also provide the benefit to trucks traveling out of the Arvin Meritor facility to make several easier turns than the ones they currently make traveling to I-75 down Fort Street. Streets with schools, such as Junction, Clark, Central and Vernor, should be limited

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<sup>206</sup> Ruth Hart, Written Comments to DEIS by Individuals at 22.

<sup>207</sup> Southwest Detroit Environmental Vision, Written Comments to DEIS, Advocacy Groups, Churches and Non-Profit Agencies at 34.

<sup>208</sup> Community Benefits Coalition, Written Comments to DEIS, Advocacy Groups, Churches and Non-Profit Agencies at 10.

to local truck traffic only. These mitigations, or additional mitigation techniques identified once more information is provided, could serve to meet the needs of both the DRIC as well as the Delray community.

Additional mitigation will be necessary for bus routes and non-motorized transportation. Because of the large number of residents without current access to an automobile, and the lack of a current effective transportation system, the need for a successful mitigation strategy in this area is imperative. The FEIS mentions rerouting current bus lines, and replacing some pedestrian bridges that will be removed.<sup>209</sup> Attempting to remedy the traffic issues amplified by the DRIC by reinstating previously ineffective methods in an even less effective manner will not help maintain or improve the continuity the Delray community is striving for. The newly constructed pedestrian bridges, as stated before, must be no more than one-quarter mile apart.<sup>210</sup> Additionally, at-grade and grade-separated crossings, sidewalks, and pedestrian and bicycle routes within the area south of I-75, and across I-75, should be designed in keeping with the recommendations of the FHWA's Pedestrian Safety Guide to Transit Authorities<sup>211</sup> and the Safe Routes to School group.<sup>212</sup> The conditions of the roads and access streets in the community must be improved to further facilitate the movement of traffic throughout the community, and the bus routes must be both accessible and consistent and provide access both within and beyond the community. Viable and accessible routes between the north and south portions of the community are a crucial factor for residents of Delray going forward because the DRIC plaza and crossing threaten to further isolate the community from itself and from the rest of the City. Mitigation strategies in these areas should focus on the continuity of the community and its connection with Detroit as a whole.

The FEIS has not provided the affected members of the Detroit community with the necessary tools they need to participate in the DRIC process. They do not have all of the information they need to make informed and complete comments to the FEIS process and therefore they are not able to fully participate in the DRIC process as it is designed for them to be. Participation in the FEIS process by the members of the community that will be most greatly impacted by the DRIC is crucial to ensuring that the agencies involved in planning for and building the bridge fulfill their responsibilities under NEPA. In order to meet these responsibilities there must also be more mitigation possibilities developed involving local truck and non-truck traffic, pedestrian/bicycle traffic, as well as public transportation. Because the bridge will undoubtedly have a direct impact on these aspects of the Delray community, specific attention must be given to these issues so that the residents of the community not only know how they will be affected, but also have the opportunity to have input on what the best options will be for them.

## VI. Air Quality

This section evaluates the adequacy of the air quality analysis in the FEIS prepared for DRIC.

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<sup>209</sup> FEIS at 3-110.

<sup>210</sup> Southwest Detroit Environmental Vision, Written Comments to DEIS, Advocacy Groups, Churches and Non-Profit Agencies at 29.

<sup>211</sup> [http://safety.fhwa.dot.gov/PED\\_BIKE/ped/ped\\_transguide/](http://safety.fhwa.dot.gov/PED_BIKE/ped/ped_transguide/).

<sup>212</sup> <http://www.saferoutesinfo.org>.

## A. Identified adverse impacts in the FEIS

In the analysis for the FEIS, the following studies were conducted: 1) conformity analysis for air quality and air quality trends, which included emission predictions for the future and took into consideration recent EPA regulatory changes;<sup>213</sup> 2) examination of vehicle miles traveled (VMT) and vehicle hours traveled (VHT) during peak and off-peak conditions to determine how much air pollution would be produced by each project alternative; 3) hot-spot analyses designed to evaluate whether there are air quality impacts on a smaller scale than an entire area (examined levels of CO and particulate matter).<sup>214</sup>

The FEIS air quality analysis identifies adverse impacts stemming only from the construction of the project. The FEIS does not identify any significant post-construction adverse impacts resulting from the DRIC project. The following is a summary of the FEIS air quality analysis.

### 1. The FEIS air quality analysis findings for the DRIC improperly conclude that new federal and state regulations and program will cause the air quality in the project area to improve<sup>215</sup>

The FEIS essentially states that, despite national air quality trend data that assumes that VMTs will continue to grow at current rates,<sup>216</sup> air pollution emissions will fall in the DRIC project area because of EPA motor vehicle and fuel regulations (including a 2004 regulation to control emission from diesel-powered, non-road engines, such as construction equipment and railroad locomotives), the fact that the SEMCOG region is now subject to 7.0 low-vapor-pressure gasoline, and EPA assistance in identifying and implementing voluntary programs to reduce emissions (such as diesel retrofits).<sup>217</sup> The FEIS concludes that air pollution emissions will fall further than the models suggest because the models do not take into account predictions that Detroit and the Detroit region will experience minimal traffic growth through 2015<sup>218</sup> and that the vehicle fleet mix will change to more fuel-efficient and less-polluting vehicles.<sup>219</sup> In addition, the FEIS also concludes that local air quality will improve in Mexicantown near the Ambassador Bridge when the Ambassador Gateway Project is completed in 2009 because

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<sup>213</sup> FEIS at 3-115. This analysis appears to use the MOBILE6.2 computer model (which has been approved by the EPA) and SEMCOG-based data assumptions (passenger vehicles and NAAQS pollutants at 30 and 50 mph; and trucks and NAAQS pollutants at 30 and 50 mph). *Id.*

<sup>214</sup> FEIS at 3-124. The CO hot-spot analysis was conducted on a quantitative basis to determine whether “with-project” concentrations of CO exceed the established 1-hour and/or 8-hour standards. *Id.* The PM<sub>2.5</sub> and PM<sub>10</sub> hot-spot analyses were conducted on a qualitative basis because appropriate methods and modeling guidance for quantitative analysis were unavailable. *Id.*

<sup>215</sup> The FEIS air quality analysis was guided by an Air Quality Protocol established by interagency consultation among FHWA, MDOT, EPA, MDEQ, and SEMCOG. FEIS at 3-117. However, the Corradino Group appears to have been involved with the publication of the protocol, which was published in draft form on May 31, 2007. *Id.* at 3-111 n.25.

<sup>216</sup> FEIS at 3-129.

<sup>217</sup> *Id.* at 3-129, 3-114 and 3-115.

<sup>218</sup> *Id.* at 3-129. This conclusion relies on the SEMCOG forecast of a loss of jobs and population through 2015 in the city and region.

<sup>219</sup> *Id.* at 3-129.

international truck traffic will be eliminated from local streets by the direct connection of the Ambassador Bridge to I-75.<sup>220</sup>

## 2. The FEIS air quality analysis findings for the DRIC fail to adequately evaluate local air quality impacts in the project area

The FEIS states that earlier conclusions from the DEIS remain valid for the Preferred Alternative<sup>221</sup> since there is little difference between the DRIC alternatives with regard to predicted air quality emissions because there is little difference among the DRIC alternatives in VMT and VHT.<sup>222</sup> The FEIS states that the DRIC alternatives will bring new traffic into Delray at the new plaza, but will divert traffic away from the Ambassador Bridge area.<sup>223</sup>

With regard to mobile source air toxics (MSATs), the FEIS compares the amount of MSATs in Delray and the area surrounding the Ambassador Bridge under the DRIC alternatives.<sup>224</sup> MSATs for the Preferred Alternative will be similar to those forecast under alternatives 1/2/3/14/16.<sup>225</sup> The Preferred Alternative results in a higher overall MSAT burden for Delray than Alternatives 7/9/11/.<sup>226</sup>

Southeast Michigan does not meet the National Air Ambient Quality Standards (hereinafter “NAAQS”) for 8-hour O<sub>3</sub> and PM<sub>2.5</sub> and the Clean Air Act (hereinafter “CAA”) requires that the region must demonstrate that, over time, it will meet these standards. The FEIS concludes that future CO, PM<sub>2.5</sub>, and PM<sub>10</sub> would not be exceeded based on a set of “hot-spot analyses” performed. The CO analysis concluded that the highest 1-hour concentrations of CO were at the residence on Campbell Street, along the north side of I-75.<sup>227</sup> The Campbell Street values were 2.9, 3.6, and 3.8 ppm, compared to the standard 35 ppm.<sup>228</sup> The FEIS concluded that a comparison to the CO 8-hour standard was unnecessary because the 1-hour values are less than that 8-hour standard.<sup>229</sup> The particulate matter analyses concluded that the DRIC alternatives will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS because 1) SEMCOG and MDEQ have been moving aggressively to address general air quality concerns and PM<sub>2.5</sub> concerns; 2) EPA is addressing the non-local component of PM<sub>2.5</sub> pollution through programs such as the Clean Air Interstate Rule, stricter controls on vehicle emissions, and the low-sulfur fuel introduced in 2007<sup>230</sup>; 3) a number of major polluters thought to be significant contributors to the PM emission problem have closed and mandated enforcement controls are being applied at other industries; 4) available information from Livonia demonstrate that vehicular activity in Southeast Michigan can occur without violation of standards because the Livonia monitor is close to some of the heaviest truck movements in the

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<sup>220</sup> *Id.*

<sup>221</sup> *Id.* at 3-130.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> *Id.* at 3-131.

<sup>226</sup> *Id.* at 3-124.

<sup>227</sup> *Id.* at 3-125, Table 3-21.

<sup>228</sup> *Id.* at 3-125.

<sup>229</sup> *Id.*

<sup>230</sup> However since the DEIS was published a court vacated the Clean Air Interstate Rule. The fate of this rule is now uncertain. FEIS at 3-127 n.27.

region and does not violate the PM<sub>2.5</sub> standards; 5) efficiencies can be expected from increased enrollment in NEXUS and FAST programs when a clear lane through the border area becomes available with the DRIC project; 6) a new DRIC Plaza will increase the number of GRIT lanes at the border, which will reduce queuing and idling; and 7) U.S. Customs and Border Protection has instituted a policy that requires trucks to turn off their engines when they pull into the secondary inspection area.<sup>231</sup>

**B. Because its air quality analysis is inadequate, the FEIS fails to comply with applicable state and federal statutes and regulations**

Because the DRIC project must conform to federal and state air quality standards, the air quality section<sup>232</sup> of the FEIS was prepared to determine whether the project will conform to Michigan's State Implementation Plan (hereinafter "SIP") under the federal CAA and will meet the associated federal CAA requirements.<sup>233</sup> The FEIS air quality section summarizes the information provided in the Air Quality Analysis Technical Report and Addendum.

The CAA is the comprehensive federal law that regulates air emissions from stationary and mobile sources.<sup>234</sup> One of the goals of the CAA was to set and achieve NAAQS in every state in order to address the public health and welfare risks posed by certain widespread air pollutants.<sup>235</sup> The CAA authorizes the EPA to set NAAQ standards for criteria pollutants and to designate non-attainment and maintenance areas that do not meet the NAAQS.<sup>236</sup> An area that is designated as a non-attainment area or a maintenance area (an area formerly in non-attainment) must develop a strategy that will enable the area to either achieve attainment or maintain its attainment designation.

Under NEPA regulations, MDOT is required to "[r]igorously explore and objectively evaluate all reasonable alternatives ... [and] devote substantial treatment to each alternative considered in detail including proposed action so that reviewers may evaluate their comparative merits."<sup>237</sup> In evaluating the environmental consequences of a project, the agency preparing the EIS must discuss "the environmental impacts of the *alternatives* including the proposed action."<sup>238</sup> These requirements were established to ensure that the EIS could serve the purpose of NEPA and "provide full and fair discussion of significant environmental impacts and ... inform the decision-makers and the public of the reasonable alternatives which would avoid or minimize the adverse impacts or enhance the quality of the human environment."<sup>239</sup> Because MDOT failed to thoroughly evaluate the impacts of each proposed alternative, the air quality analysis in the FEIS is inadequate and does not provide the decision maker with sufficient information on which to base his or her decision.

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<sup>231</sup> *Id.* 3-127, 3-128.

<sup>232</sup> *Id.* Section 3.6 at 3-110.

<sup>233</sup> *Id.* at 3-110.

<sup>234</sup> EPA, *Summary of the Clean Air Act*, 42 U.S.C. § 7401 et seq., <http://www.epa.gov/lawsregs/laws/caa.html>.

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*: FEIS at 3-113.

<sup>237</sup> 40 C.F.R. § 1502.14 (2007.)

<sup>238</sup> 40 C.F.R. § 1502.16 (emphasis added)

<sup>239</sup> 40 C.F.R. § 1502.1 (2007)

As the EPA points out in its written comments, “because the [DRIC] project qualifies as a new or expanded project that has a significant number of or significant increase in diesel vehicles,” MDOT should have included in the FEIS a qualitative hot-spot analysis for PM<sub>2.5</sub> and PM<sub>10</sub> that is based on vehicle activity at the location of the proposed project and that will evaluate whether there are air quality impacts on a local scale rather than an entire non-attainment or maintenance area.<sup>240</sup> This analysis is essential to an adequate evaluation of air quality impacts from the DRIC project because the DRIC project area is already designated as a non-attainment area for 8-hour ozone and fine particle matter that are 2.5 micrometers in diameter and smaller (PM<sub>2.5</sub>).<sup>241</sup> The DRIC project area is also currently designated as a maintenance area for carbon monoxide (CO) and particle matter that are 10 micrometers and smaller (PM<sub>10</sub>).<sup>242</sup> As the EPA stated in its written comments to the DEIS, “[a]ny increase in emissions in this area is cause for concern and will make the state’s task of developing a control strategy for bringing the area into attainment more challenging.”<sup>243</sup>

Although the FEIS states that the purpose of the analyses in the Air Quality section “is to determine if the project conforms to Michigan’s SIP,”<sup>244</sup> the FEIS fails to articulate how additional emissions from the DRIC will conform to the SIP in the local, impacted community. In particular, because the Southwest High School monitor already indicates that the local area is in non-attainment for PM<sub>2.5</sub>, the FEIS should have discussed how additional PM<sub>2.5</sub> emissions from the DRIC would be addressed in the plan that is already required to bring the area into attainment for PM<sub>2.5</sub>.

**C. Similar air quality analyses in other construction-related environmental impact statements suggest that the FEIS incorporated “boilerplate” language and failed to conduct an adequate evaluation of the air quality impacts**

It appears that environmental impact statements for other construction projects include air quality analyses that are very similar to the air quality analyses in the FEIS. It may be argued that the similarities between such analyses amounts to “boilerplate language” and, as such, indicates that MDOT failed to adequately evaluate the potential adverse air quality impacts from the DRIC project.

For example, the air quality analysis conducted in the Blue Water Crossing (Michigan) DEIS states that, although the project is located in an area that is in non-attainment for PM<sub>2.5</sub> and ozone, “both of these criteria pollutants levels should continue to decline [OM2.5 and O3] [because of] the new federal Clean Air Rules, along with Michigan’s continued reduction efforts.”<sup>245</sup> A similar CO hot-spot analysis was conducted, which came to the same result – that no violation of NAAQS was anticipated for the project.<sup>246</sup> The Blue Water Crossing DEIS concluded that no mitigation of air quality was necessary because “the project will not contribute to any violation of the NAAQS and is not expected to have a substantial effect on MSATs in the

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<sup>240</sup> See 40 C.F.R. §93.123(b)(1).

<sup>241</sup> FEIS at 3-113.

<sup>242</sup> *Id.*

<sup>243</sup> EPA, Written Comments to DEIS, Federal, State, Local Public Agencies at 7.

<sup>244</sup> FEIS, Section 3.6, at 3-110.

<sup>245</sup> FHWA and MDOT, Draft Environmental Impact Statement: Blue Water Crossing, [http://www.michigan.gov/documents/mdot/MDOT\\_BWB\\_DEIS\\_Chapter3b\\_207730\\_7.pdf](http://www.michigan.gov/documents/mdot/MDOT_BWB_DEIS_Chapter3b_207730_7.pdf), at 3.9-5.

<sup>246</sup> *Id.* at 3.9-7

region.”<sup>247</sup> The language and analysis in the Blue Water Crossing DEIS is very similar to that of the FEIS.

The Columbia River Crossing (Oregon/Washington) FEIS provides some support for the written comment submitted by the City of Detroit (Department of Environmental Affairs) that requested adequate modeling to predict the emissions, dispersion, and human exposure to airborne vehicle emission components. The Columbia River Crossing (CRC) FEIS stated that “[e]valuating environmental and health impacts on a proposed highway project involves emissions modeling (to estimate the amount of pollutant discharged), dispersion modeling (to estimate human exposure to the estimated concentrations of the pollutant), and a final determination of health impacts based on the estimated exposure.”<sup>248</sup> The CRC FEIS also states that, under the state implementation plans, the local air quality analysis had to analyze the most congested intersections and must demonstrate that CO levels, including the project, will be below CO standards.<sup>249</sup>

However, even the CRC FEIS includes similar language and conclusions regarding aggregate, long-term air quality impacts as both this FEIS and the Blue Water Crossing DEIS. The CRC FEIS states that:

The results of the emissions analysis showed that future (no-build or build) emissions of all pollutants would be substantially lower than existing emissions for the region and the subareas. Compared to existing conditions, future regional emissions for all the alternatives are expected to decline by about 30 percent for CO, 70 percent for NO<sub>x</sub>, 50 percent for volatile organic compounds (VOCs), and 90 percent for particulate matter (PM). Mobile source emissions would be about 50 percent lower for benzene, 1,3-butadiene, formaldehyde, and acrolein, and about 90 percent lower for diesel particulates. These reductions in emissions are largely due to expected improvements in vehicle emissions by 2030. Differences in the 2030 emissions among the project alternatives, including the No-Build Alternative, are extremely low—varying by one percent or less. In the context of the very large reductions (30 to 90 percent) relative to existing conditions, and given the potential error in available modeling methods, the one percent difference is unsubstantial.<sup>250</sup>

Thus, it is arguable that the CRC FEIS supports the argument that all of these environmental impact statements, including the FEIS, incorporate the same, or very similar, “boilerplate language” and do not provide adequate analyses to support such statements.

One DEIS prepared for the Dearborn construction project in Seattle does not appear as optimistic as the other DEIS regarding potential long-term air quality impacts from the project. The Dearborn DEIS states that “[i]f air controls continue their favorable trend, there could be

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<sup>247</sup> *Id.* at 3.9-14 to 3.9-15

<sup>248</sup> Columbia River Crossing, Final Environmental Impact Statement.  
[http://www.columbiarivercrossing.org/FileLibrary/DraftEIS/DraftEIS\\_Chapter3.pdf](http://www.columbiarivercrossing.org/FileLibrary/DraftEIS/DraftEIS_Chapter3.pdf), at 3-275.

<sup>249</sup> *Id.* at 3-273, 3-274.

<sup>250</sup> *Id.* 3-277.

slight improvement in air quality under no action.”<sup>251</sup> While this statement is modest and made in regard to a project in a very different region, it does undermine the conclusions in the FEIS, which not only predicted that long-term air quality would improve in the DRIC project area, but also that it would improve greater than the models used in the FEIS because the models did not take into account population projections from SEMCOG.

The Dearborn DEIS also incorporated the following construction mitigation measures: 1) using well-maintained equipment; 2) avoiding prolonged periods of truck idling; 3) scheduling trucking materials to and from project area to minimize congestion during peak travel times; and 4) addressing increased dust by paving or spraying staging areas or construction roadways with water, by covering dusty truck loads, and by washing the wheels of trucks prior to leaving construction areas.<sup>252</sup>

#### **D. The FEIS fails to adequately evaluate potential adverse air quality impacts**

No additional tests were performed to evaluate air quality for the FEIS. The FEIS states that “the differences between the Preferred Alternative and several of the Practical Alternatives analyzed in the DEIS are not significant. Therefore, the conclusions stated in the DEIS related to air quality remain valid for the Preferred Alternative.”<sup>253</sup> Since the Air Quality section in the FEIS section is essentially the same as the Air Quality section in the DEIS the comments on the FEIS incorporate and adopt the following previous comments of the DEIS.

##### **1. EPA written comments to the DEIS indicate that the air quality analysis inadequately evaluates the potential adverse impacts to both the DRIC project area and the Detroit region as a whole**

Because of the large number of diesel truck traffic associated with the DRIC project, the EPA found that the DRIC project raised air quality concerns.<sup>254</sup>

##### **a. MDOT should have conducted and included in the FEIS an appropriate hot spot analysis in order to properly evaluate the impact of particulate matter**

The EPA stated that, “[d]espite implementation of national air pollution control programs, additional local controls will likely be necessary for [the Detroit Metropolitan area] to reach attainment of [NAAQS] for PM<sub>2.5</sub>.”<sup>255</sup> This is because “[a]ny increase in emissions in this area is cause for concern and will make the state’s task of developing a control strategy for bringing the area into attainment more challenging.”<sup>256</sup>

According to the EPA, FHWA and MDOT should have conducted a qualitative hot-spot analyses for PM<sub>2.5</sub> and PM<sub>10</sub> for the DRIC alternatives.<sup>257</sup> “This is because the project qualifies

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<sup>251</sup> Seattle, Dearborn, Draft Environmental Impact Statement, <http://dearborn@dearbornstreetcoalition.org/v2/wp-content/uploads/2007/10/DEIS.pdf>, at 48.

<sup>252</sup> *Id.* at 100-101.

<sup>253</sup> FEIS Appendix K at K-1.

<sup>254</sup> EPA, Written Comments to DEIS, Federal, State, and Local Public Agencies at 7.

<sup>255</sup> *Id.*

<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

as a new or expanded project that has a significant number of or significant increase in diesel vehicles.”<sup>258</sup> The EPA stated that “[a] microscale or ‘hot-spot’ analysis is designed to evaluate whether there are air quality impacts on a local scale rather than an entire nonattainment or maintenance area.”<sup>259</sup>

The EPA stated that, although the DEIS included the requisite hot-spot analyses, the hot-spot analyses should be based on the vehicle activity at the location of the proposed project, rather than on the vehicle activity at all existing alternatives (which the hot-spot analyses treated equally in the DEIS). In addition, the EPA found that the DEIS should have included a more focused discussion about how the DRIC project will actually affect traffic levels in specific locations during the time frame of the project.<sup>260</sup> The EPA stated that the FEIS should include this discussion, as well as a clearer hot-spot analysis on particulate matter in Southwest Detroit, Dearborn, and near the bridge corridor in Windsor, Ontario. The FEIS does not provide these.

In addition to minimizing PM<sub>2.5</sub> emissions from the DRIC project and to meet the PM<sub>2.5</sub> standard, the EPA suggested that MDOT and FHWA should undertake an analysis of construction mitigation measures and commit to them to the extent possible. Such mitigation actions that should be considered include: 1) retrofitting off-road construction equipment; 2) using ultra-low sulfur fuels for equipment; 3) limiting the age of off-road vehicles used in construction; 4) minimizing engine operations; 5) restricting construction activities around more sensitive receptors; 5) instituting fugitive dust control plans; and 6) using diesel particulate traps and oxidation catalysts.<sup>261</sup>

**b. The DRIC project will have to conform to the revised the 8-hour ozone standard in the 2013 Michigan SIP**

The EPA revised the 8-hour ozone standard on March 12, 2008 and expects to make final designations for the new standard in March 2010.<sup>262</sup> New State air quality plans will be required in 2013, and MDEQ will have to include air emissions related to the DRIC projects in the associated SIPs.

**c. Because the FEIS adopted the DEIS analysis which based its MSAT analysis on guidance documents that are inconsistent with current academic literature and other published guidance, additional methods are necessary to adequately quantify the local air impacts of the DRIC project**

The EPA stated that it believes that the guidance document upon which the DEIS based its MSATs analysis – the FHWA’s “Interim Guidance on Air Toxics Analysis in NEPA Documents” – is not consistent with current academic literature and other published guidance.<sup>263</sup> Therefore, the EPA recommended that additional methods be used to quantify local air impacts of the DRIC project, particularly where higher concentrations of diesel emissions are

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<sup>258</sup> *Id.*; See 40 C.F.R. § 93.123(b)(1) (2007).

<sup>259</sup> EPA, Written Comments to DEIS, Federal, State, and Local Public Agencies at 7.

<sup>260</sup> *Id.* at 8.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.* at 8.

<sup>263</sup> *Id.*

expected.<sup>264</sup> The FEIS does not address the EPA's concerns; it merely repeats the same statements from the DEIS.<sup>265</sup>

In addition, the EPA noted the DEIS should have listed the health concerns associated with the six MSATs of most concern (including acroline, benzene, acetaldehyde, formaldehyde, and 1,3-butadiene).<sup>266</sup> Specifically, the EPA noted that the primary health concerns listed should be respiratory concerns.<sup>267</sup> The EPA noted that public health studies of current populations exposed to current levels of traffic-related air pollution conducted by the EPA and the CDC should be given greater prominence in the FEIS.<sup>268</sup> The interpretation of these studies by the American Academy of Pediatrics should also have been included in the FEIS because of the proximity of the proposed project to Detroit Public Schools facilities and an early childhood center.<sup>269</sup> The EPA noted that these public health studies are not specific to MSATs and should be treated separately MSATs.<sup>270</sup> It points to a 2004 study of residents near the Peace Bridge border crossing near Buffalo, New York, which estimated that, in the community around the bridge, hospital discharges for adult asthma increased between 1991 and 1996.<sup>271</sup> The EPA stated that, given the sharp reductions in motor vehicle emissions that occurred during that time frame, the study highlights concerns that MSAT and other tailpipe and evaporative emission trends are insufficient to explain likely health impacts of the DRIC project.<sup>272</sup>

The EPA suggested that, because public health studies of current populations exposed to current levels of traffic-related air pollution conducted by the EPA and the CDC establish a presumptive public health problem with populations near major transportation infrastructure, the FEIS should include a broader range of mitigation options to address public health concerns.<sup>273</sup> The EPA offered to provide technical advice and assessments of available mitigation options, but did not enumerate any specific mitigation measures.<sup>274</sup>

However, the EPA did recommend several mitigation measures that could be implemented to address the truck-idling operational concern connected to the DRIC project. The EPA noted that the DEIS briefly discussed general mitigation approaches for anti-idling during operation and recommended that FHWA and MDOT consider the following measures: 1) routing to reduce truck traffic through residential areas and away from more sensitive receptors; 2) minimizing travel within the plazas; 3) implementation of border delay reductions; and 4) implementation of anti-idling strategies at inspection queues.<sup>275</sup> In addition, the EPA stated that high sound barriers and mature roadside vegetation between people and traffic may significantly reduce downwind concentrations of pollutants emitted along roadways.<sup>276</sup>

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<sup>264</sup> *Id.*

<sup>265</sup> FEIS at 3-112.

<sup>266</sup> EPA, Written Comments to DEIS, Federal, State, and Local Public Agencies at 8.

<sup>267</sup> *Id.*

<sup>268</sup> *Id.*

<sup>269</sup> *Id.*

<sup>270</sup> *Id.*

<sup>271</sup> *Id.*

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*

<sup>276</sup> *Id.*

**2. The City of Detroit (Department of Environmental Affairs) written comments indicated that the DEIS air quality analysis inadequately evaluates the potential adverse impacts to both the DRIC project area and the Detroit region as a whole**

The City stated that the DEIS failed “to take into account the indirect and cumulative traffic and air quality impacts for the six important transportation projects that affect the study area.”<sup>277</sup> The City noted that the DEIS did not account for an accumulated effect from other transportation projects forecasted for Detroit and that the accumulated effects may well overburden the communities and have a negative effect on the air quality within the Border Crossing region.<sup>278</sup>

With regard to the MSATs analysis, the City stated that the DEIS assumed a net balance in MSATs when it discussed the levels of MSATs in the DRIC project area and in the Ambassador Bridge area. The City stated that additional data / analysis is required to support the DEIS assumption of a net MSAT balance.<sup>279</sup> In addition, the City noted that the DEIS failed to provide a comparison for MSATs in the No Build alternative versus the Build Alternatives.<sup>280</sup>

The City disagreed with the DEIS conclusion that the overall air quality in the region is improving; the EPA has designated Wayne County and six other counties as non-attainment for ozone and PM<sub>2.5</sub>.<sup>281</sup> The City disagreed with the DEIS reliance on the assumption that the new EPA regulatory standards for diesel engines and fuel will generate adequate emission control in the future to reduce emission levels in 2035 to below levels identified in 2004 because the DEIS does not take into account the projection that the VHTs in the Border Crossing area will increase upwards of 150% over the numbers identified in 2004.<sup>282</sup>

In addition, the City noted that, at a minimum, an analysis of health impacts related to increased vehicle emissions should be included in the FEIS.<sup>283</sup> While the DEIS predicted that air quality will improve with increased traffic, the City noted that the DEIS does not provide adequate models to predict the emissions, dispersion, and human exposure to airborne vehicle emission components.<sup>284</sup> In addition, the City highlighted that Detroit has one of the highest incident rates for asthma in the U.S.<sup>285</sup> The City seems to suggest that something must be done to mitigate air pollution during and after the construction of the DRIC.

As the City noted, although the DEIS took into account improvements in the vehicle fleet mix, the DEIS did not identify the number of Canadian owned and operated vehicles that are not required to comply with EPA standards crossing the border or identify the number of trucks that

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<sup>277</sup> City of Detroit (Department of Environmental Affairs), Written Comments to DEIS, Federal, State, Local Agencies at 52.

<sup>278</sup> *Id.* at 55.

<sup>279</sup> *Id.* at 52.

<sup>280</sup> *Id.*

<sup>281</sup> *Id.* at 54.

<sup>282</sup> *Id.*

<sup>283</sup> *Id.* at 54-55.

<sup>284</sup> *Id.*

<sup>285</sup> *Id.* at 55.

are owned / operated by individuals who tend to operate the older vehicles for longer periods of time than a major fleet operation.<sup>286</sup>

**3. SEMCOG written comments indicated that the DEIS air quality analysis inadequately addresses the potential adverse impacts to the DRIC project area during construction<sup>287</sup>**

With regard to the FEIS air quality analysis, SEMCOG noted that Southeast Michigan has not yet demonstrated NAAQS attainment and that the EPA will be tightening ozone standards.<sup>288</sup> SEMCOG also notes that, in the DEIS hot-spot qualitative analysis, the Southwestern High School and Lafayette monitors are not “well-within the 24-hour standard,” but are both currently violating the 24-hour standard.<sup>289</sup> The standard is 35 ppm, and the latest 3-year averages for these monitors is 40 for Southwestern High School and 37 for Lafayette.<sup>290</sup>

SEMCOG suggests that MDOT should require contractors to use construction equipment that at least meets the EPA’s Tier 3 standards for off-road equipment.<sup>291</sup> If Tier 4 equipment is available, then this should be used instead.<sup>292</sup>

**4. The SEMCOG study, A Conceptual Model for Ambient Fine Particulate Matter over Southeast Michigan: High Concentration Days (October 1, 2008), indicated that the DEIS improperly concluded that air quality in the DRIC project area will improve**

A study prepared for SEMCOG, A Conceptual Model for Ambient Fine Particulate Matter over Southeast Michigan: High Concentration Days, indicates that the DEIS failed to adequately evaluate the adverse air quality impacts of the DRIC project and improperly concluded that air quality in the DRIC project area would improve as a result of new vehicle and fuel regulations, the required use of 7.0 low-vapor-gasoline in the SEMCOG region, and EPA assistance in identifying and implementing voluntary programs to reduce emissions.<sup>293</sup>

The study considers factors influencing attainment and non-attainment of PM<sub>2.5</sub> standards at Detroit monitoring sites, including Southwestern High School, and concludes that “emission controls that reduce regionally transported PM are needed to reduce the frequency of violations of the 24-hour PM<sub>2.5</sub> standard.”<sup>294</sup> With regard to the state programmed reductions, the study

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<sup>286</sup> *Id.*

<sup>287</sup> SEMCOG, Written Comments to DEIS, Federal, State, Local Agencies at 46.

<sup>288</sup> *Id.* at 49.

<sup>289</sup> *Id.* at 50.

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> *See generally* SEMCOG, Conceptual PDF (While this study provides some useful information, it notes that “projects currently funded by LADCO will likely provide considerable refinements to [the study’s] analysis.” *Id.* at 51.).

<sup>294</sup> JAY R. TURNER, A CONCEPTUAL MODEL FOR AMBIENT FINE PARTICULATE MATTER OVER SOUTHEAST MICHIGAN: HIGH CONCENTRATION DAYS 4 (2008) (The study also concludes that “[w]hile regional and point source controls will decrease annual average PM<sub>2.5</sub> concentrations for standardized synoptic weather patterns, relatively small but significant decrease could also be realized by controls on other urban emission sources such as mobile, area, and other point sources.” *Id.*).

states that “[w]hile these [programmed] reductions are already having a significant, positive impact in Southeast Michigan and will continue to do so in the future, we cannot assume that they will result in attainment at Dearborn and Southwestern High School (SWHS), the two monitoring sites that are still exceeding the annual standard [for PM<sub>2.5</sub>].”<sup>295</sup> The study states that “[a]dditional reductions in the vicinity of these two sites are needed.”<sup>296</sup>

The study recognizes that there are a number of industrial facilities in the areas surrounding the Southwestern High School monitor and other monitors that have either closed or scaled back their operation since 2002.<sup>297</sup> It states that this fact may explain the “more rapid decrease in PM<sub>2.5</sub> levels observed at industrial monitoring sites,” and notes that additional PM<sub>2.5</sub> decreases may be achieved from controls that are being phased in at other existing industrial sites, which are less than three miles from the monitors measuring the highest PM<sub>2.5</sub> concentrations in the region – Dearborn and Southwestern High School.<sup>298</sup> Although the study recognizes that these factors may decrease PM<sub>2.5</sub> concentrations at monitoring sites, the study also finds that “any future industrial activity expansions that increase emissions could at least partially reverse these trends.”<sup>299</sup>

In addition, the study noted that the collective impact of the significant number of storage piles, unpaved lots, and parcels of barren land in the vicinity of the Dearborn and Southwestern High School monitors was cause for concern.<sup>300</sup> The study did not explicitly examine the effects of emissions from these sources; however, it noted that these factors could increase particulate matter larger than 2.5 micron in the area.<sup>301</sup> The study stated that, while some do, many facilities in the area do not have fugitive dust plans to address such concerns.<sup>302</sup>

#### **E. The FEIS fails to provide adequate air quality mitigation measures after construction of the DRIC**

The FEIS provides for air pollution mitigation during construction of the DRIC.<sup>303</sup> Identified mitigation measures included are 1) “adequate dust-control measures ... to avoid detriment to the safety, health, welfare, or comfort of any person, or cause damage to any property or business”; 2) implementation of NEPA requirements for “all bituminous and concrete proportioning plants and crushers,” including possible installation permits and dust collectors for all bituminous plants; 3) possible “implementation of a construction emissions reduction plan” to target PM<sub>2.5</sub> emissions, which could include actions such as “retrofitting off-road construction equipment, using ultra-low sulfur fuels for all equipment, limiting the age of on-road vehicles used in construction projects, minimizing engine operations, restricting construction activities around certain more sensitive receptors (e.g., Southwestern High School), instituting fugitive dust control plans, using diesel particulate traps and oxidation catalysts, and

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<sup>295</sup> *Id.* at 48.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> *Id.* at 49.

<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

<sup>303</sup> FEIS at 4-5, 4-6.

using existing power sources or clean fuel generators, rather than temporary power generators.”<sup>304</sup>

The Green Sheet to the FEIS provides two mitigations for air quality impacts. The first is that MDOT will work with contractors on an operational agreement to control air pollution during construction.<sup>305</sup> MDOT has also committed to working with SEMCOG, MDEQ, the private sector and the community to create an action plan to improve air quality.<sup>306</sup> The mitigation section of the FEIS states that “the air quality study is expected to cost \$300,000.”<sup>307</sup> This study is not mentioned in the Green Sheet and in talks with the CBC before the FEIS was issued the CBC was told the air quality study was not going to be part of the mitigation. Whether an air quality study will be part of the mitigation or community enhancements must be clarified in the ROD.

Because the FEIS does not predict any post-construction degradation in air quality from the DRIC, the FEIS does not suggest any post-construction air quality mitigation.

**F. The FEIS air quality analysis inadequately evaluates potential adverse impacts on both local and regional air quality**

The FEIS does not include any additional air quality analysis when compared to the DEIS. Due to this similarity an analysis and summation of the written comments submitted in response to the DEIS was conducted. As the written comments submitted in response to the DEIS indicate, the DEIS air quality analysis, and therefore the FEIS air quality analysis, does not provide an adequate evaluation of how the DRIC will impact both local and regional air quality. The CBC adopts, in full, the following recommendations and comments submitted by the EPA, the City of Detroit (Department of Environmental Affairs), and SEMCOG, and respectfully requests that MDOT respond to these identified inadequacies. In addition, because the local area is already designated as a non-attainment area for PM<sub>2.5</sub> emissions, the CBC requests that MDOT articulate how additional PM<sub>2.5</sub> emissions from the DRIC will be addressed in the plan to bring the local area into attainment for PM<sub>2.5</sub> emissions.

**1. The ROD must remedy the inadequate air quality analysis in the FEIS**

The Preferred Alternative was not one of the Practical Alternatives listed in the DEIS. In light of the choice of the Preferred Alternative, the ROD should include a qualitative hot-spot analysis for PM<sub>2.5</sub> and PM<sub>10</sub> that is based on vehicle activity at the location of the proposed project and that will evaluate whether there are air quality impacts on a local scale rather than an entire non-attainment or maintenance area.<sup>308</sup> The EPA stated that the FEIS must include the qualitative hot-spot analysis for PM<sub>2.5</sub> and PM<sub>10</sub> for the DRIC preferred alternative “because the

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<sup>304</sup> *Id.* at 4-5, 4-6.

<sup>305</sup> This commitment to control emissions seems to have weakened from the DEIS to the FEIS. The DEIS stated that “MDOT will work with contractors on an operating agreement to control emissions during construction. These include: [list of approaches].” DEIS at ES-23. In the FEIS the commitment was phrased as “MDOT will work with contractors on an operating agreement to control emissions during construction. It may include: [list of approaches]” (emphasis supplied) FEIS at ES-37.

<sup>306</sup> See FEIS Section 4, Green Sheet Project Mitigation Summary (November 2008).

<sup>307</sup> FEIS at 4-16.

<sup>308</sup> See *supra* Section VI(C)(a).

project qualifies as a new or expanded project that has a significant number of or significant increase in diesel vehicles.<sup>309</sup>

The ROD should also include a more focused discussion about how the DRIC project will actually affect traffic levels in specific locations during the time frame of the project.<sup>310</sup> In addition, the ROD should include:

- the use of additional methods to quantify local air impacts of the DRIC project, particularly where higher concentrations of diesel emissions are expected;<sup>311</sup>
- a broader range of mitigation options to address public health concerns and the presumptive public health problem with populations near major transportation infrastructure;<sup>312</sup>
- an evaluation of construction mitigation options and commitment to a construction mitigation plan that included measures such as:
  - retrofitting off-road construction equipment;
  - using ultra-low sulfur fuels for equipment;
  - limiting the age of off-road vehicles used in construction;
  - minimizing engine operations;
  - restricting construction activities around more sensitive receptors;
  - instituting fugitive dust control plans; and
  - using diesel particulate traps and oxidation catalysts.<sup>313</sup>
- Consideration of general mitigation measures for anti-idling during operations. Such possible mitigation measures include:
  - routing to reduce truck traffic through residential areas and away from more sensitive receptors;
  - minimizing travel within the Plaza;
  - implementation of border delay reductions; and
  - implementation of anti-idling strategies at inspection queues.<sup>314</sup>

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<sup>309</sup> EPA, Written Comments to DEIS, Federal, State, Local Public Agencies at 7; 40 C.F.R. §93.123(b)(1).

<sup>310</sup> See *supra* Section VI(C)(a).

<sup>311</sup> See EPA, Written Comments to DEIS, Federal, State, Local Public Agencies at 8.

<sup>312</sup> This presumption is based on public health studies of current populations exposed to current levels of traffic-related air pollution conducted by the EPA and the CDC. *Id.*

<sup>313</sup> *Id.* at 9. The FEIS does not affirmatively state which air quality mitigation should or would be included in the DRIC project; rather, the FEIS merely listed several types of air quality mitigation measures that could be implemented during the construction phase of the DRIC project. The EPA encouraged the FEIS to include an evaluation of possible construction mitigation measures and a commitment to specific measures.

<sup>314</sup> *Id.* at 9. In addition, the EPA stated that high sound barriers and mature roadside vegetation between people and traffic may significantly reduce downwind concentrations of pollutants emitted along roadways.

Responding to the City of Detroit (Department of Environmental Affairs) concerns about the inadequacy of the DEIS air quality impact analysis, the CBC requests that the ROD include:

- a cumulative analysis of traffic and air quality impacts for the six transportation projects that affect the study area in order to adequately evaluate potential adverse impacts at both the local and regional level;<sup>315</sup>
- consideration that VHTs in the Border Crossing area are projected to increase upwards of 150% over the numbers identified in 2004;<sup>316</sup>
- an analysis of health impacts related to increased vehicle emissions and adequate models to predict the emissions, dispersion, and human exposure to airborne vehicle emission components;<sup>317</sup>
- consideration of Canadian-owned and –operated vehicles as well as trucks that are owned or operated by individuals who tend to operate older vehicles for longer periods of time than a major fleet operation in the vehicle fleet mix.<sup>318</sup>

It should be noted that MDOT’s 2003 Standard Specifications for Construction will apply to the construction phase of the DRIC project.<sup>319</sup> Because these requirements are vague, additional definitions and/or details should be included in any construction mitigation measures suggested.<sup>320</sup>

In addition, SEMCOG suggests that MDOT should require contractors to use construction equipment that at least meets the EPA’s Tier 3 standards for off-road equipment.<sup>321</sup> If Tier 4 equipment is available, then this should be used instead.<sup>322</sup> In May 2004, the EPA signed the final rule introducing Tier 4 emissions standards, which are to be phased in starting in mid-2007.<sup>323</sup> The final rule was effective as of August 30, 2004.<sup>324</sup> The EPA stated that “[t]o better ensure the benefits of the standards are realized in-use and throughout the useful life of these engines, [EPA is] also adopting new test procedures, including not-to-exceed requirements, and related certification requirements.”<sup>325</sup> EPA predicts that “[t]he requirements in this rule will

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<sup>315</sup> City of Detroit (Department of Environmental Affairs), Written Comments to DEIS, Federal, State, Local Public Agencies at 55. The City of Detroit correctly pointed out that “[t]he accumulated effects from those projects may well over burden the communities and have a negative effect on the air quality within the Border Crossing communities.”

<sup>316</sup> *Id.* at 54.

<sup>317</sup> *Id.* at 54-55.

<sup>318</sup> *Id.* at 55.

<sup>319</sup> MDOT, 2003 Standard Specifications for Construction, <http://mdotwas1.mdot.state.mi.us/public/specbook/>.

<sup>320</sup> *Id.* An example of the vagueness of one of the applicable sections may be found in section 107.15(A). Section 107.15(A) addresses “dust control” and provides that “[d]uring the construction of any project, adequate dust control measures shall be maintained by the Contractor so as not to cause detriment to the safety, health, welfare, or comfort of any person or cause damage to any property, residence or business. If not shown as a pay item, dust control will be at the Contractor’s expense.” §107.15(A).

<sup>321</sup> *Id.*

<sup>322</sup> *Id.*

<sup>323</sup> 69 Fed. Reg. 3897-39273 (Jun. 29, 2004).

<sup>324</sup> *Id.* at 38958.

<sup>325</sup> *Id.*

result in a substantial benefits to public health and welfare through significant reductions in emissions of nitrogen oxides and particulate matter, as well as [other air toxics].<sup>326</sup>

**G. The FEIS fails to address the environmental justice aspect of potential adverse air quality impacts on the populace residing in the DRIC project area**

The FEIS fails to do an in-depth consideration of the environmental justice aspect of potential adverse air quality impacts on the populace residing in the DRIC project area.

A study of asthma rates in Michigan notes the fact that there is “a dramatic racial disparity in asthma hospitalization rates in Michigan ... [and concludes that] [e]fforts to reduce the burden of asthma in Michigan must address this issue.”<sup>327</sup> The study also notes the disparities in asthma rates by income level.<sup>328</sup> Additional health risks to children residing or attending school in the impact area as a result of the DRIC project is of particular concern. Specifically, there has been much emphasis on the potential adverse impacts of the DRIC on students attending Southwest High School and on the high asthma rates among children in the Detroit area.<sup>329</sup>

For the above-stated reasons, the FEIS air quality analysis inadequately evaluates the potential adverse air quality impacts from the DRIC project on both a local and regional scale. The ROD should address the inadequacies identified in the written comments submitted in response to the DEIS, particularly those comments submitted by the EPA and the City of Detroit (Department of Environmental Affairs). The CBC adopts, in full, the comments and recommendations as described in Section E and respectfully requests that MDOT respond to those recommendations.

## **VII. Noise**

The adverse noise impacts as a result of the DRIC will be harmful to the Delray community if they are not properly mitigated. MDOT has a legal obligation to observe noise levels, and to mitigate those adverse impacts.

**A. Legal foundation**

Both the federal and Michigan government are required to monitor and mitigate certain adverse noise impacts caused by the DRIC. The FHWA standard requires that noise abatement be considered if noise levels reach or near certain established levels.<sup>330</sup> Federal regulations

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<sup>326</sup> *Id.*

<sup>327</sup> Asthma Initiative of Michigan and MDCH, *Epidemiology of Asthma in Michigan, 2004 Surveillance Report*, available at <[http://www.michigan.gov/documents/MI\\_Asthma\\_Surveillance\\_2004\\_96083\\_7.pdf](http://www.michigan.gov/documents/MI_Asthma_Surveillance_2004_96083_7.pdf)>.

<sup>328</sup> *Id.* at 79.

<sup>329</sup> See generally Michigan Center for the Environment and Children’s Health (MCECH), “Study gives hope to asthmatic kids: Machine held U-M researchers measure quality of air both indoors and outside in urban areas,” available at <http://www.sph.umich.edu/mcech/news/detfreep10-00.html>, reprinted from *The Detroit Free Press* (October 4, 2000) [study aimed at discovering the cause of significantly high rate of asthma among children in Detroit, which studies indicate is approximately 20% among Detroit children compared to the national average of approximately 7%. The study is funded by grants from the National Institute of Environmental Health Sciences and the Environmental Protection Agency.].

<sup>330</sup> 23 C.F.R. §772.11(c).

require the FHWA to take steps that are “reasonable and feasible” to abate noise.<sup>331</sup> If abatement is required the project must take into account “[t]he views of the impacted residents.”<sup>332</sup> In fact, such views “will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.”<sup>333</sup> MDOT’s definition of reasonable is different from that in the Code of Federal Regulations.

A noise mitigation project will be considered reasonable if the comparative construction cost will be \$38,060 or less (in 2007 dollars) per benefiting dwelling unit. Additionally, the local jurisdiction(s) must have entered into the required agreements with MDOT regarding maintenance, land use policy, and funding participation. A majority of the affected residents must be in favor of abatement.<sup>334</sup>

The Federal Construction Noise regulations require a determination of what needs to be done to “minimize or eliminate adverse construction noise impacts to the community.”<sup>335</sup> Additionally, the project is required to “[i]ncorporate the needed abatement measures in the plans and specifications.”<sup>336</sup>

Michigan addresses FHWA noise standards through its own noise policies.<sup>337</sup> MDOT’s Noise Abatement Policy has separate programs for Type I and Type II noise sources.<sup>338</sup> Type I is “a federally mandated program, which requires MDOT to consider noise mitigation for new construction and capacity improvement projects.”<sup>339</sup> A Type I project is “[a] proposed Federal or Federal-aid highway project for the construction of a highway on new location or the physical alteration of an existing highway which significantly changes either the horizontal or vertical alignment or increases the number of through-traffic lanes.”<sup>340</sup> The Type II program is voluntary,<sup>341</sup> and has been suspended through 2011.<sup>342</sup> Because the Type II program has been suspended, these comments will focus on Type I. Moreover, the DEIS Noise Technical Report states that “[w]ith the Practical Alternatives, noise mitigation along I-75 would be Type I and be included as a normal part of the I-75 project’s federal funding.”<sup>343</sup>

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<sup>331</sup> 23 C.F.R. §772.11(f).

<sup>332</sup> *Id.*

<sup>333</sup> *Id.* (emphasis supplied).

<sup>334</sup> MDOT’s Procedures and Rules for Implementation of State Transportation Commission Policy 10136 Noise abatement, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>335</sup> 23 C.F.R. §772.19(b).

<sup>336</sup> 23 C.F.R. §772.19(c).

<sup>337</sup> FEIS at 3-133.

<sup>338</sup> Letter from Brenda J. O’Brien, P.E., Engineer of Construction and Technology, MDOT, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>339</sup> *Id.*

<sup>340</sup> 22 CFR §222.5(h).

<sup>341</sup> Letter from Brenda J. O’Brien, P.E., Engineer of Construction and Technology, MDOT, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>342</sup> [http://www.michigan.gov/mdot/0,1607,7-151-9621\\_11041\\_25846---,00.html](http://www.michigan.gov/mdot/0,1607,7-151-9621_11041_25846---,00.html). The Type II category is for “[a] proposed Federal or Federal-aid highway project for noise abatement on an existing highway.” (23 C.F.R. §222.5(i)). MDOT’s Commission Policy “addresses Type II noise abatement to limit the intrusion of highway noise into adjacent residential areas” and is administered through an application process. (July 31, 2003 MDOT Commission Policy and State of Michigan Department of Transportation’s Procedures and Rules for Implementation of State Transportation Commission Policy 10136 Noise abatement, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).)

<sup>343</sup> DEIS Noise Technical Report Section 3-10. It further states that “[w]hile MDOT does undertake Type II projects, funding is limited.” (DEIS Noise Technical Report Section 3-10.) Even if Type II funding may previously

To measure noise, both FHWA and MDOT use a “Noise Abatement Criteria” (hereinafter “NAC”) standard.<sup>344</sup> MDOT considers a noise increase a “noise impact” if the future noise is expected to rise 10-dBA over current noise levels, or if the future noise levels are predicted to approach (come within 1-dBA of) the NAC standard.<sup>345</sup> The FEIS uses the term “significant impact” to describe this type of noise impact.<sup>346</sup> “The DRIC noise analysis did not identify any predicted noise level increases of 10-dBA or greater.”<sup>347</sup> It thus appears that on those grounds MDOT would find no significant impact based on this noise analysis.

MDOT’s NAC, which is copied from FHWA’s standard, requires that for categories including residences, schools, and churches, the ambient sound level for an average hour not exceed 67-dBA.<sup>348</sup> Because of the approach standard explained above, 66-dBA is used as the maximum noise level for these locations.

FHWA used a Transportation Noise Model to attempt to predict what noise levels will be experienced in certain locations near the DRIC after completion of the project.<sup>349</sup> The simulation was analyzed with walls 12 feet high along roads and walls 10-12 feet high surrounding the plazas.<sup>350</sup>

## **B. Analysis of mitigation offered in the FEIS**

The FEIS concludes that the DRIC will generally not result in “perceptible noise changes” on mainline I-75.<sup>351</sup> Currently, areas “along I-75” have noise levels exceeding established criteria.<sup>352</sup> The FEIS explains with regard to noise modeling along I-75 that “analysis indicates, project changes generally would not subject new or different dwelling units to noise from mainline I-75, as traffic would change so little.”<sup>353</sup>

The FEIS analyzed anticipated noise impacts for the part of Delray south of mainline I-75 separately from the part of Delray north of mainline I-75. This was likely done because the

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have been an option for some areas of Delray that are denied Type I funding, it is not presently an option because that program has been suspended through 2011. ([http://www.michigan.gov/mdot/0,1607,7-151-9621\\_11041\\_25846---,00.html](http://www.michigan.gov/mdot/0,1607,7-151-9621_11041_25846---,00.html)). If Type II funding is restored, it may be an option for paying for unanticipated harm. However, it is worth noting that under MDOT’s application of the Type II program, noise walls are only built for Type II projects in years where its budget for the Road and Bridge Program exceeds \$1 billion, and the benefiting community is required to pay ten percent of the cost. Michigan Department of Transportation Commission Policy 10136 on Noise Abatement, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf)).

<sup>344</sup> FEIS at 3-134.

<sup>345</sup> MDOT’s Procedures and Rules for Implementation of State Transportation Commission Policy 10136 on Noise Abatement. *Available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>346</sup> FEIS at 3-134.

<sup>347</sup> *Id.*

<sup>348</sup> MDOT’s Procedures and Rules for Implementation of State Transportation Commission Policy 1136 on Noise Abatement, Appendix A, *available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>349</sup> FEIS at 3-133.

<sup>350</sup> *Id.*

<sup>351</sup> *Id.* at 3-134.

<sup>352</sup> *Id.* at 3-136.

<sup>353</sup> *Id.* at 3-138.

FEIS draws very different conclusions about impacts and mitigation it is required to offer on each side of mainline I-75.

#### *South of I-75*

There are two major potential sources of noise in Delray south of mainline I-75. Traffic on mainline I-75 is one potential source. Traffic on the plaza is another potential source.

For noise created by traffic on mainline I-75 no mitigation is being offered for receivers on the south side of I-75. For noise created by traffic on the plaza no mitigation has been offered beyond the security walls that are already planned to be part of the plaza.<sup>354</sup> Thus, no noise walls, berms, or other structures will be built to reduce noise for homes, Ft. Wayne, or Southwestern High School to protect them from noise that may be created by the DRIC. Some of these receivers are already being impacted by noise which is higher than the acceptable criteria.<sup>355</sup>

With regard to noise near the plaza, which is on the south side of I-75, the FEIS says that noise levels created by bridge traffic will be relatively low because lower vehicle speeds create less vehicle noise.<sup>356</sup> The FEIS claims that the speed of cars on the bridge and plaza will be relatively low.<sup>357</sup> Residences on Harrington Street will be the closest to the plaza and will experience a slight noise increase under the Preferred Alternative.<sup>358</sup>

In conclusion, the FEIS contends that “[s]ensitive receivers around the proposed DRIC plaza would not experience noise levels exceeding the established noise abatement criteria. The proposed DRIC bridges are far enough removed from any sensitive receivers that no noise mitigation is warranted for them.”<sup>359</sup> Thus, south of I-75 where sensitive receivers are already impacted by adverse noise, there would be no mitigation other than the security walls built around the plaza itself. No protection would be offered from noise from mainline I-75, the northbound I-75 Service Drive, or any increased traffic that might occur on surface streets.

#### *North of I-75*

Regarding the area north of I-75, the FEIS acknowledges that there will be some further increase above current noise levels. However, in many areas, it concludes that mitigation is either not feasible or not reasonable and so offers no mitigation.

The MDOT noise policy determines “whether mitigation should be pursued” using a two-part test of feasibility and reasonableness.<sup>360</sup> Mitigation must be deemed both feasible and reasonable for MDOT to pursue it. To be feasible, a noise wall must be able to reduce noise by a

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<sup>354</sup> *See id.* at 3-143, 3-144.

<sup>355</sup> *See id.* at 3-136 and 3-138, Table 3-23.

<sup>356</sup> FEIS at 3-137.

<sup>357</sup> *Id.*

<sup>358</sup> *Id.* at 3-144.

<sup>359</sup> *Id.* at 3-141.

<sup>360</sup> *Id.* at 3-140.

minimum of 5-dBA.<sup>361</sup> For a mitigation to be reasonable, it must cost no more than \$38,060 per each dwelling unit benefited.<sup>362</sup>

The FEIS concludes that on the north side of mainline I-75, the noise level would only be reduced by 3-dBA by constructing noise walls between I-75 and its service drive, and thus that this mitigation is not feasible.<sup>363</sup> The FEIS explains that even though a noise wall between mainline I-75 and the southbound service drive would reduce noise by 8-dBA, because traffic noise will be increased on the southbound service drive and the wall could not block out that noise, the overall reduction in noise would be only 3-dBA and therefore not feasible.<sup>364</sup> The FEIS brushes aside the possibility of constructing a noise wall between homes and the southbound I-75 service drive.

Walls are rarely placed between the service drive and homes because they place a wall in residents' front or side yards; or may require closing side streets, driveways and alleys. This can require construction of cul-de-sacs for emergency vehicles, causing an increase in the removal of structures. Gaps for streets and driveways that remain open result in less effective noise abatement. Maintenance and ownership issues between MDOT and the local jurisdiction must be resolved before the walls can be constructed.<sup>365</sup>

This is not a sufficient response to the issue of where noise walls could be placed, and must be elaborated on in the ROD. The FEIS fails to analyze the reasonability and feasibility of noise walls between the service drives and homes based on the MDOT and FHWA standards.

Under the Preferred Alternative the following three walls were found to be reasonable and feasible and will be built as part of the mitigation for the DRIC:

- Green to Rademacher
- East of Dragoon to East of Campbell
- East of Campbell to Clark,<sup>366</sup>

#### *During Construction*

The proposed noise mitigation during construction is to erect security barrier walls to minimize noise, use mufflers on construction equipment, follow federal noise standards for portable compressors, shield sensitive receivers where doing so is feasible, and honor the City's noise ordinance.<sup>367</sup>

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<sup>361</sup> MDOT's Procedures and Rules for Implementation of State Transportation Commission Policy 10136 of State Transportation Commission Policy 10136 Noise Abatement. *Available at* [http://www.michigan.gov/documents/mdot\\_noisepacket\\_74617\\_7.pdf](http://www.michigan.gov/documents/mdot_noisepacket_74617_7.pdf).

<sup>362</sup> *Id.*

<sup>363</sup> FEIS at 3-140.

<sup>364</sup> *Id.*

<sup>365</sup> *Id.* at 3-141.

<sup>366</sup> *Id.* at 3-143.

<sup>367</sup> *Id.* at 4-4.

### C. Failures of the FEIS

The contention in the FEIS that traffic levels on mainline I-75 will change very little is cast into doubt by comments made in other parts of the FEIS. Evidence is introduced in the traffic section of the FEIS that a new bridge will draw traffic that currently uses the Blue Water Bridge at Port Huron.<sup>368</sup> This could mean a significant increase in traffic on mainline I-75 in the Delray area, contrary to what the Noise section of the FEIS contends.

The new ramp carrying traffic from the plaza to northbound I-75 will pass 40 feet from the Berwalt Apartments. The FEIS finds that “noise levels will increase”<sup>369</sup> but does not offer to construct noise walls on the south side “as the land is mostly commercial.”<sup>370</sup>

The suggestion by the FEIS that noise levels created by traffic on the bridge and plaza will travel at relatively low speeds and thus produce less noise than higher speed traffic is incomplete. The FEIS fails to explain how traffic speed will be monitored and enforced on streets through Delray used by traffic traveling to the DRIC, on the plaza and on the bridge to ensure compliance with posted speed limits. It also fails to discuss what speeds will be in this area. If low speeds are relied on as a method to reduce noise levels, then this needs to be discussed in greater detail.

In the ROD, a commitment must be made to review and check the noise levels at sensitive receivers around the DRIC prior to, during, and after construction and operation of the DRIC and to implement mitigation measures if noise levels at any time rise above the established permissible levels. The design of noise barriers should occur in Context Sensitive Solution Workshops along with the people who will be directly impacted.

### D. Additional mitigation needed

Taller noise walls should be modeled for the area along mainline and service drives of I-75, as this may increase the feasibility of noise walls in some areas.<sup>371</sup>

Noise walls or berms should be used wherever possible. A berm is a mound of earth that may be used instead of a wall to block out noise. A berm may be preferable to a noise wall because of its natural appearance in addition to its ability to block sound.<sup>372</sup> Research should also be done to determine if berms can block more noise than walls, perhaps making them feasible in some locations where noise walls are not deemed feasible.

Road surfaces which minimize noise should be used on the ramps that connect the bridge to I-75. Any sensitive receivers adjacent to or near the ramps should have triple pane windows in order to reduce the impact of the noise from the ramps.

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<sup>368</sup> *Id.* at 3-60 and 3-118.

<sup>369</sup> *Id.* at 3-34.

<sup>370</sup> *Id.* at 3-37.

<sup>371</sup> *See* FEIS at 3-142.

<sup>372</sup> Blue Water Bridge DEIS, Section 3.10-8, *available at*

[http://www.michigan.gov/documents/mdot/MDOT\\_BWB\\_FEIS\\_Chapter3b\\_207730\\_7.pdf](http://www.michigan.gov/documents/mdot/MDOT_BWB_FEIS_Chapter3b_207730_7.pdf).

Roads through the Delray neighborhood could be constructed at a level higher or lower than the existing level of houses in order to mitigate some of the noise pollution.<sup>373</sup> Absorptive surface could be used on service drives.<sup>374</sup>

Because slow vehicle speed is being offered as a method of controlling noise levels,<sup>375</sup> some specifics need to be provided about what vehicle speed will be in the neighborhood, on the plaza and on the bridge, and especially how compliance with posted speeds will be ensured through monitoring. As mitigation, increased police patrol and other measures are necessary.

Noise levels must be reassessed at various stages, including after a route and plan are selected, prior to the start of construction, during construction, and after operation of the bridge begins, to ensure that if any noise levels differ from the projected noise levels, resulting in feasibility of achieving at least a 5-dBA level of noise reduction where it was not previously deemed possible, noise walls are built.

There should also be a ban on construction noise overnight within a certain distance of sensitive receivers.

#### *South of I-75*

The FEIS completely ignores the area of Delray on the south side of I-75. To ignore the need to mitigate adverse noise impacts in this area merely because the area is already impacted by adverse noise violates principles of Environmental Justice. The ROD cannot continue the irrationality of the FEIS in which the DRIC anticipates receiving increased traffic from the Blue Water Bridge but yet states that the noise from traffic will be the equivalent of the No Build Alternative. Sensitive receivers on the south side of mainline I-75 are already experiencing unacceptable levels of noise, to introduce a bridge crossing to the community and to expect no noise increase is irrational. Comments already submitted in response to the DEIS express concern that noise from the DRIC will impact Southwestern High School, and that, at a minimum, traffic routing and noise and vegetative barriers are needed.<sup>376</sup>

Representative Tobocman also addressed noise impacts and requests that infrastructure designs that most reduce noise be used along residential neighborhoods that lie adjacent to I-75 and near Southwestern High School.<sup>377</sup> Kathleen Conway at Henry Ford Health Systems, “on behalf of Detroit Public Schools,”<sup>378</sup> suggested mitigation of noise at Southwestern High School by erecting noise barriers and “vegetative buffering,” at a minimum.<sup>379</sup>

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<sup>373</sup> This is mentioned as a possible method of noise mitigation in the Blue Water Bridge DEIS. *Id.*

<sup>374</sup> This was discussed in the FEIS but not proposed. *See*, FEIS at 3-142.

<sup>375</sup> FEIS at 3-137.

<sup>376</sup> Southwest Detroit Environmental Vision, Written Comments to DEIS, Advocacy Groups, Churches and Non-Profit Agencies at 33.

<sup>377</sup> State Representative Steve Tobocman, Written Comments to DEIS, Elected Public Officials at 21.

<sup>378</sup> Kathleen Conway, Henry Ford Health System, Written Comments to DEIS, Businesses at 157.

<sup>379</sup> *Id.* at 158.

## *North of I-75*

Although the FEIS describes some areas north of I-75 where noise walls may be placed under various scenarios, further explanation of why some areas are left out is needed. Based on some of the alternatives, noise walls would be needed in places other than those suggested. If adverse noise impacts are severe, the ROD should offer to mitigate the impacts by taking extra property and tearing down homes to be able to fit walls, or better yet berms, between the southbound service drive and homes if that is what it will take to truly mitigate noise (by at least 5-dBA).

## **VIII. Water, Wildlife and Wetlands**

### **A. Impacts of DRIC to water, wildlife and wetlands**

#### *Wetlands and Wildlife*

The FEIS finds that the Preferred Alternative will not affect any wetland or threatened, endangered or species of special concern.<sup>380</sup> There is a risk of avian mortality because of bird strikes on the bridge.

#### *Water Quality*

The FEIS acknowledges a risk of combined sewer overflow.<sup>381</sup> Combined sewer overflow is when rainfall and wastewater from residences and businesses in the area combine and overload the sewer system's capacity during times of heavy rainfall.<sup>382</sup> If overflow occurs, the combination of untreated water from businesses, homes, and rainfall would enter the Detroit River without ever being treated.<sup>383</sup>

### **B. Mitigation offered in FEIS**

#### *Wildlife*

The technical report says that the United States Fish and Wildlife Service (hereinafter "USFWS") will be consulted to identify designs of bridges and operation features to potentially minimize bird impacts.<sup>384</sup>

#### *Water Quality*

The FEIS states that the DRIC project will increase the amount of green space, thereby limiting rainfall runoff.<sup>385</sup> This is expected to mitigate the risk of combined sewer overflow.<sup>386</sup>

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<sup>380</sup> FEIS at 3-150.

<sup>381</sup> *Id.* at 3-108.

<sup>382</sup> *Id.*

<sup>383</sup> *Id.*

<sup>384</sup> Wetland, Threatened and Endangered Species and Coastal Zone Management Technical Report Summary at S-4.

<sup>385</sup> FEIS at 3-148.

<sup>386</sup> *Id.*

Additionally, the project will provide storage basins on-site to store runoff temporarily during storms, and later release it slowly, to mitigate this problem.<sup>387</sup>

Impacts on water quality are proposed to be mitigated by properly managing storm water and through management of onsite construction to prevent harms to the water.<sup>388</sup> Sediments and other pollutants are to be removed from storm water using “best management practices.”<sup>389</sup> Sediment discharge into surface water is proposed to be avoided through “[s]oil erosion and sedimentation control plans.”<sup>390</sup> The Mitigation section of the DEIS says that “detention basins, sediment basins, and vegetated ditches will be used” in combination to filter runoff and thus protect water quality.<sup>391</sup> Storm water runoff from the bridge, the plaza and the interchanges will be collected, detained and treated to meet the requirements of the National Pollutant Discharge Elimination System to ensure that storm water discharge causes no significant impacts to water quality.<sup>392</sup>

The Mitigation section of the FEIS states that water wells, septic systems and sewer lines will be sealed to protect groundwater quality.<sup>393</sup> Relocated buildings will have their sewer lines “filled with concrete grout at the basement level and water will be turned off at the street.”<sup>394</sup> Water wells that are abandoned must be filled.<sup>395</sup> Drainage structures, edge drains and stone baskets will be used as necessary, and water that is intercepted will then be discharged to a storm sewer.<sup>396</sup>

#### *Wetlands*

No mitigation is required since the Preferred Alternative does not affect wetlands.<sup>397</sup>

### **C. Additional mitigation is needed**

#### *Wildlife*

The FEIS does not discuss the bridge height and design features that will minimize avian mortality, though the DEIS mentioned that this would be documented in the FEIS.<sup>398</sup> The lowest level of lighting possible should be used. One possibility is to allow some of the bridge’s lighting to be turned off, so it can be temporarily turned off in order to avoid interference with, for example, migration of birds.<sup>399</sup>

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<sup>387</sup> *Id.*

<sup>388</sup> *Id.*

<sup>389</sup> *Id.*

<sup>390</sup> *Id.* at 4-7.

<sup>391</sup> *Id.* at 4-6.

<sup>392</sup> *Id.* at 4-6, 4-7.

<sup>393</sup> *Id.* at 4-8.

<sup>394</sup> *Id.*

<sup>395</sup> *Id.*

<sup>396</sup> *Id.* at 4-8.

<sup>397</sup> *Id.*

<sup>398</sup> Willie Taylor, Director, Office of Environmental Policy and Compliance, U.S. Department of Interior, Written Comments to DEIS, Federal, State and Local Public Agencies at 15.

<sup>399</sup> [http://www.charlestonbusiness.com/pub/6\\_19/news/2650-1.html](http://www.charlestonbusiness.com/pub/6_19/news/2650-1.html). News article describes SCDOT agreement to protect sea turtles and an astronomy program’s interests by creating a system by which the bridge’s aesthetic lighting can be turned off at some times during the night and during certain seasons.

## *Water Quality*

The new bridge will cause an increased level of impervious surface.<sup>400</sup> “A storm water management system” should be created that instead of discharging, collects, holds and treats water on-site.<sup>401</sup> Houses which are abandoned because of the DRIC should have their sewer lines “filled with concrete or grout at the basement level,”<sup>402</sup> and “[a]bandoned wells should also be filled with” one of these materials to avoid the contamination of groundwater (which would eventually flow to the Detroit River).<sup>403</sup> A permit might be required under the Soil Erosion and Sedimentation Control section of the Natural Resources and Environmental Protection Act to protect the City’s sewer system.<sup>404</sup>

Special attention must be paid to the possibility of soil particles moving into surface waters during construction.<sup>405</sup> Study of this issue needs to happen because this area was not analyzed in an earlier research project, and the data collected could also provide information about the possibility of groundwater contamination.<sup>406</sup>

## **IX. Historic Preservation**

The Delray community boasts a rich history that is integrally woven into the history of greater Detroit. Initially an independent village, Delray was annexed to Detroit in the early 20<sup>th</sup> century. Despite annexation, Delray remains a cohesive, autonomous identity that resides in the memories of its residents, photographs of the area, and most tangibly, in the buildings that have stood in the area for decades. Many of these buildings have considerable historic and architectural significance and must be preserved both as repositories of history and as anchors for future development in the area.

Throughout its history, Delray’s growth and vibrancy has been driven by immigrants and ethnic minorities. An MDOT report describes Delray as “one of Detroit’s most historically diverse neighborhoods.”<sup>407</sup> The report goes on to say that, “[r]esidents [of Delray] come from a wide variety of backgrounds, including French, German, Armenian, Hungarian, Polish, Ruthenian, African-American, and Hispanic.”<sup>408</sup>

### **A. Analysis of adverse impacts**

The FEIS identifies a large Area of Potential Effect (hereinafter “APE”) associated with the DRIC project. The APE is broken down into three tiers. Tier 1 designates the maximum direct acquisition area. Tier 2 identifies the area where the DRIC may have indirect impacts,

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<sup>400</sup> Jennifer Evans, SEMCOG, Written Comments to DEIS, Federal, State and Local Public Agencies at 46.

<sup>401</sup> *Id.*

<sup>402</sup> *Id.*

<sup>403</sup> *Id.*

<sup>404</sup> *Id.*

<sup>405</sup> John Bricker, State Conservationist, USDA, Written Comments to DEIS, Federal, State and Local Public Agencies at 80.

<sup>406</sup> *Id.*

<sup>407</sup> Commonwealth Cultural Resources Group, Inc., *Aboveground Resources Survey for the Detroit River International Crossing (DRIC) Study Detroit, Wayne County, Michigan*, Vol. I, at 1-57.

<sup>408</sup> *Id.*

such as visual and noise impacts. Tier 3 designates the West Delray area which may see new development in the future.

Within the APE, MDOT has identified 24 aboveground resources which are listed on/eligible for listing on the National Register of Historic Places. The FEIS nevertheless treats all of these resources (with the exception of those which face removal if the DRIC is built) as facing either “no adverse effect” or “no effect” whatsoever. This despite the fact that the buildings are, by virtue of their inclusion in one of the Tiers, facing some kind of direct or indirect effect as a result of the construction of the DRIC.

For those twenty-two resources deemed to face “no adverse effect,” or “no effect” at all under the Preferred Alternative, the FEIS says merely that, “[b]ecause there is no use of these sites they are not discussed in Section 5 of this document.”<sup>409</sup>

Fort Wayne, arguably the most historically significant resource in the area and located directly adjacent to the DRIC project, is not included in the APE and according to the FEIS, faces “no adverse effect.”

The FEIS identifies two buildings that lie in the footprint of the Preferred Alternative and thus face removal if the DRIC project goes forward. The FEIS deems removal to be an “adverse effect.” The two buildings facing removal are Kovacs Bar and the St. Paul AME Church. Both Kovacs Bar and the St. Paul AME Church are recommended eligible for the National Register of Historic Places. The southbound I-75 service drive right-of-way would take part of the parking lot of the Frank Beard School, though the building itself no longer faces removal under the Preferred Alternative. The School is listed on the National and State Register of Historic Places. The Berwalt Manor apartment building, recommended eligible for the National Register of Historic Places, no longer faces demolition. The ramps from the plaza to the I-75 northbound will now curve and pass right next to the building.

Finally, the FEIS identifies two archaeological sites that have historic (though not prehistoric) significance for the information they could yield. Though the locations of these sites are not disclosed in the FEIS (in order to protect them from looting or desecration), the FEIS indicates that the DRIC project will have an adverse effect on both. In the correspondence between MDOT and SHPO, SHPO sent an October 16, 2006 letter to MDOT in which it raised the issue of “how much deep testing is planned.”<sup>410</sup> There is no indication in the record of how MDOT responded to this concern.

## **B. Legal obligations under the National Historic Preservation Act**

The status of the aboveground resources as eligible for/listed on the National Register of Historic Places triggers a legal obligation for the body undertaking the project. Under the National Historic Preservation Act, MDOT (FHWA having delegated responsibility for compliance with the National Historic Preservation Act to it<sup>411</sup>) must “take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or

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<sup>409</sup> FEIS at 3-158.

<sup>410</sup> DEIS Appendix E at E-3.

<sup>411</sup> See 68 A.L.R. Fed. 578 §3.

eligible for inclusion in the National Register.”<sup>412</sup> MDOT must then afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.”<sup>413</sup> MDOT must also “seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.”<sup>414</sup>

The FEIS indicates that MDOT has partially complied with the law by consulting with the SHPO and by holding public meetings on May 9 and 10, 2006 to conduct “Southwest Detroit social and cultural information gathering.” However, MDOT has not complied with the aspect of the law that defines “adverse effects” broadly. This noncompliance hampers the public’s ability to participate and provide their views in a manner consistent with the stipulations of the National Historic Preservation Act.

### **C. Legal obligations under the Department of Transportation Act**

Under Section 4(f) of the Department of Transportation Act, the FHWA cannot approve the use of land from public or private historic sites unless it is determined that (1) “there is no feasible and prudent avoidance alternative to the use of land from the property and (2) “the action includes all possible planning... to minimize harm to the property resulting from such use.”<sup>415</sup> A “use” for purposes of Section 4(f) has occurred when “land is permanently incorporated into a transportation facility” or when there is a “constructive use” of the property.<sup>416</sup> A constructive use occurs when the project does not incorporate land from a historic property, but its “proximity impacts are so severe that the protected activities, features, or attributes” of the historic site are “substantially diminished.”<sup>417</sup>

MDOT is required to submit an evaluation to FHWA that includes “sufficient supporting documentation to demonstrate why there is no feasible and prudent avoidance alternative” and summarizes “the results of all possible planning to minimize harm to the...property.”<sup>418</sup> MDOT must prepare this evaluation in coordination with SHPO.<sup>419</sup>

The FEIS indicates that MDOT has complied with the formal requirements of Section 4(f) with regard to property that will be permanently incorporated into the DRIC by including a 4(f) evaluation in the FEIS and consulting SHPO in the preparation of this documentation. However, MDOT has failed to consider any constructive use of historic sites which will be affected by the DRIC, and in this way, has failed to submit a complete 4(f) evaluation.

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<sup>412</sup> 16 U.S.C. §470f.

<sup>413</sup> 16 U.S.C. §470f.

<sup>414</sup> 36 C.F.R. §800.2.

<sup>415</sup> 23 C.F.R. §774.3.

<sup>416</sup> 23 C.F.R. §774.17.

<sup>417</sup> 23 C.F.R. §774.15.

<sup>418</sup> 23 C.F.R. §774.7.

<sup>419</sup> 23 C.F.R. §74.5.

**D. The FEIS fails to adequately identify and analyze the impacts of the DRIC**

**1. The FEIS defines “adverse effect” too narrowly for the purposes of the National Historic Preservation Act**

The FEIS defines “adverse effect” too narrowly because it deems only removal or use of a site to be an adverse effect. This constitutes noncompliance with the law for two reasons. First, the DRIC will have an adverse effect on buildings beyond just those which will be removed. According to the regulations, “[a]n adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.”<sup>420</sup> Examples of adverse effects given in the regulations extend far beyond removal/destruction and include such things as “[i]ntroduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant historic features.”<sup>421</sup>

The Berwalt Manor (recommended eligible for the National Register of Historic Places) and Frank Beard School (listed on the National and State Register of Historic Places) are but two examples of buildings that will adverse effects from the DRIC. However, the FEIS states that both buildings face no adverse effect under the Preferred Alternative. The I-75 service drive will extend into the Beard School’s parking lot. The ramp from the plaza to I-75 will run immediately adjacent to Berwalt Manor. The DRIC project will not just alter the physical setting of these historic properties; it will also create an audible intrusion as well as obstruct the views of the building. MDOT is therefore obligated to consider the effect of the DRIC on these buildings along with all other aboveground resources to be an adverse effect. This would in turn trigger MDOT’s obligation to involve consulting parties and the public in considering options for mitigating this adverse effect. This designation of adverse effect and consequent consideration of mitigation is missing for all of the aboveground historic resources in the area of potential effect. The other 20 buildings will also face audible intrusions, view obstructions and impairment of overall historic setting as a result of the DRIC. MDOT must acknowledge these adverse effects on all of the National Register eligible/listed buildings in the APE and explore mitigation options accordingly.

The second reason that the narrow definition of adverse effect constitutes noncompliance with the National Historic Preservation Act is that it impedes public involvement. The document only provides an analysis of the impact of the project on those buildings that face “adverse effects.” As a result, the public has no way of knowing (aside from inclusion in a particular tier) what the effect of the project will be on the other twenty-two aboveground resources in the APE. Because the public cannot know what the impacts of the project will be on resources that do not face MDOT’s narrowly defined “adverse effects,” the public cannot submit meaningful comments in response to the FEIS and cannot engage in the participatory process mandated by the National Historic Preservation Act.

Twenty-four historic aboveground resources were identified in the APE. MDOT must comply with the National Historic Preservation Act by broadening its definition of adverse

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<sup>420</sup> 36 C.F.R. §800.5(a)(1).

<sup>421</sup> *Id.*

effects in order to inform the public and interested parties of the adverse impacts that the DRIC project will have on all of these resources.

With respect to archaeological impacts, MDOT proposes significantly more detailed mitigation measures than it does for aboveground resources.<sup>422</sup> In addition to the proposed mitigation contained in the draft memorandum of agreement between MDOT and SHPO contained in the DEIS, MDOT cannot ensure adequate mitigation of the impact on archaeological resources unless it knows the true extent of those impacts. Thus, before it can put “develop an appropriate data recover mitigation strategy”<sup>423</sup> for the identified archaeological sites, it must properly test the area in accordance with its continued collaboration with SHPO.

## **2. The FEIS fails to account for constructive uses as defined in Section 4(f) of the Department of Transportation Act**

The Section 4(f) evaluation in the FEIS evaluates only those properties that will be permanently incorporated into the DRIC project. It fails to consider any proximity impacts to surrounding historic properties that fall just outside the footprint of the project. The proximity impacts of the DRIC on many historic properties (particularly Fort Wayne which is not even included in the APE) will lead to “substantial impairment” of the properties’ “visual and esthetic qualities.”<sup>424</sup> This impairment constitutes constructive use of the property and triggers the Section 4(f) evaluation requirements. MDOT has submitted no documentation which will allow FHWA to evaluate whether any “feasible and prudent” alternatives exist and whether the action includes “all possible planning” to mitigate harm to the properties.<sup>425</sup>

## **3. Fort Wayne**

Finally, the FEIS utterly fails to address the impacts of the DRIC project on Fort Wayne, arguably one of the most historically and architecturally significant resources in the area. The FEIS places Fort Wayne conspicuously outside of the APE and thus it is deemed to be facing no adverse effect for purposes of the National Historic Preservation Act. Furthermore, because Fort Wayne will not be permanently incorporated into the DRIC, MDOT has not included it in its Section 4(f) evaluation, though, as explained in the previous section, the proximity impacts of the project amount to constructive use of the property.

Thus, with regard to Fort Wayne, MDOT has failed to comply with its legal obligations under either of the major federal historic preservation laws. MDOT’s assessment fails to account for the visual and audible intrusions on the property and the significant impairment to the integrity of this site that has been a fundamental part of Detroit’s history for over 160 years. Fort Wayne has played a role in virtually every U.S. military effort since the Civil War and is also an important site in Native American history.<sup>426</sup> The Preferred Alternative for the bridge will place Fort Wayne very close to the DRIC. This is an extreme example of how the narrow definition of

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<sup>422</sup> FEIS Appendix E at E-3, E-4.

<sup>423</sup> DEIS Appendix E at E-19.

<sup>424</sup> 23 C.F.R. §774.15.

<sup>425</sup> 23 C.F.R. §774.3.

<sup>426</sup> Regional Solutions to Urban Revitalization: A Policy Forum on Alternative Locations for a Detroit Metro Park, Historic Fort Wayne, Ford School of Public Policy, January 2004, <http://www.fordschool.umich.edu/curriculum/IPE2004/fortwayne.htm>

“adverse effects” used in the FEIS and MDOT’s incomplete Section 4(f) evaluation will utterly fail to protect the integrity of one of Detroit’s greatest historical sites.

With respect to identified archaeological impacts, it is imperative that MDOT respond to the concerns raised by SHPO in the above-cited October 16, 2006 letter. The true extent of the project’s impact on archaeological resources cannot be known unless MDOT undertakes the proper testing. The FEIS does not include documentation showing exactly if or how MDOT addressed SHPO’s concerns about deep testing.

**E. The FEIS fails to propose mitigation for the impacts of the DRIC on aboveground cultural resources**

The FEIS includes a Draft MoA between MDOT and SHPO proposing to mitigate the impacts of the DRIC on cultural resources. The purpose of a memorandum of agreement is to present to the Advisory Council an agreed-upon plan outlining how the adverse effects will be resolved. Under the law, MDOT is obligated to consult with SHPO in order to “develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.”<sup>427</sup> Interestingly enough, most of the mitigation in the Draft MoA relates to Fort Wayne, a cultural resource found by MDOT to be outside the APE and to suffer “adverse effect” from the DRIC. The Draft MoA provides for:

- Recording and photographing St. Paul AME Church and Kovacs Bar;
- Decorative and historically appropriate right of way fence at the Berwalt Manor;
- Landscaped area adjacent to the I-75 exit ramp onto Campbell Street near Berwalt Manor;
- Updated Fort Wayne Master Plan to revisit Fort entryway options;
- Wayfinding signs for Ft. Wayne and print brochures;
- Campbell St. would become a gateway to the Fort, by having a local access road to and from the plaza to Campbell St. built and by receiving pavement, landscape and lighting improvements.
- New pavement, landscaping and lighting along West Jefferson Avenue from West End to Clark streets as well as along Clark St. from its interchange with I-75 to Jefferson.
- Videotaped documentation of building conditions at Ft. Wayne;
- New or refurbished entranceway to the Fort from Jefferson;
- The security wall surrounding the plaza will receive a surface treatment aesthetically compatible with Ft. Wayne along its West Jefferson perimeter;
- The 100 foot buffer area between the plaza security wall and West Jefferson Ave. will be landscaped to meet Customs and Border Protection guidelines
- Traffic management plan to facilitate traffic movement during high-volume special events at Ft. Wayne;

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<sup>427</sup> 36 C.F.R. §800.6(a).

- MDOT will work with Customs and Border Protection to institute anti truck-idling measures on the plaza.

The proposed mitigation in the MoA, while more than those contained in the DEIS, does not meet MDOT's obligations under the regulations. In order to comply with the National Historic Preservation Act, MDOT must make every effort to preserve and promote the historic identity of Delray. To do so, MDOT must thoroughly explore every option for mitigation. Feasibility should be determined, not in the abstract, but by a detailed exploration of the cost (economic and otherwise) of mitigation measures. Simply "going through the motions" and appearing to consider all possible mitigation measures is insufficient. The following is an incomplete list of potential mitigation measures that MDOT must consider.

### 1. Move historic buildings out of the way of the DRIC project

MDOT must consider moving smaller historic resources that face removal or other adverse effects out of the footprint of the DRIC project. For example, St. Paul AME Church, eligible for listing on the National Register of Historic Places for its historic significance, could be moved from the footprint of the DRIC project and relocated as part of a broader land-use vision for Delray. Preservation of this important house of worship would help mitigate some of the negative cultural and social impacts of the DRIC on the Delray community as required by EO 12898.<sup>428</sup> St. Paul is the lone surviving structure associated with early African-American settlement in Delray.<sup>429</sup> It is the oldest resource left standing in Delray that can attest to the community's early twentieth century African-American heritage. It is the earliest constructed and longest-established African-American church in Delray. No other resources can attest Delray's African-American heritage. St. Paul is the only African-American church built entirely through the monetary and physical efforts of the African-American community in Delray.<sup>430</sup>

Other historic buildings could be moved as well. Kovacs Bar set down in a new location could serve as a commercial anchor for a reinvigorated commercial district in the Delray community. Buildings are routinely moved in order to preserve them.

Two buildings in Detroit are examples of this solution. In 1997 the Wayne County Stadium Authority sought to purchase and demolish Detroit's historic Gem Theatre and Century Club building in order to make way for Comerica Park and Ford Field.<sup>431</sup> The ornate theater building was constructed in 1903 and is listed on the National Register of Historic Places.<sup>432</sup> Recognizing that the building was (and is) a historic, cultural and economic asset, owner Chuck Forbes succeeded in moving it 1,800 feet, or about five city blocks to its current location on Madison Street.<sup>433</sup> The move was celebrated by Detroit residents and made the Guinness Book of World Records as the heaviest building ever moved on wheels, weighing in at 5.5 million

<sup>428</sup> This is especially important in a community that is over 32% African American.

<sup>429</sup> FEIS at 5-12.

<sup>430</sup> *Id.* at 5-12, 5-13.

<sup>431</sup> *Hidden Treasures: Restored Gem Theatre glitters in Harmonie Park*. THE DETROIT NEWS, Mar. 31, 1999, at 12S.

<sup>432</sup> Patricia Montemurri. *Road Show Gem Theatre Prepares for Roll to its New Home*, DETROIT FREE PRESS, July 2, 1997, at 1A.

<sup>433</sup> *Id.*

pounds. Today the theater remains in operation as a vibrant cultural attraction that complements the stadium development nearby.

Detroit's historic Elwood Diner shared the Gem Theater's unfortunate fate of standing in the footprint of Comerica Park and Ford Field. The diner was named for its original location at the corner of Elizabeth Street and Woodward Avenue and is touted as "downtown's most recognizable Art Deco diner."<sup>434</sup> Again recognizing the historic, cultural and economic significance of the building, the owner moved the Elwood as well, to its current location at 300 Adams Avenue where it remains in operation today.

Greenfield Village in The Henry Ford contains over eighty-three historic structures which were moved there from their original locations. While this assemblage of historic buildings is somewhat controversial, it is nevertheless an example of the ease with which historic structures can be relocated. One building in Greenfield Village is the Wright Cycle Company building, a brick structure which was built in Dayton, Ohio in 1875 and moved to Greenfield Village in the twentieth century. The Wright Cycle Company building is of a similar size and material as Kovacs Bar. If that building can be moved 200 miles to its present location, certainly the other buildings that stand in the DRIC footprint can be moved a few hundred feet to a new location in a revitalized Delray. The necessary expertise for moving historic buildings exists and this option may very well prove to be a feasible mitigation measure.<sup>435</sup>

## **2. Salvage historic facades**

Where MDOT finds that it is unable to preserve an entire building, it should seriously consider preserving a façade of the building and incorporating it into new development or into the architecture of the bridge plaza itself. This would help the bridge plaza harmonize with its setting in Delray rather than be obtrusive. Examples of this practice abound. In Ann Arbor, the University of Michigan has incorporated the façade of a historic building (the Carnegie Library, known as the Frieze Building) into a new structure being constructed at the time of the submission of these comments.<sup>436</sup>

## **3. Install a cohesive series of plaques commemorating Delray's history**

MDOT should fund the installation of a series of plaques recording and commemorating the history of Delray which can be placed around Delray. MDOT has already researched the historic properties in the community. It plans to record and create a permanent record of the existence of Kovacs Bar and St. Paul AME Church.<sup>437</sup> As long as MDOT plans to document the history of Delray, it should fund the conversion of this documentation onto actual plaques, like the one commemorating the site of the Detroit Copper & Brass Rolling Mills Company,<sup>438</sup> to be installed around Delray. No plaque can replace the function of a historic building in contributing

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<sup>434</sup> <http://www.elwoodgrill.com/about.html>

<sup>435</sup> More information can be found about the Wright Cycle Company Building by visiting: <http://www.thehenryford.org/village/about.aspx>.

<sup>436</sup> More information about this project can be found by visiting <http://www.acppubs.com/article/CA6438939.html>.

<sup>437</sup> FEIS Appendix E at E-2.

<sup>438</sup> Commonwealth Cultural Resources Group, Inc., *Aboveground Resources Survey for the Detroit River International Crossing (DRIC) Study Detroit, Wayne County, Michigan*, Vol. I at 1-101 (figure 1.5.3-1) (hereinafter "Aboveground Resources Survey").

to community identity and preserving history, but a cohesive scheme of plaques would certainly pay tribute to the historic identity of Delray which is worthy, not only of preservation, but also commemoration.

An example of such a scheme can be found in Flint, Michigan, where thirty-three signs telling the history of Flint and its connection to the auto industry were installed along the Flint River in September, 2008.<sup>439</sup> Such signage schemes are common throughout Michigan, and Ann Arbor has also installed a series of historic plaques throughout the city to commemorate its history, and to record buildings that are no longer extant in the city.<sup>440</sup>

As an alternative to creating a Delray-specific plaque scheme, MDOT could work with SHPO to expand the presence of Michigan historical markers in the Delray community. SHPO maintains information about Michigan's historical marker program.<sup>441</sup>

Both the site of the Detroit International Exposition and the site of the "Great Mound on the Rouge" are worthy of plaques to commemorate and promote Delray's rich history.

The Detroit International Exposition was located on a fourteen acre parcel of land along the Detroit River.<sup>442</sup> The centerpiece of the site was the Pavilion building on the fairgrounds. Though no longer extant, the Pavilion was a fixture of the riverfront and of the exposition fairgrounds. The Pavilion building, as well as the Exposition site are well documented with pictures and records, including some that can be found in the "Above-ground Cultural Resources Survey" that was commissioned as part of the DRIC study. This documentation could be used to produce a plaque commemorating the Detroit International Exposition, a reminder of Delray's grand and vibrant past.

The Great Mound on the Rouge, located in Delray at the junction of the Rouge and Detroit Rivers,<sup>443</sup> was once one of the most notable remaining Native American mounds in Michigan. The mound was formerly an archaeological gem, "packed with bones"<sup>444</sup> and artifacts and was the subject of much study by early scholars such as Dr. W.B. Hinsdale.<sup>445</sup> Though it is believed that "no trace of the mound remains today,"<sup>446</sup> the Great Mound on the Rouge is part of Delray's rich and varied historic fabric and therefore merits commemoration as part of a scheme of historic plaques.

#### **4. Ensure that historic Fort Wayne can successfully coexist with the DRIC Project**

In order to ensure that Fort Wayne mutually coexists with the DRIC Project, MDOT should look to examples of bridges that successfully relate to their surroundings. Fort

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<sup>439</sup> More information about this program can be found by visiting [http://www.mlive.com/flintjournal/business/index.ssf/2008/09/new\\_historic\\_signs\\_in\\_flint\\_ma.html](http://www.mlive.com/flintjournal/business/index.ssf/2008/09/new_historic_signs_in_flint_ma.html).

<sup>440</sup> Information about this program, known as the Downtown Ann Arbor Historical Street Exhibit Program can be found by visiting [www.aadl.org/aastreet](http://www.aadl.org/aastreet).

<sup>441</sup> This can be found by visiting [http://www.michigan.gov/hal/0,1607,7-160-17449\\_18638\\_18654-54139--00.html](http://www.michigan.gov/hal/0,1607,7-160-17449_18638_18654-54139--00.html).

<sup>442</sup> Aboveground Cultural Survey, *supra* note 438 at 1-47.

<sup>443</sup> Baulch, Vivian M., *Michigan's Mysterious Indian Mounds*, The Detroit News, June 6, 1997.

<sup>444</sup> *Id.*

<sup>445</sup> *Id.*

<sup>446</sup> *Id.*

Michilimackinac for example, stands as a vibrant historic asset at the foot of the Mackinac Bridge. MDOT should strive to emulate the mutually beneficial relationship of Fort Michilimackinac and the Mackinac Bridge in the relationship that it cultivates between the DRIC project and Fort Wayne. MDOT should work with SHPO to determine what factors (including distance between the bridge and the fort, noise controls, height of the bridge etc.) enable these two assets to enjoy a mutual beneficial relationship and implement them in the DRIC project. MDOT's proposals in Appendix E of the FEIS are a positive first step to ensure that the DRIC project does not isolate Fort Wayne by making it difficult to access or unpleasant to visit as a result of adverse effects such as noise, accessibility and view problems. MDOT needs to fund programs to promote and maintain Fort Wayne and implement programming that will attract visitors to this valuable historic resource.<sup>447</sup> MDOT must go farther than the Draft MoA in mitigating the effects of the DRIC on Ft. Wayne and Delray. MDOT should make resources available to preserve some of the structures. In addition, the plaza will eliminate overflow parking for special events at the Fort. The FEIS suggests nothing to mitigate this loss.

#### **5. Make archaeological artifacts available for conservation and display**

MDOT plans a data recovery plan consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation.<sup>448</sup> MDOT must also ensure that any other materials recovered during "data recover" or any other archaeological activity are preserved and made available for conservation and display. In addition to working with SHPO to ensure the integrity of the archaeological resources in the study area, MDOT should work with the public to find an acceptable venue to display any such artifacts. Such a venue may be in a designated building in Fort Wayne. Fort Wayne has ample space and is already staffed by some personnel who could see to the maintenance of any collection that is installed there. Artifacts could also be placed in the museum display that already exists in the Delray Neighborhood House. Displaying any archaeological artifacts is a low cost way to preserve and commemorate Delray's unique, diverse history.

### **X. Parks and Recreation**

The FEIS fails to adequately address adverse impacts to recreational aspects of the Delray community in a manner consistent with environmental justice. In Delray, 30% of households do not have access to an automobile.<sup>449</sup> As a result, it is essential that parks be within walking distance. Parks obviously serve a recreational function, but they also can serve to mitigate air and noise pollution, as well as help extend buffer zones.

#### **A. Legal requirements of the Department of Transportation Act**

Under Section 4(f) of the DOT Act, the FHWA can approve a transportation project "requiring the use of publicly owned land of a public park [or] recreation area" only if it is determined that "(1) there is no prudent and feasible alternative to using that land; and (2) the program or project includes all possible planning to minimize harm to the park [or] recreation

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<sup>447</sup> More information about Fort Michilimackinac and the Mackinac Bridge can be found by visiting <http://www.mightymac.org/michilimackinac.htm>.

<sup>448</sup> FEIS Appendix E at E-3.

<sup>449</sup> *Id.* at 3-12.

area.”<sup>450</sup> A “use” for purposes of Section 4(f) has occurred when “land is permanently incorporated into a transportation facility.”<sup>451</sup>

MDOT is required to submit an evaluation to FHWA that includes “sufficient supporting documentation to demonstrate why there is no feasible and prudent avoidance alternative” and which summarizes “the results of all possible planning to minimize harm to the...property.”<sup>452</sup>

In its section 4(f) evaluation, MDOT identifies three publicly owned parks and recreation areas covered by the statute. All three of these parks will be permanently incorporated into the DRIC under the Preferred Alternative of the DRIC. The three facilities impacted are the South Rademacher Community Recreation Center, the South Rademacher Playground, and Post-Jefferson Play lot. The FEIS correctly notes that the DRIC’s use of the three sites falls under section 4(f), because it will permanently incorporate the properties.<sup>453</sup>

FHWA may approve the use of parkland for transportation uses only if it determines that a) there is “no feasible and prudent avoidance alternative” and “the action includes all possible planning ... to minimize the harm to the property resulting from the use;” or b) that the use of the property, including all measures to minimize harm (such as mitigation or enhancement measures) will have a de minimus impact.<sup>454</sup> De minimus impact is defined as “one that will not adversely affect the features, attributes, or activities qualifying the property for protection.”<sup>455</sup> The regulations allow FHWA to approve only the alternative that causes “the least overall harm.”<sup>456</sup> “[A]ll possible planning” includes replacement of land or facilities of comparable value and function; or monetary compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways.”<sup>457</sup>

MDOT has only proposed monetary compensation but it fails to analyze whether such monetary compensation will result in facilities of comparable value and function, and whether these will mitigate the adverse impacts of the project on Delray.

#### **B. The FEIS does not consider the adverse impacts of park loss on Delray**

The South Rademacher Community Recreation Center, thought closed on January 2, 2006 because of budgetary concerns, remains in good condition and if not for the DRIC, it could potentially reopen in the future to service this community. The DRIC eliminates this possibility. The adjacent South Rademacher Playground consists of 3.6 acres and has new play structure and swings, a small picnic area and a large, open field with a softball diamond. It also has a basketball court.

The FEIS fails to consider that Delray does not have sufficient park resources. The Detroit Department of Recreation (hereinafter “DDR”) Strategic Master Plan calls for 5.6 acres

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<sup>450</sup> 49 U.S.C. §303.

<sup>451</sup> 23 C.F.R. §774.17.

<sup>452</sup> 23 C.F.R. §774.7

<sup>453</sup> See, 23 C.F.R §774.17

<sup>454</sup> 23 C.F.R. §774.3 (a) and (b).

<sup>455</sup> 23 C.F.R. §774.17.

<sup>456</sup> 23 C.F.R §774.3 (c).

<sup>457</sup> 23 C.F.R §774.17.

of parkland per 1000 residents.<sup>458</sup> The National Recreation and Park Association calls for 7-10 acres of active parkland per 1000 residents.<sup>459</sup> Given Delray's population of about 4,000, the City of Detroit would prescribe 22.4 acres of active parkland for the Delray community, while the National Recreation and Park Association would call for 28-40 acres of active parkland. However, eliminating the three facilities would leave only the Delray Neighborhood House, and thus approximately only 9 acres of active parkland, or less than half of the recommended amount of parkland.

After adjusting for a possible decreased population after the completion of the DRIC, the Delray community would be left with an inadequate amount of parkland. Even assuming no replacement housing was built within Delray, a smaller Delray would need 16.8 acres, even under the City's more modest calculations, to adequately provide recreational opportunities to 3,000 residents.

Moreover, the DDR Strategic Master Plan recognizes that it is important for residents to be located within walking distance of a park.<sup>460</sup> In Delray, it is especially important for parks to be located within walking distance, because 30% of Delray households do not have an automobile.<sup>461</sup> Distances of one quarter to one half mile are considered to be easy walking distance.<sup>462</sup> Therefore, all residents should be within one half mile of a park.<sup>463</sup> This is especially important in a community where 40% of the households live below the poverty line. The FEIS fails to consider both the adequate amount of parkland per person and the location of parks in relation to residents. The elimination of two parks and the recreation center will not have a de minimus impact on Delray.

### **C. The FEIS fails to provide adequate mitigation**

FHWA may only approve the use of parkland if the use of the property, including the mitigation or enhancement measures, will have a de minimus impact on Delray. The FEIS addresses the entire issue of mitigation in a single paragraph, saying "[i]t is anticipated that the parks will be appraised and the City will be compensated for the property, the facilities, and the functions."<sup>464</sup> The FEIS proposes no enhancements. This mitigation is inadequate in Delray. The FEIS needs to ensure that the mitigation measures address the recreational needs of the community most affected by the DRIC.

### **D. Additional mitigation is necessary**

The DRIC study process must include all possible measures to minimize harm to the park and recreation area.<sup>465</sup> Environmental justice requires that disproportionately adverse impacts on a minority or low-income population be mitigated to the greatest extent feasible. Because Delray residents are largely minority and low-income, the impact of permanently removing parks from

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<sup>458</sup> DDR Strategic Master Plan at 24 (2006).

<sup>459</sup> *Id.*

<sup>460</sup> DDR Strategic Master Plan at 25.

<sup>461</sup> FEIS at 3-12.

<sup>462</sup> DDR Strategic Master Plan at 25.

<sup>463</sup> *Id.*

<sup>464</sup> FEIS at 3-169.

<sup>465</sup> 49 U.S.C. §303(c).

their neighborhood results in long lasting detriment where residents can no longer walk to a nearby park and enjoy its recreational benefit, they do not enjoy the environmental benefit of green spaces with trees to reduce air pollution, and their neighborhoods are further reduced in value without the aesthetic and natural beauty of neighborhood parks.

### **1. More parks in Delray, within walking distance**

Parks can help alleviate some of the problems created by the DRIC. Parks can help to mitigate air and noise pollution, spur economic development, and help renew and revitalize the community.

The FEIS fails to address the need for additional parkland located within Delray. The DRIC will leave the community significantly underserved by the remaining parkland. A significant portion of Delray is not within walking distance of an active park.<sup>466</sup> Therefore not only does there need to be more parkland within Delray, it must also be situated in a way so that all residents are within a comfortable walking distance of a park. Beyond serving a recreational purpose, because they provide trees and other vegetation, parks can also serve a valuable function in helping to mitigate pollution that will be caused by the DRIC. The equipment from the South Rademacher Playground, which is in good condition, can be moved to one of the new neighborhood parks.

### **2. Buffers; in one instance an urban forest**

In addition to active parks, Delray needs green spaces to act as buffers between residential and industrial areas, as well as between the areas of the DRIC and the community. Buffers serve a valuable purpose in helping to protect residential areas from adverse interaction with other land uses. If planned well, if large enough and planted with enough tall vegetation, buffers can reduce the level of noise and particulate pollution experienced by a residential area, while also acting as a natural and beautiful visual barrier of unsightly factories and plazas. An urban forest, planted on a large tract of vacant land, may serve this dual purpose of helping to mitigate pollution and helping to beautify the community. It may also serve as a buffer between residences and the plaza.

### **3. Greenways and the riverfront**

Greenways are another form of mitigation neglected by the FEIS. The FEIS needs to explore linking Delray to the already existing greenway along the Detroit River. Greenways should be used to connect the riverfront in Delray with the river walk project that extends from the MacArthur Bridge at Belle Isle to the Ambassador Bridge and is administered by the Detroit Riverfront Conservancy. Another option would be an independent greenway along the riverfront to connect Fort Wayne to the river walk. In either event, such a greenway will create continuous pedestrian access from Belle Isle to Fort Wayne, emphasizing the importance of Detroit's riverfront in environmentally friendly and naturally beautiful ways, while helping to spur economic development along its length, especially in southwest Detroit. Another greenway could connect Ft. Wayne to Delray Park and Delray Park to the Rouge River.

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<sup>466</sup> DDR Master Plan at 46.

Greenways should also be used to connect neighborhoods north and south of I-75. Delray is currently isolated because I-75 acts as an unnatural barrier, exacerbating and concentrating negative impacts in Delray while neighborhoods north of the freeway fare relatively better. Connecting the two sides of the freeway with greenways will benefit economic development while beautifying the neighborhoods. A greenway could also be used to link Delray to the greenway planned for Southwest Detroit.

#### 4. Fort Wayne

Fort Wayne is not only a historic treasure; it is also an underutilized recreational asset. Its fields are used for soccer<sup>467</sup> but it has the potential for greater uses. Providing greenways to access it is but one way of realizing and focusing on Fort Wayne's importance to the history of Delray, Detroit, and Michigan. Fort Wayne has the potential to become a vibrant, year-round, regional destination and community resource.<sup>468</sup> This can help preserve a national historic landmark while at the same time providing additional necessary recreational resources to an under served community.<sup>469</sup>

## XI. Lighting

Light pollution can disturb people's sleep patterns and some researchers say that it can have other health impacts as well.<sup>470</sup> Light pollution can interfere with the natural patterns of animal and plant species and disrupt their migration, their feeding habits, or their natural defenses.<sup>471</sup> Additionally, light pollution can impede the ability to observe the night sky.<sup>472</sup>

The Preferred Alternative involves Plaza P-a. Lighting from Plaza P-a would "penetrate into the residential area" that would remain on Campbell Street's east side, likely increasing current light levels.<sup>473</sup> Houses in the block to the west of Post Street could also experience light pollution under the Preferred Alternative.<sup>474</sup> Fort Wayne would experience increased light impact.<sup>475</sup>

### A. Mitigation offered in FEIS and analysis

During the project design, "the safety and navigational lighting needs" of the US Coast Guard and FAA will be balanced "with other concerns, such as aesthetics."<sup>476</sup> "Best management practices to protect migrating birds" will also be reviewed with USFWS.<sup>477</sup>

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<sup>467</sup> FEIS at 3-168.

<sup>468</sup> <http://www.fordschool.umich.edu/curriculum/IPE2004/fortwayne.htm>

<sup>469</sup> For further discussion of Ft. Wayne, *see* Section IV *supra*.

<sup>470</sup> FEIS at 3-182.

<sup>471</sup> *Id.*

<sup>472</sup> *Id.*

<sup>473</sup> *Id.* at 3-183.

<sup>474</sup> *Id.* at 3-183.

<sup>475</sup> *Id.*

<sup>476</sup> *Id.* at 3-184.

<sup>477</sup> *Id.*

Other than this, the FEIS offers no specific mitigation of light. Significantly, it offers no mitigation to protect human residents of Delray other than offering to “take into account the adjacent residential uses” when considering the use of high-mast lighting.<sup>478</sup>

## **B. Additional mitigation needed**

There is inadequate discussion of the impact of light on people living near the footprint. More detail is needed on how and where light will impact Delray residents. The ROD should provide more information about what areas of the surrounding community will experience increased light pollution. Mitigation to protect human sleep patterns and other impacts to people is needed. At present, this is completely lacking. The lowest possible wattage of lighting should be used.<sup>479</sup> To help mitigate the impact of light on the community the DRIC should seek LEED certification.

## **XII. Public Safety**

Social cohesion is an essential factor in the “disproportionately high and adverse effect” analysis of FHWA and DOT’s environmental justice guidelines, however, the many crime and safety factors associated with the bridge have the potential to further disrupt the social cohesion of the Delray community.

Two fire stations currently serve Delray.<sup>480</sup> The two fire houses, one of either side of the train tracks that cross the community, are in close proximity since trains may block the rail crossings. Emergency medical services (hereinafter “EMS”) are provided through the Fire Department.<sup>481</sup> A major fire/police/public safety service center is located at Fort and Campbell. Another serves the communities north of I-75.<sup>482</sup>

The DRIC raises special homeland security issues such as possible terrorist attacks. The final design will include: perimeter site fencing to enclose the plaza site, fence separation of non-commercial and commercial parking areas, kennels, warehousing, physical plant facilities, and impoundment lots, clear identification of all restricted access areas, clear sight lines between inspection areas, separation of vulnerable spaces (violation and seizure areas) from public view and relocation of utilities to corridors outside of the occupied plaza area<sup>483</sup>. The FEIS mentions that the City of Police Department has a Homeland Security Coordinator.<sup>484</sup>

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<sup>478</sup> *Id.*

<sup>479</sup> In a Charleston Regional Business Journal article, the director of engineering for special projects indicates at the South Carolina Department of Transportation explains that The Cooper River Bridge Replacement Project used 250 Watt rather than 1,000 Watt lighting on the bridge that can be turned down at certain times when necessary for the environment. Bucher, Patra. *Bridge Update* in Charleston Regional Business Journal, Sept 22, 2003, available at [http://www.charlestonbusiness.com/pub/6\\_19/news/2650-1.html](http://www.charlestonbusiness.com/pub/6_19/news/2650-1.html).

<sup>480</sup> FEIS at 3-19. There is also a fire station north of I-75 on Vernor.

<sup>481</sup> *Id.* 3-230.

<sup>482</sup> *Id.* at 3-19.

<sup>483</sup> *Id.* at 3-232.

<sup>484</sup> *Id.*

**A. The FEIS fails to fully evaluate the safety issues raised by the DRIC**

The FEIS is woefully lacking in its evaluation of how the safety and security of the Delray community will be affected by the addition of the DRIC. The FEIS admits that “some change is expected in response time by emergency services once the project is completed.”<sup>485</sup> The FEIS fails to inform the community what that how response times will increase.

The FEIS also does not evaluate whether the community should expect a change in response time during the construction of the DRIC or discuss any measures that will be instituted to mitigate the problem. Considering the extended span of the construction, the safety of the community for the duration of the build is imperative and will take significant mitigation.

The perimeter site fencing that will enclose the plaza<sup>486</sup> cannot be visually unattractive. Without any specific information, the community has no opportunity to add to the conversation or make comments on the decisions that will seriously affect their daily lives.

The Delray neighborhood will be de-stabilized during the construction, which the FEIS fails to consider or address.

There are several questions about the DRIC which the FEIS has left unanswered, such as whether hazardous materials will be allowed to cross the bridge and where the response team will be located. There is also nothing about the size of the police force and whether it will be bolstered to handle the strain of three international crossings (the DRIC, Ambassador Bridge, and Detroit-Windsor Tunnel) within minutes of each other and the incidents, from car accidents to terrorist attacks, that may occur on one or more at the same time.

**B. The DRIC will increase certain safety issues in the community which the FEIS fails to address**

There are many public safety concerns associated with an international border crossing and increased truck traffic, which the FEIS completely omits. Building a new bridge and plaza for trucks and international traffic in the center of a community could increase drugs,<sup>487</sup> crime and firearms trafficking.<sup>488</sup> All of these dangers are common to areas where the border may be crossed easily.<sup>489</sup> Drug and gun trafficking are such major problems that the governments of the U.S. and Canada have formed the Canada-United States Cross-Border Crime Forum to “bring together senior law enforcement and justice officials”<sup>490</sup> and address “transnational crime problems such as smuggling, organized crime, mass marketing fraud, counter-terrorism, and

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<sup>485</sup> *Id.*

<sup>486</sup> *Id.*

<sup>487</sup> Canada-United States Cross-Border Crime Forum, United States, Canada Border Drug Threat Assessment 2007, [http://www.publicsafety.gc.ca/prg/le/oc/\\_fl/us-canadian-report-drugs-eng.pdf](http://www.publicsafety.gc.ca/prg/le/oc/_fl/us-canadian-report-drugs-eng.pdf).

<sup>488</sup> Canada-United States Cross-Border Crime Forum, Combating Illicit Firearms, [http://www.publicsafety.gc.ca/prg/le/\\_fl/CombatingIllicitFirearms-en.pdf](http://www.publicsafety.gc.ca/prg/le/_fl/CombatingIllicitFirearms-en.pdf); “International Traffic in Firearms: Emerging Issues,” Jenny Mouzos, <http://www.aic.gov.au/conferences/transnational/mouzos.pdf>; “Global Black-Market Arms Trade Should Be Next Target of NGOs,” *Journal of the Federation of American Scientists*, <http://www.fas.org/faspir/pir0797.htm>.

<sup>489</sup> *Id.*

<sup>490</sup> Canada-United States Cross-Border Crime Forum, <http://www.publicsafety.gc.ca/prg/le/oc/cbc-eng.aspx>.

other emerging cross-border issues. An additional bridge, with its projected substantial increase in traffic<sup>491</sup> will increase the possibilities for these crimes. MDOT needs to complete far more evaluation of the public safety concerns of the community and provide the community ample time to review and comment on the results.

Prostitution and the trafficking of persons is another serious issue that often plagues border communities.<sup>492</sup> Women and children are most often the victims of trafficking and are frequently transported in the sex trade throughout the Canada and the United States.<sup>493</sup> These women are frequently trafficked from third world countries and over the U.S.-Canada border by gangs and organized crime,<sup>494</sup> opening the community of Delray to an entirely new and dangerous problem. The FEIS does not address the entire spectrum of safety and security concerns that impact the Delray community in the face of the DRIC. The ROD needs to address these concerns and the mitigation measures that will be taken to ensure the community's peace and security.

### C. The ROD needs to address additional mitigation strategies

Many of the crime and trafficking threats that are consequences of the DRIC can be somewhat mitigated with strict ordinances on city streets, additional police to enforce them, and appropriate lighting. Direct roads connecting the bridge to the highway can decrease the likelihood of truckers veering off the main path towards pockets of drug trafficking, prostitution, and other common border crimes.<sup>495</sup> The ROD needs to address prevention, education, and enforcement strategies. The FEIS needs to address how traffic laws regarding trucks will be enforced in the community.

The ROD also needs to include mitigation measures, including community relations activities like those that have been established in other border communities like the Community Relations Unit in the San Diego sector<sup>496</sup> or the Ranch Liaison program (which includes monthly Town Hall meetings) in the Del Rio sector in Texas,<sup>497</sup> to strengthen the relationship between the community and law enforcement. These community relations activities will ensure that the highly immigrant community and the Border Patrol agents foster positive community relations so that they can work together to build strong communities and cut down on the possible dangers and illegal activities brought into Delray by the DRIC. Bridging the gap between the community, immigration, and law enforcement officers will also reduce problems such as racial profiling and

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<sup>491</sup> FEIS at 1-10.

<sup>492</sup> Canada-United States Cross-Border Crime Forum, United States, Bi-National Assessment of Trafficking in Persons, [http://www.publicsafety.gc.ca/prg/le/\\_fl/1666i-en.pdf](http://www.publicsafety.gc.ca/prg/le/_fl/1666i-en.pdf)

<sup>493</sup> Bi-National Assessment of Trafficking in Persons, [http://www.publicsafety.gc.ca/prg/le/\\_fl/1666i-en.pdf](http://www.publicsafety.gc.ca/prg/le/_fl/1666i-en.pdf), p4

<sup>494</sup> See The Coalition Against Trafficking in Women, <http://www.catwinternational.org/factbook/Canada.php>; A Comparative Study of Women Trafficked in the Migration Process, <http://action.web.ca/home/catw/attach/CATW%20Comparative%20Study%202002.pdf>, pp47-52; Sex Trafficking of Women in the United States, [http://action.web.ca/home/catw/attach/sex\\_traff\\_us.pdf](http://action.web.ca/home/catw/attach/sex_traff_us.pdf), p55

<sup>495</sup> Canada-United States Cross-Border Crime Forum, United States, Canada Border Drug Threat Assessment 2007, [http://www.publicsafety.gc.ca/prg/le/oc/\\_fl/us-canadian-report-drugs-eng.pdf](http://www.publicsafety.gc.ca/prg/le/oc/_fl/us-canadian-report-drugs-eng.pdf).

<sup>496</sup> See U.S. Customs and Border Patrol, [http://www.cbp.gov/xp/cgov/border\\_security/border\\_patrol/border\\_patrol\\_sectors/sandiego\\_sector\\_ca/sector\\_programs/community\\_activities/](http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_sectors/sandiego_sector_ca/sector_programs/community_activities/).

<sup>497</sup> See U.S. Customs and Border Patrol, [http://www.cbp.gov/xp/cgov/border\\_security/border\\_patrol/border\\_patrol\\_sectors/delrio\\_sector\\_tx/activities/](http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_sectors/delrio_sector_tx/activities/)

mistaken identities,<sup>498</sup> which are often a problem in high minority and immigrant areas. The increased law enforcement that will in many ways be necessary to mitigate other problems that the bridge will introduce into Delray has the potential to cause tension and confusion in a community that is 68% minority.

The FEIS does not address all of the public safety issues that will affect the Delray community if the DRIC is built. In fact, the FEIS only partially addresses the issues of terrorism and local law enforcement without giving any consideration to the many other threats that will affect the community in the face of the new access across the border. MDOT needs to complete an entirely new evaluation of the safety and security issues facing the community. The community deserves an opportunity to comment on the risk of increased criminal activity and how MDOT plans to mitigate the dangers.

### **XIII. Bridge Governance**

#### **A. Analysis of the FEIS identified adverse impacts**

The FEIS identifies the preferred bridge governance structure as a “public-private partnership in the form of a long term concession agreement which will seek to maximize private sector participation and financing to avoid the use of taxpayer dollars.”<sup>499</sup> It is expected that resolution of all issues having to do with bridge governance will be known by the time the Record of Decision is to be signed.<sup>500</sup>

In picking this governance structure the FEIS concluded that a “Public Private Partnership is seen as a likely and viable alternative as it will foster competition in the private sector to provide governments and the public with the best value while ensuring the appropriate levels of transparency and accountability are met.”<sup>501</sup> The possible adverse impacts on the community of Delray that are likely to occur as a result of different governance structures are not discussed in the FEIS.

#### **B. Critique of the FEIS**

While the questions of cost efficiency of the project and facility in completing the DRIC should not be ignored, there are important community interests that should be considered when choosing a bridge governance structure. Questions of bridge accessibility, ownership, and relationship to the community have been identified by members of the Delray community and should be given serious consideration in order to limit the adverse impacts that the DRIC may have on the community of Delray. Some of the concerns that were identified by the community during the public comments period include the following:

##### *Bridge Accessibility*

- The bridge should provide access to non-motorized vehicles

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<sup>498</sup> Victor Romero, “Racial Profiling: ‘Driving While Mexican’ and Affirmative Action,” 6 Mich. J. Race & L. 195, 202-206 (2001).

<sup>499</sup> FEIS at 3-247.

<sup>500</sup> *Id.* at 3-250.

<sup>501</sup> *Id.*

- Pedestrian pathways should be incorporated into the bridge

#### *Bridge Ownership*

- Public ownership of the bridge can ensure that the bridge's construction and management are transparent and accountable to the communities affected by the DRIC

#### *Relationship to the community*

- Area residents and the DRIC should coexist in a manner which provides for the mutual benefit of each.
- The DRIC should serve to spur beneficial development projects in the community.
- Bridge toll revenue or other funding should be used to mitigate unanticipated adverse effects and to produce benefits within the community to ensure that adverse effects are balanced out with community benefits.
- Congestion pricing should help mitigate the increase in traffic.

In addition to the above concerns, the FEIS does not thoroughly examine the question of how the DRIC's governance structure can be shaped so as to accomplish the goals of serving as a safe and secure crossing that ensures the efficient and integrated cross-border movement of people, goods and services while protecting the general public interest, as well as the interest of the host community. A more thorough analysis of the possible adverse effects on the community, and how best to address them through mitigation, should be incorporated into the FEIS.

#### **C. Analysis of the FEIS mitigation and critique of the FEIS mitigation**

The FEIS offers no discussion of how a mitigation strategy might be implemented in order to ensure that adverse effects are not suffered by the host community as a result of the governance plan. If an objective of the governance plan is to provide a safe and secure crossing, then the community's safety needs to be taken into consideration. Without the community's input included in the regular governance of the DRIC it seems unlikely that the safety interest will be thoroughly satisfied. Furthermore, if transparency, accountability, and protecting the public interest are serious concerns, as stated in the FEIS' goals for a governance plan, then the governance plan must necessarily incorporate adequate and meaningful community representation throughout the lifecycle of the DRIC.

Despite these important considerations, the FEIS does not include any plans to address these issues. In contrast, the FEIS needed to provide specific plans that address how public oversight and accountability, as well as community input, will be achieved. These plans should include a careful analysis of how each type of governance plan may impact the host community of Delray, including neighborhood safety, accessibility for many types of vehicles, community input, as well as tangible benefits for Delray and the greater public interest. Then, after careful consideration, the ROD should recommend a bridge governance structure that best protects the interests of Delray and the public.

**City of Detroit  
Mayor's Office  
Office of Energy and Sustainability**

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January 5, 2009

**Robert H. Parsons**, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
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Lansing, MI 48909  
Email: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)  
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**Re: Detroit River International Crossing Final Environmental Impact Statement**

**CC: David Wrensinski**

The City of Detroit submitted by mail on December 23, 2008 a packet of comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing. This comment from the Detroit Office of Energy and Sustainability is to supplement that previous packet. Please forward these comments to David Wrensinski.

The Detroit River International Crossing would bring approximately \$1.8 billion in U.S. investment and can be a tremendous opportunity for economic development of the region, as well as **sustainable** development of the local community in exchange for hosting the project.

A publicly-owned bridge can provide greater public safety and responsible development into the future.

The host community of Delray and southwest Detroit already bear significant burdens of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the waste-water treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

Based on this impact and the additional burdens that will be created, **the FEIS does not guarantee adequate remedies for the community.**

Detroit and the DRIC should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. **Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.**

Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future.

We want to emphasize the following concerns and recommendations for this project to move forward:

- **The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.**
- A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
- **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.
- **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.
- **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. **Non-motorized transportation must also be provided on the bridge. There must be bike lanes on the bridge.** And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

- **Housing Concerns**

Replacement housing:

- Construct (or cause to be constructed) new housing units within Delray to serve as replacement for the housing that will be lost by the DRIC project (homeownership and rental)
- Such housing shall be **Green Construction- LEED Certified Buildings**.
- Fund a market study (including the impact of relocation on area schools) and redevelopment plan
- Acquire vacant city land in targeted area for housing redevelopment.
- Important characteristics of replacement housing:
  - Located within Delray
  - Designed for families
  - Priority given to displaced persons
  - Penalties should exist if units are not built within specified timeframe
  - Green Buildings, LEED certified

Improvement of existing housing stock:

- Fund the acquisition, demolition, and clean-up of abandoned buildings in Delray
- Funds the redevelopment, rehabilitation, and weatherization of homes in Delray
- MDOT will meet its temporary property needs (construction staging areas) by acquiring or leasing abandoned properties in coordination with community redevelopment plans and will work with its contractors to accomplish the same ends
- Relocate individual on blocks that are sparsely populated such that the block can be entirely redeveloped with Leed Certifies homes

Neighborhood divisions/isolation:

- Address the issue of isolated homes left on a block after the DRIC's completion --acquire homes, with the consent of the owner, on streets adjacent to the immediate DRIC footprint that are abandoned or where few homes isolate the residents

Alternative Energy:

- Use alternative energy in the construction and operation of the bridge and plaza (wind, solar, etc.) and provide funds from generated by selling any excess power generated to the continuing mitigations fund (see below)

Jobs for Local Residents:

- First Source Hiring. Require contractors to adopt local "first source" hiring programs (like Arvin Meritor zip code hiring plan); commit contract funds to recruit local workers if formal set asides or hiring mandates are not permitted by state or federal law
- Coordinate with the Detroit Workforce Development Board to provide specialized job training in the construction trades.
  - Training must be Bilingual

- ESL classes
- Training center should be located in or near Delray
- Coordinate with the Detroit Workforce Development Board to provide training for local residents to fill positions within growing logistics industry and the green economy

**Non-motorized transportation:**

- Undertake pedestrian crossing safety study where pedestrian crossings intersect with I-75 service drives; design at-grade and grade-separated crossings, sidewalks, and pedestrian and bicycle routes within the area south of I-75 and across I-75
  - Crossings should be constructed no more than one quarter-mile apart.
  - Crossings should be clearly marked
  - All crossings and sidewalks should be compliant with the Americans with Disabilities Act and all other relevant laws.
  - Provide safe routes across all service roads and rights-of-way for all crossings over I-75
  - All crossings should have pedestrian crossing signs and pedestrian activated crossing signals
- Improve existing pedestrian bridges that will remain in place (Waterman pedestrian crossing needs to be widened to facilitate its function as pedestrian and bicycle gateway to Delray)
- Repair existing sidewalks and bicycle routes and install new ones where necessary to ensure safe use of non-motorized transportation within and leading out of the Delray neighborhood.
- Design crossings and streets to improve connectivity between the communities north and south of I-75
- Create a comprehensive Travel Information Plan with information about the changes DRIC construction and operation will have on pedestrian, bicycle, and bus routes (in addition to the Motorist Information Plan described in the DEIS); the Travel Information Plan should be distributed in a variety of languages, locations, and media, and include information specifically targeting children traveling to and from school.
- Provide non-motorized transportation across the bridge and through the plaza

**Noise:**

- Install noise walls or berms between Northbound I-75 Service Drive and adjacent properties and between Southbound I-75 Service Drive and adjacent properties for the entire length of I-75 running through the Delray neighborhood (between Springwells and Clark on the North side of I-75 and between Westend St. and Clark on the North side of I-75); this should include modeling of noise walls taller than those already modeled if

necessary to make use of noise walls feasible under MDOT's noise policy. Include this in agreement with City

- Noise monitoring at sensitive receivers before construction begins, during construction, and ongoing after the bridge begins operating --. prompt mitigation if permissible noise levels are exceeded at any time, or if mitigation becomes feasible under MDOT's noise policy where it was not previously considered feasible.
  
- Renovate the boat launch on the Detroit River

### **Historic Preservation:**

- Fort Wayne
  - Allocate funds to Fort Wayne for the purpose of rehabilitating the historic buildings on the site. Funds must be sufficient to restore all buildings on the site by doing at least the following:
    - Star Fort
      - Repairing deteriorated features
      - Making buildings water tight
      - Restoring or reconstructing missing architectural and structural features based on historic documentation
      - Cleaning the buildings
    - Old Barracks
      - Converting buildings to museum spaces, complete with toilet rooms and hospitality space
- Plaques. Fund the installation of a series of plaques recording and commemorating the history of Delray (convert the planned documentation into actual plaques, like the one commemorating the site of the Detroit Copper & Brass Rolling Mills Company)
- Archaeological artifacts. Allocate funds necessary to ensure that any materials recovered during data recovery mitigation or any other archaeological activity are preserved and made available for conservation and display (including funds to undertake the curation); work with the community to find an acceptable venue to display any artifacts (such a venue may be in a designated building in Fort Wayne; artifacts could also be placed in the museum display that already exists in the Delray Community House.

### **BRIDGE GOVERNANCE**

Guarantee that the community of Delray will receive significant community representation on the Bridge Management/Governance Board. The community will have two seats on the governing body and will have voting privileges in all matters that may affect the community of Delray, directly or indirectly. Such community representation will ensure that management of the DRIC will take account of community interests.

- Congestion pricing (charge more for vehicles crossing the bridge at peak times)
- Notice of all permit applications must be sent to the organizations in the community
- Create a bridge surcharge that allows for the community of Delray to benefit financially from the operation of the bridge. This revenue sharing regime will allow for the establishment of a fund to pay for mitigation of unanticipated adverse effects and to produce benefits within the community. This revenue sharing regime should designate that 5 percent shall be contributed to the community fund, as a concession, with an amount of \$500,000 designated as an annual maximum which will be contributed to this community fund.
- Environmental Sustainability is important to the City of Detroit. This should be taken into consideration throughout this project.

Sincerely,

Rick Bowers, Director  
Office of Energy and Sustainability  
Mayor's Office  
City of Detroit

January 5<sup>th</sup>, 2009

Mr. Robert Parsons  
Public Involvement and Hearing Officer  
Michigan Department of Transportation  
PO Box 30050  
Lansing , MI 48909

Dear Mr. Parsons,

***Re: Detroit River International Crossing (DRIC) Final Environmental Impact Statement (FEIS)***

I submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing (DRIC). Overall, I support the DRIC project and the benefits it *could* bring to the surrounding community. However, I do have some concerns about the FEIS, as described below. These are related to the impact on the community surrounding the project.

The Detroit River International Crossing would bring approximately \$1.8 billion in U.S. investment and can be a tremendous opportunity for economic development of the region, as well as sustainable development of the local community in exchange for hosting the project.

A publicly-owned bridge can provide greater public safety and responsible development into the future.

The host community of Delray and southwest Detroit already bear significant burdens of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the waste-water treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

Based on this impact and the additional burdens that will be created, **the FEIS does not guarantee adequate remedies for the community.**

Detroit and the DRIC should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future.

We want to emphasize the **following concerns and recommendations** for this project to move forward:

- The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
- A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
- **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.
- **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.
- **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,

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# City of Detroit

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January 5, 2009

## HONORABLE CITY COUNCIL

### **RE: Final Environmental Impact Statement and Final Section 4(f) Evaluation for the Detroit River International Crossing Study (DEPARTMENTAL REPORT)**

On November 26, 2008, the Michigan Department of Transportation (MDOT) issued a press release announcing the Final Environmental Impact Statement (FEIS) and Final Section 4(f) Evaluation for the Detroit River International Crossing (DRIC) Study of a new border crossing between Detroit and Windsor.

The FEIS and the Final Section 4(f) describe the social, economic, and natural environment impacts associated with the United States section of the proposed new border crossing between Detroit and Windsor. The FEIS includes a summary of the planning basis, the project purpose, the alternatives considered, the expected impacts, and mitigation measures.

The DRIC FEIS identifies the Preferred Alternative placement for a new border crossing. The proposed crossing consists of a road connection from I-75 near Livernois Avenue, a new U.S. border inspections plaza, and a new bridge to Canada (crossing the Detroit River just east of Zug Island). The proposed plaza would contain about 150 acres (which includes land for buffering and expansion) and be bordered by a rail line to the north, Campbell Avenue on the east, West Jefferson Avenue on the south, and Post Street on the west. The project on the U.S. side would cost about \$1.8 billion.

MDOT requested comments on or before January 5, 2009 and stated that substantive comments would be responded to in the Record of Decision (ROD) for the DRIC. On Wednesday, December 3, 2008, City Planning Commission (CPC) staff received copies of the FEIS document. Because of the Detroit City Council's winter recess from December 10, 2008 until January 6, 2009, it was not possible for City Council to prepare, act upon, and forward to MDOT any concerns or comments prior to the January 5<sup>th</sup> deadline. CPC staff informed MDOT that City Council would consider forwarding any comments upon its return from recess.

For the past several months, CPC staff has been meeting with various City departments on this issue. The Department of Environmental Affairs has assembled comments from the various City departments to forward to MDOT on behalf of the Administration. A copy of this document is forthcoming.

On December 9, 2008, the DRIC-Community Benefits Coalition (CBC) submitted a memorandum and resolution for Your Honorable Body's consideration. The memo and reso submitted by the CBC will also be discussed in this report.

At the end of this report is a draft resolution for City Council's consideration. On November 18, 2005, Your Honorable Body passed its most recent resolution on the DRIC Study which is attached for reference.

## **ANALYSIS**

Overall, CPC staff is supportive of the development of a new bridge crossing over the Detroit River, primarily in part because it would provide additional capacity to promote economic growth and provide redundancy via a completely separate crossing system. Also, CPC staff is generally supportive of the proposed new bridge and plaza location in the Southwest Detroit and Delray area. CPC staff thinks that MDOT and its consultants overall have done a very good job of involving the community and various stakeholders in an open and transparent planning process. However, as noted more particularly below, with regard to a number of individual items, MDOT and its consultants have not made specific, substantive commitments to provide identified community benefits or mitigation measures that would compensate the host community for the burdens placed on its residents by this project. More specific, enforceable and effective mitigation and community benefit agreements should be a condition of local approval of the MDOT Plan described in the FEIS, as discussed more fully below.

CPC staff has reviewed the FEIS document and submits the following comments for consideration:

### **Zoning Requirements**

The FEIS states that the Practical Alternatives are consistent with planning and zoning requirements (Section 3.3, page 3-50). However, CPC staff analysis shows that the proposed DRIC inspections plaza would be located on land zoned with a range of zoning classifications, including R2 (Two-Family Residential), M3 (General Industrial), and M4 (Intensive Industrial). The Detroit Zoning Ordinance allows bridge plazas as by-right uses only in the B6 (General Services District), TM (Transitional-Industrial District), or PD (Planned Development) zoning district classifications. Therefore, a Zoning Ordinance map amendment would be required to make the proposed project consistent with zoning requirements.

### **Permits**

At least two sections of the FEIS list the permits that are required for the project to move forward (Section 3.17, page 3-242 and Section 4.20, page 4-14). Unfortunately, the FEIS fails to list any specific local permit that would be required, such as local building permits.

## **Parkland**

The proposed plaza would cause the loss of the South Rademacher Park (3.6 acres) and the South Rademacher Community Recreation Center (closed since 2006). The Project Mitigation Summary (the “Green Sheet”) states in part that mitigation could take a number of forms and is being discussed with the Detroit Recreation Department (end of Section 4).

CPC staff recommends that there be a commitment for the creation of new parkland within the Delray area and/or improvement of existing parkland with the Delray area.

## **Relocation of Business and Other Non-Residential Uses**

The Preferred Alternative for the DRIC would necessitate the removal of 43 active businesses (with an estimated 685 employees), 25 vacant business units, 5 places of worship, and 4 government facilities (Section 3.1.4, page 3-22).

The FEIS states in part, “Most of the businesses will remain in existence and 43 out of 50 interviewed prefer to be located in or near Delray . . . A number of businesses indicated they chose their current location because it fell within the Detroit Empowerment Zone and/or Renaissance Zone (Figure 3-9). With the majority of businesses wanting to stay in or near Delray, efforts will be made to modify and extend these zones to accommodate them.” (Section 3.1.4, page 3-24). The Green Sheet under Relocations states, “MDOT will coordinate with the state and federal officials that control the Detroit Empowerment Zone and/or Renaissance Zone. If possible, these zones will be extended or modified to allow relocated businesses or residents to remain in the area.”

CPC staff would like to see more substantive mitigation measures to strongly encourage relocated businesses to remain in the area, including identifying and developing available acreage in or near the Delray area for business relocations. CPC staff thinks there needs to be immediate verification whether the Empowerment Zone and/or its benefits can be extended or modified, and a more specific mitigation plan if it cannot.

## **Relocation of Residential Units**

The FEIS notes the potential impact of the Preferred Alternative for the DRIC would necessitate the removal of 257 occupied residential units (with an estimated population of 693 persons) and 5 vacant residential structures (Section 3.1.4, page 3-22). The 257 dwelling units includes one apartment building on the north side of I-75 with 36 units. One mitigation action taken by MDOT was to steer the project around the Berwalt Manor apartment building located near the intersection of Fort Street and Campbell Avenue to avoid the removal of 64 units.

The FEIS later concludes in part because of the residential relocations, “. . . that the project’s impacts will be disproportionately high and adverse to minority and low-income population groups.” (Section 3.1.5.2, page 3-37). The FEIS concludes that the Preferred Alternative will have an adverse effect on Environmental Justice and Title VI population groups [note: Title VI

of the 1964 Civil Rights Act prohibits discrimination on the basis of race, color, sex and national origin in programs and activities receiving federal assistance].

CPC staff supports the steps already taken by MDOT to avoid the removal of the Berwalt Manor and reduce the number of displaced dwelling units to 257 units (note: some alternatives proposed relocating as many as 414 occupied residential units). However, it appears the Green Sheet Project Mitigation Summary lists no substantive specific mitigation measure to address the impact of the residential relocation on the Delray area. Under Relocations on the Green Sheet, it states, "MDOT will coordinate with the state and federal officials that control the Detroit Empowerment Zone and/or Renaissance Zone. However, it is CPC staff's understanding that the benefits (if still available) from both the Empowerment Zone and Renaissance Zones are for commercial enterprises - not residential uses.

To address the Environmental Justice issue, CPC staff would like to see more substantive mitigation measures to provide the opportunity for persons forced to relocate from their homes to find decent, safe, and affordable housing within Detroit, including near the project area.

### **Traffic Patterns**

The placement of the proposed approximately 150 acre plaza and connecting roads within the Delray area would have a significant impact on existing traffic patterns throughout the area, particularly Delray. As stated in the FEIS, "Normal traffic patterns will be disrupted and travel made more difficult because interchanges with I-75 will be closed/modified and four out of seven streets now crossing I-75 will be closed (Section 3.5.3)" (Section 3.1.5.2, page 3-37). Livernois/Dragon (south of Fort Street) which provides significant north/south circulation out of the Delray Area for both cars and trucks would be removed.

Currently, it appears Delray has a significant amount of large commercial vehicles traversing the various streets between Fort Street and West Jefferson. There are a number of business in the area, such as a cement company, trucking companies, Zug Island, waste-water treatment plant, etc., that rely on a significant amount of large commercial vehicles. It appears the existing haphazard truck traffic routes and number of vehicles create a nuisance to the existing residential properties. It appears the proposed DRIC, by eliminating the Livernois, Dragon, and Waterman Avenues south of I-75, would cause an even greater negative impact. This issue/impact is not even mentioned in the main FEIS document.

The Green Sheet Project Mitigation Summary under Infrastructure states, "MDOT will invest in a Green Street boulevard to improve local north/south circulation in west Delray and improve Campbell Street as a narrow boulevard between the railroad tracks and West Jefferson Avenue in east Delray." The Green Sheet also under the section of "Local Roads" states, "MDOT will coordinate with the City of Detroit to determine the limits, scope of work, cost (not to exceed \$12 million), and schedule for the local road improvements."

CPC staff supports the above expense of creating boulevards (assumed to be primarily for private passenger vehicles) both west and east of the proposed plaza. The Campbell Boulevard east of the plaza would support access to historic Fort Wayne. Unfortunately, the FEIS does not address

the more pressing problem and greater impact of truck routes and disrupted truck routes caused by the plaza.

Therefore, CPC staff recommends that MDOT offer mitigation measures/enhancement measures to address the circulation of commercial vehicles both east and west of the proposed plaza and not just focus on creating new boulevards for private passenger vehicles.

### **Historic Preservation**

Appendix E of the DRIC Study includes a Memorandum of Agreement for the DRIC regarding historic resources in the project area and the Concurrence Letter dealing specifically with Fort Wayne. The Recreation Department asked the Historic Designation Advisory Board (HDAB) to comment on these two items. In response, HDAB staff submitted a memorandum dated November 17, 2008 which is attached for reference. In this memo, it states that HDAB would like to see a greater commitment to the project's direct benefit to Historic Fort Wayne. Specifically, it is imperative that the two very visible buildings that the HDAB and the State Historic Preservation Office assisted in 2002-3 – the Guard House and the Post Theater be given special attention, and furthermore, that the educational training in the building arts at Historic Fort Wayne continue to expand.

### **DRIC –Community Benefits Coalition**

The DRIC CBC is an elected board from residents and stakeholders in the Delray area to advocate for guaranteed mitigations and benefits for the impacted community of southwest Detroit, primarily Delray, in exchange for hosting the project.

The CBC indicates that it supports the publicly-owned DRIC bridge with the inclusion of mitigations and benefits that address impacts of the project to the host community of southwest Detroit, primarily Delray.

Mitigations being sought by the community include addressing health and quality of life concerns, guarantees that residents will be fairly compensated for their properties, and jobs creation, as well as pursuing green redevelopment to make sure the high-level investments will address needs and create opportunities into the future. The CBC notes that although the community has been in dialog with MDOT, adequate mitigations have not yet been assured and critical support from the city's leadership is necessary.

The CBC indicates the proposed mitigations and benefits are in the primary areas of:

1. **Air quality and health:** Including filtration and other measures to protect area schools; retrofitting of area truck fleets and anti-idling measures to reduce diesel emissions; ongoing air and health monitoring;
2. **Housing:** Adequate compensation to be paid for homes acquired and support for legislation to address the negative financial impacts of increased taxes for those facing relocation; funding to build affordable green housing in a new Delray Village, which

would replace homes lost to the project and allow displaced residents to remain in the neighborhood;

3. **Infrastructure improvements:** Including alternate truck routes, resurfacing roads, improved sidewalks and lighting, and annual maintenance;
4. **Jobs, training, and economic development:** Attracting logistics industry jobs, providing training for new and existing jobs including for youth employment, and identifying new businesses and services needed by the community; and
5. **Greening and Green alternatives:** Creating new Delray parks and green spaces including an urban forest to help cleanse the air, linkage to Detroit Greenways, and incorporating alternative energy for a self-sustaining bridge and customs plaza with green infrastructure which could potentially offset energy costs to area residents.

CPC staff is very supportive of MDOT including specific mitigations and benefits in each of the above areas some of which have been noted in this report's preceding research.

More specifically, the CBC is requesting the following six items from City Council (the CPC staff provides analysis after each item):

1. **Support of a Community Benefits Agreement to achieve legally-enforceable mitigations and benefits for the community in conjunction with the development of a publicly-owned DRIC bridge.**

MDOT has responded that neither MDOT nor FHWA will enter into a binding agreement with CBC. The Record of Decision (ROD), when issued will identify environmental commitments as well as how these commitments will be tracked and enforced as the project moves into construction. Because of MDOT's response, it appears the comments on the FEIS will be that much more important.

2. **Approval of a Delray land use plan as part of the City's Master Plan that is consistent with the community's vision for neighborhood revitalization, as supported by the Detroit City Planning Commission, and review of the city's zoning ordinance to ensure consistency with the future land use plan.**

If the proposed project moves forward, then the CPC staff commits to working with the Planning and Development Department to present comprehensive amendments to the Detroit Zoning Ordinance and Detroit Master Plan to the Commission and the Detroit City Council for consideration. The CPC staff commits to consulting with community residents and stakeholders regarding any proposed changes.

3. **Approval of vacant land acquisition in Delray and land-banking to implement the Delray land use plan for a revitalized residential-commercial area.**

If the proposed project moves forward, CPC staff recommends that the Legislative and Executive branches of the City work together to develop a comprehensive redevelopment plan for the Delray community.

4. **Demolition of dangerous and unsalvageable buildings in the neighborhood revitalization area.**

This is one among other concerns the community has previously presented to the Council independently of the DRIC Study. CPC staff agrees that the provision of efficient timely city services, such as demolition, is needed now and in the future of the Delray area.

5. **Designation of alternate truck routes to remove trucks from residential streets.**

CPC staff agrees that the designation of alternative truck routes from residential streets is critical and addressed this issue previously in this report.

6. **Designation of all mitigation funds received from DRIC's acquisition of Rademacher Recreation Center and two Delray parks to recreation development projects staying in the Delray neighborhood.**

CPC staff agrees with this request and addressed this issue previously in this report.

**CONCLUSION**

Attached for Your Honorable Body's consideration is a resolution codifying the above comments on the FEIS for the proposed DRIC project.

Respectfully submitted,



Marcell R. Todd, Jr., Director

Christopher J. Gulock, Staff

**BY COUNCIL MEMBER \_\_\_\_\_:**

**WHEREAS**, on November 26, 2008, the Michigan Department of Transportation (MDOT) released the Final Environmental Impact Statement (FEIS) and Final Section 4(f) Evaluation for the Detroit River International Crossing (DRIC) Study of a new border crossing between Detroit and Windsor; and

**WHEREAS**, the FEIS and the Final Section 4(f) describe the social, economic, and natural environment impacts associated with the United States section of the proposed new border crossing between Detroit and Windsor; and

**WHEREAS**, MDOT has requested comments on the DRIC FEIS and that noted that substantive comments would be responded to in the Record of Decision for the DRIC; and

**WHEREAS**, now and in the past the Detroit City Council has advocated that the new border crossing be responsive and accountable to the preferences and requirements of the communities of Southwest Detroit in terms of the environmental impact process, ownership, and community benefits; and

**WHEREAS**, now and in the past the Detroit City Council has raised concerns about the impacts and cumulative impact(s) of a new border crossing on the transportation infrastructure, truck traffic, land use, the environment, air quality, community health, and social cohesion, and in relation to other existing and proposed transportation related projects in southwest Detroit;

**NOW, THEREFORE, BE IT RESOLVED**, that the DRIC FEIS properly note the Detroit Zoning Ordinance and local permit requirements that are required for the project to move forward; and

**BE IT FURTHER RESOLVED**, that there be a commitment for the creation of new parkland within the Delray area and/or improvement of existing parkland to remain within the Delray area to replace the recreation properties that would be lost; and

**BE IT FURTHER RESOLVED**, that there be more substantive mitigation measures to strongly encourage the 43 active businesses with 685 employees being relocated by the proposed plaza to remain in the area, including identifying and developing available acreage in or near the Delray area for business relocations; this includes immediate verification as to whether the Empowerment Zone and/or its benefits can be extended or modified, and a more specific mitigation plan if it cannot; and

**BE IT FURTHER RESOLVED**, that there be more substantive mitigation measures to provide the opportunity for persons forced to relocate from their homes to find decent, safe, and affordable housing within Detroit, including near the project area; and

**BE IT FURTHER RESOLVED**, that MDOT offer mitigation measures/enhancement measures to address the circulation of commercial vehicles both east and west of the proposed plaza and not just focus on creating new boulevards for private passenger vehicles; and

**BE IT FURTHER RESOLVED**, at Historic Fort Wayne, that serious consideration be given to 1) restoring the Post Theater and the Guard House according to the Secretary's Standards for Rehabilitation so that they may once again enhance the historic site and be of service to the greater community and 2) providing financial support for the continuation of the Building Arts Lab at Historic Fort Wayne.

**BE IT FURTHER RESOLVED**, that the FEIS Project Mitigation Summary be more specific and responsive to addressing community benefits in the following areas submitted by the DRIC-Community Benefits Coalition:

1. **Air quality and health:** Including filtration and other measures to protect area schools; retrofitting of area truck fleets and anti-idling to reduce diesel emissions; ongoing air and health monitoring;
2. **Housing:** Adequate compensation to be paid for homes acquired and support for legislation to address the negative financial impacts of increased taxes for those facing relocation; funding to build affordable green housing in a new Delray Village, which would replace homes lost to the project and allow displaced residents to remain in the neighborhood;
3. **Infrastructure improvements:** Including alternate truck routes, resurfacing roads, improved sidewalks and lighting, and annual maintenance;
4. **Jobs, training, and economic development:** Attracting logistics industry jobs, providing training for new and existing jobs including for youth employment, and identifying new businesses and services needed by the community; and
5. **Greening and Green alternatives:** Creating new Delray parks and green spaces including an urban forest to help cleanse the air, linkage to Detroit Greenways, and incorporating alternative energy for a self-sustaining bridge and customs plaza with green infrastructure which could potentially offset energy costs to area residents.

**BE IT FINALLY RESOLVED**, that a copy of this reso and the foregoing report be immediately forwarded to the MDOT, FHWA, DRIC-Community Benefits Coalition and other interested parties.

**RESOLUTION**

By COUNCIL MEMBER WATSON:

WHEREAS, \$146 billion in trade moves through Southeast Michigan across the Ambassador Bridge annually, making it the busiest commercial border crossing in North America; and

WHEREAS, The need for improvement and expansion of border crossing capacity and infrastructure has been evidenced by traffic congestion on both sides of the border and through various public and private studies; and

WHEREAS, The need for border crossing enhancement has been recognized by Transport Canada, the Ontario Ministry of Transportation, the US Department of Transportation, Federal Highway Administration and the Michigan Department of Transportation resulting in the formation of the Bi-National Study, which verified the need, and now the Detroit River International Crossing Study, which is exploring possible locations and alternatives for expansion and improvement; and

WHEREAS, The Detroit River International Crossing Study identified 15 potential crossing locations and plazas along the U.S. Border and 37 corresponding alternatives for connecting these sites with corresponding Canadian sites and freeways; and

WHEREAS, The scoping process began at a meeting on August 31, 2005 at which time the various participants were requested to submit written scoping comments to the Michigan Department of Transportation by September 30, 2005; and

WHEREAS, On October 4, 2005, Governor Jennifer M. Granholm issued a press release announcing that the eastern most site at Belle Isle and all of the Downriver sites south of U.S. Steel in Ecorse had been eliminated from consideration, an announcement that would appear to predestine the next border crossing for the more industrialized, less affluent, lower income, minority communities of River Rouge and southwest Detroit raising concerns of environmental justice and race and class inequities; and

WHEREAS, On November 14, 2005, the governments of Canada, the United States, Ontario and Michigan announced that the two-lane truckway proposed by the Detroit River Tunnel Partnership, the remaining U.S. Steel site in River Rouge, and the twinning of the existing Ambassador Bridge have been eliminated from further consideration, an announcement that leaves for consideration the area of Southwest Detroit extending upriver from Zug Island and just south of the Ambassador Bridge and over to I-75; and

WHEREAS, Southwest Detroit is already home to the Ambassador Bridge, the Detroit Windsor Rail Tunnel and the

proposed location of the Michigan Department of Transportation's Detroit Intermodal Freight Terminal, as well as two privately pursued border crossing projects — the Detroit River Tunnel Project and the twin span proposed by the Detroit International Bridge Company; and

WHEREAS, The various communities of Southwest Detroit are already inundated with truck traffic, and have on numerous occasions expressed their concerns for the environment, air quality, health and quality of life of their residents; and

WHEREAS, On the evenings of Tuesday, September 20, 2005 and Wednesday, November 9, 2005, the Detroit City Council hosted public meetings wherein the residents of Southwest Detroit expressed their concerns and opposition to various aspects of alternatives being explored; and

WHEREAS, That the City Council has requested both the administration of the City of Detroit and the Michigan Department of Transportation to conduct a study of cumulative impacts on transportation infrastructure, truck traffic, land use, environment, air quality, community health, and social cohesion in relation to all existing and proposed transportation projects in southwest Detroit; and

WHEREAS, This City Council is compelled by the sum total of these and other related concerns to take a stand and make a statement for the best interest of this City and its citizens;

NOW, THEREFORE BE IT RESOLVED, That the Detroit City Council opposes the continued decimation and destruction of the communities of southwest Detroit through the speculative effects of various public and private studies and initiatives as well as the poor enforcement and regulation of truck traffic through these communities, and the seemingly unchecked encroachment and deleterious activities upon these neighborhoods; and

BE IT FURTHER RESOLVED, That the Detroit City Council will not support the establishment of any new border crossing or expansion of any existing border crossing from the Fort/Schaefer Hwy area to downtown, especially without a state or federally funded cumulative study that analyzes the cumulative impacts of enhanced border crossing activity on transportation infrastructure, truck traffic, land use, the environment, air quality, community health, and social cohesion, and in relation to other existing and proposed transportation related projects in southwest Detroit; and

BE IT FURTHER RESOLVED, That the Detroit City Council recognized that a new border crossing or expansion could be pursued without the support of the Detroit City Council, and if it is, the Detroit City Council demands the Border Crossing Partnership of the governments of

Canada, the United States, Ontario and Michigan to be responsive and accountable to the preferences and requirements of the communities of Southwest Detroit in terms of the environmental impact process, ownership, and community benefits;

BE IT FURTHER RESOLVED, That if a new border crossing or expansion is proposed in Southwest Detroit without the Detroit City Council's support, then the Detroit City Council urges the Border Crossing Partnership of the governments of Canada, the United States, Ontario and Michigan to pursue public ownership of any proposed future border crossings in Southwest Detroit;

BE IT FINALLY RESOLVED, That if a new border crossing or expansion is proposed in Southwest Detroit without the Detroit City Council's support, the Detroit City Council requires the Michigan Department of Transportation to show how any proposed future border crossing in Southwest Detroit would provide direct and tangible benefits to the community and to the City of Detroit by incorporating such things as community infrastructure improvements, direct local and community economic benefits, and the establishment of a public oversight and monitoring process that includes permanent and formalized community participation.

Adopted as follows:

Yeas — Council Members Collins, McPhail, Tinsley-Talabi, Watson and President Pro Tem K. Cockrel, Jr. — 5.

Nays — Council Member S. Cockrel — 1.

# City of Detroit

## CITY COUNCIL

### Historic Designation Advisory Board

204 Coleman A. Young Municipal Center, Detroit, Michigan 48226

Phone: (313) 224-3487 Fax: (313) 224-6610

e-mail: [cc-historic@ci.detroit.mi.us](mailto:cc-historic@ci.detroit.mi.us)

November 17, 2008

Alicia C. Minter, Deputy Director  
Detroit Recreation Department  
Executive Office  
Northwest Activities Center  
18100 Meyers Road  
Detroit, MI 48235

Dear Ms. Minter:

Thank you for the opportunity to comment on the proposed Memorandum of Agreement for the Detroit River International Crossing (DRIC) regarding historic resources in the project area and the Concurrence Letter dealing specifically with Fort Wayne. We can concur with the Federal Highway Administration of the U.S. Department of Transportation's determinations of eligibility regarding St. Paul AME Church, Kovacs Bar, Berwalt Manor Apartments, and the two archaeological sites.

We would, however, like to express our interest and concern for Historic Fort Wayne. The Historic Designation Advisory Board has been involved in federal grant projects affecting Historic Fort Wayne for the last few years. In 2002, the City of Detroit, through the City Council's Historic Designation Advisory Board, was awarded an historic preservation matching grant towards the re-roofing of the Post Theater (#303) and Guardhouse (#302) by the Michigan Department of History, Arts and Libraries as authorized by the United States Department of the Interior (Project Name CG02-367). The grant project stabilized two very visible and significant historic structures that would have continued to deteriorate if not for their re-roofing.

Four years later, in 2006, the Historic Designation Advisory Board was awarded a similar grant to establish the Building Arts Lab at Historic Fort Wayne (CG06-389). This project provided hands-on training in the restoration arts to students attending A. Philip Randolph Career & Technical Center. The Commanding Officer's House, Building 109, and a wall of the star fort were the training sites, and this program continues in its third year.

Historic Fort Wayne is one of Detroit's and Southeastern Michigan's treasures. We continue to be interested and involved in its future. Guard House (#302), built in 1905, is now being considered for the home of a nonprofit organization, the Architectural Iron Metal Institute, to train people in this disappearing art and thus extending our efforts in the Building Arts Lab. The Post Theater (#303) can serve as a small community theater or a visitor's center. Both of these efforts need financial assistance to come to fruition.

Access to the site, security, and aesthetic issues *surrounding* Historic Fort Wayne are addressed in the DRIC MOA. Also acknowledged is the need to monitor construction activity for damage to buildings closest to West Jefferson Avenue. However, the Historic Designation Advisory Board would like to see a greater commitment to that project's *direct* benefit to Historic Fort Wayne. Specifically, it is imperative that the two very visible buildings that the Historic Designation Advisory Board and the State Historic Preservation Office assisted in 2002-3 – the Guard House #302) and the Post Theater (#303) - be given special attention, and furthermore, that the educational training in the building arts at Historic Fort Wayne continue to expand.

The Historic Designation Advisory Board therefore asks that the Federal Highway Administration and the Michigan State Historic Preservation Office give serious consideration to, (1) restoring the Post Theater and the Guard House according to the Secretary's Standards for Rehabilitation so that they may once again enhance the historic site and be of service to the greater community, and (2) providing financial support for the continuation of the Building Arts Lab at Historic Fort Wayne.

The federal government should take on more responsibility to assure that Historic Fort Wayne be rehabilitated and fully utilized to maximize its potential for heritage tourism and economic development, especially now that its location will be at the foot of the Detroit River International Crossing, the gateway to Detroit, Michigan and the United States of America.

Sincerely,



Marcell R. Todd  
Director



Deborah M. Goldstein  
Staff

cc: LaReina Wheeler  
Department of Environmental Affairs

# City of Detroit

Arthur Simons  
Chairperson  
Susan Glaser  
Vice Chair/Secretary

Marcell R. Todd, Jr.  
Director

M. Rory Bolger, AICP  
Deputy Director

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Dr. Marilyn White  
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## **REVISED REPORT**

January 5, 2009

### **HONORABLE CITY COUNCIL**

#### **RE: Final Environmental Impact Statement and Final Section 4(f) Evaluation for the Detroit River International Crossing Study (DEPARTMENTAL REPORT)**

On November 26, 2008, the Michigan Department of Transportation (MDOT) issued a press release announcing the Final Environmental Impact Statement (FEIS) and Final Section 4(f) Evaluation for the Detroit River International Crossing (DRIC) Study of a new border crossing between Detroit and Windsor.

The FEIS and the Final Section 4(f) describe the social, economic, and natural environment impacts associated with the United States section of the proposed new border crossing between Detroit and Windsor. The FEIS includes a summary of the planning basis, the project purpose, the alternatives considered, the expected impacts, and mitigation measures.

The DRIC FEIS identifies the Preferred Alternative placement for a new border crossing. The proposed crossing consists of a road connection from I-75 near Livernois Avenue, a new U.S. border inspections plaza, and a new bridge to Canada (crossing the Detroit River just east of Zug Island). The proposed plaza would contain about 150 acres (which includes land for buffering and expansion) and be bordered by a rail line to the north, Campbell Avenue on the east, West Jefferson Avenue on the south, and Post Street on the west. The project on the U.S. side would cost about \$1.8 billion.

MDOT requested comments on or before January 5, 2009 and stated that substantive comments would be responded to in the Record of Decision (ROD) for the DRIC. On Wednesday, December 3, 2008, City Planning Commission (CPC) staff received copies of the FEIS document. Because of the Detroit City Council's winter recess from December 10, 2008 until January 6, 2009, it was not possible for City Council to prepare, act upon, and forward to MDOT any concerns or comments prior to the January 5<sup>th</sup> deadline. CPC staff informed MDOT that City Council would consider forwarding any comments upon its return from recess.

For the past several months, CPC staff has been meeting with various City departments on this issue. The Department of Environmental Affairs has assembled comments from the various City departments to forward to MDOT on behalf of the Administration. A copy of this document is forthcoming.

On December 9, 2008, the DRIC-Community Benefits Coalition (CBC) submitted a memorandum and resolution for Your Honorable Body's consideration. The memo and reso submitted by the CBC will also be discussed in this report.

At the end of this report is a draft resolution for City Council's consideration. On November 18, 2005, Your Honorable Body passed its most recent resolution on the DRIC Study which is attached for reference.

## **ANALYSIS**

Overall, CPC staff is supportive of the development of a new bridge crossing over the Detroit River, primarily in part because it would provide additional capacity to promote economic growth and provide redundancy via a completely separate crossing system. Also, CPC staff is generally supportive of the proposed new bridge and plaza location in the Southwest Detroit and Delray area. CPC staff thinks that MDOT and its consultants overall have done a very good job of involving the community and various stakeholders in an open and transparent planning process. However, as noted more particularly below, with regard to a number of individual items, MDOT and its consultants have not made specific, substantive commitments to provide identified community benefits or mitigation measures that would compensate the host community for the burdens placed on its residents by this project. More specific, enforceable and effective mitigation and community benefit agreements should be a condition of local approval of the MDOT Plan described in the FEIS, as discussed more fully below.

CPC staff has reviewed the FEIS document and submits the following comments for consideration:

### **Ownership/Governance**

While the City of Detroit has not taken a definitive position on the establishment of any new border crossing, City Council Members in the past and community residents and stakeholders have voiced strong support for public ownership.

The FEIS indicates that the Detroit River International Crossing Partnership is committed to providing an end-to-end solution for additional border crossing capacity in southwest Ontario-southeast Michigan that will be publicly owned in both countries (Section 3.20, page 3-247). The FEIS also states the State of Michigan will own the U.S. portion of the bridge and the U.S. highway interchange. The U.S. inspection plaza will be owned by the State of Michigan and leased to the Federal Government. The Government of Canada will own the Canadian portion of the bridge and the inspection plaza, and the Province of Ontario will own the Canadian access road.

The FEIS has not yet settled on the governance structure to manage and implement the project and is evaluating the following four models:

1. Government owned and operated (short of an operating agreement, each country operates its half of the bridge);

2. Public-private partnership - concession with government ownership (the private sector would design, construct, operate, and maintain the bridge with government oversight);
3. Bi-national Authority with government ownership
4. Private-sector owned and operated with government oversight.

The FEIS states the preferred delivery mechanism for the bridge is a public-private partnership in the form of a long-term concession agreement which will seek to maximize private sector participation and financing to avoid the use of taxpayer dollars. It is envisioned that the owners will form a joint venture to oversee the concession contract with the private sector. The Partnership will provide oversight of any private sector participation to ensure a safe and secure international border crossing.

The FEIS section of Governance concludes that the exact nature of the governance structure will be known by the time of the Record of Decision is to be signed. However, at this time, a Public Private Partnership is seen as a likely and viable alternative.

CPC staff thinks that the FEIS must be more definitive that the ownership of the respective halves of the bridge be owned by the State of Michigan, Government of Canada, and Province of Ontario in perpetuity; that any future governance/operation model retain significant government oversight; and that the “private-sector owned and operated with government oversight model” listed in the FEIS seems to be in contradiction with the preferred direction of the study. These issues cannot wait or be determined until the Record of Decision is signed.

### **Zoning Requirements**

The FEIS states that the Practical Alternatives are consistent with planning and zoning requirements (Section 3.3, page 3-50). However, CPC staff analysis shows that the proposed DRIC inspections plaza would be located on land zoned with a range of zoning classifications, including R2 (Two-Family Residential), M3 (General Industrial), and M4 (Intensive Industrial). The Detroit Zoning Ordinance allows bridge plazas as by-right uses only in the B6 (General Services District), TM (Transitional-Industrial District), or PD (Planned Development) zoning district classifications. Therefore, a Zoning Ordinance map amendment would be required to make the proposed project consistent with zoning requirements.

### **Permits**

At least two sections of the FEIS list the permits that are required for the project to move forward (Section 3.17, page 3-242 and Section 4.20, page 4-14). Unfortunately, the FEIS fails to list any specific local permit that would be required, such as local building permits.

### **Parkland**

The proposed plaza would cause the loss of the South Rademacher Park (3.6 acres) and the South Rademacher Community Recreation Center (closed since 2006). The Project Mitigation Summary (the “Green Sheet”) states in part that mitigation could take a number of forms and is being discussed with the Detroit Recreation Department (end of Section 4).

CPC staff recommends that there be a commitment for the creation of new parkland within the Delray area and/or improvement of existing parkland with the Delray area.

### **Relocation of Business and Other Non-Residential Uses**

The Preferred Alternative for the DRIC would necessitate the removal of 43 active businesses (with an estimated 685 employees), 25 vacant business units, 5 places of worship, and 4 government facilities (Section 3.1.4, page 3-22).

The FEIS states in part, “Most of the businesses will remain in existence and 43 out of 50 interviewed prefer to be located in or near Delray . . . A number of businesses indicated they chose their current location because it fell within the Detroit Empowerment Zone and/or Renaissance Zone (Figure 3-9). With the majority of businesses wanting to stay in or near Delray, efforts will be made to modify and extend these zones to accommodate them.” (Section 3.1.4, page 3-24). The Green Sheet under Relocations states, “MDOT will coordinate with the state and federal officials that control the Detroit Empowerment Zone and/or Renaissance Zone. If possible, these zones will be extended or modified to allow relocated businesses or residents to remain in the area.”

CPC staff would like to see more substantive mitigation measures to strongly encourage relocated businesses to remain in the area, including identifying and developing available acreage in or near the Delray area for business relocations. CPC staff thinks there needs to be immediate verification whether the Empowerment Zone and/or its benefits can be extended or modified and a more specific mitigation plan if it cannot.

### **Relocation of Residential Units**

The FEIS notes the potential impact of the Preferred Alternative for the DRIC would necessitate the removal of 257 occupied residential units (with an estimated population of 693 persons) and 5 vacant residential structures (Section 3.1.4, page 3-22). The 257 dwelling units includes one apartment building on the north side of I-75 with 36 units. One mitigation action taken by MDOT was to steer the project around the Berwalt Manor apartment building located near the intersection of Fort Street and Campbell Avenue to avoid the removal of 64 units.

The FEIS later concludes in part because of the residential relocations, “. . . that the project’s impacts will be disproportionately high and adverse to minority and low-income population groups.” (Section 3.1.5.2, page 3-37). The FEIS concludes that the Preferred Alternative will have an adverse effect on Environmental Justice and Title VI population groups [note: Title VI of the 1964 Civil Rights Act prohibits discrimination on the basis of race, color, sex and national origin in programs and activities receiving federal assistance].

CPC staff supports the steps already taken by MDOT to avoid the removal of the Berwalt Manor and reduce the number of displaced dwelling units to 257 units (note: some alternatives proposed relocating as many as 414 occupied residential units). However, it appears the Green Sheet Project Mitigation Summary lists no substantive specific mitigation measure to address the

impact of the residential relocation on the Delray area. Under Relocations on the Green Sheet, it states, "MDOT will coordinate with the state and federal officials that control the Detroit Empowerment Zone and/or Renaissance Zone. However, it is CPC staff's understanding that the benefits (if still available) from both the Empowerment Zone and Renaissance Zones are for commercial enterprises - not residential uses.

To address the Environmental Justice issue, CPC staff would like to see more substantive mitigation measures to provide the opportunity for persons forced to relocate from their homes to find decent, safe, and affordable housing within Detroit, including near the project area.

### **Traffic Patterns**

The placement of the proposed approximately 150 acre plaza and connecting roads within the Delray area would have a significant impact on existing traffic patterns throughout the area, particularly Delray. As stated in the FEIS, "Normal traffic patterns will be disrupted and travel made more difficult because interchanges with I-75 will be closed/modified and four out of seven streets now crossing I-75 will be closed (Section 3.5.3)" (Section 3.1.5.2, page 3-37). Livernois/Dragon (south of Fort Street) which provides significant north/south circulation out of the Delray Area for both cars and trucks would be removed.

Currently, it appears Delray has a significant amount of large commercial vehicles traversing the various streets between Fort Street and West Jefferson. There are a number of business in the area, such as a cement company, trucking companies, Zug Island, waste-water treatment plant, etc., that rely on a significant amount of large commercial vehicles. It appears the existing haphazard truck traffic routes and number of vehicles create a nuisance to the existing residential properties. It appears the proposed DRIC, by eliminating the Livernois, Dragon, and Waterman Avenues south of I-75, would cause an even greater negative impact. This issue/impact is not even mentioned in the main FEIS document.

The Green Sheet Project Mitigation Summary under Infrastructure states, "MDOT will invest in a Green Street boulevard to improve local north/south circulation in west Delray and improve Campbell Street as a narrow boulevard between the railroad tracks and West Jefferson Avenue in east Delray." The Green Sheet also under the section of "Local Roads" states, "MDOT will coordinate with the City of Detroit to determine the limits, scope of work, cost (not to exceed \$12 million), and schedule for the local road improvements."

CPC staff supports the above expense of creating boulevards (assumed to be primarily for private passenger vehicles) both west and east of the proposed plaza. The Campbell Boulevard east of the plaza would support access to historic Fort Wayne. Unfortunately, the FEIS does not address the more pressing problem and greater impact of truck routes and disrupted truck routes caused by the plaza.

Therefore, CPC staff recommends that MDOT offer mitigation measures/enhancement measures to address the circulation of commercial vehicles both east and west of the proposed plaza and not just focus on creating new boulevards for private passenger vehicles.

## **Historic Preservation**

Appendix E of the DRIC Study includes a Memorandum of Agreement for the DRIC regarding historic resources in the project area and the Concurrence Letter dealing specifically with Fort Wayne. The Recreation Department asked the Historic Designation Advisory Board (HDAB) to comment on these two items. In response, HDAB staff submitted a memorandum dated November 17, 2008 which is attached for reference. In this memo, it states that HDAB would like to see a greater commitment to the project's direct benefit to Historic Fort Wayne. Specifically, it is imperative that the two very visible buildings that the HDAB and the State Historic Preservation Office assisted in 2002-3 – the Guard House and the Post Theater be given special attention, and furthermore, that the educational training in the building arts at Historic Fort Wayne continue to expand.

## **DRIC –Community Benefits Coalition**

The DRIC CBC is an elected board from residents and stakeholders in the Delray area to advocate for guaranteed mitigations and benefits for the impacted community of southwest Detroit, primarily Delray, in exchange for hosting the project.

The CBC indicates that it supports the publicly-owned DRIC bridge with the inclusion of mitigations and benefits that address impacts of the project to the host community of southwest Detroit, primarily Delray.

Mitigations being sought by the community include addressing health and quality of life concerns, guarantees that residents will be fairly compensated for their properties, and jobs creation, as well as pursuing green redevelopment to make sure the high-level investments will address needs and create opportunities into the future. The CBC notes that although the community has been in dialog with MDOT, adequate mitigations have not yet been assured and critical support from the city's leadership is necessary.

The CBC indicates the proposed mitigations and benefits are in the primary areas of:

- 1. Air quality and health:** Including filtration and other measures to protect area schools; retrofitting of area truck fleets and anti-idling measures to reduce diesel emissions; ongoing air and health monitoring;
- 2. Housing:** Adequate compensation to be paid for homes acquired and support for legislation to address the negative financial impacts of increased taxes for those facing relocation; funding to build affordable green housing in a new Delray Village, which would replace homes lost to the project and allow displaced residents to remain in the neighborhood;
- 3. Infrastructure improvements:** Including alternate truck routes, resurfacing roads, improved sidewalks and lighting, and annual maintenance;
- 4. Jobs, training, and economic development:** Attracting logistics industry jobs, providing training for new and existing jobs including for youth employment, and identifying new businesses and services needed by the community; and

5. **Greening and Green alternatives:** Creating new Delray parks and green spaces including an urban forest to help cleanse the air, linkage to Detroit Greenways, and incorporating alternative energy for a self-sustaining bridge and customs plaza with green infrastructure which could potentially offset energy costs to area residents.

CPC staff is very supportive of MDOT including specific mitigations and benefits in each of the above areas some of which have been noted in this report's preceding research.

More specifically, the CBC is requesting the following six items from City Council (the CPC staff provides analysis after each item):

1. **Support of a Community Benefits Agreement to achieve legally-enforceable mitigations and benefits for the community in conjunction with the development of a publicly-owned DRIC bridge.**

MDOT has responded that neither MDOT nor FHWA will enter into a binding agreement with CBC. The Record of Decision (ROD), when issued will identify environmental commitments as well as how these commitments will be tracked and enforced as the project moves into construction. Because of MDOT's response, it appears the comments on the FEIS will be that much more important.

2. **Approval of a Delray land use plan as part of the City's Master Plan that is consistent with the community's vision for neighborhood revitalization, as supported by the Detroit City Planning Commission, and review of the city's zoning ordinance to ensure consistency with the future land use plan.**

If the proposed project moves forward, then the CPC staff commits to working with the Planning and Development Department to present comprehensive amendments to the Detroit Zoning Ordinance and Detroit Master Plan to the Commission and the Detroit City Council for consideration. The CPC staff commits to consulting with community residents and stakeholders regarding any proposed changes.

3. **Approval of vacant land acquisition in Delray and land-banking to implement the Delray land use plan for a revitalized residential-commercial area.**

If the proposed project moves forward, CPC staff recommends that the Legislative and Executive branches of the City work together to develop a comprehensive redevelopment plan for the Delray community.

4. **Demolition of dangerous and unsalvageable buildings in the neighborhood revitalization area.**

This is one among other concerns the community has previously presented to the Council independently of the DRIC Study. CPC staff agrees that the provision of efficient timely city services, such as demolition, is needed now and in the future of the Delray area.

5. **Designation of alternate truck routes to remove trucks from residential streets.**

CPC staff agrees that the designation of alternative truck routes from residential streets is critical and addressed this issue previously in this report.

6. **Designation of all mitigation funds received from DRIC's acquisition of Rademacher Recreation Center and two Delray parks to recreation development projects staying in the Delray neighborhood.**

CPC staff agrees with this request and addressed this issue previously in this report.

**CONCLUSION**

Attached for Your Honorable Body's consideration is a resolution codifying the above comments on the FEIS for the proposed DRIC project.

Respectfully submitted,



Marcell R. Todd, Jr., Director

Christopher J. Gulock, Staff

**BY COUNCIL MEMBER \_\_\_\_\_:**

**WHEREAS**, on November 26, 2008, the Michigan Department of Transportation (MDOT) released the Final Environmental Impact Statement (FEIS) and Final Section 4(f) Evaluation for the Detroit River International Crossing (DRIC) Study of a new border crossing between Detroit and Windsor; and

**WHEREAS**, the FEIS and the Final Section 4(f) describe the social, economic, and natural environment impacts associated with the United States section of the proposed new border crossing between Detroit and Windsor; and

**WHEREAS**, MDOT has requested comments on the DRIC FEIS and that noted that substantive comments would be responded to in the Record of Decision for the DRIC; and

**WHEREAS**, now and in the past the Detroit City Council has advocated that the new border crossing be responsive and accountable to the preferences and requirements of the communities of Southwest Detroit in terms of the environmental impact process, ownership, and community benefits; and

**WHEREAS**, now and in the past the Detroit City Council has raised concerns about the impacts and cumulative impact(s) of a new border crossing on the transportation infrastructure, truck traffic, land use, the environment, air quality, community health, and social cohesion, and in relation to other existing and proposed transportation related projects in southwest Detroit;

**NOW, THEREFORE, BE IT RESOLVED**, that the FEIS be more definitive that the ownership of the respective halves of the bridge be owned by the State of Michigan, Government of Canada, and Province of Ontario in perpetuity; and that any future governance/operation model retain significant government oversight; and

**BE IT FURTHER RESOLVED**, that the DRIC FEIS properly note the Detroit Zoning Ordinance and local permit requirements that are required for the project to move forward; and

**BE IT FURTHER RESOLVED**, that there be a commitment for the creation of new parkland within the Delray area and/or improvement of existing parkland to remain within the Delray area to replace the recreation properties that would be lost; and

**BE IT FURTHER RESOLVED**, that there be more substantive mitigation measures to strongly encourage the 43 active businesses with 685 employees being relocated by the proposed plaza to remain in the area, including identifying and developing available acreage in or near the Delray area for business relocations; this includes immediate verification as to whether the Empowerment Zone and/or its benefits can be extended or modified, and a more specific mitigation plan if it cannot; and

**BE IT FURTHER RESOLVED**, that there be more substantive mitigation measures to provide the opportunity for persons forced to relocate from their homes to find decent, safe, and affordable housing within Detroit, including near the project area; and

**BE IT FURTHER RESOLVED**, that MDOT offer mitigation measures/enhancement measures to address the circulation of commercial vehicles both east and west of the proposed plaza and not just focus on creating new boulevards for private passenger vehicles; and

**BE IT FURTHER RESOLVED**, at Historic Fort Wayne, that serious consideration be given to 1) restoring the Post Theater and the Guard House according to the Secretary's Standards for Rehabilitation so that they may once again enhance the historic site and be of service to the greater community and 2) providing financial support for the continuation of the Building Arts Lab at Historic Fort Wayne.

**BE IT FURTHER RESOLVED**, that the FEIS Project Mitigation Summary be more specific and responsive to addressing community benefits in the following areas submitted by the DRIC-Community Benefits Coalition:

1. **Air quality and health:** Including filtration and other measures to protect area schools; retrofitting of area truck fleets and anti-idling to reduce diesel emissions; ongoing air and health monitoring;
2. **Housing:** Adequate compensation to be paid for homes acquired and support for legislation to address the negative financial impacts of increased taxes for those facing relocation; funding to build affordable green housing in a new Delray Village, which would replace homes lost to the project and allow displaced residents to remain in the neighborhood;
3. **Infrastructure improvements:** Including alternate truck routes, resurfacing roads, improved sidewalks and lighting, and annual maintenance;
4. **Jobs, training, and economic development:** Attracting logistics industry jobs, providing training for new and existing jobs including for youth employment, and identifying new businesses and services needed by the community; and
5. **Greening and Green alternatives:** Creating new Delray parks and green spaces including an urban forest to help cleanse the air, linkage to Detroit Greenways, and incorporating alternative energy for a self-sustaining bridge and customs plaza with green infrastructure which could potentially offset energy costs to area residents.

**BE IT FINALLY RESOLVED**, that a copy of this reso and the foregoing report be immediately forwarded to the MDOT, FHWA, DRIC-Community Benefits Coalition and other interested parties.

**RESOLUTION**

By COUNCIL MEMBER WATSON:

WHEREAS, \$146 billion in trade moves through Southeast Michigan across the Ambassador Bridge annually, making it the busiest commercial border crossing in North America; and

WHEREAS, The need for improvement and expansion of border crossing capacity and infrastructure has been evidenced by traffic congestion on both sides of the border and through various public and private studies; and

WHEREAS, The need for border crossing enhancement has been recognized by Transport Canada, the Ontario Ministry of Transportation, the US Department of Transportation, Federal Highway Administration and the Michigan Department of Transportation resulting in the formation of the Bi-National Study, which verified the need, and now the Detroit River International Crossing Study, which is exploring possible locations and alternatives for expansion and improvement; and

WHEREAS, The Detroit River International Crossing Study identified 15 potential crossing locations and plazas along the U.S. Border and 37 corresponding alternatives for connecting these sites with corresponding Canadian sites and freeways; and

WHEREAS, The scoping process began at a meeting on August 31, 2005 at which time the various participants were requested to submit written scoping comments to the Michigan Department of Transportation by September 30, 2005; and

WHEREAS, On October 4, 2005, Governor Jennifer M. Granholm issued a press release announcing that the eastern most site at Belle Isle and all of the Downriver sites south of U.S. Steel in Ecorse had been eliminated from consideration, an announcement that would appear to predestine the next border crossing for the more industrialized, less affluent, lower income, minority communities of River Rouge and southwest Detroit raising concerns of environmental justice and race and class inequities; and

WHEREAS, On November 14, 2005, the governments of Canada, the United States, Ontario and Michigan announced that the two-lane truckway proposed by the Detroit River Tunnel Partnership, the remaining U.S. Steel site in River Rouge, and the twinning of the existing Ambassador Bridge have been eliminated from further consideration, an announcement that leaves for consideration the area of Southwest Detroit extending upriver from Zug Island and just south of the Ambassador Bridge and over to I-75; and

WHEREAS, Southwest Detroit is already home to the Ambassador Bridge, the Detroit Windsor Rail Tunnel and the

proposed location of the Michigan Department of Transportation's Detroit Intermodal Freight Terminal, as well as two privately pursued border crossing projects — the Detroit River Tunnel Project and the twin span proposed by the Detroit International Bridge Company; and

WHEREAS, The various communities of Southwest Detroit are already inundated with truck traffic, and have on numerous occasions expressed their concerns for the environment, air quality, health and quality of life of their residents; and

WHEREAS, On the evenings of Tuesday, September 20, 2005 and Wednesday, November 9, 2005, the Detroit City Council hosted public meetings wherein the residents of Southwest Detroit expressed their concerns and opposition to various aspects of alternatives being explored; and

WHEREAS, That the City Council has requested both the administration of the City of Detroit and the Michigan Department of Transportation to conduct a study of cumulative impacts on transportation infrastructure, truck traffic, land use, environment, air quality, community health, and social cohesion in relation to all existing and proposed transportation projects in southwest Detroit; and

WHEREAS, This City Council is compelled by the sum total of these and other related concerns to take a stand and make a statement for the best interest of this City and its citizens;

NOW, THEREFORE BE IT RESOLVED, That the Detroit City Council opposes the continued decimation and destruction of the communities of southwest Detroit through the speculative effects of various public and private studies and initiatives as well as the poor enforcement and regulation of truck traffic through these communities, and the seemingly unchecked encroachment and deleterious activities upon these neighborhoods; and

BE IT FURTHER RESOLVED, That the Detroit City Council will not support the establishment of any new border crossing or expansion of any existing border crossing from the Fort/Schaefer Hwy area to downtown, especially without a state or federally funded cumulative study that analyzes the cumulative impacts of enhanced border crossing activity on transportation infrastructure, truck traffic, land use, the environment, air quality, community health, and social cohesion, and in relation to other existing and proposed transportation related projects in southwest Detroit; and

BE IT FURTHER RESOLVED, That the Detroit City Council recognized that a new border crossing or expansion could be pursued without the support of the Detroit City Council, and if it is, the Detroit City Council demands the Border Crossing Partnership of the governments of

Canada, the United States, Ontario and Michigan to be responsive and accountable to the preferences and requirements of the communities of Southwest Detroit in terms of the environmental impact process, ownership, and community benefits;

BE IT FURTHER RESOLVED, That if a new border crossing or expansion is proposed in Southwest Detroit without the Detroit City Council's support, then the Detroit City Council urges the Border Crossing Partnership of the governments of Canada, the United States, Ontario and Michigan to pursue public ownership of any proposed future border crossings in Southwest Detroit;

BE IT FINALLY RESOLVED, That if a new border crossing or expansion is proposed in Southwest Detroit without the Detroit City Council's support, the Detroit City Council requires the Michigan Department of Transportation to show how any proposed future border crossing in Southwest Detroit would provide direct and tangible benefits to the community and to the City of Detroit by incorporating such things as community infrastructure improvements, direct local and community economic benefits, and the establishment of a public oversight and monitoring process that includes permanent and formalized community participation.

Adopted as follows:

Yeas — Council Members Collins, McPhail, Tinsley-Talabi, Watson and President Pro Tem K. Cockrel, Jr. — 5.

Nays — Council Member S. Cockrel — 1.

# City of Detroit

## CITY COUNCIL

### Historic Designation Advisory Board

204 Coleman A. Young Municipal Center, Detroit, Michigan 48226

Phone: (313) 224-3487 Fax: (313) 224-6610

e-mail: cc-historic@ci.detroit.mi.us

November 17, 2008

Alicia C. Minter, Deputy Director  
Detroit Recreation Department  
Executive Office  
Northwest Activities Center  
18100 Meyers Road  
Detroit, MI 48235

Dear Ms. Minter:

Thank you for the opportunity to comment on the proposed Memorandum of Agreement for the Detroit River International Crossing (DRIC) regarding historic resources in the project area and the Concurrence Letter dealing specifically with Fort Wayne. We can concur with the Federal Highway Administration of the U.S. Department of Transportation's determinations of eligibility regarding St. Paul AME Church, Kovacs Bar, Berwalt Manor Apartments, and the two archaeological sites.

We would, however, like to express our interest and concern for Historic Fort Wayne. The Historic Designation Advisory Board has been involved in federal grant projects affecting Historic Fort Wayne for the last few years. In 2002, the City of Detroit, through the City Council's Historic Designation Advisory Board, was awarded an historic preservation matching grant towards the re-roofing of the Post Theater (#303) and Guardhouse (#302) by the Michigan Department of History, Arts and Libraries as authorized by the United States Department of the Interior (Project Name CG02-367). The grant project stabilized two very visible and significant historic structures that would have continued to deteriorate if not for their re-roofing.

Four years later, in 2006, the Historic Designation Advisory Board was awarded a similar grant to establish the Building Arts Lab at Historic Fort Wayne (CG06-389). This project provided hands-on training in the restoration arts to students attending A. Philip Randolph Career & Technical Center. The Commanding Officer's House, Building 109, and a wall of the star fort were the training sites, and this program continues in its third year.

Historic Fort Wayne is one of Detroit's and Southeastern Michigan's treasures. We continue to be interested and involved in its future. Guard House (#302), built in 1905, is now being considered for the home of a nonprofit organization, the Architectural Iron Metal Institute, to train people in this disappearing art and thus extending our efforts in the Building Arts Lab. The Post Theater (#303) can serve as a small community theater or a visitor's center. Both of these efforts need financial assistance to come to fruition.

Access to the site, security, and aesthetic issues *surrounding* Historic Fort Wayne are addressed in the DRIC MOA. Also acknowledged is the need to monitor construction activity for damage to buildings closest to West Jefferson Avenue. However, the Historic Designation Advisory Board would like to see a greater commitment to that project's *direct* benefit to Historic Fort Wayne. Specifically, it is imperative that the two very visible buildings that the Historic Designation Advisory Board and the State Historic Preservation Office assisted in 2002-3 – the Guard House #302) and the Post Theater (#303) - be given special attention, and furthermore, that the educational training in the building arts at Historic Fort Wayne continue to expand.

The Historic Designation Advisory Board therefore asks that the Federal Highway Administration and the Michigan State Historic Preservation Office give serious consideration to, (1) restoring the Post Theater and the Guard House according to the Secretary's Standards for Rehabilitation so that they may once again enhance the historic site and be of service to the greater community, and (2) providing financial support for the continuation of the Building Arts Lab at Historic Fort Wayne.

The federal government should take on more responsibility to assure that Historic Fort Wayne be rehabilitated and fully utilized to maximize its potential for heritage tourism and economic development, especially now that its location will be at the foot of the Detroit River International Crossing, the gateway to Detroit, Michigan and the United States of America.

Sincerely,



Marcell R. Todd  
Director



Deborah M. Goldstein  
Staff

cc: LaReina Wheeler  
Department of Environmental Affair

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Email: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov), Fax: (517) 373-9255

Re: Detroit River International Crossing Final Environmental Impact Statement

The following are comments on the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing. I represent the Michigan Trails and Greenways Alliance (MTGA).

- The FEIS preferred alternative states that the new bridge would be engineered to accommodate bicycles (3.5). It is not clear how they will be accommodated. Which AASHTO bicycle facility type would be used, bike lanes or shared signed lanes?
- The DRIC Engineering Report says that "pedestrians are securely moved from the bridge to the processing area of the plaza and then to the local surface streets." The report does not address bicycling access from the bridge to the processing area to local surface streets. Shared pathways would likely be acceptable for these connections but not narrow sidewalks per AASHTO's Guide for the Development of Bicycling Facilities.
- While the FEIS mentions the West Riverfront and Rouge Gateway Master Plan, it does not mention the Corktown-Mexicantown Greenlink, Southwest Detroit Greenways, and Fort Street Greenway projects. These projects should not be negatively impacted by the DRIC.
- It appears the FEIS does not analyze the DRIC impact on the Detroit Non-Motorized Transportation Master Plan. This plan was endorsed by Detroit City Council and will eventually be incorporated into Detroit's Master Plan. Any local road reconstruction that has been identified as a bike route should be rebuilt to accommodate bikes per the plan. The non-motorized plan is available at <http://208.112.94.121/Detroit%20Non-Motorized%20Master%20Plan.id.40.htm>
- The AASHTO U.S. Bicycle Route System (BRS) has a designated corridor (Route 25) that includes the DRIC. Though the road route has not yet been set, it is likely to follow Fort Street or Jefferson Avenue. It is important that any DRIC plan consider bicycling access between this route and the new bridge. This connection to Canada would be an invaluable addition to the Bicycle Route System. Additional information on the U.S. BRS is on-line at <http://www.adventurecycling.org/routes/nbrn/usbikewayssystem.cfm>
- The "green" economic benefit of having a non-motorized connection is not mentioned. Currently the nearest non-motorized border crossing is in Algonac. Having a local crossing would be a major draw for tourism. The cities of Detroit and Windsor are actively pursuing improved non-motorized transportation and greenway trail networks. Connecting these two systems would bring a unique and significant benefit to the Metro Detroit and Windsor communities.

Sincerely,

Todd Scott  
Detroit Greenways Coordinator  
Michigan Trails and Greenways Alliance

[REDACTED]



**Detroiters  
Working for  
Environmental  
Justice**

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909

**Re: Detroit River International Crossing Final Environmental Impact Statement**

The following are comments on the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing from **Detroiters Working for Environmental Justice (DWEJ)**.

As an organization formed in 1994 to respond to the ways minority and low-income populations have suffered disproportionately from the environmental impacts of pollution and industrial contamination, DWEJ is dedicated to empowering urban residents to take a meaningful role in the decision-making process surrounding environmental concerns in their own communities. More recently, DWEJ has also developed a job training program to help local residents prepare for the new-technology and green/sustainable jobs of the future. Based on our organization's mission, DWEJ has particular concerns about the DRIC FEIS.

The DRIC project acknowledges that it will have significant Environmental Justice impacts on the local community. The FEIS reports that at least 685 jobs may be lost in an area that is already suffering economically. Employees, residents, and students at adjacent schools will also face direct negative impacts to their air quality as a result of this project locating in the area.

With a U.S. investment of \$1.8 billion, this infrastructure project should do much more to address negative impacts that will extend long into the future, especially on air quality, jobs, and overall quality of life for local residents. The cumulative health impacts on communities confronted with long-term disparities in industrial pollution have been readily acknowledged, and will receive increasing attention from a reinvigorated EPA and other federal agencies in the coming years. This DRIC project should therefore ensure mitigations for the impacted Environmental Justice Community by providing, for example, a long term fund that will help the community to achieve these mitigations in the future.

The air quality studies do not go far enough to assess the cumulative impacts of air pollutants on the impacted population. Southwest Detroit residents already bear huge burdens on their air quality from heavy industry and other transportation projects. Even with the improvements claimed by the DRIC, the local community is not likely to receive equivalent benefits unless funding (and appropriate legislation) is provided to target area truck fleets for retrofits to counter some of the negative air impacts. Funding should also be provided to establish long-term air monitoring and health studies on the impacted population.

The FEIS study does not guarantee job training and placement for the area residents that will be most affected. The DRIC project should include funding for a job training and hiring program

that will prepare local residents to be hired for these jobs, including those in the logistics industry.

This FEIS has also not considered the economic advantages of incorporating alternative energy strategies in the project, in ways that would produce local green jobs through larger-scale investment in new energy technologies.

DWEJ hopes that MDOT will work to insure that any finalized DRIC plan incorporates considerable improvements in these areas, in order to address the needs of the local community, which has for too long suffered from the negative impacts of development projects. We hope the DRIC project will finally be structured in a way that makes it a model for other states to emulate, as the country moves forward into a greener and more environmentally just future.

Sincerely,

Shawn Kimmel  
Director of Policy Initiatives  
Build Up Detroit Program  
Detroitters Working for Environmental Justice  
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313-833-3935, ext. 41

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January 5, 2009

Mr. Robert H. Parsons  
Public Involvement and Hearings Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Re: Contents of the Detroit River International  
Crossing Public Record

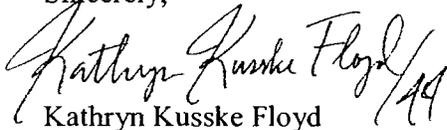
Dear Mr. Parsons:

Council on Environmental Quality regulations require agencies to “assess,” “consider” and “respond” to comments. 40 C.F.R. § 1503.4(a). Moreover, “[a]ll substantive comments received on the draft statement . . . should be attached to the final statement . . .” *Id.* § 1503.4(b). During our review of the Detroit River International Crossing (“DRIC”) Final Environmental Impact Statement (“Final EIS”), we saw no acknowledgement of a letter from the National Association for the Advancement of Colored People (“NAACP”) dated May 30, 2008 (enclosed). Nor were we able to find the NAACP letter on the DRIC website.

The NAACP letter was addressed to the Administrator of FHWA and the Director of MDOT, and copied to five Members of Congress. It plainly addresses substantive problems with the DEIS, and therefore should at least have been “attached to” the Final EIS.

Because the Final EIS spends so little time directly addressing community comments and concerns, it is impossible to know how many other letters like the NAACP’s were also omitted from the public record.

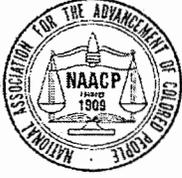
Sincerely,

  
Kathryn Kusske Floyd

Encl.

cc: Mary Peters, Secretary of Transportation  
James Madison, FHWA Administrator  
James Steele, Regional FHWA Administrator

*Detroit Branch . . .* NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE



REVEREND DR. WENDELL ANTHONY  
*President*

HEASTER L. WHEELER  
*Executive Director*

May 30, 2008

James Ray, Administrator  
Federal Highway Administration  
Southeast Federal Center Building  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Kirk T. Steudle, Director  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Gentlemen:

Constructing a new international border crossing between Detroit and Windsor, in a location outside of Detroit's Downtown, will cause great harm to the City and its large African-American population. Instead of driving through Detroit's diverse Downtown area, where they might stop and patronize local businesses, many travelers crossing the proposed DRIC bridge would be funneled away from Downtown. The resulting loss of potential customers would inevitably harm many Downtown businesses.

In the Delray community, where DRIC proposes to construct the new bridge's customs plaza and connection to I-75, numerous homes and businesses will be destroyed. This will displace hundreds of Delray residents, most of whom are black or Hispanic, and eradicate dozens of jobs. For those who remain, the DEIS fails to provide sufficient information regarding possible impacts to the community. For example, the DEIS does not include:

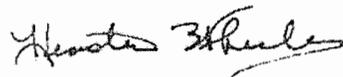
- A health impact study, in spite of the well-documented consequences of air pollution on minority communities and the location of the plaza near schools.

- An analysis of the consequences to the fabric of the Delray community when hundreds of families are removed, traffic patterns are changed, health services are relocated, and churches are demolished.
- An analysis of the feasibility of relocating families, given transportation needs, ties to the community, ability to secure alternative housing, and employment prospects.
- Sufficient discussion of historic properties protected by Section 4(f), including prudent and feasible alternatives that would avoid damage to those properties, as required by law.

Instead, the DEIS simply concludes that “[t]he impacts to minority population groups are not appreciably more severe than the impacts that would be experienced by non-minority population groups in the study area.”

This gives us great concern about this project. The proposed new crossing appears likely to do more harm than good in the most vulnerable Detroit communities. Accordingly, we ask that FHWA and MDOT reconsider their support of the DRIC project and their participation in the border partnership that created it. At a minimum, the agencies must extend the current process and commence a new traffic study to analyze when, and if, the projected traffic will reach levels that cannot be accommodated by the existing crossings.

Sincerely,



Heaster Wheeler

cc: Rev. Dr. Wendell Anthony  
Senator Carl Levin  
Senator Debbie Stabenow  
Representative Sandy Levin  
Representative Carolyn Cheeks Kilpatrick  
Representative John Conyers



January 5, 2009

Faxed on January 5, 2009

Mr. Robert H. Parsons  
MDOT Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Fax: (517) 373-9255  
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**Re: Michigan Environmental Council's Comments on the Final Environmental Impact Statement for the Detroit River International Crossing (DRIC)**

The Michigan Environmental Council submits these comments out of concern for the environmental impacts of the proposed border crossing system between the international border cities of Detroit, Michigan, and Windsor, Ontario – the Detroit River International Crossing, or the DRIC. MEC is specifically concerned that the proposed project does not adequately incorporate public transportation alternatives (to private automobile travel), non-motorized transportation, or green building techniques. This project contemplates spending significant amounts of public money; if built, it must enhance the region's quality of life and it must minimize the associated negative environmental impacts.

This project is an opportunity for Detroit and the region to pursue sustainable economic development that would attract new green jobs to the area long into the future. MEC's three points outlined below are low-cost options that could be realistically incorporated into the final project design.

**1. Public Transportation**

As MEC discussed in its comments to the DRIC DEIS, public transportation, particularly rail transit, should be contemplated as a part of the project. Absent that, however, the plaza should have a transit station for public busses. This could facilitate cross-border transit by means of public transportation.

**2. Non-Motorized Transportation**

Non-motorized transportation should be integral to the bridge and plaza design, end to end, with the best available associated infrastructure. The project should connect to and help develop the greenway systems in the region on both sides of the border. It should

MEC Comments on DRIC FEIS  
January 5, 2009

incorporate and interface with the Detroit Non-Motorized Urban Transportation Plan recently approved by the Detroit City Council (available at this link: <http://208.112.94.121/resource/attach/40/masterplan.pdf>).

### 3. Green Building Techniques

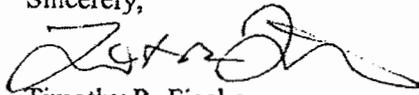
Renewable energy should be incorporated into the plaza design such as wind and solar systems. Also, energy efficiency should be a leading component in building design. MDOT should explore Energy Star and LEED certifications for buildings associated with the plaza. This would be consistent with the Governor's stated positions on promoting renewable energy and making Michigan a leader in "green collar jobs". It would also help to reduce operating costs, reduce the pollution burden in the area, and reduce overall greenhouse gasses.

Pursuing these opportunities will ensure a more successful development long into the future for Detroit and the regional economy, and ensure an improved quality of life for residents in the host community.

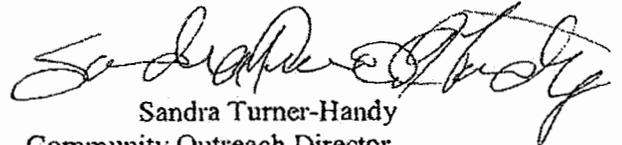
The Michigan Environmental Council appreciates the opportunity to raise our concerns about the proposed border crossing system between the international border cities of Detroit, Michigan, and Windsor, Ontario - the Detroit River International Crossing, or the DRIC.

If you have any questions about these comments, or would like to discuss our comments further, please feel free to contact us.

Sincerely,



Timothy R. Fischer  
Deputy Policy Director  
tim@environmentalcouncil.org



Sandra Turner-Handy  
Community Outreach Director  
sturnerhandy@gmail.com

January 2, 2009

Thomas Cervenak  
People's Community Services



Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
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**Re: Detroit River International Crossing Final Environmental Impact Statement**

Dear Mr. Parsons,

On behalf of People's Community Services of Metropolitan Detroit, I would like to submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing study.

People's Community Services operates the Delray Neighborhood House, which has served the Delray neighborhood since 1920. We are connected to the community in a manner, which few other organizations can claim. In fact in the last several years, our organization has made investments in the facility equaling 1.5 million dollars. Moreover, our organization has since the inception of the DRIC been an active participant in the study's Local Advisory Committee (LAC).

Our host community of Delray already bears the burden of many infrastructure projects that service the entire Southeast Michigan region such as inter-modal freight operations, interstate highways, multiple heavy industries, and the wastewater treatment plant. Construction of one of the largest bridges and customs plazas in North America would only add to the burden our residents bear.

This is clear in the DRIC Final Environment Impact Statement, which concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches.

It is the opinion of People's Community Services that the FEIS does not fully address the needs of the Delray neighborhood, which will be severely and negatively impacted by the project. During the DRIC process our agency participated in many DRIC sponsored meetings spanning nearly two years which brought together hundred of community residents to plan how a new bridge and the Delray community could work together to make this a win/win situation for all. We were led to believe that significant redevelopment resources would be made available to make Delray a new livable and sustainable community, which would co-exist with the new international crossing. The DRIC even developed a beautiful DVD showing how the community could be redeveloped which was originally included in the FEIS. While no explicit promises were made, it is obvious that if the study was expending great effort in bringing the community together to plan its redevelopment, it was for the purpose of garnering support for the project in a mutually beneficial way.

Unfortunately, the "Green Sheet" DRIC Mitigation Summary for the DRIC only indicates under *Section e. Land Use* that "MDOT will support efforts to get the City of Detroit to adopt the Delray land use plan." This is not an acceptable level of support for redevelopment. Clearly, federal and state resources must be not only explored, but also actually committed to redeveloping the host community. In a telling move, the above noted DVD outlining redevelopment of Delray was actually taken back by MDOT and the US Department of Transportation in a letter dated December 8, 2008. One can only ask what was the purpose of the DVD and the community planning process if the outcome was only going to be mere MDOT support for redevelopment. Clearly support would be expected from the federal government and the state even without the DRIC. Moreover, the Delray land usage plan developed by the DRIC is really not very different than the City of Detroit's proposed master plan.

We hope that at the point of the Record of Decision (ROD) that the State and the Federal government will do the right thing and commit a reasonable amount of funding to a real bricks and mortar redevelopment of the Delray neighborhood. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

In addition, People's Community Services is a founding member of the Community Benefits Collaborative. We fully support its efforts to bring an acceptable level of

benefits to those low income and minority residents, who will bear the brunt of this massive project.

We would like to note the following recommendations, which we feel should also be implemented if this project is to move forward.

1. **The DRIC should include a legally binding agreement** with the community to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
2. **A long-term fund** should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
3. **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant and historic St. Paul's AME Church should be preserved.
4. **Jobs, training, and economic development:** A plan and funding are needed to provide job training, and the creation of a hiring program for local residents to help attract logistics industry. Businesses must be guaranteed adequate relocation assistance with the possibility of relocating nearby their present site.
5. **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.
6. **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In conclusion, People's Community Services believes that this project, as outlined above, promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment, it will equally ensure that the needs of the Delray host community are adequately addressed for a truly successful project that will be a win/win situation for the state, the region and the residents.

Sincerely,

Thomas Cervenak  
Executive Director

January 5, 2009

Robert H. Parsons  
Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, Michigan 48909

RE: Comments on the Final Environmental Impact Study for the Detroit River International Crossing

Dear Mr. Parsons,

As the incoming State Representative of the host community (Southwest Detroit) of the Detroit River International Crossing (DRIC) project, I want to express my strong support of the project. My following comments on the Final Environmental Impact Statement (FEIS) are suggested guidelines to ensure that the project proceeds with adequate mitigation and enhancement measures. DRIC is one of the largest transportation projects in the history of Michigan and will bring close to \$2 billion in U.S. Investment that, with adequate planning and appropriate funding priorities, can make Michigan the center for global logistics and the supply-chain industry.

The Michigan Department of Transportation (MDOT) staff members assigned to work with the host community is to be commended on their outreach efforts, the relationship they developed with residents and their partnership with the Community Benefits Coalition (CBC). The CBC is comprised of hundreds of residents, business owners and other stakeholders impacted by the DRIC who are invested in ensuring the project benefits both the State of Michigan and the host community. Unlike other transportation infrastructures in our community, the CBC and I envision the DRIC project providing the host community with sustainable benefits, adequate environment protections that meet or exceed the Environmental Justice Title VI mitigation requirements and safeguards for unforeseen consequences. I will 1) provide relevant background information on the DRIC host community, 2) discuss overall mitigation and enhancement measures and 3) list specific considerations for the FEIS's Green Sheet based on the CBC's concerns.

**Background: The Host Community**

Southwest Detroit is home to a number of large transportation infrastructures that include the Ambassador Bridge, the Port of Detroit, the Detroit River Rail Tunnel, Michigan's largest inter-modal system, Detroit Windsor Truck Ferry, as well as three interstate freeways and four Class One railroads.

The decline in the quality of life and health of many host community residents, 69% of whom are low-income minorities, is the most adverse environmental impact the community has suffered as a result of the surrounding transportation infrastructures. No extensive health study exists to assess the repercussions of housing multiple transportation infrastructures within such close proximity. Already surrounded by Zug Island, the Detroit Salt Mine and a water treatment plant, the historic community of Delray will bear the brunt of environmental impacts compounding blight and pollution. As the only part of the city with an increasing population, the host community is one of the most vibrant business

districts in Detroit with some of the most prominent community and housing development organizations in Michigan. Southwest Detroit is an exemplary community that can transform the region with the State of Michigan's support. This unique community offers the federal government and the State of Michigan an opportunity to create economic development programs that successfully mitigate the project's adverse impact.

### **Overall Mitigation**

FEIS's proposed mitigation budget is only 01.2% (\$20 million) compared to similar projects where mitigation allocation ranged from 8–12% of total project costs. Given a project of this size will permanently affect the function of area schools, nonprofit organizations, businesses, churches and homes the mitigation costs should accurately reflect these circumstances. MDOT must re-evaluate the proposed mitigation budget basing it on similar projects in other states and factoring in unforeseen consequences that will affect the welfare of an already distressed Title VI community.

Where necessary, MDOT should partner with other state departments, such as the Michigan State Housing Development Authority (MSHDA), Michigan Department of Environmental Quality (MDEQ), Department of Labor and Economic Growth (DLEG), and the Michigan Economic Development Corporation (MEDC), who have the expertise necessary to implement mitigation plans and can apply for applicable federal funding to supplement cost.

#### **1) Community Benefits Agreements and the Public/Private Partnership**

Many communities with major transportation projects were successful in mitigating adverse community impacts through Community Benefits Agreement (CBA) between the host community and concerned parties. Although the FEIS is the closest legally binding agreement, the mitigation and enhancement measures provisions are not reflective of the concerns presented to MDOT over the years. I recommend that MDOT provide for a CBA to guarantee adequate remedies that help mitigate the negative impact acknowledged in the FEIS. The CBA also ensures ongoing involvement by the community who are dedicated to spending resources that will guarantee a successful DRIC process.

MDOT is already committed to developing a public-private partnership to design, build and operate the DRIC. During this process, a CBA should be negotiated with consideration of the private entity's ability to address some of the needs identified by the CBC. MDOT should advocate that the public/private process is conducted in a way that is most beneficial to the host community by making sure that the Request for Proposals process involves input by the CBC.

#### **2) Redevelopment of Housing in Delray**

Delray is a well-known historic community of Detroit with hundreds of life-long residents. It is essential that a comprehensive survey of residents is conducted that includes the option to relocate to new homes in the same neighborhood. CBC members have already begun working with a firm that is familiar with the impacted community in developing a conceptual design for housing redevelopment in Delray. MDOT should fulfill its commitment to work with the Michigan State Housing & Development Authority in developing a viable new housing community for displaced residents who want to remain in the Delray Neighborhood. This is further discussed in FEIS Mitigation Measures, I.(b), below.

#### **3) Green Development and Open Space**

DRIC presents an opportunity to increase the number of new Green Development and Open Space projects to reduce pollutants in the host community. MDOT, with the assistance of relevant state agencies and partners, should create a Green Development plan that include an urban forest or park that is incorporated with the aesthetics used around the boundaries of the bridge and plaza area. The green development should address the options available for potential energy-offsets for residents that can be a model for other urban communities.

The plans will integrate Southwestern High School, Berwalt Manor apartments and the potential for green development to compliment the expansion of CHASS Clinic.

#### **4) Economic Development and Michigan Supply Chain Development Authority**

FEIS already includes funding a study of economic development opportunities to support small business development and relocation in the host community. In 2008, Michigan State Representative Steve Tobocman helped pass legislation creating the Michigan Supply Chain Development Authority (MSCDA). For DRIC to successfully implement mitigation measures in the project area, it's essential that FEIS community enhancements commitments are sustainable. The creation of MSCDA provides an opportunity to achieve this goal by developing a state-wide strategy to grow the supply chain and logistics sectors, similar those in other communities that house an international crossing.

#### **FEIS Mitigation Measures (Green Sheet) Recommendations**

##### **I. Social and Economic Environment**

###### **a) Visual Effects**

Buffer/barrier walls can become a target for graffiti and illegal dumping. In order to reduce the number of exposed walls and dumping areas, the project will work with CBC to include aesthetics, graffiti removal and dumping programs.

###### **b) Relocation**

The State of Michigan acknowledges that calculation under the Uniform Relocating Act is inadequate with the current housing market within the impacted community. MDOT's relocation program for DRIC will be determined under Housing of Last Resort under 49 C.F.R. 24.404. MDOT will also work with the state legislature to raise cap on payments and provide relief for the disproportionate increase of property taxes when purchasing a replacement home. MDOT will designate a relocation specialist in advance of implementation of any property acquisition or relocation. MDOT will send a trilingual letter providing the name and contact information of the relocation specialist to all impacted residents and businesses, along with a toll-free hotline for displaced residents during the first three months of relocation. MDOT will partner with local organizations to guarantee that translation services are provided when necessary to communicate relocation efforts with home owners. MDOT will commit to working with organizations that are familiar with the impacted community in helping residents, especially senior citizens, understand their legal rights. Due to the fact that large infrastructure projects leave many homes isolated on a residential street, MDOT will work diligently to ensure that homeowners in this predicament are given the option to relocate.

MDOT and relevant state agencies will partner to fund a housing market study, redevelopment plan in Delray for displaced residents and the acquisition of land required for implementation. Southwest

Detroit is home to some of leading nonprofit organizations on housing development in the region. MDOT will work with local nonprofit agencies that are most familiar with the impacted area to fund housing demolition, related-environment assessment, and rehabilitation of homes. Related to housing redevelopment in the Delray community, the State of Michigan will commit funds to Delray from the Neighborhood Stabilization Program (NSP) where relevant, to accomplish these goals. MDOT will meet its temporary property needs by acquiring or leasing abandoned properties in coordination with community redevelopment plans and will work with its contractors to accomplish the same ends.

FEIS acknowledges that an overwhelming majority of businesses that will be displaced would like to remain in the Delray community. MDOT will ensure that the relocation specialist works with the Detroit Economic Development Corporation and the Fort Street Business Association in a business relocation strategy that includes identifying methods to keep the 43 displaced businesses and the 600 plus jobs that will be lost within the host community. The business relocation strategy will include a component that develops a plan to combat the adverse impact on businesses during the impact.

#### c) Environmental Justice

In order to comply with the intention of Environmental Justice Title VI, MDOT will lead a cumulative study of traffic and air quality for all existing transportation projects. VHTs in the preferred alternative area increased up to 150% since 2004. MDOT will partner with relevant state agencies to ensure that the area remains within acceptable levels of PM by providing 1) air filtration systems at area schools, Southwestern High Schools, Waterman and Beard Schools, 2) fund the creation and maintenance of an urban “offset” forest, 3) require indoor air quality monitoring in area schools, 3) implement a traffic control plan for during and after construction, 4) limit the age of on-road vehicles used in construction, 5) require all construction equipment meet the Environmental Protection Agency’s Tier 3 standards for off-road equipment, and 6) require sweeping of area roads.

The FEIS, Record of Decision, Design Phase or Public/Private Partnership process will include a green/open space development plan, intentions for Delray housing redevelopment and specific plans to develop long-term job and economic opportunities. The ROD will contain a component to monitor all implementation of mitigation and enhancement plans.

*(Note: Most of the FEIS indicates intention to avoid impact on the Title VI community. However, the mitigation and enhancement measures lack a comprehensive approach that creates long-term, sustainable economic development in the community. A project of this magnitude can easily destroy the viability left in this already distressed community if the FEIS, Record of Decision, Design Phase, Public/Private partnership process does not include a strategic and comprehensive plan to mitigate long-term impact.)*

#### d) Parks

As part of efforts in providing green space to reduce impact of emissions, MDOT will enter into a legally binding agreement with the Detroit Department of Recreation to use the funds obtained by the acquisition of South Rademacher Community Playground and the Post-Jefferson Play lot in replacing the parks in the Delray neighborhood. This will be accomplished during the project’s right-of-way acquisition phase. MDOT will work with CBC to create a landscape/park design for the community side of the plaza. See Green Development and Open Space section above for recommendations on implementing a comprehensive plan to improve air quality and overall quality of life of area residents.

e) Noise

Noise pollution in Southwest Detroit is already at high levels due to the current transportation infrastructure and high density of industry. FEIS acknowledges that the project's noise levels exceed FHWA Noise Abatement Criteria. In addition, to the noise walls identified in the FEIS, MDOT will monitor noise levels at Southwestern High School, CHASS Clinic and other sensitive receiver areas identified by the CBC. MDOT will adopt, in conjunction with the CBC, a process to address monitors that report exceeding levels of noise.

In addition to noise reduction improvements placed to the exterior of the Berwalt Manor apartments, similar improvements will be made at Southwestern High School, Waterman and Beard Schools. Noise reduction measures, including barriers and walls, will be placed on the south side of I-75 and at area ramps.

f) Infrastructure

MDOT will work with an architectural design firm that is familiar with the impacted area to identify additional improvements that will minimize the number of truck traffic within neighborhoods and commercial districts of Springwells and West Vernor.

g) Pedestrian and Bicycle Effects

The preferred alternative location is immediately behind Southwestern High School where over 1,000 area children are enrolled. It also is in an area that FEIS identified as a Title IV community, which rely on traditional forms of transportation, walking and bicycles. The project will ensure that the five replacement pedestrian/bicycle bridges have adequate lighting, signage and environment-friendly aesthetics. MDOT will also ensure linkages to current greenway projects in area.

h) Lighting

The project's lighting requirements will also extend outside the plaza based on community input during the design phase. One of the main criteria for the project's lighting design will be that it promotes public safety in the host community.

i) Emergency Services

FEIS recognizes that response time in emergency services will be impacted, so MDOT will work with the City of Detroit to evaluate and address the additional burden on Police and Fire Departments in the host community. The project recognizes that the current public safety systems in the host community are already underfunded and lack resources available to handle additional responsibilities without impacted the public safety of the residents.

**II. Natural Environment**

a) Tree Removal/Clearing/Landscaping

The Environment Protection Agency (EPA) indicated that additional landscaping will improve air quality in the project area. The project will include a replacement plan of all removed trees which requires 30 days notice to owners prior to removal. If an owner opts not to replace the tree, then an alternative location will be identified, that includes, but not limited to, areas where dead trees can be removed and

replaced with healthy ones. The project will plant an additional 200 trees minimal in the impacted area. During the design phase, the tree removal, clearing and landscaping of the project will include linkages to area greenways.

b) Water Quality

A notification process for area residents will be developed by MDOT, in conjunction with the Michigan Department of Community Health, if water supply is found contaminated. The host community will provide input on developing the notification process.

c) Migratory Birds

MDOT will follow the regulations set forth by the U.S. Fish and Wildlife Service to reduce impact on migratory birds in the area.

**III. Hazardous/Contaminated Materials**

a) Contaminated sites

Measures to prevent the spread of existing contamination in the project area will be identified prior to construction. This will include prohibiting contaminated soil be disposed in the entire project area, including Delray and Southwest Detroit. Preliminary Site Investigations of the remaining 17 sites will be preformed prior to project construction.

**IV. Cultural Environment**

a) Historic

The Memorandum of Agreement (MOA) found in Appendix E of the FEIS indicates that Fort Wayne is listed on the National Register of Historic Places and the project *will have no adverse effect* on this historic property. When a final design and prior to construction begin, MDOT, the Federal Highway Administration (FHWA) and other relevant partners, will conduct another review on the impact of the project on Fort Wayne. In addition to videotaping the Fort Wayne buildings condition before, during and after construction, a plan to mitigate any damage that may occur during these phases will be developed prior to construction.

If feasible, any historic places that are removed be incorporated into the Delray housing redevelopment plan. MDOT will advocate that the Michigan State Historic Preservation Officer (SHPO), National Register of Historic Places work with the community to provide input on the project's historical preservation measures, including mitigation plans for damage to Fort Wayne during the project.

b) Archaeology

In the Final MOA (in Appendix E), the data recovery strategy will include indentifying an acceptable location within the host community to display excavation findings. The photographic documentation of the development of DRIC will also be displayed in the community.

**V. Construction**

a) Vibration

FEIS states that vibration impacts are not expected at this time. Recognizing that the project area is already faced with vibration impacts by the Detroit Salt Mine Company, extensive measures to eliminate any additional vibrations will be identified and included in the ROD.

b) Maintenance of Traffic

Access to residential homes during construction will be maintained and traffic surveillance will be conducted in those areas to ensure that there is no increase in construction and nonresidential traffic. A traffic control plan will be developed during the design and construction phase that focuses on maintaining traffic levels near area schools (Southwestern High School, Waterman and Beard School), Chass Clinic, Delray Community House, Berwalt Apartments, Churches, Businesses and residential communities.

The project will coordinate with Michigan State Police, Wayne County and Detroit Police Department to enforce vehicle and truck traffic violations, including illegal parking and standing violations to reduce congestion during construction. All roadways that require barriers, MDOT will use the latest and traffic-friendly barrels (much smaller than the traditional large orange barrels).

c) Utilities

Service interruptions to the public will be addressed immediately and plans to mitigate damages will be implemented in coordination with the utility companies.

d) Permits

Area residents, businesses, community organizations, churches, and relevant stakeholders will receive notice of all permit hearings and actions. CBC and other stakeholders will be permitted to provide input on the notification process.

## **Community Enhancements**

a) Local roads

MDOT will seek additional federal funding, above the committed \$12 million, to support road and sidewalk improvements for green development and housing redevelopment in Delray. Additional improvements will include repairing sidewalks and roadways near existing greenways.

b) Transportation Enhancement Funds

(FEIS states that MDOT will work with City of Detroit to secure Transportation Enhancement Funds for aesthetic improvements in the vicinity of DRIC. Below are suggested improvements if funds are secured.)

MDOT and the City of Detroit will explore the possibility of renovating the Detroit River Boat launch and placing signage for DRIC at all major entrances into SW Detroit that includes a statement of "Welcome to Southwest Detroit," including placing one at the Outer Drive, Fort Street and Schaefer entrances. The Delray community will be given priority for aesthetic improvements.

c) Economic

Enhancement measures will include a comprehensive economic development plan for the host community and the region focusing on improving opportunities for community, business and new housing development. The plan will have a specific component on implementing community-based programs that improve the health and quality of life in the host community. MDOT will advocate for legislation to authorize a bridge surcharge that will be used to support the economic development plan and other enhancement measures. The plan will also include a state-wide strategy to grow the supply chain and logistics sectors coordinated with the Michigan Supply Chain Development Authority.

d) Air quality

Due to the fact that FHWA expressed concerns about the fact that carbon dioxide emissions cannot be usefully evaluated in the EIS process, MDOT recognizes the importance of implemented **permanent** monitoring systems to control air pollution. Enhancements measures will include permanent air quality monitors in four to five locations, with three specific designated in residential areas.

During construction, an emissions plan will include retrofitting off-road construction equipment, limiting age of off-road construction vehicles, restrict construction activities around sensitive receptors, minimize engine operations, and use of clean fuel generators.

Enhancement measures will include developing a green development plan that includes an urban forest to reduce pollutants in the host community. The green development plan will incorporate the aesthetics used around the boundaries of the bridge and plaza area. The plan will explore potential energy-offsets for residents.

e) Land Use

MDOT will work with state agencies, like MSHDA and MDEQ, to develop and implement a land use plan for the business and residential community. Delray housing redevelopment and economic development study to support small business relocation and development will be included. *See details above under Overall Mitigation.*

f) Job Training

In coordination with the Detroit Workforce Development Board and the Michigan Department of Labor & Economic Growth, a training facility for job opportunities in construction, bridge operations and logistics and green economy, will be located in Delray or in close proximity of Delray. Bilingual job trainers will be available at the facility. MDOT will work with local community-based organizations to publicize job and training opportunities.

MDOT will require that contractors adopt local "first source" hiring programs possibly modeled on Arvin Meritor's "zipcode" hiring plan.

Thank you in advance for consideration of the above recommendations. My community and I are committed to the success of this project and its economic possibilities for the State. I look forward to

developing the same working relationship that MDOT had with the outgoing State Representative Steve Tobocman.

Sincerely,

Rashida Tlaib  
State Representative  
12<sup>th</sup> District, Southwest Detroit

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Email: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov), Fax: (517) 373-9255

Re: Public Comments on the Detroit River International Crossing Final Environmental Impact Statement

Dear Mr. Parsons,

For 17 years I have lived a few blocks from the Ambassador Bridge and have experienced the effects of poor development practices on our community, the daily exhaust that hangs in my house, and the constant noise of trucks. I lived here before NAFTA and it was very different. I could drive to the movies in Windsor across the bridge in 10 minutes door to door. With policies that have increased trade, now we have 10,000 trucks a day crossing--and counting, and we have multiple impacts in our community that have not been remedied.

The project will affect the broader southwest Detroit community in many ways, especially the immediate impact area—but truly all of southwest Detroit. The DRIC project appropriately acknowledges significant environmental justice impacts on a community that is already distressed, but does not provide for adequate mitigations and benefits.

#### **Air Quality impact versus No Build Alternative**

The FEIS claims that air quality will improve with this project. It is not disputable that there will be negative air quality impacts of locating a new bridge where none was before for the immediate community; the FEIS does not accurately acknowledge responsibility. Improvements to air quality are not only essential to the health and quality of life of the residents, students, and employees of the area, but they are also smart for future economic development.

Traffic will increase to the immediate area as per the justification for a second bridge: current capacity will be exceeded by 2035. Truck traffic will specifically increase to this bridge location due to the efficiency of this border crossing linking to Highway 401 in Windsor, and the implementation of new inspections technology is also likely to shift truck traffic to this location, thus bringing a disproportionate amount of the total diesel-producing border traffic to this immediate area. Traffic may also increase if fares at this public crossing would be lower.

MDOT cites strengthening EPA standards as a reason why “air quality will improve.” But the local population which suffers already from very poor air quality will have their potential benefits of this improvement diminished due to the DRIC project. Every community deserves the full benefits from strengthened air quality controls. The EPA-induced benefits would be realized through new vehicle and fuel upgrades, but older trucks will stay on the road for many years. *Thus, because of the disproportionate amount of trucks that will be in the area, funds must be allocated toward a program to retrofit area truck fleets and daily commuter fleets across the*

*Detroit-Windsor border in order to aggressively and appropriately address the source of the problem that DRIC will create.*

### **Health Protection**

The area's residents already suffer high rates of asthma. The FEIS claims that the exact sources of dangerous particulate matter from emissions cannot be identified. But small particulate matter (PM2.5) is a component of diesel emissions, and diesel emissions will increase versus the no build alternative. Therefore, the project should provide mitigation both to reduce the mobile sources of the problem, and the associated health impacts.

The area proposed for the DRIC project already has multiple air quality burdens and continues to be in "non-attainment" for particulate matter. No project should be introduced to the area that would further negatively impact air quality, especially without pursuing available mitigation. The DRIC project must address cumulative air quality impacts. *Air monitoring and health studies are necessary to identify the problems associated with mobile source emissions. The schools, as well as homes in the impact area with documented cases of lung and heart ailments, must be equipped with the best available windows, air filtration and air conditioners.*

### **Community Benefits Agreement**

Comprehensive mitigations and benefits must be guaranteed for the community in a legally-binding community benefits agreement. Mitigations should follow the recommendations of the Community Benefits Coalition and include, in addition to other highlighted in this letter:

Replacement houses for those taken by the project that will be affordable and sustainable, and just compensation provided to residents and businesses that will be acquired by the project;

A jobs training and placement program that will prioritize hiring of local residents to address the loss of over 500 jobs;

Preservation of the historic St. Paul's African Methodist Episcopal Church, that was once helped by the president of the United States, who delivered loads of brick for its expansion in the midst of World War II;

Alternative truck routes to remove trucks from residential streets, and a thorough study of truck traffic across southwest Detroit to make roads safer for the entire community;

Additional safety enforcement during the construction phase of the project when the community will be vulnerable, and long-term enforcement of traffic and risks associated with an international border;

Extensive green buffering throughout Delray in order to reduce the negative impacts to quality of life and air quality, including creating an urban forest that can help to cleanse the air and add to the quality of life; and

Non-motorized transport on the bridge and plaza, and connections to Fort Wayne and planned Greenways and the riverfront—all of which could attract local, tourist and recreation-related development.

### **Sustainable Future Opportunities**

This huge infrastructure investment should incorporate all state-of-the-art, sustainable technologies to make the DRIC a project of the next 100 years, rather than of the last. The bridge should incorporate alternative energy, like wind and solar, into its design to make it self-sustaining. This could be a great opportunity for the state and region to showcase new technology and attract companies and green jobs to chart a new economic direction for Detroit. The community also seeks to attract logistics and value-added industries to the area. Planning should look in part at the arrangement of industries operating in the border region and possibilities for aggregating activities on either side of the border to reduce border crossings. Reducing the miles traveled back and forth to assemble parts will reduce area emissions, greenhouse gasses, time, and costs.

At this juncture in our examination of global energy needs, the DRIC project should be looking at incorporating mass transit options on the bridge.

### **Long term Funding and Oversight**

Other similar transportation projects around the country have invested 15% of overall project costs in the host communities, compared to just over one-percent that the DRIC project is proposing. A long term fund should be established from the revenue stream that can be used to address negative impacts and local community-development needs into the future.

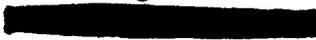
Any oversight body for DRIC bridge governance and the allocation of any benefits should include community representation.

### **Public Interest and Outreach**

Public development projects, especially of this scale, must provide significant funding—at least \$100,000 for a three year project—for independent technical research, and additional funding is necessary for effective outreach and participation in the impacted community. The community should not have to apply for grants and rely on over-burdened community organizations to take-on something that should be integral to public projects--aiming to equally address the needs of community, business, and government. The structure of the DRIC study's public involvement was alienating to community residents and led to distrust of the project's aims. Regular community mailings and announcements in local media, church and school bulletins should be integral to the participation process. Too many in the community have lacked information on matters that will have direct economic, health, and quality of life impacts on them personally.

This project can bring opportunities for positive investment in the community, but there will be many costs that the community will bear. I can only support this project if there are appropriate guarantees for the community in place.

Sincerely,

Simone Sagovac  




Southwest Detroit Environmental Vision

PO Box 09400  
Detroit, MI 48209  
313-842-1961(phone)  
313-842-2158 (fax)

January 5, 2009

Robert Parsons  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909

Dear Mr. Parsons:

**RE: Comments on Final Environmental Impact Statement for proposed Detroit River International Crossing**

Southwest Detroit Environmental Vision(SDEV) is a community based environmental organization with a mission to improve the environment and strengthen the economy of Southwest Detroit. For the past 16 years SDEV has worked with government, industry and residents to find common ground to promote projects that improve the economy of Southwest Detroit and minimize negative environmental impacts for the community. A SDEV representative has served as a member of the DRIC Local Advisory Committee and the organization has been actively participating in the public process for the proposed DRIC since the inception of the study.

The Detroit River International Crossing would bring \$1.8 billion in U.S. investment and can be a tremendous opportunity for economic development of the region, as well as supporting sustainable redevelopment of the local community in exchange for hosting the project. Although the FEIS does propose some mitigations and benefits for Delray and Southwest Detroit in exchange for hosting the DRIC, the scope and financial commitments for these benefits fall far short of what is adequate for a project that will have significant negative impacts on the community. Our following comments outline inadequacies in the FEIS and highlight opportunities for additional mitigations and community redevelopment.

Specifically we believe that MDOT should follow the successes of other recent large-scale transportation infrastructure projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have

achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

### **ENVIRONMENTAL JUSTICE**

The Preferred Alternative as outlined in the FEIS severely affects neighborhoods of Delray and Southwest Detroit that already bear the disproportionate burden of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and intermodal operations, interstate highways, multiple heavy industries, and the Detroit wastewater treatment plant. The Delray neighborhood and the proposed DRIC interchange and plaza areas are some of the most distressed areas in the nation. These areas have a high percentage of low-income and minority residents, making environmental justice issues a significant factor in this project. Environmental issues including noise, visual and spatial impact, and especially air quality, would be made worse by a new border crossing.

The FEIS has identified discriminatory effects and adverse environmental justice impacts from the project but fails to discuss mitigation that will address the real impact that the DRIC will have on the host community of Delray. The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

The mitigations that are proposed fail to give environmental justice the "heightened consideration" that is mandated by Executive Order 12,898. The mitigations that MDOT specifically relates to environmental justice are avoiding the Berwalt Manor Apartment Building, minimizing noise to the residents of the apartment building, displacing a smaller number of housing units, replacing all five pedestrian bridges, avoiding the CHASS Center, controlling air pollution during construction, identifying projects that would reduce particulate matter pollution, exploring job training opportunities and funding a study of economic opportunities. The Community Enhancements that MDOT lists on the green sheet that will benefit low income and minority populations impacted by the project are vague and do not go far enough to offset the severe effects of this project.

### **JOBS AND ECONOMIC DEVELOPMENT**

The FEIS finds that 43 businesses and 685 jobs will have to relocate in Delray as a result of the DRIC. However the FEIS fails to note how many total businesses are located within Delray and how many people they employ in total. This leads to a complete lack of analysis as to what percentage of economic activity in Delray will be displaced by the DRIC. The FEIS indicates that a significant number of businesses interviewed preferred to relocate in or near Delray. However the FEIS fails to take into account the feasibility of that option.

The FEIS implies that the job loss will be mitigated by other job gains. It is misleading in discussing job loss within Delray but job creation only within the larger region thus making it impossible to determine the net job impact on Delray. Delray is being asked to bear the greatest burdens without any assurances that it will benefit directly from the DRIC. In order to ensure that the host community benefits from economic development opportunities of the DRIC it is important that MDOT and State agencies commit to the following measures:

- **Retaining displaced businesses** : Economic development strategies associated with the DRIC must be developed and implemented with the goal of retaining these displaced businesses in Southwest Detroit and Delray. MDOT should consider funding the Detroit Economic Growth Corporation and Southwest Detroit non-profits with expertise in business and land use issues to complete this work. DEGC has experience with business retention services but lacks the adequate number of staff to extend its business retention services to the needs of the DRIC.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, business incubation, and to attract logistics industry.
- **Relocation Compensation:** Compensation provided to relocated businesses must cover the true and full costs of relocation, including any costs for site assessments for possible contamination.
- **Construction period assistance:** There is clear documentation that existing local businesses have suffered severe economic repercussions during the construction of the Gateway Project. Compensation and other assistance are needed for businesses that will suffer from transportation disruption and property vulnerability during the DRIC construction period must be guaranteed.
- **Renaissance Zone** boundaries should be amended and the designation should be extended beyond 2011. Several existing businesses in Delray will be negatively affected if they must relocate outside of the zone. MDOT needs to work with the city and legislators to support an expansion and extension of this zone and if this cannot be achieved then business owners should be compensated for the increased tax burden created by the DRIC relocations.

## COMMUNITY REDEVELOPMENT

The decayed state of the Delray neighborhood has occurred due to economic decline and disinvestment in the area, which has become an overall environmental issue needing attention. Locating a nationally-important economic project such as the DRIC in this area without restorative investment in the community would be akin to locating a business on a superfund site without the environmental cleanup. Thus local investment for community development should be considered integral to the development of the overall project.

During the DRIC study, a number of community meetings were held in which community residents helped to formulate plans to redevelop the Delray neighborhood and the impacted area. It is a matter of human and environmental justice that MDOT continue to work with the community to actually implement the proposed Delray Land Use Plans for the new community that the residents designed. These land use plans represent a significant step toward ensuring that local host community impacts and growth are included in the final project design for a new international border crossing. MDOT needs to assist the community to secure commitments and resources from appropriate state and federal agencies to ensure sustainable redevelopment of the host neighborhood. Redevelopment plans should include:

- Construction of housing to replace homes lost to the project to enable residents who so desire to remain in the neighborhood
- Just compensation must be provided to all relocated residents and businesses.
- Preservation of historic structures such as the significant, historic St. Paul's AME Church
- Redeveloping existing commercial areas of Jefferson and Fort Street and creating new commercial areas to increase local economic growth
- Facilitating a legislative remedy or providing compensation to reduce the negative impact of the "pop up tax" on relocated residents. In addition, all relocated residents will be offered replacement housing of equivalent or higher value;

## **ENVIRONMENTAL CONCERNS**

### **Air Quality**

Because increasing truck traffic is a primary justification the FEIS cites for an additional bridge, we do not find convincing the claims made in the Study that air quality will improve with the construction of the project. The FEIS projects 13,747 auto two-way crossings and 13,201 two-way truck crossings on a daily basis for the DRIC Preferred Alternative. With this level of increased traffic, air quality in Delray and the immediate surrounding area will clearly be negatively impacted with the construction and operation of the DRIC. Although air quality may be improving with implementation of new EPA regulations for fuel composition and diesel engines, air quality in the immediate area of the DRIC and plaza will be worse with a project, than with the no build alternative. Also the DRIC FEIS fails to take into account the cumulative impact of multiple transportation projects proposed for the area including the DIFT and Gateway projects. It is critical that mitigation of localized air quality impacts are included in the FEIS and are funded as part of this project.

#### **1) Mobile Source Air Toxics**

The Air Quality Impact Analysis acknowledges that Mobile Source Air Toxics would shift to the area near the proposed new river crossing systems from the Ambassador Bridge compared to the no build condition. The FEIS does not adequately evaluate the

potential health impacts of this shift of MSAT emissions for residents of Delray and students at Southwestern High School. The Air Quality Analysis states that "available technical tools do not enable a prediction of the project-specific health impacts of the emission changes associated with the alternatives"(Page 4-2) The report highlights limitations of Mobile 6 and Caline 3. Public health experts that our organization has consulted indicate reasonable estimates can be made using these models for dispersion modeling. While there may be some level of uncertainty associated with this process the modeling should be completed to at least provide some projections of potential health impacts and to help inform mitigation strategies.

The EPA 1999 National Air Toxics Assessment includes MSATs as part of total air toxic inventory and has methodology for modeling the impacts of these pollutants.

In comments on the DRIC DEIS, the EPA states that "the FHWA's Interim Guidance on Air Toxics Analysis in NEPA Documents is not consistent with current academic literature and other published guidance" The EPA comments continue saying "as an example, we point to the recent extensive report to the American Association of State Highway and Transportation Officials conducted as part of a National Cooperative Highway Research Program project 'Analyzing, Documenting and Communicating the Impacts of Mobile Source Air Toxic Emissions in the NEPA Process' March 2007 [http://www.trb.org/NotesDocs/25-25\(18\)FR.pdf](http://www.trb.org/NotesDocs/25-25(18)FR.pdf). This document, commissioned by the States' Departments of Transportation represents current professional practices of air quality experts and identifies air quality tools and approaches that would be appropriate for various NEPA settings and project levels. Although the DEIS conforms to FHWA's Interim Guidance, we continue to believe more could be done to quantify local air impacts, especially where higher concentrations of diesel emissions are expected." Throughout the FEIS estimates are made for traffic increases, economic benefits and other impacts from the project. There are uncertainties involved with all of these projections. Uncertainty should not be provided as a reason to not conduct necessary analysis of mobile source emissions impacts from the DRIC project on people living, working and attending school in the impacted area.

## **2)Particulate Matter(PM 2.5)**

The hot spot analysis for the FEIS claims that the proposed project will not cause new air quality violations, worsen existing violations or delay timely attainment of the NAAQS. Because of the high rates of asthma in Southwest Detroit and the cumulative impacts of multiple transportation and industrial operations in the community it is important that all efforts to minimize additional contribution of particulate matter in the community from this project be undertaken as mitigation during construction and the ongoing operation of the DRIC. In, the Air Quality Impact Analysis Technical. Report Addendum(Appendix K of the FEIS) MDOT also acknowledges that PM 2.5 levels in monitors closest to the DRIC plaza increased in 2007 over the previous year.

### 3) Construction Mitigation Plan

The green sheet in the FEIS does not make specific commitments to control emissions during construction but uses vague language saying an emissions plan "may include" actions. MDOT should commit to including in its project specifications "Best in Class" specification based on cutting edge practices on other FHWA and USDOT projects nationwide for minimizing and controlling air quality impacts during construction. The project contract should include significant penalties for failure to comply with the construction emissions plan. MDOT should continuously monitor contractor activities to insure compliance with the construction emissions plan and scrupulously enforce violations. Specific measures to minimize emissions during construction should include:

- limiting the age of on-road vehicles used in construction
- minimizing engine operations
- restricting construction activities around Southwestern High School and other sensitive receptors
- instituting fugitive dust control plans
- using diesel particulate traps and oxidations catalysts on construction vehicles
- using existing power sources or clean field generators rather than temporary power generators
- require contractors use construction equipment that at least meets EPA's Tier 3 standards for off-road equipment. If Tier 4 equipment(which is being phased in between 2008 and 2016) is available this should be used
- regular sweeping of roads to minimize fugitive dust
- use of alternative cleaner burning fuels when possible

### 4) Ongoing air quality mitigation

In the FEIS Green Sheet MDOT has committed to work with "SEMCOG, MDEQ, the private sector and the community to create and action plan that includes short and long-term objectives aimed at reducing fugitive dust, diesel truck idling, fuel consumption or diesel emissions to limit PM 2.5 emissions in the study area. The plan will identify priorities for future federal aid eligible transportation projects through programs such as CMAQ and the Midwest Clean Diesel Initiative. The action plan will be implemented during design and construction phases and sustained through the maintenance and operations of the facilities..." While we commend MDOT for the commitment to seek other funding sources for these activities, we believe that actual funding for the DRIC project should be allocated for these purposes to ensure that they can be implemented. We believe the following mitigation measures should be included:

- enforcement of anti-idling policies during truck inspections
- air filtration systems for sensitive receptors, including Southwestern High school
- Funding for comprehensive air monitoring in the impacted area including mobile source air toxics, PM 2.5, PM10, SO2 and continuous EC/OC sampling, PM2.5 speciation measurements and continuous PM 2.5
- Regular sweeping of area roads

- The project design should include landscaping using native and non-invasive vegetation to help absorb pollution, reduce fugitive dust and improve overall aesthetics in the vicinity of the project.
- Funding for retrofits should be provided for truck fleets operating in southwest Detroit and daily commuter fleets between Detroit and Windsor to reduce their diesel emissions, and education should be provided about anti-idling programs, which would also reduce costs.
- Acquisition of 200 acres within Delray for intensive tree planting to offset emissions from induced traffic as well as associated greenhouse gas emissions. The location of this urban "offset" forest will be coordinated with storm water measures, and the Delray open space plan to be developed and planned for residential and commercial redevelopment

### Health

In hosting the DRIC, the populace of southwest Detroit will be undertaking another source of air pollutants adding to the already cumulative affects of air toxics in the community. High concentrations of diesel particulate matter, as found with the volume of traffic funneling into southwest Detroit from across North America, are directly associated with the development of lung diseases, including asthma, as well as more insidious cardiovascular diseases. Southwest Detroit has among the highest asthma rates in the nation, and the population suffers a high incidence of premature deaths from heart disease. A long-term population study to observe these health impacts should be promoted by MDOT and FHWA working with the National Institute of Health and other agencies. The highest standards possible for air quality should be pursued and maintained in association with this project over its lifetime. The DRIC project also should fund community education programs on respiratory and cardiac impacts of diesel emissions.

### Noise and Vibrations

The FEIS Green Sheet states that project noise levels exceed FHWA Noise Abatement criteria at 199 residential properties along I-75. The Green sheet identifies reasonable and feasible noise wall locations in several areas. Although the FEIS states that impacts for noise are being considered for the southbound service drive of I-75, it indicates that sensitive receptors around the DRIC plaza would not experience noise levels exceeding the established noise abatement criteria. Because all impacts of a major project like the DRIC cannot be adequately predicted through study it is important that the ROD contain a commitment to conduct noise-monitoring measurements before the project begins, once the crossing is open and at some predicted intervals during the operation of the crossing. If noise levels are detected that exceed established criteria at any point during the operation of the crossing, mitigation measures should be taken to ensure the quality of life for residents, students and businesses are not negatively impacted.

## IMPACTS TO LOCAL INSTITUTIONS

### Chass Clinic

CHASS Clinic is one of only four FQHC organizations in the City of Detroit, providing primary care and related social services to the uninsured and underinsured in our community. In 2007 the Clinic provided services to 13,202 users. Although the Preferred Alternative does not force the relocation of CHASS Clinic, changes in pedestrian crossings and motorized crossings of I-75 as well as construction closures could seriously impact access to the Clinic. It is important for MDOT to have input from the Clinic regarding efforts that can be undertaken to enhance access to the Clinic both during and after construction of the DRIC. It is unacceptable for the DRIC project to result in reducing access to health care services for residents of the community.

### Southwestern High School

The Preferred Alternative for the DRIC project will be immediately adjacent to Southwestern High School and thus will significantly impact the current and future student populations. The current student population is roughly 1,000 students who also live in the near and broader impact area and bear the burdens of transportation infrastructure in Southwest Detroit. These students experience asthma higher than the national average. The DRIC project would increase truck traffic in the immediate area, which will be further damaging to the students health. Because of the potential impacts to student health from increased levels of particulate matter and mobile source air toxics it is critical that both increased monitoring and mitigation for the high school be incorporated into the FEIS for this proposed project. MDOT needs to solicit input from parents of Southwestern students, students at the high school, school administration and the Detroit Public Schools for additional mitigation requests to protect the health of students and mitigate other impacts to this facility.

Environmental impacts to the school will be significant, including impacts on air quality, noise, and congestion. At minimum, traffic routing, noise barriers, and vegetative buffering will be necessary to minimally reduce impacts. Air quality mitigation for the school should be included in the project, including but not limited to:

- Monitoring indoor air quality in the school before the project begins, during construction and ongoing operation of the DRIC
- Installing an air filtration system throughout the school if indoor air monitoring detects increased indoor air pollution
- Reducing diesel emissions by: implementing idle-reduction technologies and programs on the plaza and other areas; and by pursuing strategies to offset overall diesel emissions through retrofitting area truck fleets with diesel reduction technologies
- Constructing an indoor recreation facility for the school, so students have healthy access to recreation like students have in other areas. Recreating opens

lung passageways more fully making, them more vulnerable to the damaging effects of air pollution and illnesses like asthma. Access to healthy recreation is an environmental justice issue.

- Funding for ongoing air monitoring of PM 2.5, PM10, SO2 and continuous EC/OC sampling, PM2.5 speciation measurements and continuous PM 2.5 measurements at the Southwestern High School site should be included in the implementation plan for this project.
- Buffering with large trees and other vegetation to help mitigate diesel particulate and dust from traffic.
- A baseline health study of students should be conducted as well as annual health screenings to monitor the project impacts. The health of students must be assessed as part of the Final Environmental Impact Statement in order to adequately address potential risks and to monitor any ongoing impacts should the project be implemented.
- Improvements envisioned by the community for the area around the school should be implemented, including along Fort St .As one of the most immediately impacted groups in the area due to the proximity of the school to the DRIC project, the school should receive overall positive investments in exchange for all of the negative burdens that the school will experience. Such investments in infrastructure should have direct benefits to the students to improve their quality of school life, such as investment in sports and technological equipment.

## **COMPREHENSIVE TRANSPORTATION PLANNING**

For almost a decade, community representatives have advocated for a coordinated and comprehensive approach to transportation infrastructure project planning so that community development objectives are supported rather than undermined. The proposed Detroit Intermodal Freight Terminal (DIFT), the widening of interstate 94, the reconstruction of the Detroit River rail tunnel, the construction of the MDOT Gateway Project, and the DRIC Study project are all located in Southwest Detroit. Segmenting the planning and evaluation of these projects dilutes the real impacts, particularly cumulative impacts, and misses the opportunities to gain greater efficiencies and public benefits.

The DRIC project offers an historic opportunity to address transportation needs of the single most important international trade crossing, and to approach this historic project in a manner that facilitates creating a viable host community into the future, one which will share in economic benefits locally and that will serve as an economic incubator for benefit of the entire cross-border region.

Achieving both of the goals of transportation and place-making requires vision and commitment, and some measure of patience not to pass-over the longer term benefits and sustainability for shorter term goals.

Bridges are said to be built for 100 years. For the many generations who will survive this project into an unpredictable future, the decision-makers today working in concert with the community can build into this project the best of what is available in this generation as a gift to those we do not yet know. This international crossing is not only a transportation route, but a pathway for an international relationship into the future.

A project of this scale demands that multiple agencies work together to cohesively design an overall system of transportation and place that maximizes efficiencies and serves multiple modes of travel, as well as achieves revitalized and healthy neighborhoods, new business development, protection and promotion of historic sites, and enhances community connectedness for all modes of transportation and social groups.

Without working together to maximize benefits and reduce mitigation, we would be wasting both resources and this momentous opportunity to make a lasting mark on the region.

## **TRUCK ROUTES**

The residential streets, homes, and quality of life of the residents in southwest Detroit have suffered since the passage of NAFTA and for not having comprehensive truck routes and enforcement in place, as well as systematic maintenance roads to handle the daily onslaught and imposition of the nation's traffic funneling here due to international trade.

Surface streets that have become inadvertent and inappropriate truck routes need to be remedied in a new regional transportation plan. In particular, Livernois-Dragon and the streets that have schools (Junction, Clark, Central, Vernor, etc.) need to be limited to local trucks only. The Vernor corridor has seen significant development in the last decade and Mexicantown has become the only growth area in the city. The DRIC project is both an opportunity and an obligation to re-think conflicting land uses and designate truck routes to better deal with the various transportation activities in the area.

In addition to promote the goal of a redeveloped residential community in West Delray, between Green and the Delray Neighborhood House, it is critical to remove trucks from residential streets and residential neighborhoods. In the FEIS, MDOT mentions traffic studies that show that no congestion is predicted from truck traffic on local streets with completion of the DRIC but the FEIS continues to predict usage of West End and Dearborn streets as truck routes. The Green Sheet also lists rebuilding intersections at Jefferson and West End and Dearborn to better accommodate local truck movements affected by the DRIC. This is one of the Community Enhancements mentioned as an offset for the negative environmental justice impacts the DRIC has on the community. It is ludicrous to state that activities that encourage more truck use of streets in residential areas are a means to address environmental justice concerns. The DRIC Community Benefits Coalition with input from residents has spoken loudly and clearly in stating that

the community wants every effort made to find alternatives to use of West End and Dearborn as truck routes so that residential and commercial redevelopment of these areas can be promoted.

The community would like to see the creation and enforcement of a designated truck route in the Delray community to convey truck traffic that travels to and from Jefferson north and south. A more specific truck study is necessary to understand the dynamics of current truck traffic so that the community can anticipate what increases can be expected. The study should include origin and destination of local truck traffic, frequency of trips, type of carriers, times of day they travel and information about truck operators.

## **GREENWAYS AND THE RIVERFRONT**

Various plans have been developed to create greenways and to accommodate non-motorized transportation in southwest Detroit, as well as link various Detroit neighborhoods particularly to the riverfront. The DRIC project, has a large-scale footprint at the riverfront, and is an opportunity for collaboration to achieve these greenway links and to reintroduce much-needed green space in the area—which aids in environmental mitigation. All new roadway designs and changes should incorporate existing non-motorized and greenway plans, and maximize new potential connections to the riverfront and adjacent communities. Plans should also look to link with existing and new land bridges, green spaces, and parks. MDOT should commit to incorporating the following features into the implementation plan for the DRIC:

- **Non-motorized transportation** should be integral to the bridge and plaza design, end to end, with the best available associated infrastructure. The project should connect to the developing greenway systems in the region on both sides of the border. While the FEIS indicates that allowances have been made for non-motorized transportation on the bridge, it does not guarantee accommodation for non-motorized transportation and necessary accompanying infrastructure in the plazas on both sides of the border. The DRIC project should include all state-of-the-art infrastructure needed to provide for non-motorized transportation for pedestrians and bicycles.
- **Greenway links**-Detroit and adjacent southeast Michigan communities are pursuing several plans to develop greenways that will connect to the riverfront and to each other. The DRIC should take all greenways plans fully into account and provide for connections to them from the project. These eventual greenways will not only provide a means of transportation, but will provide an opportunity for recreation and local economic development, especially in connection with Fort Wayne in the immediate area.
- **Urban Forests** significant green buffering is needed to offset the negative impacts and improve health and quality of life.

## **SUSTAINBLE REDEVELOPMENT INITIATIVES**

The DRIC project presents an opportunity to incorporate environmentally sound cutting-edge design into the construction of the bridge structure, plaza buildings, and replacement housing. Opportunities also exist to explore the feasibility of including generating energy from alternative power sources like solar and wind. With Governor Granholm's efforts to promote Michigan as a center for production of alternative energy, having these features incorporated in a high profile project would further solidify the State's commitment to a leadership position in this field. We strongly recommend that MDOT and other State agencies support the following provisions:

- **Sustainable Bridge & Plaza:** Explore the feasibility of incorporating alternative energy into the bridge design, such as wind, solar and water power, in order to reduce operating costs, reduce the pollution burden in the area, and reduce overall greenhouse gasses. This green design could potentially provide energy off-sets for poor residents who live in the area and face the pollution burdens.
- **Sustainable Neighborhood:** support a redeveloped sustainable neighborhood with affordable green homes designed for lower-to-mid incomes that would be energy-saving and provide for a better quality of life overall.
- **Green buildings-plaza buildings** should be designed and operated to minimize energy use and incorporate sustainable architecture-We understand that GSA is conducting a feasibility study on this with a stated goal to achieve a LEED Silver level status and commend this effort

## **COMMUNITY BENEFITS AGREEMENT**

SDEV is serving as a coordinating agency for the DRIC Community Benefits Coalition. The Community Benefits Coalition supports a publicly-owned international bridge crossing as stated in the coalition's Vision Statement.

"We envision a community in which area residents and a new publicly-owned international border crossing will mutually coexist and benefit from each other.

Our vision includes those areas of Southwest Detroit impacted by the border crossing and transportation infrastructure, specifically a viable and redeveloped Delray neighborhood.

The foundation of this vision will be set forth in a legally binding Community Benefits Agreement that includes:

Implementation of the DRIC Study community land use plan, relating to residential and economic development; Environmental mitigation; and

other benefits that are primarily for Delray and other impacted Southwest Detroit area residents.

Without endorsing any outcomes beyond this vision statement, we support the continued funding, community involvement in, and completion of the DRIC Study.”

SDEV is advocating that a Community Benefits Agreement(CBA) should be negotiated coincident with the negotiation of a public-private partnership for the design, construction and operation of the DRIC. Replacement housing, a local jobs and economic development strategy with funding for implementation, additional infrastructure upgrades and greening initiatives and air quality improvements should all be included as part of the CBA. Such an agreement would legally guarantee that the explicit and implicit promises made to the host neighborhoods would be fulfilled.

#### **GOVERNANCE AND ONGOING FUNDING STRUCTURES**

A publicly-owned bridge can provide greater public safety and responsible development into the future. It is important that the governance structure for the bridge allows for representation from the host community to ensure that concerns are heard and addressed through the duration of bridge operation.

It is also imperative that in the spirit of environmental justice that in addition to initial mitigations described in the FEIS that ongoing organizational and funding structures are developed to ensure the host community has the resources to redevelop and mitigate ongoing problems. Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future. A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.

#### **PUBLIC PARTICIPATION**

We commend MDOT for its efforts to encourage community involvement in the DRIC planning process through the Local Advisory Committee and through the Context Sensitive Design Planning Meetings. In spite of these commendable efforts we recommend that MDOT and the Federal Highway Administration take additional efforts to enhance the ability of citizens to participate in the NEPA process. The cost of the DRIC study has been over twenty million dollars. This has generated a DEIS, FEIS document and fifteen technical reports. It is not reasonable to expect residents and community organizations to provide meaningful review of these documents without technical assistance from experts. In the future the budgets for major transportation studies should include a line item to provide funding for independent technical review of the EIS documents and supporting technical reports for the community. For a project the scale of the DRIC a minimum of \$100,000 should be allocated for this type of community assistance.

We also have received feedback from a number of area residents that it has been very difficult to stay informed on the DRIC DEIS process. MDOT should consider providing some funding for independent evaluation of its outreach process to receive input on how to improve these efforts.

Furthermore MDOT needs to allow the community adequate time to review and respond to studies that are released. The DRIC FEIS was released the day before Thanksgiving and final comments were due the first business day after the New Year holiday. This timeline presented a great disadvantage to the community to be able to process the large amount of material in the FEIS and has prevented residents and community organizations from responding adequately to a project that likely will have a significant impact on individuals and the community for years to come. The City of Detroit and most community-based non-profits were closed from December 24-January 2 increasing the difficulty of ensuring sufficient participation in the comment process.

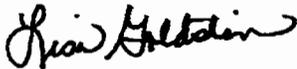
## CONCLUSION

As the primary location for international border crossing serving the North American Free Trade Agreement, Southwest Detroit is a pivotally important location to the nation. As such, the area is forced to accommodate the burdens associated with this distinction, on top of bearing the burdens of being one of the most heavily industrialized areas of the country. An economic project on the scale of the DRIC will bring revenues to the associated governments over generations. The potentially negative impacts of this development will also be born by the community for generations. Thus, the positive financial gains of this publicly-owned enterprise should be simultaneously shared with the community to ensure that the greatest technical and social innovations possible are employed to alleviate the burdens to residents and the community and to ensure that benefits are incorporated directly into the project.

We urge MDOT and other appropriate state and federal agencies to continue discussions with the DRIC Community Benefits Coalition with the goal of implementing a community benefits agreement, which will insure commitments to the redevelopment of Delray, the DRIC interchange and plaza areas, and all other areas in Southwest Detroit affected by the project.

Thank you very much for your consideration of our comments.

Sincerely,



Lisa Goldstein  
Executive Director



# **SOUTHWEST DETROIT**

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B U S I N E S S   A S S O C I A T I O N

January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909  
Email: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)  
Fax: (517) 373-9255

**Re: Detroit River International Crossing Final Environmental Impact Statement**

Dear Mr. Parsons:

We submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing.

The Detroit River International Crossing proposes \$1.8 billion in U.S. investment at the Detroit/Windsor border, and is a tremendous opportunity for economic development in the region. We also believe there is significant momentum for sustainable development of the local community in exchange for hosting the project.

A publicly-owned border crossing provides the homeland security and citizen-accountable development that is clearly the country's vision for its future.

The host community of Delray and southwest Detroit already accommodate the significant burdens of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the waste-water treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income, and: proposes to occupy 160 acres; relocate 693 residents, at least 685 jobs, 43 businesses, and 7 churches, including the historic St. Paul AME Church.

Based on this impact and the additional burdens that will be created, the FEIS does not guarantee adequate remedies for the community.

The City of Detroit, the federal government, and the State of Michigan, through the Michigan Department of Transportation's DRIC Project, should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future.

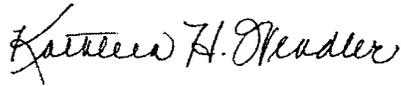
We want to emphasize the following concerns and recommendations for this project to move forward:

- The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
- A long-term fund should be established to address long term negative impacts and ensure benefits for sustainable revitalization of the host community.
- **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance, and incentives to retain jobs in the community.
- **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of creating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.
- **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are

needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. An investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,



Kathleen H. Wendler  
President

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**BUSINESS BUILDING COMMUNITY. COMMUNITY BUILDING BUSINESS.**



January 5, 2009

Robert H. Parsons, Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909

Via E-mail: [parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)

**Re: Detroit River International Crossing Final Environmental Impact Statement**

Dear Mr. Parsons:

Thank you for the opportunity to provide comment relative to the Detroit River International Crossing Final Environmental Impact Statement. We submit the following comments in response to the Final Environmental Impact Statement (FEIS) for the Detroit River International Crossing.

The Detroit River International Crossing (DRIC) would bring \$1.8 billion in U.S. investment and can be a tremendous opportunity for economic development of the region, as well as sustainable development of the local community in exchange for hosting the project. A publicly-owned bridge can provide greater public safety and responsible development into the future.

The host community of Delray and southwest Detroit already bear significant burdens of several infrastructure projects that service the entire region, including the current bridge, tunnel, rail and inter-modal operations, interstate highways, multiple heavy industries, and the waste-water treatment plant.

The DRIC FEIS study concludes that the project will have significant Environmental Justice impacts on a population that is 69% minority and low income; it will occupy 160 acres and relocate (693) residents, at least (685) jobs, (43) businesses, and (7) churches, including the historic St. Paul AME church.

Based on this impact and the additional burdens that will be created, the FEIS does not guarantee adequate remedies for the community.

Detroit and the DRIC should follow the successes of other similar projects to achieve mutually beneficial development. The international shipping ports and airport in Los Angeles and Long Beach have achieved successful Community Benefits Agreements that secured numerous environmental and quality-of-life mitigations and benefits for their host communities. Other similar projects have invested 15% of total project costs in the host community, versus the 01.2% proposed in the DRIC-FEIS.

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Housing Main Office: 1920 25<sup>th</sup> Street • Suite A • Detroit, MI 48216-1435 • 313.841.3727 main • 313.841.3734 fax  
Housing Opportunity Center: 1920 25<sup>th</sup> Street • Suite B • Detroit, MI 48216-1435 • 313.841.9641 main • 313.841.9647 fax  
Se habla Español • [www.swsol.org](http://www.swsol.org)



Equal Opportunity Housing



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Large-scale infrastructure projects like bridges are built for 100 years and will bring revenues long into the future.

We want to emphasize the following concerns and recommendations for this project to move forward:

- The DRIC should include a legally-binding agreement to guarantee mitigations and benefits for the host community, like those achieved with other development projects around the country.
- A long-term fund should be established to address negative impacts into the future and ensure benefits for sustainable revitalization of the host community.
- **Sustainable Redeveloped Host Neighborhood:** Homes lost to the project should be replaced to allow residents to remain in the neighborhood if they wish to, and just compensation must be provided to all relocated residents and businesses. New truck routes are necessary to remove trucks from residential streets and limit interference for small businesses and services for residents. The significant, historic St. Paul's AME Church should be preserved.
- **Jobs, training, and economic development:** A plan and funding are needed to provide job training, create a hiring program for local residents, and to attract logistics industry. Businesses must be guaranteed adequate relocation assistance.
- **Air Quality & Health:** Increasing truck traffic is a primary justification for an additional bridge. The FEIS fails to acknowledge the true air quality impacts of locating this project and the cumulative impacts on the population. Long-term air and health monitoring are needed, as well as funding to reduce harmful diesel emissions of area truck fleets and provide state-of-the-art filtration for adjacent schools.
- **Green development:** Significant green buffering is needed to offset the negative impacts and improve health and quality of life. Linkages to area greenways are needed to improve recreation and transportation options. Non-motorized transportation must also be provided on the bridge. And an investment in sustainable technologies in this project would have a positive impact on the area and can attract new-technology jobs of the future.

In summary, we feel this once-in-a-generation infrastructure project promises to bring economic opportunities and revitalization that can set a new course for the future of this area. We hope that as a public investment it will equally ensure that the needs of the host community are adequately addressed for a truly successful project that all can take pride in.

Sincerely,

Timothy S. Thowland  
Executive Director

- c. J Van Camp, President SWHS  
H Hernandez, Chairperson SWHS

Dietrich R. Bergmann, PhD, PE



05 January 2009

Mr. Robert Parsons, Public Involvement/Hearing Officer  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909 USA  
[parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)

RE: Detroit River International Crossing (DRIC), Wayne County, Michigan "Final Environmental Impact Statement and Final Section 4(f) Evaluation" -- approved by Federal Highway Administration on 21 November 2008

Dear Mr. Parsons:

First, I want to thank the Michigan Department of Transportation [MDOT] for mailing to me a copy of the document identified above, which hereinafter will be referred to as the DRIC FEIS.

I am writing in response to the 24 November 2008 MDOT letter which was signed by Mr. David Wresinski and which forwarded the DRIC FEIS. I also am writing in response to the Federal Highway Administration [FHWA] notice published on pages 74226 and 74227 of the 05 December 2008 edition of the Federal Register.

It appears that in some major respects that the DRIC FEIS does not qualify as an analytic document as required by the Council of Environmental Quality [CEQ] regulations published at 40 CFR 1502, notwithstanding the fact that MDOT claims to be spending \$33 million to prepare the DRIC DEIS, the DRIC FEIS, and the DRIC Record of Decision [ref: DRIC FEIS page ES-62]. Elaboration follows.

The DRIC FEIS states that development of the US portion of the new highway will require an investment of \$1,800 million [DRIC FEIS p. ES-60]. My review of Canadian documents emanating from the DRIC project leads me to conclude that the Canadian part of the project will require an investment greater than the US investment. Consequently, the total US + Canadian investment in the proposed project will be at least \$3,600 million, which perhaps makes it a candidate for one of the most expensive highway projects ever undertaken in North America.

In any event, the enormous investment requirement for the proposed new highway over the Detroit River requires careful audits of both the traffic forecasts and the practical alternatives to the proposed Detroit River highway crossing.

I submitted for the record two letters to comment on the DRIC Draft Environmental Impact Statement [DRIC DEIS] that was published during February 2008. The first is dated 29 April 2008 and the second is dated 29 May 2008. Those letters hereinafter

are referred to as "Prior Letters". Their combined length is 20 pages. They are attached hereto and are an integral part of this response.

### **DRIC Traffic Forecasts**

Many of the statements in Prior Letters questioned the validity of the traffic forecasts underlying the need for a new highway across the Detroit River. See Sections 5 through 12 in each of the two Prior Letters.

The record for the DRIC DEIS shows that other individuals questioned the validity of the traffic forecasts in the DRIC DEIS. Given that the traffic forecasts relied on by MDOT and FHWA were based on projections used 2004 traffic volume data as a basis and given that total 2007 border crossings is less than the total border crossings during 2004, it appears that the project proponents would consider concluding that the date a new Detroit River highway bridge is needed is at least several years later than the year specified in both the DRIC DEIS and the DRIC FEIS.

An illustration on page ES-2 of the DRIC DEIS shows traffic projections to year 2035 and also shows the date that the crossing capacity of the existing crossings will be reached under three traffic growth assumptions.

Notwithstanding the **decline** in total traffic volume from 2004 to 2007, the DRIC FEIS persists in adhering to the projections contained in the DRIC DEIS. In fact, Exhibit S-2 on page ES-2 of the DRIC FEIS is identical to the illustration printed on the same page of the DRIC DEIS. Nothing in the text of the DRIC FEIS refutes the outdated and incorrect traffic projections presented in Exhibit S-2.

The consequence of the traffic forecasting problems described above is that MDOT and FHWA simply cannot conclude that the document demonstrates a need for the project they are proposing within the timeframe they have identified.

### **Practical Alternatives: General Comments**

Sections 13, 14, and 15 in each of the Prior Letters identified three categories of alternatives to the construction of a new Detroit River highway bridge at this time. The project categories described in those three sections are as follows:

- Intermodal Rail Diversion of Truck Traffic (Section 13)
- Public Transportation Options (Section 14)
- Low-Cost Reasonable Alternatives (Section 15)

My intent in presenting the three categories of practical alternatives is not to assert that any one of them is capable of being a standalone alternative for all time to the

To: Mr. Robert Parsons, MDOT Public Involvement/Hearing Officer  
Re: DRIC FEIS

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construction of a new Detroit River highway crossing. Rather, implementation of a low-cost project in any one category could defer the need to construct a new highway over the Detroit River for one or more years. In addition, the simultaneous implementation of multiple projects in one category or of projects in any two of the three categories could serve to delay the date that a new Detroit River highway crossing is needed by even more years. Last, the simultaneous implementation of projects in all three categories could serve to delay the need to construct a new highway across the Detroit River an even longer period of time, perhaps to 2035.

### **Practical Alternatives: Intermodal Rail Diversion of Truck Traffic**

The intermodal rail diversion of truck traffic is discussed in Section 13 of each of the Prior Letters. In it I made reference to a DRIC working paper which acknowledged that 44% of the truck traffic crossing the Ambassador Bridge as of 2004 is potentially divertible to rail inasmuch as 44% of the total truck traffic crossing the Ambassador Bridge either originates or terminates at a point in the Greater Toronto Area or easterly of the Greater Toronto Area. I then essentially went on to say that development of an intermodal rail service between Michigan and metro Toronto constituted one practical alternative to building a new highway bridge across the Detroit River and that MDOT and FHWA therefore were obliged to evaluate that alternative.

In my 29 May 2008 letter I stated that it appeared that the DRIC traffic forecasts for year 2035 call for a total truck traffic volume between Detroit and the Greater Toronto Area of 4,800 trucks per direction per day and that that volume could justify dispatching an intermodal freight train carrying 100 trucks from each end of the route every half hour 24/7.

The DRIC FEIS in the second last statement on page 6-17 quotes **part** of the concluding paragraph in Section 13 of my 29 April 2008 letter and then gives the following response:

*"The report cites 4.4% of the truck traffic could be diverted to rail traffic by 2030. That diversion is built into the DRIC model before it calculated the 128% increase in truck traffic. The information describing this analysis is provided on the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)) under the Canadian Report entitled "Travel Demand Forecasts"*

I emailed and telephoned you today to ask what was meant by the word "report" on the first line of the response. You referred the inquiry to Mr. Mohammed A Ighurabi who telephoned me to advise that the response paraphrased the text on pages 122 and 123 of the "Travel Demand Forecasts" report.

The procedure described in the response to my DRIC DEIS comment, in Mr. Alghurabi's comments to me today, and in the report excerpt that he referenced do not together or individually represent an evaluation of the intermodal rail alternative. Given that the US

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Re: DRIC FEIS

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Page 4 of 6

and Canadian governments are thinking in terms of spending at least \$3,600 million on a new highway crossing of the Detroit River, it is not unreasonable to consider what the expenditure of perhaps \$1,000 or \$1,500 million on a major upgrade of the existing Detroit-Toronto intermodal rail services would do for accommodating existing and future truck traffic. Perhaps a railroad company would be willing to contribute a major part of the investment required to establish the service.

The evaluation I am requesting is of particular interest inasmuch as the fuel consumption and exhaust emissions from an intermodal rail service stand to be 75 to 90% less than the fuel consumption and exhaust emissions from the truck traffic that the intermodal service replaces.

The positive environmental impacts of a major diversion of truck traffic to the railroads could be extraordinarily positive. The DRIC FEIS needs to be supplemented to include an evaluation of the intermodal rail option and a reconsideration of the preferred option that MDOT and FHWA have presented.

### **Practical Alternatives: Public Transportation Options**

Section 14 in my 29 April 2008 letter and also in my 29 May 2008 letter is entitled "Public Transportation Options". The reason I identified public transportation as an option is that an illustration shown on page 1-9 of the DRIC DEIS (and again on page 1-9 of the DRIC FEIS) shows that 79% of the auto traffic on the crossings between Detroit and Windsor is local to the geographic area comprising Windsor/Essex County and the Southeast Michigan Council of Governments region, exclusive of St. Clair County. Also, I referred in Section 14 of my 29 May 2008 letter to a DRIC working paper statement that the number of Windsor residents working in the USA more than doubled between 1991 and 2001.

Certainly the prospect of removing commuter traffic from autos using the existing highway crossings, especially the Ambassador Bridge, will free up capacity on the existing crossings for long-distance traffic.

The last entry in the table on page 6-17 of the DRIC FEIS quotes the part of my comment stating that "*The DEIS...should be amended to do the requisite analysis of the public transportation alternative.*" The response to that quoted statement shown immediately to the right of the partial quotation is as follows:

*"A public transportation alternative will not meet the project purpose and need."*

MDOT and FHWA have not produced their analyses to justify their summary rejection of public transportation improvements as part of an array of alternatives that is competitive with the alternative to build a new highway bridge over the Detroit River.

Further, MDOT and FHWA have not refuted the DRIC working paper that I referred to on page 4 of my 29 May 2008 letter and that states that from 1991 to 2001 the number

of Windsor area residents working in the USA more than doubled between 1991 and 2001, from 2,545 to 6,975. As I pointed out in my 29 May 2008 letter, if all the 4,430 new commuters living on the Canadian side of the border travel via automobile to work in the USA during the peak hour each weekday morning and return during the peak hour each weekday afternoon, they alone would account for the congestion that the DRIC project team wants to eliminate with a new Detroit River highway crossing.

Last, my review of the MDOT and FHWA comment responses in Section 16 of the DRIC FEIS assert that a new bridge is needed for "redundancy" reasons. Yet I see nothing in either CEQ regulations or the US-Canadian agreement cited on page 4 of my 29 April 2008 letter that mentions redundancy as a requirement. Further, FHWA and MDOT have not explained why the redundant option must be another highway crossing. If, as the DRIC FEIS acknowledges, 79% of the automobiles using the Ambassador Bridge are involved in local travel, why not make the redundant option a cross-border public transportation service instead of a new highway crossing?

### **Practical Alternatives: Low-Cost Reasonable Alternatives**

In my 29 April 2008 letter I identified three general options for diminishing congestion in the vicinity of the existing international highway crossings between southeast Michigan and southwest Ontario.

#### ***Pricing Policies:***

The first general option for diminishing peak-period congestion and therefore delaying the date a new Detroit River highway crossing is required is to change pricing policies for use of the existing crossings. At present, discounts are offered to commuters on some crossings, regardless of the time of travel. The discounts cause peak period demand for travel to increase. Requiring discount tickets to be used during off-peak hours tends to diminish the need for increased cross-border highway capacity. Please refer to Section 15a in the 29 April 2008 letter for more details.

I was unable to find in Section 6 of the DRIC FEIS a response to the pricing policy proposal described above, other than "Comment acknowledged."

#### ***Marketing of the Blue Water Bridge:***

This second low-cost option stemmed from my reading of the September 2005 DRIC working paper entitled "Travel Demand Forecasts". The sensitivity analysis section in that working paper essentially stated that travelers between Michigan and Ontario locations east of London prefer to use Detroit River crossings rather than the Blue Water Bridge at Port Huron and Sarnia, even though the travel times are comparable and even though the overall cost of using the Blue Water Bridge can be less than using a crossing in Detroit. [See Section 15b on pages 14 and 15 of my 29 April 2008 letter. Also, for a comparison of travel distances using the two routes, see Section 5 on pages 6 and 7 of my 29 April 2008 letter.]

To: Mr. Robert Parsons, MDOT Public Involvement/Hearing Officer  
Re: DRIC FEIS

05 Jan 2009  
Page 6 of 6

The DRIC working paper essentially states that if the bias against use of the Blue Water Bridge disappeared, the need for expanding the capacity of highway crossings of the Detroit River is delayed by six years.

One eliminates bias against using the Blue Water Bridge by informing the public of its advantages. In other words, MDOT should market the use of the Blue Water Bridge. At present there appears to be no marketing of the Blue Water Bridge to travelers approaching metro Detroit on Interstate Highways 75 and 94. Given that MDOT owns the US-portion of the Blue Water Bridge, arranging for its marketing should be rather simple for MDOT to do.

My recommendation for marketing of the Blue Water Bridge resulted in a response shown on page 6-18 of the DRIC FEIS. The response, which is the second item on page 6-18, made reference to traffic shifts described in Section 3.5.12 of both the DRIC DEIS and the DRIC FEIS. Unfortunately the response to my comment misses the point I made for the reason that Section 3.5.12 refers to the diversion of traffic from the Blue Water Bridge and the existing Detroit River highway crossings once a new highway crossing of the Detroit River is completed, not to the fact that the need for a new highway crossing can be delayed by six years simply by embarking on an effective education program to eliminate the public's bias against using the Blue Water Bridge.

Respectfully submitted,

*Dietrich R. Bergmann*

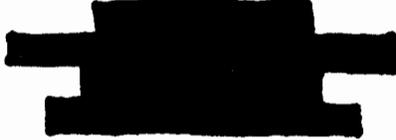
Dietrich R. Bergmann, PhD, PE

Attachments:

- (1) DRB letter dated 29 April 2008 regarding the DRIC DEIS [15 pages]
- (2) DRB letter dated 29 My 2008 regarding the DRIC DEIS [5 pages]

Total length of this submission: 26 pages

**Dietrich R. Bergmann, PhD, PE**



29 April 2008

Mr. Robert Parsons, Public Involvement/Hearing Officer  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909 USA  
[parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)

RE: Detoit River International Crossing (DRIC), Wayne County, Michigan "Draft Environmental Impact Statement and Draft Section 4(f) Evaluation" -- approved by Federal Highway Administration on 15 February 2008

Dear Mr. Parsons:

This letter consists of comments submitted for the record regarding the Draft Environmental Impact Statement identified above.

**1. Abbreviations and their Definitions**

For convenience, several abbreviations are used through the text of this letter. Facility name abbreviations are as follows:

- |     |   |
|-----|---|
| AMB | the Ambassador Bridge, which is a privately-owned four-lane highway between Detroit and Windsor that opened for traffic in 1929   |
| BWB | the Blue Water Bridge, which is a pair of two adjoining three-lane highway bridges over the St. Clair River between Port Huron, Michigan and Point Edward and Sarnia, Ontario, and which is owned by the governments of Michigan and Ontario. [The older of the two spans was opened for traffic in 1938. The newer of the two spans was opened for traffic in 1997.] |
| DRT | the Detroit River Tunnel, which is a two-tube railroad tunnel (one railroad track per tube), which opened for railroad traffic in 1909, and which is owned by the Detroit River Tunnel Company (a Michigan corporation)   |
| DWT | Detroit-Windsor Tunnel, which is a two-lane highway tunnel between Detroit and Windsor that opened for traffic in 1930 and that is owned jointly by the Cities of Detroit and Windsor   |

Abbreviations for organization names, report titles, and other terminology are as follows:

CEQ	Council on Environmental Quality, a unit of the Office of the President of the United States
DEIS	the Draft Environmental Impact Statement identified immediately before the salutation above
SEMCOG	the “Southeast Michigan Council of Governments”, which is a regional planning organization whose planning jurisdiction consists of the following Michigan counties (listed in declining order of population): Wayne (which includes the City of Detroit), Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe
Local traffic	motor vehicle traffic which has both its origin and destination within the area consisting of Essex County in Ontario and all SEMCOG counties, except for St. Clair County
Long distance traffic	motor vehicle traffic which is not “Local traffic” as defined above
Borealis	Borealis Transportation Infrastructure Trust, a Canadian entity which is controlled by the Ontario Municipal Employees Retirement System and which in 2001 purchased from the Canadian National Railroad that railroad’s 50 percent interest in the Detroit River Tunnel Company
D RTP	the Detroit River Tunnel Partnership, which appears to be an assumed name for the Detroit River Tunnel Company and which reportedly is co-owned by Borealis and the Canadian Pacific Railway
DIBC	Detroit International Bridge Company, the private organization that owns AMB
DCTC	Detroit & Canada Tunnel Corporation, the entity which is under contract to operate the DWT on behalf of DWT’s owners
TDF	a working paper report entitled “Detroit River International Crossing Study Travel Demand Forecasts”, prepared September 2005 by IBI Group <a href="http://www.partnershipborderstudy.com/pdf/TTRexisting&amp;future2005-09-15.pdf">http://www.partnershipborderstudy.com/pdf/TTRexisting&amp;future2005-09-15.pdf</a>
PCEs	“Passenger car equivalents”, which is calculated in the DEIS by determining the sum of the following for a specific period of time (e.g., an hour, a day or a year): the observed or predicted passenger car vehicle traffic volume and 3 times the observed or predicted commercial vehicle traffic volume [For example, if during any given hour the traffic flow consists of 100 automobiles and 50 commercial vehicles, the PCE value for that hour is 250.]

## 2. Introduction

The DEIS is a very detailed review of several highway options for building a new truck/automobile bridge over the Detroit River at locations between the existing Ambassador Bridge and the southern tip of Grosse Ile Township, Michigan, as viewed from the US side of the border.

However, the viewpoint expressed immediately above should not be interpreted to imply that the DEIS complies with CEQ requirements for an Environmental Impact Statement as set forth in 40 CFR 1502. [ref: <http://ecfr.gpoaccess.gov> ]

The balance of this letter provides elaboration on some of the ways the DEIS should be modified in order to properly respond to CEQ regulations.

## 3. Context of the DEIS

The context of this DEIS is twofold. First there is an overriding policy context. In addition there is a factual context.

### 3a. *Policy Context:*

There are at least three dimensions within the policy context: CEQ requirements; the President's agreement with the Prime Minister of Canada as stated on 21 August 2007; and the US government requirement that any new international border crossing requires a Presidential Permit before it can be constructed.

The first of the three dimensions in the policy context, the CEQ requirements result from the mandate set by Congress in establishing the CEQ. The origin and responsibilities of the CEQ are perhaps best described by quoting from the CEQ website, <http://www.whitehouse.gov/ceq/aboutceq.html>

Congress established CEQ within the Executive Office of the President as part of the National Environmental Policy Act of 1969 (NEPA). Additional responsibilities were provided by the Environmental Quality Improvement Act of 1970.

In enacting NEPA, Congress recognized that nearly all federal activities affect the environment in some way and mandated that before federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment. NEPA assigns CEQ the task of ensuring that federal agencies meet their obligations under the Act. The challenge of harmonizing our economic, environmental and social aspirations has put NEPA at the forefront of our nation's efforts to protect the environment.

Some of the essential provisions of the CEQ requirements for an environmental impact statement establishing the policy context for preparation of the document are as follows:

***40 CFR 1502.1: ...an environmental impact statement...shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.***

***40 CFR 1502.2(a): Environmental impact statements shall be analytic, rather than encyclopedic.***

***40 CFR 1502.2(g): Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.***

**40 CFR 1502.14: ...agencies shall...(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.**

**40 CFR 1502.14: ...agencies shall...(c) Include reasonable alternatives not within the jurisdiction of the lead agency.**

**40 CFR 1502.9: If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion.**

**40 CFR 1502.9: The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.**

The second aspect of the policy context is the President's 21 August 2007 statement. The relevant parts of that statement are reproduced immediately below. Note that the statement does not commit the US and Canadian governments to any particular mode of transportation. Also, note that the statement does not commit the government to any specific type of action for "enhanced capacity", such as building a new crossing in lieu of enhancing border processing procedures. Presumably the Michigan Department of Transportation's \$230,000,000 Ambassador Bridge Gateway Project which began during February 2008 qualifies as a "development of enhanced capacity" anticipated in the 21 August 2007 Joint Statement.



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For Immediate Release  
Office of the Press Secretary  
August 21, 2007

## **Joint Statement by Prime Minister Harper, President Bush, and President Calderón**

Montebello, Quebec, Canada

...

### **Smart and Secure Borders**

Our three countries have a long history of cooperative border management, predicated on the understanding that our prosperity and security depend on borders that operate efficiently and effectively under all circumstances....

We ask ministers to continue to pursue measures to facilitate the safe and secure movement of trade and travellers across our borders and, in particular, to:

- ...
- Canada and the US will maintain a high priority on the development of enhanced capacity of the border crossing infrastructure in the Detroit-Windsor region, the world's busiest land crossing.

...

The third and final aspect of the policy context is that if any "development of enhanced capacity" of the border crossing infrastructure involves the construction of a new bridge or tunnel across

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the border, then a Presidential Permit is required. The US Department of State processes applications for Presidential Permits for new bridge and tunnel crossings. A summary of the procedure for obtaining the permit is presented on a US Department of State webpage, <http://www.state.gov/p/wha/rls/fs/7895.htm> .

Environmental reviews prepared pursuant to the CEQ requirements are an integral part of the approval process for a Presidential Permit. Thus it appears reasonable that the DEIS should help the President to decide the type and timing of any new transborder infrastructure installation.

**3b. Factual context:**

The factual context of the DEIS is that regrettably it is but one of three environmental statements which have been, are, or will be prepared for three proposed international crossing projects.

The second environmental statement is an Environmental Assessment dated April 2007 which the DIBC submitted to the US Coast Guard with regard to its proposal for a second suspension span to be located immediately downstream of AMB. That document is available for review at [http://www.ambassadorbridge.com/drafts/\\_Draft\\_Environmental\\_Assessment.pdf](http://www.ambassadorbridge.com/drafts/_Draft_Environmental_Assessment.pdf)

The third is a forthcoming environmental statement for a DRTP proposal to replace the existing two-track DRT with a one-track railroad tunnel with a cross-sectional dimensions greater than those of each of the two existing railroad capable of accommodating a large auto carrier railroad freight car referred to as an "Auto-Max" railcar and railroad freight cars that carry double stacks of larger containers. [Most auto carrier and many double-stack container railroad freight cars already are small enough to pass through the DRT.] DRTP's intention regarding the existing tunnel is stated by one of DRTP's two owners to include conversion of the existing tunnel to a truck-only highway. [See Section 4, below.]

Presumably an environmental statement will be required for each of the three Detroit River crossing proposals by the Canadian government in addition to the environmental statements required by the US Federal Highway Administration. Thus, a total of six environmental statements will have been prepared before the President and the Canada's Prime Minister make a decision as to which, if any, of the competing proposals will be implemented.

Unfortunately there simply is no way that the DEIS as it is constructed at this time can address the totality of environmental impacts of the three separate proposals. What is needed is for the US Secretary of Transportation and the Canadian Minister of Transport to jointly retain a qualified and impartial environmental impact evaluator who has no business relationship with any of the businesses and the Michigan and Ontario highway agencies involved in the competing proposals, in order to avoid the impression that the author of the environmental document is advocating a business or bureaucratic interest rather than the welfare of the public residing on both sides of the border.

In conclusion, the DEIS needs to be redone by the Office of the US Secretary of Transportation rather than by the Federal Highway Administration or another modal administration in order to objectively satisfy the CEQ requirements for a DEIS.

#### **4. The DEIS needs clarification as to what the DRTP proposes to do**

The DRTP proposal as of approximately 2005 included a provision to convert the existing two-track DRT to a truck-only highway. The DEIS working paper entitled "Indirect and Cumulative Impact Analysis Technical Report" states in a footnote on page 4-68 [pdf p. 139] that ***"The DRTP Truck-only Tunnel proposal has been withdrawn by the proponents."*** Notwithstanding that statement, as of the morning of 28 April 2008 a Borealis webpage, <http://www.borealisinfrastructure.com/assets/transportation.aspx> , stated the following:

***Detroit River Rail Tunnel: OMERS jointly owns with Canadian Pacific Railway the 8,500-foot Detroit River Tunnel that links Windsor and Detroit. More than \$130 billion of goods flow annually through this cross-border asset. This trade is expected to triple in the next five years. Additionally, a \$600 million new rail tunnel and high-speed truck route are proposed for completion within five years to assure shippers fast and competitive routing on North America's busiest free-trade corridor. For more information, please visit [www.thejobstunnel.com](http://www.thejobstunnel.com).***

The [www.thejobstunnel.com](http://www.thejobstunnel.com) webpage reads "under construction".

Notwithstanding the assertion in the above-referenced DEIS working paper that the project sponsor has withdrawn the truck-only tunnel, the DEIS at page 3-191 refers to ***"...the construction of the Detroit River Tunnel Partnership proposed truck-only tunnel"*** and states that it would not ***"...measurably diminish the traffic on the proposed DRIC crossing..."*** and that it is not ***"...associated with a program to enhance the community which hosts the crossing."***

During February 2008 DRTP requested that a replacement rail tunnel be added to the SEMCOG Regional Transportation Plan for 2030. The project listing has no information regarding the number of tracks in the replacement tunnel, although informal presentations indicate that the replacement tunnel will contain only one track. In addition, no information is provided in the SEMCOG Regional Transportation Plan project listing about the future use or disposition of the existing tunnel. The primary information in the SEMCOG project listing is that the total cost for the part of the project on the US side of the border will be \$172,785,000, that the entire cost will be privately provided, and that the time period for the expenditure is "2006-2010". [ref: <http://www.semco.org/Data/Apps/project.report.cfm?type=RTP&id=4425> ]

The problem described above can be cured if both of the two co-owners of the DRT submit for inclusion in the DEIS record a written statement clarifying their intentions regarding the disposition or alternate use of the existing two tubes comprising the existing DRT once the new one-track tunnel is constructed.

#### **5. Rationale for Considering the BWB in the DEIS**

The BWB is located approximately 60 miles from the AMB and the DWT. It is over the St. Clair River rather than the Detroit River. Nonetheless it is essentially a local international crossing between Detroit and Canada.

If one uses [www.mapquest.com](http://www.mapquest.com) to check the driving distance between the Detroit City Hall (which is located at 2 Woodward Avenue, only three short blocks from the Detroit entrance to

the DWT) and the Toronto city hall (located at 100 Queen Street West), one finds that the shortest route between the two city halls is via the DWT and Ontario Route 401. However if one makes the trip between the Detroit and Toronto city halls via the BWB and Ontario Route 402 to the point where that route intersects with Ontario Route 401 just west of London, one finds that the total travel distance is only 12.5 miles greater than the route using DWT [i.e., 243.6 miles vs. 231.06 miles]

Effectively there are places within the city limits of Detroit from which travel to London and Toronto involves a shorter trip distance and probably a shorter trip time than travel via either the DWT or the AMB.

This relevance in travel demand forecasting of the above-described geographical fact is discussed in greater detail on TDF pages 56-58 [pdf pp. 65-67]. With the exception of discussion and tables presented on DEIS pages 2-9 through 2-11, the local significance of the BWB for travel from Detroit to London and Toronto is not discussed in the DEIS.

The DEIS should be modified to conspicuously indicate that one reasonable alternative to building new bridges over the Detroit River at this time is to route more traffic over the BWB as long as the BWB has the ability to absorb more traffic. The authors of the TDF address that option in a sensitivity analysis summarized in Section 6.2.3 on page 124 [pdf p.133] of that report.

#### **6. Existing and Projected Traffic on Detroit River Highway Crossings**

The DEIS states on page 1-9 that as of 2004 the combined weekday traffic volume on the existing Detroit River border crossings, i.e., AMB+DWT, was as follows:

Automobile:	Total traffic	35,850
	Local traffic	28,450 (79% of total auto traffic)
Truck traffic:	Total traffic	13,000
	Long distance traffic:	6,500 (50% of total truck traffic)

On page 1-10 the DEIS states that the hourly combined capacity of AMB and DWT is 5,000 passenger car equivalents (PCEs) per hour, for which each truck is counted as three automobiles. The TDF explains [on pdf page #s 103 and 104] that the 5,000 PCE capacity estimate is for each direction of travel and that it is calculated by assuming the AMB and DWT capacities are 1,750 PCEs/lane and 1,500 PCEs/lane respectively. Because AMB has two lanes per direction of traffic and DWT has only one lane per direction of traffic, the total capacity for the two facilities combined is 5,000 PCEs/direction/hour.

The DEIS also states, on page 1-10, that the total traffic on AMB+DWT will reach the 5,000 PCE/hour capacity sometime between 2015 and 2035.

Although the TDF on page 55 [pdf p. 64] specifies the border crossing fees (apparently as of 2005) for ABM, DWT, and BWB, there appears to be no information in any of the DEIS documentation regarding the assumptions in the travel demand forecasting process of the border crossing fees for the years for which the traffic forecasts have been made.

Also, it appears from the DEIS that no consideration in the traffic forecasting was given to differential tolls based on any of the following options, which have been implemented in other major metropolitan areas, for example, the Golden Gate Bridge in San Francisco, CA [ref: [http://goldengatebridge.org/tolls\\_traffic/toll\\_rates\\_carpools.php](http://goldengatebridge.org/tolls_traffic/toll_rates_carpools.php) ]:

- Time-of-day variation in bridge/tunnel tolls to discourage travel during peak hours
- Lower tolls for vehicles equipped for electronic toll collection
- Lower tolls for a high-occupancy vehicle (i.e., an automobile or SUV with more than one or two persons in it)

A review of the web sites for the AMB, DWT, and BWB indicates that as of 28 April 2008 the toll differs depending on which direction the facility user is traveling for at least DWT and BWB. It also indicates that a discount is given by the operators of all three facilities for the purchase of commuter tokens or tickets. In other words, the facility usage fee policy of each facility operator gives discounts to travelers who tend to travel at peak travel times, a policy that runs counter to the view that transportation facility users who contribute to congestion should pay a greater fee than those who travel at times of no congestion.

Given the absence in the DEIS of an analysis of the sensitivity of peak period travel forecasts to increases in facility user fees during peak travel hours or to user fee decreases during off-peak travel hours, it is not possible to determine how realistic the peak hour travel forecasts contained in the DEIS and its supporting documentation are.

The DEIS should be amended to clarify the traffic forecasting assumptions and to quantitatively evaluate at least the fare policy options identified above.

#### **7. Change in Forecast Base Year from 2004 to 2007 and Revision of Forecast for 2034**

The travel demand forecasts presented in the DEIS and the TDF use 2004 as a base year. We now have three more years of data and the DEIS should be amended to establish 2007 as the base year.

Traffic volumes on at least the BWB declined considerably between the end of 2004 and the end of 2007.

The declines in traffic volumes for the BWB have been...

from 3,760,000 in 2004 to 3,423,000 in 2007 for automobiles, and  
from 1,800,000 in 2004 to 1,623,000 in 2007 for commercial vehicles.

Presumably similar declines in AMB and DWT traffic volumes also have taken place.

The TDF report presents estimates of the compound annual growth rates (CAGR) in traffic volumes across AMB, DWT, and BWB taken together for the period 2004 to 2015. Exhibit 5-7 on page 83 [pdf p.92] estimates the CAGR for automobile traffic to be 2.9%. Exhibit 5-18 on page 95 [pdf p. 104] indicates that the CAGR for commercial vehicle traffic to be 3.3%. Doing the math leads to the conclusion that the actual BWB auto and commercial vehicle traffic volumes during 2007 were respectively 23% and 25% less than what was forecasted for 2007.

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The DEIS should be modified to present the traffic counts for the AMB, DWT, BWB and amend the forecast for the planning horizon year, 2034.

#### **8. Modification of Forecasts to Reflect Changes in Fuel Prices Since 2004**

The Energy Information Administration (EIA) maintains statistics at [www.eia.doe.gov](http://www.eia.doe.gov) regarding gasoline and diesel fuel prices for various locations around the country.

EIA statistics for the US “Midwest (PADD-2)” show that the prices per gallon, including taxes, for “Gasoline All Grades – Conventional Areas” and “Diesel (On-Highway) – All Types” were as follows:

<u>Date</u>	<u>Gasoline</u>	<u>Diesel</u>
Average for 2004	\$1.831	\$1.770
Average for April 2008	\$3.434	\$4.040

The increases in gasoline and diesel fuel prices are extraordinary, being 88% and 128% respectively.

Because significant fuel price changes have an impact on travel demand the travel demand forecasts contained in the DEIS should be redone. In addition, the changes in fuel prices since 2004 give impetus to identify within an amendment to the DEIS the improvement of intermodal freight services as a reasonable alternative to constructing a new highway crossing of the Detroit River.

#### **9. Evaluation of Peak Period Travel for AMB, DWT, and BWB as a Group during 2034**

Assumptions regarding the tendency for traffic to move all at once are critical in reaching conclusions regarding the need for additional highway capacity between Detroit and Canada.

Figure 1-3 on page 1-10 of the DEIS illustrates that the peak hourly PCE traffic during 2004 was approximately **3,300 PCEs**.

TDF devotes an entire section entitled “Temporal Patterns of Vehicular Travel” (Section 3.6 on pages 43 to 51 [pdf pp. 52-60]) to observed peak period travel patterns in years 2000 and 2004.

Exhibit 5-23 on ETF page 101 [pdf p.110] states that the traffic volumes were as follows:

AMB + DWT:	11,950,000 passenger cars
	3,530,000 commercial vehicles

Applying the relationship between traffic volume and PCE’s as established in the DEIS and repeated above, one may conclude that during 2004 the total PCE’s for AMB+DWT was **22,540,000**.

Exhibit 5-23 on ETF page 101 [pdf p. 110] also includes travel demand forecasts for year 2035. Those forecasts are as follows:

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AMB + DWT:	18,740,000 passenger cars 8,060,000 commercial vehicles
BWB:	5,910,000 passenger cars 4,290,000 commercial vehicles

If one applies the procedure specified in the DEIS for calculating PCEs, one finds that the 2034 forecasts summarized above imply that the total PCE's during that year is forecasted to be **61,700,000** [i.e., 18,740,000 + 3(8,060,000) + 5,910,000 + 3(4,290,000)].

As noted above during 2004 we had 3,300 peak hour PCEs for a total AMB+DWT traffic that year of 22,540,000 PCEs. The ratio between annual PCEs and peak hour PCEs that year was therefore **6,830**.

The DEIS and its supporting documentation do not specify the ratio between annual PCEs and peak hour PCEs for year 2034 for AMB, DWT, and BWB taken together. However, as a preliminary assumption we can assume that the ratio will be same in 2034 as it was 2004, i.e., **6,830**. Doing that leads us to conclude that the peak hour PCEs in 2034 will be **9,034** (i.e., 61,700,000 divided by 6,830).

As noted above, the combined capacity of AMB and DWT is 5,000 peak hour PCEs per direction. Assuming that each lane of BWB has the same capacity as each lane of AMB, i.e., 1,750 PCEs per hour, the three lanes per direction at BWB add a total of 5,250 peak hour PCEs per direction of travel, giving us a combined capacity of 10,250 peak hour PCEs.

For AMB, DWT, and BWB taken together, the year 2034 peak hour PCEs projection derived above [i.e., 9,034 PCEs] is slightly less than 90% of the available capacity in place at this time, a result which suggests the need for providing more highway capacity across the Detroit River is not as urgent as is suggested in Figure S-2 on page ES-2 of the DEIS.

The DEIS should be revised to explicitly state how the peak period PCE statistic was derived from the year 2034 travel demand forecast and the justification for the procedure that was adopted.

#### **10. Sensitivity of Peak Hour Travel Demand to Changes in Assumptions Made in Its Calculation; Peak Period Travel Disincentives; Evaluation of Reversible Lanes**

Figure S-2 in the DEIS, prominently shown on page ES-2, indicates that the hourly PCE during 2004 was approximately 3,300. The temporal pattern of vehicular travel is addressed in the TDF on pages 43 through 51 [pdf pp. 52-60]. The TDF on page 51 [pdf p.60], lines 9-11, states that *"the change in travel characteristics between 2000 and 2004 indicates a change in the peak hour from a Summer afternoon weekday to a Fall afternoon weekday, although the differences are not large."* [p 51 [pdf p.60], lines 9-11] PCEs.

Figure S-2 also shows that the hourly "Base Forecast Volume" will be 6,000 PSEs in year 2034.

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However, neither the DEIS nor the TDF contains an analysis of the sensitivity of the hourly PCE for 2034 to changes in assumptions made in the calculations. The DEIS should be amended to address this issue.

As indicated in Section 6 above, it is possible to provide incentives to travel at times other than peak periods. The DEIS also should be amended to address the sensitivity of the peak hour travel forecasts to the implementation of various peak period travel disincentives.

Lastly, it appears from the discussion on TDF pages 43 through 51 [pdf pp.52-60] that between now and 2034 there will be a date beyond which the directional imbalance in traffic flow will be sufficiently large to make feasible the operation of lanes on which the permitted traffic flow is reversible depending usually on the time of day and day of week. For example, if an existing or new highway crossing the Detroit River has four lanes, at some times of day three of the lanes could be used for one direction of travel and the remaining one lane could be used for vehicles traveling in the opposite direction. BWB already has six travel lanes. For BWB normally three lanes are available for each direction of travel. However, during periods of imbalanced peak traffic flow the arrangement could be changed to provide four lanes for the peak flow direction. The DEIS should be amended to define and evaluate this option to avoid providing more capacity than is required.

#### **11. Michigan – Upstate New York Origin-Destination Statistics and Projections**

Many Michigan motorists traveling to Upstate New York and New England travel across Canada because the travel time to do that is shorter than to drive into Ohio and then along the south shoreline of Lake Erie. The DEIS includes no information about US traffic using Ontario as a short-cut to avoid driving around Lake Erie. The absence of that data makes it impossible to ascertain whether there is a practical alternative for accommodating such traffic that does not require adding capacity to the international crossings in metro Detroit.

The DEIS requires amendment to clearly present both existing and forecasted travel volumes between Detroit and Upstate New York that uses travel through Ontario as a short cut.

#### **12. US-Canada Travel Origin-Destination Statistics and Projections**

The Michigan Department of Transportation, the agency apparently managing the preparation of the DEIS on behalf of the Federal Highway Administration, has not included, either within the DEIS document or in any of the supporting documents, any travel origin-destination data for either “local traffic” or “long distance traffic” between the US and Canada. SEMCOG officials have referred my inquiry for “long distance traffic” data to the Ontario Ministry of Transport. I advised the Michigan Department of Transportation of that referral and was not offered a local source for the data. I then contacted the Ontario Ministry of Transport which in turn advised that the data available at this time are only from a 1999 survey. The Ontario Ministry of Transport also stated that it has statistics as the result of a 2005 survey done in cooperation with US Federal Highway Administration and Transport Canada, but that it cannot yet share the data until a pending data sharing agreement is executed by the parties.

I have requested the 1999 data but have not yet received them. I therefore request from you an opportunity to supplement these comments after I receive and review the 1999 data. I also

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request an opportunity to supplement these comments a second time, after receiving and reviewing the 2005 data.

Given the non-availability of the 2005 data, and given that practical alternatives to the DRIC project can not be evaluated without such data, it is imperative that the DEIS be amended to include the 2005 origin-destination information and then released to the public for additional comment.

### **13. Intermodal Rail Diversion of Truck Traffic**

The TDF on pages 122 and 123 [pdf pp.131-132] addresses the possibility that intermodal rail services could divert a significant amount of truck traffic.

The topic takes up only about 1.2 pages of text and one exhibit.

Perhaps the most notable point included in the discussion is the statement that ***“the commercial vehicle traffic...potentially divertible to rail represents approximately 44% of the current total truck volumes on the Ambassador Bridge.”***

The TDF on page 101 [pdf p.110] states that during 2004 a total of 3,370,000 commercial vehicles traveled over AMB. That statistic implies an average truck traffic volume between Detroit and Toronto of over 4,000 per day (both directions combined) or 2,000 per direction per day.

There already are intermodal rail services between southeast Michigan and southern Ontario. Apparently no public funds have been allocated to assist the railroads involved in those services to further develop and to expand the services.

One intermodal service, CP's Expressway, was established approximately in 2000. The TDF on page 122 [pdf p.131] incorrectly states the following about intermodal rail services in general as the result of the termination of that service: ***“The potential is also brought into question given the recent cancellation of the CP Xpressway intermodal rail service in 2004.”***

The reason the sentence quoted in the immediately preceding sentence is incorrect is that, according to a Canadian Pacific spokesman on 29 April 2008, the CP Expressway service continues to operate between Montreal and Toronto. The CP merely truncated the western portion of the service. It is not clear whether the truncation of the route was due to a need to reallocate scarce resources to the Montreal-Toronto segment because of great demand there, or if the incremental revenues from operating the service between Toronto and Detroit did not exceed the incremental costs of operating that segment.

Railway Age Magazine's January 2003 issue carried an article about the CP Rail Expressway service, and in that article stated that CP invested \$50,000,000 in equipment to start up the service, which operated between Detroit, Toronto, and Montreal. Given that the DEIS suggests that \$2.5 to \$3.0 billion would be invested to complete a new highway crossing over the Detroit River, it appears inappropriate to deem questionable an intermodal service that requires an

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investment of less than two percent of the investment required for a new Detroit River highway crossing without examining ways to make such a service successful.

A second intermodal service between metropolitan Detroit and Toronto is operated by Triple Crown Service, a subsidiary of Norfolk Southern Railway. That service has been operating for many years, involves one train run per direction on each of five days per week, and for each train run takes approximately 80 to 100 trucks off not only the international highway crossing that otherwise would be used, but also the freeway between the border and Toronto. Air pollution emissions from the locomotive drawing the train reportedly are not more than 25% of the air pollution emissions that would be emitted by the highway tractors that otherwise would operate between Michigan and the terminal in Toronto.

There have been and continue to be other intermodal services between Toronto and Michigan.

In any event, given the statement quoted above that 44% of the truck traffic crossing AMB as of 2004 is potentially divertible to rail, and given the fact that 40 CFR 1502.1 requires that ***“...an environmental impact statement...shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment”***, it is imperative that the intermodal rail option be addressed, even though the rail intermodal service alternative is not within the jurisdiction of the lead agency in this case [ref: 40 CFR 1502.14]

#### **14. Public Transportation Options**

In Section 6, which is on page 7 of this letter, the magnitudes of weekday “Local traffic” and “Long distance traffic” are presented for automobile and truck traffic on AMB+DWT combined. The data there shows that automobile traffic that is “local traffic” accounted for 38% of the total daily PCEs. Probably “local traffic” accounted for by automobiles during the daily peak travel hour accounts for an even greater percentage of the peak travel hour PCEs accounted for by trucks and autos.

Given the fact that the State of Michigan and the Province of Ontario are considering what is essentially a \$2.5 to \$3.0 billion investment in a new highway crossing of the border, it appears that a reasonable alternative to the highway investment option could be an international public transportation service that would attract the automobile “local traffic” which now impedes the operation of trucks on AMB.

One option is to extend the planned Woodward Avenue light rail line southward to Oullette Avenue in Windsor, and then out Oullette and perhaps out two or three branches from Oullette. Such an extension probably could be done for a cost much less than the estimated cost of the proposed highway bridge structure over the Detroit River. The option therefore is a reasonable alternative and, according to CEQ requirements, needs to be the topic of detailed evaluation in the DEIS.

The evaluation envisioned would require for both 2004 and 2034 daily and peak-hour origin-destination data for trans-border automobile travel. It also would require the definition of a public transportation service on both sides of the border and the estimation of how much of the automobile travel could be diverted to the public transportation mode.

The DEIS therefore should be amended to do the requisite analysis of the public transportation alternative. If the origin-destination data do not exist, they will have to be developed in order to analyze the alternative.

### **15. Low-Cost Reasonable Alternatives**

There are a number of options that do not involve the expenditure of millions or billions of dollars in order to achieve what President Bush, Prime Minister Harper, and President Calderon described on 21 August 2007 as "...the development of enhanced capacity of the border crossing infrastructure in the Detroit-Windsor region".

#### ***15a. Pricing Policies:***

Already discussed above are several bridge and tunnel pricing policies that provide incentives to travel either before or after the facilities' peak travel hours and/or to travel in high-occupancy vehicles such as car pools or van pools.

Another pricing policy that could alleviate congestion is, at the time of the next fare increase, is to defer increasing the facility use fee for those who acquire NEXUS identification documents and therefore are eligible for expedited customs and immigration processing on each side of the border.

One of the most unfortunate pricing policies in effect at this time is the policy of selling commuter tickets at reduced prices and not requiring that the reduced-price tickets be used only during off peak hours.

#### ***15b. Marketing of the Blue Water Bridge:***

A second option is to entice the drivers of trucks and autos to use the BWB instead of AMB or DWT. On page 124 [pdf p.133] of the TDF, in a section entitled "High Diversion to St. Clair River Crossing Scenario", the authors of the TDF state that there is a bias among travelers to use either AMB or DWT instead of the BWB, when all other factors are equal. The authors of the TDF go on to assert that if that bias were removed the need for additional Detroit River crossings would be deferred by six years.

Most likely trans-border travelers between Michigan and London and points east of London are not aware that the total trip length increases by approximately 12 miles when one end of the trip is in Detroit at the entrance to AMB or DWT and the other end of the trip is in London or east of London, and when the travel between the two locations is via BWB instead of via AMB or DWT.

A public education program is appropriate in order to effect a reduction in congestion at AMB and DWT. This can consist of one or more of at least of the following:

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- Distribution (perhaps at Michigan and Ontario travel centers) of BWB brochures which announce the absence of a major travel time disadvantage for cross-border travelers destined to metro Detroit and to London and places east of London
- In Michigan, static signs along northbound I75 at points south of I75 milepost 45 (approximately) and also along eastbound I94, I96, and I69, to announce the advantages of using BWB rather than other crossings.
- In Ontario, static signs located along westbound Highway 401, east of the Highway 402 interchange, to announce the advantages of using BWB to travel to Detroit
- Variable message signs installed in advance of route choice decision points, rest stops, and service centers to announce, for each of the existing border crossings, the estimated time to travel from the sign's location to downtown Detroit and/or other major destinations and whether that time estimate is expected to increase or decrease during the next hour or two. [Having the information before reaching the border could entice travelers to stop and rest or eat before reaching the border if delays at the border will diminish during the rest stop.]

***15c Set up reversible lane programs:***

If not already done, establish a reversible lane program for BWB and possibly AMB to take advantage of a major imbalance in directional traffic flows. This program could even extend to DWT during the hours immediately before and after major events in downtown Detroit. If necessary, during these occasions use of the DWT could be limited to individuals with NEXUS identification.

**16. DEIS Technical Reports**

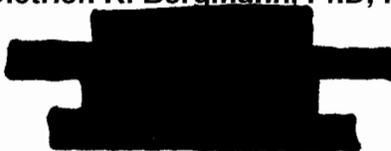
The "Foreword" to the DEIS lists a number of technical reports as being included in the documentary record of the DEIS. Not included in that list is the TDF report which is identified on page 2 of this letter and which is referenced in DEIS Figures S-2 and I-3. The record of working documents that are a part of the DEIS should be amended to include the TDF report.

Respectfully submitted,

*Dietrich R. Bergmann*

Dietrich R. Bergmann, PhD, PE

Dietrich R. Bergmann, PhD, PE



29 May 2008

Mr. Robert Parsons, Public Involvement/Hearing Officer  
Michigan Department of Transportation  
PO Box 30050  
Lansing, MI 48909 USA  
[parsonsb@michigan.gov](mailto:parsonsb@michigan.gov)

RE: Detoit River International Crossing (DRIC), Wayne County, Michigan "Draft Environmental Impact Statement and Draft Section 4(f) Evaluation" -- approved by Federal Highway Administration on 15 February 2008

Dear Mr. Parsons:

My letter dated 29 April 2008 consists of comments submitted for the record regarding the Draft Environmental Impact Statement (DEIS) identified above. This letter does not replace my 29 April 2008 letter. Rather, this letter serves as an addendum to my 29 April 2008 letter and the comments that follow therefore also are submitted for the DRIC DEIS record. Accordingly, please append this letter to my 29 April 2008 letter.

**1. Abbreviations and their Definitions**

The abbreviations used in this letter are identical to those used in my 29 April 2008 letter.

**2. Introduction**

Please refer to this section in my 29 April 2008 letter.

**3. Context of the DEIS**

Please refer to this section in my 29 April 2008 letter.

**4. The DEIS needs clarification as to what the DRTP proposes to do**

The Borealis webpage identified in Section 4 of my 29 April 2008 letter continues to be an active webpage.

In addition, the DRTP webpage providing answers to frequently-asked questions, <http://www.thejobstunnel.com/new/jobs-tunnel.php?nic=faqs> , continues to be an active web page.

Further, a Crain's Detroit Business article published on 04 June 2007 (at <http://www.crainsdetroit.com/apps/pbcs.dll/article?AID=/20070604/SUB/706010360> ) states that DRTP requires approximately \$100,000,000 in US federal assistance to build the tunnel that

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DRTP is proposing. The SEMCOG long range transportation plan line item described in my 29 April 2008 letter states that DRTP will require no local, state, or federal aid.

The inconsistencies between the DRIC DEIS document statement referred to in Section 4 of my 29 April 2008 letter and other published documents continue to require resolution. As noted on 29 April 2008, the inconsistencies can be cured if both of the two co-owners of the DRT submit for inclusion in the DEIS record a written statement clarifying their intentions regarding all of the following: the construction of the proposed high-clearance one-track tunnel, the disposition or alternate use of the existing two tubes comprising the existing DRT. In addition, the statement from DRTP's two partners also needs to make clear DRTP's need for federal assistance.

**5. Rationale for Considering the BWB in the DEIS**

Please refer to this section in my 29 April 2008 letter.

**6. Existing and Projected Traffic on Detroit River Highway Crossings**

As noted in my 29 April 2008 letter, the DEIS should be amended to clarify the traffic forecasting assumptions and to quantitatively evaluate at least the fare policy options identified in Section 6 of my 29 April 2008 letter.

**7. Change in Forecast Base Year from 2004 to 2007 and Revision of Forecast for ~~2034~~2035**

In response to my request, MDOT on 22 May 2008 provided via email the 2005 through 2007 annual traffic counts for AMB and DWT. The report I received is reproduced immediately below.

		ANNUAL TRAFFIC		
		2,005	2,006	2,007
<b>Ambassador Bridge</b>	Passenger Cars	5,865,633	6,113,114	5,649,619
	Trucks	3,445,585	3,498,127	3,398,745
	Buses & Misc.	76,660	68,991	34,071
	<b>TOTAL</b>	<b>9,387,878</b>	<b>9,680,232</b>	<b>9,082,435</b>
<b>Detroit-Windsor Tunnel</b>	Passenger Cars	5,774,705	5,269,959	4,732,981
	Trucks	148,065	127,433	111,082
	Buses & Misc.	59,117	59,772	54,362
	<b>TOTAL</b>	<b>5,981,887</b>	<b>5,457,164</b>	<b>4,898,425</b>

If one combines the BWB annual traffic volume changes since 2004 (reported in my 29 April 2008 letter) with the AMB and DWT traffic volume changes since 2004 shown above, it is readily apparent that the total annual traffic demand on the three crossings combined has declined significantly since 2004 -- by 12% for passenger car traffic, 2% for commercial traffic, and 7% for PCE's (as defined on page 2 of my 29 April 2008 comments and also in the DEIS). Comments on page 8 of my 29 April 2008 submission refer to the DRIC forecasted compound

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annual growth rates (CAGRs) for the total growth in traffic as being 2.9%/annum for automobile traffic and 3.3%/annum for commercial traffic, which means that the 2007 traffic volumes should have been about 10% greater than the 2004 traffic volumes.

It can be concluded that traffic growth forecasts on which the DRIC DEIS relied are not consistent with the reality of traffic flows observed during 2007. Even if the approximate 3% CAGR for traffic volume eventually is realized, the date that the capacity of the existing crossings will be matched by traffic demand perhaps will be in the order of five years later than the years indicated in Figure S-2 on page ES-2 of the DRIC DEIS.

The DEIS should be modified to present the traffic counts for the AMB, DWT, BWB and to amend the forecast for the planning horizon year, ~~2034~~ 2035.

**8. Modification of Forecasts to Reflect Changes in Fuel Prices Since 2004**

I have nothing to add to this section of my 29 April 2008 letter other than to state that fuel prices have continued to increase since 29 April 2008 and that the justification for the conclusions of this section as stated on 29 April 2008 are even more justified now than they were on 29 April 2008.

**9. Evaluation of Peak Period Travel for AMB, DWT, and BWB as a Group during ~~2034~~2035**

I have nothing to add to this section of my 29 April 2008 submission.

**10. Sensitivity of Peak Hour Travel Demand to Changes in Assumptions Made in Its Calculation; Peak Period Travel Disincentives; Evaluation of Reversible Lanes**

I have nothing to add to this section of my 29 April 2008 submission.

**11. Michigan – Upstate New York Origin-Destination Statistics and Projections**

I have nothing to add to this section of my 29 April 2008 submission.

**12. US-Canada Travel Origin-Destination Statistics and Projections**

Although I have received from the Province of Ontario some of the 1999 data referred to in this section of my 29 April 2008 submission, I have not yet had an opportunity to evaluate the data.

The 2005 data continue to be unavailable, apparently due to inaction by the Federal Highway Administration to execute its data sharing agreement with its Canadian counterpart agency.

As indicated in my 29 April 2008 submission, given the non-availability of the 2005 data, and given that practical alternatives to the DRIC project can not be evaluated without such data, it is imperative that the DEIS be amended to include the 2005 origin-destination information and then released to the public for additional comment.

### **13. Intermodal Rail Diversion of Truck Traffic**

I wish to supplement the comments in this section of my 29 April 2008 letter with the following comments.

As noted in my 29 April 2008 submission, the TDF states that approximately 44% of the current total truck volumes on the AMB are divertible to rail. The total commercial vehicle volume on the AMB during calendar year 2004 was 3,370,000 vehicles [TDF, page 31 (pdf page 40)]. If one divides that figure by 365 and then by 2, and multiplies the result by 44%, it is apparent that more than 2,000 commercial vehicles travel each day in each direction between Detroit and the Greater Toronto Area (GTA).

The TDF forecast for year 2035 is that the total commercial traffic across the border in Detroit will be 8,060,000 [TDF, page 97 (pdf p. 106)]. Interpolating that number to a daily truck traffic volume of travel and assuming that the commercial traffic between Detroit and the GTA is still 44% of the total, it is apparent that the average truck traffic between the two locations will be more than 4,800 per day/direction.

An intermodal train with one 4,000 hp engine can pull a train consisting of 100 semi trailers, especially if it is a train consisting of Roadrailer type highway trailers. Thus the market for rail transport of trailers between Detroit and the GTA at present is approximately one train leaving from each end of the route once every hour, 20 hours per day. As of 2035, that market potential increases to one train leaving each end of the route every 30 minutes.

The typical tractor required to haul one semi-trailer on a highway is equipped with a 400 horsepower engine, which means that 100 trailers towed on a highway require a total propulsion capacity of 40,000 horsepower, instead of 4,000 horsepower if transported by railroad. Theoretically there could be a 90% reduction in the fuel consumed in transporting trailers across southwestern Ontario by railroad instead of having individual tractors hauling them between Detroit and the GTA. The potential may very well exist to reduce emissions from the Detroit-GTA freight vehicles by 90% as well.

Rather than rely on historical narrative, the DEIS should quantitatively assess the potential for intermodal transport of truck trailers between Detroit (and points inland from Detroit) and the GTA.

### **14. Public Transportation Options**

I have nothing to add to this section of my 29 April 2008 submission, other than to point out that, apparently as the result of trade agreements between the US and Canada, the number of "Windsor Census Metropolitan Area" residents working in the USA more than doubled between 1991 and 2001, from 2,545 to 6,975). [TDF, page 26]. If all of these residents travel during one peak hour each weekday morning and vice versa each weekday afternoon and are in autos occupied only by the commuter as the driver, they alone would account for more than two lanes of traffic capacity. Accordingly, public transportation is indeed one part of strategy that constitutes a reasonable alternative to the DRIC project.

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**15. Low-Cost Reasonable Alternatives**

I have nothing to add to this section of my 29 April 2008 submission.

**16. DEIS Technical Reports**

I have nothing to add to this section of my 29 April 2008 submission.

Respectfully submitted,

*Dietrich R. Bergmann*

Dietrich R. Bergmann, PhD, PE

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January 5, 2008

BY EMAIL AND OVERNIGHT DELIVERY

Mr. Robert H. Parsons  
Public Involvement and Hearings Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

Rc: Comments on the Detroit River International  
Crossing Final Environmental Impact Statement

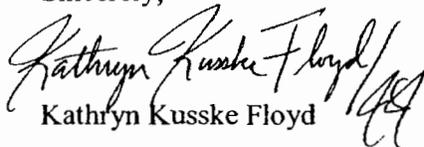
Dear Mr. Parsons:

Pursuant to the Michigan Department of Transportation ("MDOT")'s Notice of Availability, we are submitting the enclosed comments on the Final Environmental Impact Statement ("Final EIS") for the Detroit River International Crossing ("DRIC").

Our client, the Detroit International Bridge Company ("DIBC"), owner and operator of the Ambassador Bridge, submitted two sets extensive comments on the Draft Environmental Impact Statement ("DEIS") for the DRIC project. The responses of the Federal Highway Administration ("FHWA") contained in the Final EIS are wholly insufficient. For all the reasons explained in DIBC's prior comments, and in the enclosed comments on the Final EIS, it would be arbitrary and capricious for FHWA to issue a Record of Decision ("ROD") on the basis of the existing environmental record.

Additionally, DIBC requests a thirty day extension of the comment period for the Final EIS, through February 4, 2009. The Final EIS contains a significant amount of new information, including the specifics of the preferred alternative. Just as important, the Final EIS acknowledges for the first time that the DRIC project would have disproportionately high and adverse effects on the low-income, minority population living in the Delray community. Under these circumstances, at least one member of the community has already asked for more time to comment on the Final EIS. DIBC agrees that at least thirty more days are needed to comment on the Final EIS.

Sincerely,

  
Kathryn Kusske Floyd

Mayer Brown LLP

Mr. Robert H. Parsons  
January 5, 2008  
Page 2

Encl.

cc: Mary Peters, Secretary of Transportation  
James Madison, FHWA Administrator  
James Steele, Regional FHWA Administrator

**Detroit International Bridge Company  
Canadian Transit Company**

Comments On The  
Detroit River International Crossing  
Final Environmental Impact Statement

Submitted to:  
U.S. Department of Transportation, Federal Highway Administration  
Michigan Department of Transportation

Dan Stamper  
President  
Patrick Moran  
General Counsel  
Detroit International Bridge Company  
P.O. Box 32666  
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John C. Berghoff, Jr.  
Kathryn A. Kusske Floyd  
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**COMMENTS OF THE DETROIT INTERNATIONAL BRIDGE COMPANY AND THE  
CANADIAN TRANSIT COMPANY ON THE DETROIT RIVER INTERNATIONAL  
CROSSING FINAL ENVIRONMENTAL IMPACT STATEMENT**

The Detroit River International Bridge Company (“DIBC”) and its subsidiary, the Canadian Transit Company submitted extensive comments on the Draft Environmental Impact Statement (“DEIS”) for the Detroit River International Crossing (“DRIC”) project. The responses to those comments in the Final EIS was so insubstantial, it was almost as if DIBC’s comments had not been read. Perhaps DIBC’s comments on the Final Environmental Impact Statement (“Final EIS”) will be taken more seriously, because on the basis of the existing environmental record, it will be arbitrary and capricious for the Federal Highway Administration (“FHWA”) to issue a Record of Decision (“ROD”).<sup>1</sup>

**INTRODUCTION**

The irreparable flaws in the Final EIS originated as flawed decisions made years ago, based on flawed data intended to bolster a predetermined—and flawed—outcome. The participants in the Border Transportation Partnership, including the Michigan Department of Transportation (“MDOT”), Transport Canada and the Ontario Ministry of Transport, want to build a new bridge between Detroit and Windsor. Any information not supportive of that goal has been systematically ignored or dismissed. FHWA, which is also a member of the Partnership, has shut its eyes to the facts and trudged blindly ahead. This single-mindedness is most clearly illustrated by two crucial aspects in FHWA’s stubborn refusal to face reality: (1)

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<sup>1</sup> The Final EIS was actually “prepared by the Michigan Department of Transportation (MDOT) and a consultant team, in cooperation with FHWA and other members of a technical team and the cooperating agencies listed on the cover of the FEIS.” Final EIS at Preface. These comments are addressed to FHWA, as the lead federal agency, but also apply to MDOT and any other agency that intends to rely on the Final EIS to issue a permit for the DRIC project (*see* Final EIS at 3-243).

the absence of a need for the DRIC bridge, then or now, and (2) the absence of justice in the eradication of a longstanding, minority Detroit community.

To make a case for the DRIC project, the agency prepared outdated and overstated traffic projections as part of a 2004 Planning/Needs Feasibility Study, and relied on those projections years later in the Final EIS. Even though traffic has relentlessly declined since 1999, FHWA will not revisit its early conclusions that there is a need for more crossing capacity. The present data show that any possible support for that imagined need is diminishing daily. Any local resident could have told the agency that years ago. But FHWA has continued to ignore the obvious, wearing tinted glasses that cannot cure its blindness.

And with respect to the environmental justice consequences of this unnecessary new bridge, the agency has compounded its errors. When FHWA participated in a 2005 Evaluation of Illustrative Alternatives, it endorsed the elimination of all alternatives outside of the low-income, heavily-minority Delray community. Only in the Final EIS did FHWA admit that this decision raised significant environmental justice concerns. But the agency made no effort to consider other locations, including a new span of the Ambassador Bridge. As a result, FHWA is plowing ahead with a project that will devastate Delray, demolish historic properties, destroy recreational areas and parks, relocate hundreds of homes, churches and businesses, and eliminate hundreds of jobs in an established Empowerment Zone and Renaissance Zone. In addition, the Final EIS ignores the community impacts of a massive, nearby FHWA/MDOT project that was the subject of a Draft EIS in 2005, and which together with the DRIC project would occupy about 340 acres in Southwest Detroit.

These concerns were raised by DIBC and other commenters in response to the DEIS. Yet FHWA rushed blithely ahead and released a Final EIS, making no effort to correct these flawed

decisions. The agency is poised to issue a ROD endorsing construction of the \$1.8-billion, government-owned DRIC project in the Delray neighborhood. In so doing, FHWA is squandering the taxpayers' investment in the nearly-completed Ambassador Bridge Gateway Project, which will create a direct connection between the existing Ambassador Bridge crossing and the U.S. Interstate system, and which was expressly built to accommodate a privately financed new span of the Ambassador Bridge. Moreover, FHWA intends for the DRIC crossing to divert significant amounts of traffic from the other crossings in the region where taxpayers have already invested hundreds of millions on upgrades. In short, the DRIC project is harmful to the environment, harmful to the Delray community and a complete waste of taxpayer money. Issuing a ROD on the basis of the existing environmental record would be arbitrary, capricious and nonsensical agency action.

#### **COMMENTS**

**A. The Final EIS cannot demonstrate that the DRIC project is needed.**

FHWA NEPA Guidance explains that “[t]he purpose and need section is in many ways the most important chapter of an [EIS].” NEPA and Transportation Decisionmaking, The Importance of Purpose and Need in Environmental Documents (Sept. 18, 1990). This is because the statement of purpose and need “establishes why the agency is proposing to spend large amounts of taxpayers’ money while at the same time causing significant environmental impacts.” *Id.* As DIBC’s comments discussed in great detail, the DEIS’s Statement of Purpose and Need does not justify the expenditure and environmental damage that the DRIC project would cause. Nothing in the Final EIS corrects this fatal flaw—a shortcoming that dooms the entire project.

1. *The traffic data used to justify a new crossing is unsound, unreliable and unresponsive.*

Although the Final EIS claims that a new crossing is needed to “[p]rovide new border crossing capacity to meet increased long-term demand,” overwhelming evidence demonstrates that this is not the case. The need for new capacity was originally calculated as part of the 2004 Planning/Needs Feasibility process. Even though the DEIS was issued in February 2008, and the Final EIS in November 2008, both documents rely on the 2004 traffic projections. From the start, however, those forecasts bore absolutely no relationship to reality. In its initial comments, DIBC pointed out that total traffic in the Detroit-Windsor corridor has been on the decline since 1999. By 2007, just three years into FHWA’s projection, commercial traffic was 10% lower, and passenger traffic 20% lower, than the agency had predicted.

The Final EIS responds to DIBC’s critique by simply asserting that its forecasts of increased demand are reasonable, and by claiming bizarrely that “truck traffic is up since 1999.” *See, e.g.*, Final EIS at F-89, F-94. Accordingly, the Final EIS concludes, “[n]o further data collection is needed nor will be conducted . . . .” Final EIS at F-138. These assertions, claims and conclusions do not address the points made in DIBC’s comments, or DIBC’s calculation that when the new span of the Ambassador Bridge (the “New Span”) is included, border crossing capacity will not be reached until approximately 2055.

The only acknowledgement in the Final EIS of the improved capacity that would be created by the New Span is an admission that if both the New Span and the DRIC bridge were built, they would provide enough border crossing capacity for the next 60 years. *See* Final EIS at 3-221. FHWA tries to spin this as a positive conclusion, suggesting that somehow more is always better. *See id.* This is not true when agencies are expending taxpayer money. And, sixty years is well beyond the outer limits of any reasonable traffic projection or rational transportation

planning horizon. Spending billions of dollars on such a speculative basis makes no sense, and illustrates exactly why an accurate statement of purpose and need is not only legally required for FHWA to proceed, but is vital to protecting taxpayers' interests.

The Final EIS's refusal to look more closely at the traffic forecasts supporting its Statement of Purpose and Need not only ignores the data and argument in DIBC's comments, it refuses to recognize the continuing, dramatic drop in border crossing traffic. As the world economy—and particularly the U.S. automotive industry—have fallen into a deep recession, traffic on U.S. Canada border crossings has dropped precipitously. New reports indicate that truck traffic over the Ambassador Bridge for the year that ended in November 2008 is ***down 14.9%*** from the previous year.

This recent drop further magnifies the dramatic divergence between the DRIC traffic forecasts and reality. DIBC pointed out in its comments that in 2007, truck traffic on the Ambassador Bridge was 10% lower, and automobile traffic 20% lower, than the 2004 DRIC study projected. By the end of 2008, truck traffic on the Ambassador Bridge was more than ***33% lower*** than the DRIC study had predicted. Automobile traffic was an even more astounding ***53% below*** the DRIC forecast. Put another way, because actual traffic is declining and the forecasts on which the Final EIS continues to rely predict steady increases through 2035, the gap between the DRIC model and reality grows exponentially each year. The need for a new DRIC bridge is attenuating to a shadow.

All of this information directly refutes the Final EIS's declaration that "truck traffic is up," and rebuts the unsupportable conclusion that "[n]o further data collection is needed." Because the outdated, inaccurate traffic forecasts in the Final EIS are the basis for the project's

stated purpose and need, any ROD which must rely on those forecasts would be arbitrary and capricious.<sup>2</sup>

2. *The more recent, "investment grade traffic study" solicited by Canada has never been released to the public.*

The arbitrariness of the Final EIS's refusal to update its traffic data for purposes of assessing the basic need for the DRIC bridge is underscored by the fact that in November 2007, FHWA's partner in the DRIC process, Transport Canada, sought proposals for an "investment grade traffic and revenue forecast" for the proposed new crossing. According to the RFP for this investment grade study, a new traffic and revenue forecast was to be completed by June 30, 2008, and a "forecast refresh" by December 15, 2008. The Final EIS admits that Canada "has initiated an investment grade traffic study," but does not provide any information about the results of the study. Final EIS at 6-66.

It is contrary to the goals and purposes of NEPA for FHWA and Canada to ignore and withhold the results of the Canadian "investment grade traffic study," especially when the traffic study on which the Final EIS relies is so obviously deficient. If the Canadian study casts further doubt on the need for the DRIC project, or even if it somehow supports the DRIC projections, NEPA gives the public the right to know that before FHWA makes its final decision by issuing an ROD. Yet FHWA and Canada have kept the most recent traffic forecasts buried, even though DIBC's comments specifically asked for an updated traffic study. Moreover, FHWA set a precedent of requesting the most up-to-date traffic data available before endorsing construction of a new border crossing in Calais, Maine. Its consistent departure from this precedent here is disturbing.

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<sup>2</sup> Given its reliance on traffic data from a 2004 study, the Final EIS's claim that it "updated data in all critical areas" rings hollow. Final EIS at Preface.

3. *Because actual traffic is declining, building the proposed DRIC bridge would severely damage the financial stability of all crossings in the region.*

The Final EIS states that the “preferred delivery mechanism for the [DRIC] bridge is a public-private partnership . . . which will seek to maximize private sector participation and financing to avoid the use of taxpayer dollars.”<sup>3</sup> Final EIS at 3-247. MDOT explained in its June 2008 application to participate in FHWA’s Transportation Border Congestion Relief program that if the DRIC project proceeds as a public-private partnership, the agency would seek “authorization to use Private Activity Bonds (PAB) as the financing mechanism.” *See* Attachment 1 at 6 (original lacks page numbers). Yet the Final EIS fails to adequately address the vital connection between traffic, toll revenue and the private financing that FHWA and MDOT apparently intend to use to build their proposed DRIC bridge.

FHWA acknowledges that building a new DRIC bridge just two miles from the site of the existing Ambassador Bridge, and in the same region as the Detroit-Windsor Tunnel and Blue Water Bridge, will cause a diversion of traffic away from the existing crossings. Primarily because it imagines steady traffic increases for the next thirty years, the Final EIS does not believe that such significant such changes in traffic patterns would affect each crossing’s long-term financial stability. Indeed, prior to issuance of the Final EIS, MDOT submitted an “Estimate Of The Financial Impact Of The DRIC Bridge On The Ambassador Bridge” to the Michigan State Senate arguing that as long as the Ambassador Bridge’s revenues exceeded its costs, “the viability of the business does not appear to be threatened.” *See* Attachment 2 at 2. FHWA made the same assertions in the Final EIS, but also admitted that the DRIC bridge would

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<sup>3</sup> Even with these plans to seek private funding, the Final EIS acknowledges that building the DRIC bridge “will require a substantial expenditure of state, federal, local and private funds.” Final EIS at ES-62.

reduce Ambassador Bridge revenues from an estimated \$80 million to as low as \$41 million.

*See* Final EIS at 3-77.

The Final EIS's calculations apparently relied on the demonstrably erroneous traffic volume estimates employed in the DEIS and Final EIS, and thereby greatly overstated potential future revenues. *See* Final EIS at 3-77. The cost estimate in the Final EIS does not allow for the additional cost of protecting the existing Ambassador Bridge as a historic structure (the existing bridge is eligible for listing on the National Register of Historic Places), and explicitly excludes the cost of large capital and capital maintenance projects. *See id.* FHWA's calculations also do not account for the cost of financing the new, \$787-million New Span of the Ambassador Bridge, which was included as a part of the No Action Alternative in the DEIS, and which DIBC is ready to construct as soon as it receives the requisite permits. Clearly, adding these financing costs would significantly raise the overall costs of operating the Ambassador Bridge crossing. If FHWA and MDOT had included these factors in its calculations, it would have been forced to conclude that construction of a new DRIC bridge would seriously threaten the Ambassador Bridge's financial viability

Unlike FHWA and MDOT, private investors will ignore the fantastical DRIC traffic projections. They know better. If future toll revenues appear insufficient to repay bondholders, the cost of bond financing will climb, the DRIC's plan to seek private funding may fall by the wayside. Ultimately, taxpayers could end up footing a \$1.8 billion bill for building a DRIC bridge that was not necessary in the first place. In fact, splitting the Michigan-Ontario traffic between the proposed DRIC bridge, the Ambassador Bridge and the Blue Water Bridge could place all three of those crossings in financial jeopardy, potentially leading to calls for taxpayer

subsidies that would make up for revenue shortfalls.<sup>4</sup> Issuing a ROD without considering an accurate picture of these vital revenue and funding issues—and the potentially devastating economic consequences to the existing crossings—would undoubtedly constitute an arbitrary and capricious agency decision.

4. *None of the other “needs” for a new crossing described in the Final EIS hold up under scrutiny.*

The remaining “needs” identified in the Final EIS as supporting construction of a new border crossing could readily be met without inflicting the significant environmental damage that would result from the DRIC project. On the U.S. side of the border, “system connectivity” is already being vastly improved through the \$230 million Ambassador Bridge Gateway Project. To the extent the capacity of connecting roads in Canada is also a concern, it makes far more sense to link Canada’s Highway 401 to an existing crossing, as the Ambassador Bridge Gateway Project is already doing, than to build both a new connector and an entirely new crossing, as the DRIC project would do. In that vein, the Canadian government in 2003 promised to devote \$300 million toward improving the existing crossings in Windsor. Although Canada has since reneged on that promise, it has still deemed it best to build a new connection to Highway 401 for the DRIC bridge. Linking this new highway connector to the Ambassador Bridge instead of the proposed DRIC bridge—a change that would require just one additional mile of roadway—would resolve any perceived “need” for better connectivity in Canada.

In like manner, improvements that would address the Final EIS’s claimed “need” for better “operations and processing capabilities” are already underway on both sides of the Ambassador Bridge. Pending full staffing by U.S. and Canadian customs officials, these

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<sup>4</sup> Again, it is noteworthy that the Final EIS repeatedly states that building the DRIC bridge “will require a substantial expenditure of state, federal, local and private funds.” Final EIS at ES-62; 3-252.

improvements will fully satisfy the need identified in the Final EIS. DIBC's comments make all of these points in more detail, and the Final EIS does not adequately respond to them.

The last "need" flagged in the DEIS is the provision of "reasonable and secure border crossing system options . . . ." DIBC's comments pointed out that at least six such "options" already exist in the region. The Final EIS brushes this off, stating that none of these existing alternative crossings serves trucks—the Blue Water Bridge does, as would the new span of the Ambassador Bridge, and other crossings can handle the same commercial cargo, even if it is carried on rail cars rather than trucks.

**B. The DRIC EIS fails to consider a reasonable range of alternatives.**

NEPA requires agencies to undertake an objective, good faith examination of environmental impacts that would result from their proposed action, as well as a range of reasonable alternatives to that action. This range of alternatives must include a "no build" alternative, and at least one build alternative other than the preferred action, to allow a comparison of potential environmental impacts. For reasons DIBC highlighted in its comments, FHWA did not perform a valid alternatives analysis in this case.

In response to DIBC's comments, the Final EIS emphasizes that the evaluation of alternatives process "defin[ed] the Delray area as *the* appropriate location for a new crossing . . . ." Final EIS at F-106 (emphasis added). This response begs the question. It is not appropriate to include a single location as the only build alternative in a DEIS, regardless of what type of alternatives screening process occurred before the DEIS. The DEIS itself should consider the potential environmental impacts of building at more than one potential site. Despite minor variations in the site of the plaza and crossing, the only build alternative discussed in the DEIS and Final EIS is located in "the Delray area." Thus, the DRIC environmental review does

not comply with NEPA's requirement that agencies evaluate alternatives "in comparative form" (40 C.F.R. § 1502.14). Because the Final EIS does not permit FHWA to compare the significant environmental impacts of its preferred alternative with the potential impacts of another build alternative outside the Delray location, any decision made on the basis of that document will be arbitrary and capricious.

The Final EIS also fails to clearly define the No Build Alternative being reviewed, especially with respect to its purported "need" for increased border crossing capacity. NEPA regulations mandate that every EIS include a comparison of the impacts of the proposed action and alternatives to a "no action" alternative. 40 C.F.R. § 1502.14(d). All "predictable actions by others" must be included as part of that no action alternative. Council on Environmental Quality, Forty Most Asked Questions, Question No. 3. In its prior comments, DIBC pointed out that the DEIS's traffic analysis neglected to consider the fact that a planned, six-lane New Span of the Ambassador Bridge would add two lanes of physical border crossing capacity, even though the DEIS clearly indicated that the New Span was "a variation of the No Build Alternative" (DEIS at 2-36). This failure to properly analyze the New Span as part of the baseline against which the impacts of the preferred alternative are measured violates NEPA.

The only response the Final EIS offers to this omission of the New Span from the no action alternative is to "interpret[]" a single sentence in the environmental review for the Ambassador Bridge New Span as meaning that "a new bridge would not add capacity." Final EIS at F-87. FHWA makes no effort to explain how a new six-lane bridge offers the same amount of physical crossing capacity as an existing four-lane bridge, and does not account for the presence of a six-lane span in its capacity calculations. As a result, any decision based on the Final EIS would constitute arbitrary and capricious agency action.

The manner in which the New Span of the Ambassador Bridge was excluded as a location for the DRIC project makes matters worse. When the Evaluation of Illustrative Alternatives document was released in 2005, it relied on a letter signed by FHWA Division Administrator James Steele. That letter explained the elimination of the New Span from the DRIC study, even though the New Span was among the *highest rated U.S. alternatives*, on the grounds that the “Canadian partners” had “firmly stated their objections” and “unwillingness to consider” the new span alternative. DEIS at C-1. The Final EIS underscores that this letter from Division Administrator Steele represented FHWA’s acceptance of the selection of Delray as the only “appropriate location for a new crossing.” Final EIS at F-106. Such reliance on the wishes of Canadian authorities—especially where those wishes eliminate an alternative with “minimal direct environmental impacts” in the U.S. (DEIS at C-1)—results in an arbitrary and capricious decision.

**C. The EIS ignores the impacts of the Detroit Intermodal Freight Terminal project.**

As DIBC pointed out in a comment letter dated November 13, 2008, the proposed DRIC bridge is not the only transportation project being undertaken in Southwest Detroit by FHWA and MDOT. Approximately one mile from the site of the planned DRIC customs plaza, the agencies are developing what is known as the Detroit Intermodal Freight Terminal (“DIFT”)—a 169-acre expansion of an existing railyard to accommodate an intermodal facility that would service three Class I rail carriers. Plans for the DIFT also include a road that appears to directly connect the expanded intermodal facility directly to the proposed DRIC plaza. The Draft Environmental Impact Statement for the DIFT project was released in May 2005, three years before the DEIS for the DRIC project. Together, the DIFT and DRIC projects would swallow up

approximately 340 acres in Southwest Detroit, changing existing land use and multiplying the adverse environmental and community impacts to that portion of the city.

Despite the size of the DIFT project, its proximity to the proposed DRIC plaza, the fact that the same agencies and consultants<sup>5</sup> are performing the environmental reviews for both projects, and what appears to be a direct, physical, roadway connection between the two projects, the impacts of the DIFT project receive conspicuously little attention in FHWA's evaluation of environmental consequences. Indeed, neither the DEIS nor the Final EIS attempts to fairly evaluate the combined or cumulative consequences of the two projects. These failings are not an accident or oversight. The environmental consultant for both the DRIC and DIFT projects, Joe Corradino, recently "spoke about the relationships of the [DRIC and DIFT] projects" during a Local Advisory/Local Agency Group meeting. *See* Attachment 3 at 5.

NEPA regulations mandate that connected or cumulative actions be discussed in the same environmental impact statement, so the public and decisionmakers can understand the combined effects of the actions. *See* 40 C.F.R. § 1508.25. Taken together, these facts and regulations make it appear that the DIFT environmental review process has been purposefully delayed, and its impacts intentionally excluded from the DRIC review. This sort of manipulation and segmentation of the environmental review process defeats the purpose of NEPA, leading to arbitrary and capricious decisionmaking.

**D. The EIS improperly postpones environmental review.**

One of NEPA's basic premises is that agencies should not take actions having a significant adverse impact on the environment without fully understanding—and sharing with

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<sup>5</sup> The Corradino Group served as consultants for the DRIC project and the DIFT project, as well as the Ambassador Bridge Gateway Project. The Corradino Group's conclusions about traffic and environmental impacts in each study are incompatible.

the public—the nature and scope of those environmental impacts. Because the DRIC environmental study has been hurried from Draft to Final without careful consideration of comments, it does not provide the thorough review necessary to allow this sort of fully-informed agency decision.<sup>6</sup> The discussion of numerous environmental effects, and the mitigation of those effects, is postponed to some later time, after the ROD issues. For example:

- The type of bridge that would be built is postponed until the so-called “design phase,” even though different bridge designs would have different impacts on local birds, on the ecology of the Detroit River, and on the area’s aesthetic values.
- A number of the 43 businesses that would have to be relocated if the DRIC project were built chose their current location because it fell within the Detroit Empowerment Zone and/or Renaissance Zone. Final EIS at 3-24. The Final EIS states only that it will make “efforts” to relocate these businesses in the same Empowerment Zone “if possible.”
- Indeed, the entire “Green Sheet” summarizing mitigation for the preferred alternative—a summary that was not included for public comment in the DEIS—states that it simply “contains the project mitigation measures being considered at this time.” The Green Sheet makes clear that “[t]hese mitigation items may be modified” even after issuance of the ROD.
- Despite the lack of concrete mitigation in the Final EIS, the package distributed by FHWA and MDOT contained a DVD video showing numerous improvements to the Delray community that would supposedly be part of the DRIC project. On the DVD,

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<sup>6</sup> FHWA has continued its rush to judgment in this case since the release of the Final EIS. According to a monthly progress report dated December 1, 2008, the DRIC consultants had already drafted a “preliminary ROD” and delivered it to MDOT before any comments on the Final EIS had been received from the public or cooperating agencies. Attachment 5 at 6.

a narrator describes a “vision” for Delray that includes such things as “the addition of baseball, soccer, and football fields, a picnic area, and walking trail.” This video is indicative of the way in which the residents of Delray have been misled by empty promises of revitalization throughout the DRIC process. Likewise, during a December 10 meeting of the Local Advisory/Local Agency Group, several members of the Delray community expressed serious doubts about FHWA and MDOT’s failure to address their concerns in the Final EIS, despite repeated promises that the community would play an important role in the DRIC process. *See* Attachment 3 at 1, 6-7. It seems clear that FHWA’s priority is to obtain approval of the DRIC project as soon as possible, regardless of the project’s effect on Delray. (The Final EIS admits that about three-quarters of those who would be relocated as a result of the DRIC preferred alternative would be minorities).<sup>7</sup>

Numerous similar examples could be taken from throughout the Final EIS. On this record, there is no way for FHWA or MDOT—much less the public—to know how or even whether the environmental impacts of the DRIC project might be mitigated. Any decision made without that information would necessarily be arbitrary and capricious under NEPA.

**E. The EIS does not adequately evaluate significant environmental impacts**

Insofar as the DEIS and Final EIS purport to conduct a complete review of environmental impacts from the DRIC project, that review fails to capture the significance of those impacts in a number of areas.

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<sup>7</sup> If FHWA issues a ROD, MDOT would likely begin acquisition of property for construction of the DRIC project in short order. *See* Final EIS at ES-4. The State of Michigan will ultimately own the U.S. portion of the DRIC bridge, the I-75 interchange and the new DRIC plaza in the U.S. Final EIS at ES-61. It would have to acquire land for all of these purposes.

1. *FHWA has not adequately identified or committed to mitigate environmental justice impacts.*

CEQ's policy on environmental justice makes clear that the presence of disproportionately high and adverse effects on minority and low-income populations "should heighten agency attention to alternatives (including alternative sites) . . . ." In the DEIS, FHWA promised to comply with this guidance, even including an appendix describing its approach to environmental justice issues. Appendix D of the DEIS explicitly said that the agency would make a determination of "whether project impacts associated with the identified low-income and minority populations are disproportionately high and adverse," and then propose "measures that will avoid, minimize and/or mitigate those impacts . . . ." DEIS at D-1.

The DEIS plainly failed to take these steps. No disproportionately high or adverse effects were identified, and no mitigation measures proposed, until the Final EIS. It took until the Final EIS before FHWA even acknowledged that the DRIC project would have a disproportionate impact on the low-income, minority population in Delray. And the preferred alternative actually affects a higher percentage of minorities than the other Delray variations evaluated in the DEIS. *See* Final EIS at 3-34. Moreover, as already discussed, all alternative locations outside Delray were improperly eliminated in 2005. Yet the Final EIS makes no concrete commitments to mitigation of the disproportionate harm to Delray residents, who admitted will suffer impacts "appreciably more severe than the impacts experienced by the non-minority population groups in the study area." *Id.* at 3-37. Rather, the "Green Sheet" that describes mitigation for the DRIC project clearly describes the listed "Community Enhancements" as "above and beyond what is required mitigation for this project," and specifies that all "mitigation items may be modified during the ROD, final design, right-of-way acquisition or construction phases of the project." Final EIS Green Sheet at 1.

This FHWA’s decision to back away from any commitment to community enhancements as mitigation has not gone unnoticed by Delray residents. During a recent meeting open to the public, one member of the Local Advisory Committee stated that the Final EIS and Green Sheet did not “show the necessary commitment” to the community, “especially to housing.” See Attachment 3 at 1. Another resident said that “he does not consider that MDOT was working together with the community.” *Id.* at 6. These community comments demonstrate exactly why FHWA’s findings on environmental justice should have been included in the DEIS, not withheld from the public until the Final EIS, issued on the eve of FHWA approval.

2. *The EIS gives short shrift to the significant air quality impacts of the DRIC and DIFT projects in the Delray and Southwest Detroit communities.*

After issuance of the DEIS, the Environmental Protection Agency (“EPA”) raised a number of concerns about the adverse air quality impacts the DRIC project would have—including impacts to sensitive receptors such as Southwestern High School—and recommending an analysis of air quality mitigation options for both construction and operation of the proposed DRIC bridge. Other members of the community voiced similar concerns. Nevertheless, the Final EIS contained no response to EPA’s substantive comments, no promises to mitigate the project’s adverse air quality impacts, and no discussion of the additional adverse air quality impacts that would be created by the nearby DIFT project (including the apparent roadway connecting the DIFT to the DRIC plaza).<sup>8</sup>

FHWA likewise fails to employ any one of several possible approaches to quantify Mobile Source Air Toxics (“MSATs”) that would be generated by the DRIC project. The Final

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<sup>8</sup> Although the Draft Environmental Impact Statement for the DIFT project contains a more extensive and sophisticated air quality analysis than the DRIC DEIS, it does not discuss the air quality impacts of the DRIC project. The combined air quality impacts of the DRIC and DIFT should be made known to the public and relevant decisionmakers.

EIS's assertion that MSATs may be ignored because "air quality will improve . . . due to ongoing improvements in engines and fuels" (Final EIS at 6-24) misses the real point: FHWA must determine and disclose to the public how the DRIC project will affect air quality when compared to the no action alternative. In addition, the Final EIS brushes off the affect of air toxics on sensitive receptors without even creating a comprehensive list of such receptors. DIBC's own review of the half-mile area surrounding the proposed DRIC plaza revealed more than a dozen schools, churches and other sensitive receptors that are not even mentioned in the Final EIS. *See* Attachment 4 (map of study area).

The Final EIS announces that the preferred alternatives will result in a "split of traffic and, therefore, of air quality emissions, between the Ambassador Bridge and the new [DRIC] bridge." Final EIS at ES-36. This logic, though foundational to the Final EIS's incomplete air quality analysis, does not satisfy NEPA requirements. To begin with, the Final EIS fails to clearly show how the Preferred Alternative's negative air impact in the Delray area compares to the alleged positive air impact caused by the reduction of traffic in the Ambassador Bridge area. Instead, the Final EIS implies that spreading air emission impacts over larger land areas or more corridors is an unqualified desirable outcome. Contrary to FHWA's suggestion, an alleged improvement of air quality nearer to the Ambassador Bridge does not absolve the agency of its responsibility to analyze and describe both negative and alleged positive impacts in Delray. 40 C.F.R. § 1508.27(b). Moreover, the differential between the Preferred Alternative's negative air impact to Delray and its positive air impact to the Ambassador Bridge area raises environmental justice issues not explored in the Final EIS.<sup>9</sup>

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<sup>9</sup> A number of other community members, including the NAACP and several public school employees, as well as the Environmental Protection Agency, raised concerns during the comment period about the adverse health effects the DRIC project would have on children

3. *The EIS ignores the climate change impacts of the DRIC project.*

The DEIS makes no attempt to address potential climate change impacts of the DRIC project, and the Final EIS contends that such impacts would be impossible to calculate in any case. This response completely ignores the efforts of agencies in other cases to account for climate change impacts, and is especially problematic in light of additional local truck trips that would be generated by the DIFT project, another potential source of increased greenhouse gas emissions.

4. *The discussion of transboundary impacts in the EIS is insufficient.*

In 1997, CEQ issued Guidance requiring agencies to analyze “reasonably foreseeable transboundary effects of proposed actions . . . .” This includes both the impact an action in the U.S. has on other countries, and the impact actions in another country have on the U.S. Nevertheless, the DEIS and Final EIS focus on the impacts of the DRIC project in the U.S., and point to the Canadian evaluation of the project as an adequate review of environmental effects in that country.

Before FHWA can make a reasoned decision about the DRIC project, all of these insufficient environmental impact analyses must be prepared or supplemented to meet NEPA standards.

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attending Delray schools, and the lack of any study documenting those potential effects. Most prominent among these schools is Southwestern High School, which would be directly adjacent to the DRIC plaza. Inexplicably, the Final EIS claims that Southwestern High “would be separated from the project’s plaza by ball fields, tennis courts, a railroad track, and a buffer zone around the plaza” (Final EIS at 3-121), without acknowledging that the ball fields and tennis courts themselves are sensitive receptors. Moreover, none of the comments filed by concerned public school employees are addressed, or even included, in Appendix F of the Final EIS.

**F. The EIS fails to address alternatives that would not destroy Section 4(f) properties.**

Under 49 U.S.C. § 303(c)—more commonly referred to as “Section 4(f)” —U.S. Department of Transportation agencies not only have an obligation to consider alternatives to their proposed actions, they are also prohibited from proceeding with a project that adversely impacts historically significant land or property unless “no prudent and feasible alternative” exists. Section 4(f) is designed to require special efforts to preserve public parks, recreation areas and historic sites that might be affected by transportation projects. The Final EIS identifies a number of these properties that would be destroyed or damaged if the DRIC project were built, but argues that there exists no prudent and feasible alternative to their destruction.<sup>10</sup>

As DIBC pointed out in its comments, FHWA’s argument regarding the destruction of historic properties hinges on the improper evaluation of alternatives that took place in 2005. The Final EIS contains several carefully-worded statements suggesting that all of the alternatives rejected in 2005 would also have involved impacts to Section 4(f) properties. *See* Final EIS at 5-28, F-113. But since FHWA never conducted a careful Section 4(f) analysis for those other alternatives, the Final EIS avoids any direct assertions about what Section 4(f) impacts might have existed at the Belle Isle or Downriver locations. Moreover, because those alternative locations were excluded from consideration in the DEIS, it is impossible to know what sort of accommodations might have been made to avoid Section 4(f) impacts. The available information actually indicates that other locations for the proposed DRIC bridge would have had *less* impact on protected Section 4(f) properties. It is known, furthermore, that selection of the

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<sup>10</sup> Prominent among the Section 4(f) properties affected by the DRIC project is Fort Wayne, an important historic site. The Final EIS implausibly suggests that Fort Wayne will actually benefit from the construction of a new crossing and plaza in a nearby neighborhood. Indeed, during a recent public meeting, members of the Fort Wayne Advisory Council expressed their disagreement with this conclusion.

New Span of the Ambassador Bridge as the preferred alternative would have avoided all impacts to Section 4(f) properties.

Finally, it is also highly relevant to note that the Final EIS is as non-committal regarding mitigation to Section 4(f) properties as it is with regard to mitigating other environmental impacts. For example, the Final EIS states that “coordination” with the Detroit Department of Parks and Recreation “has occurred” and that FHWA “anticipate[s]” that “the City will be compensated” for the parkland it loses to the DRIC project. Final EIS at 5-26. This compensation would not take place until “after” the ROD. *Id.* Similarly, the Final EIS references “proposed” actions to improve the Fort Wayne site and to mitigate harms, but indicates that consultation about these actions is “ongoing.” *Id.*

For all of these reasons, it appears that in addition to the Final EIS’s violations of NEPA, the proposed DRIC bridge would also violate Section 4(f).

### **CONCLUSION**

For all the reasons raised in DIBC’s comments on the DEIS, as well as in the above comments on the Final EIS, the environmental review in this case does not support the issuance of a ROD. Any final agency action taken on the basis of the current environmental record would constitute an arbitrary and capricious decision.



STATE OF MICHIGAN  
DEPARTMENT OF TRANSPORTATION  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

KIRK T. STEUDLE  
DIRECTOR

June 30, 2008

Mr. Marcus J. Lemon, Esq.  
Chief Counsel, Federal Highway Administration  
HCC-1, Room E82-328,  
1200 New Jersey Avenue, SE.  
Washington, D.C. 20590

Dear Mr. Lemon:

The Michigan Department of Transportation (MDOT) is submitting an application to participate in the Transportation Border Congestion Relief (TBCR) Program sponsored by the Federal Highway Administration (FHWA). Facilitating trade and reducing economic costs have been identified as top priorities at our international borders.

Michigan's international border crossings are among the busiest and most important in the nation. The Ambassador Bridge in Detroit is the busiest commercial border crossing in North America and the Blue Water Bridge in Port Huron is the third busiest. In response, MDOT has a series of projects and studies underway to improve mobility, inspection facilities, and access to the freeway system. The Detroit River International Crossing (DRIC) study is the largest of these projects and is a bi-national effort to complete the environmental study processes to identify the preferred location of a new bridge between Michigan and Ontario for the United States, Michigan, Canada, and Ontario governments.

The DRIC study has identified alternatives that will provide redundancy and economic and national security, as well as accommodate future traffic capacity needs with complete freeway-to-freeway connections. Currently, the DRIC study is nearing the end of the environmental process with the completion of the draft Environmental Impact Statement (EIS) and public hearings held in March 2008. A preferred alternative will be selected and evaluated in the final EIS, which is expected to be completed in October. The final step in the process will be the issuing of the Record of Decision near the end of 2008.

Michigan would benefit substantially if DRIC is selected to participate in the TBCR Program. We would welcome your support by ensuring that the full attention of the federal resource agencies is given to the review of the DRIC environmental documents and in expediting the presidential permit process to ensure the project remains on its accelerated schedule. We also would appreciate assistance in evaluating public-private partnerships (P3s) by providing full access to your experts in P3s and financing. Finally, considering the national and international significance of the DRIC, we look forward to working together to identify methods of obtaining 100 percent federal funding for current and future elements of this project to the point where a P3 can be established to implement completion.

Mr. Marcus J. Lemon, Esq.

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June 30, 2008

We must continue to uphold our commitment to establish and maintain a transportation border infrastructure network that allows for the seamless movement of people, goods, and services in a cost-efficient, timely, safe and secure manner. As you review applications for the TBCR Program, please consider the impact DRIC will have on our nation. The existing Detroit-Windsor border crossings have finite capacity and aging infrastructure, which impedes our ability to compete in the global marketplace and hurts the economies of both Canada and the United States.

We look forward to working together to ensure continued trade with Canada and international economic competitiveness in Michigan and the United States. If you have any questions, please contact either me or Susan Mortel, Director, Bureau of Transportation Planning, at 517-373-0343.

Sincerely,

A handwritten signature in black ink, appearing to read "Kirk T. Steudle". The signature is written in a cursive, flowing style.

Kirk T. Steudle  
Director

# **Detroit River International Border Crossing Transportation Border Congestion Relief Application**

## ***1. Project Description***

(The Applicant should include a detailed description of the proposed land border project, including its purpose, location, preliminary design features, rough estimate of capital cost, proposed delivery schedule, likely financing mechanism(s), current level of service, and information about the status of agreement among any affected stakeholders to advance the proposed project. The Applicant should include a map with detailed information about U.S., State, and local numbered route and other important facilities clearly identified as well as information about the foreign jurisdiction(s) involved.)

The Detroit River International Crossing (DRIC) project proposes to build a new international border crossing spanning the Detroit River and connecting Detroit, Michigan to Windsor, Ontario. The project will also provide a direct freeway connection between I-75 in southwest Detroit and Hwy 401 in Windsor, Ontario.

Currently, neither of the existing crossings have direct connections to the freeway network in either country. The Detroit-Windsor Tunnel surfaces in the central business districts of both Detroit and Windsor. In Detroit, the tunnel has a direct connection to Jefferson Avenue, which in turn, has direct connections to both I-375 (0.2 miles away (right)) and the M-10 freeway (0.25 miles away (left)). The Michigan Department of Transportation is currently constructing direct connections from both I-75 and I-96 to the Ambassador Bridge. That project (the Gateway Project) is scheduled to be completed in the summer of 2009.

On the Canadian side of the border, getting from the Detroit-Windsor Tunnel to the Canadian freeway network requires a 6.7 mile (11 km) trek through 16 traffic signals using Provincial Highway 3B to reach Hwy 401. A similar situation exists at the Ambassador Bridge where it is a 6.5 mile (10.5 km) journey through 17 traffic signals along Provincial Highway 3 (Huron Church) to reach Hwy 401.

### ***1a. Purpose***

The purpose of the Detroit River International Crossing Study is, for the foreseeable future (i.e., for at least the next 30 years), to:

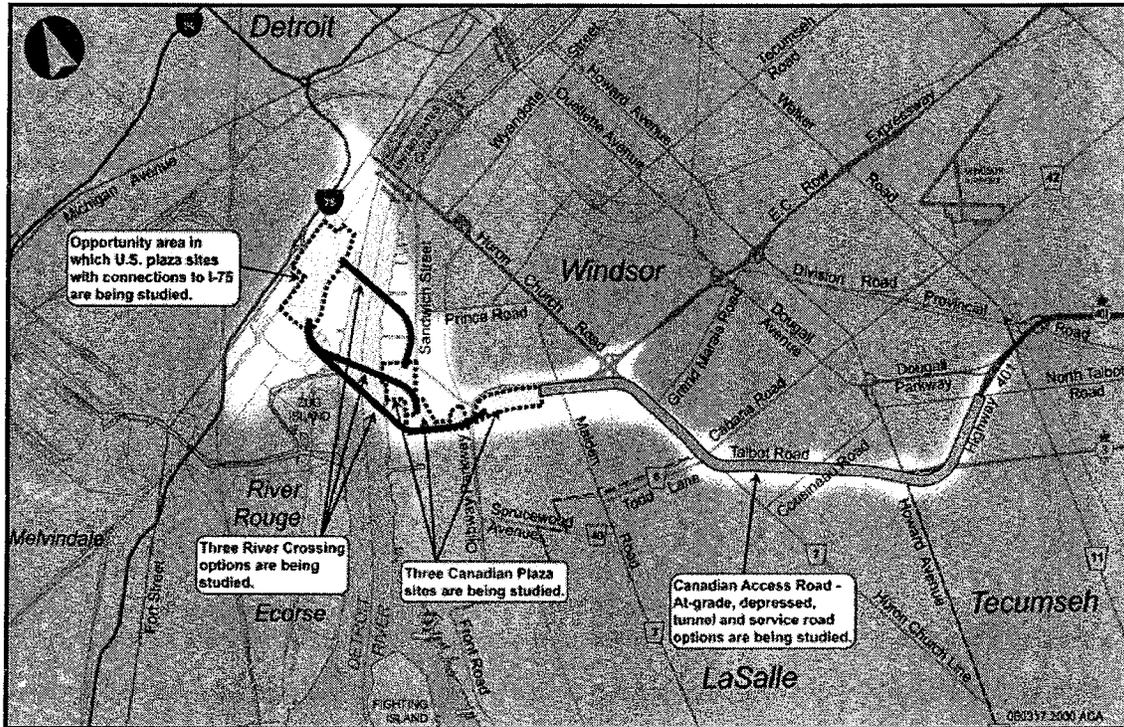
- Provide safe, efficient and secure movement of people and goods across the U.S.-Canadian border in the Detroit River area to support the economies of Michigan, Ontario, Canada and the U.S.
- Support the mobility needs of national and civil defense to protect the homeland

To address future mobility requirements across the U.S.-Canada border, there is a need to:

- Provide new border-crossing capacity to meet increased long-term demand;
- Improve system connectivity to enhance the seamless flow of people and goods;
- Improve operations and processing capability in accommodating the flow of people and goods at the plazas; and,
- Provide reasonable and secure border crossing system options in the event of incidents, maintenance, congestion, or other disruptions.

### ***1b. Location***

The proposed new bridge would be located approximately 2.2 miles downstream of the existing Ambassador Bridge. On the U.S. side the bridge and plaza would be located in southwest Detroit, in an area called Delray. (the former Village of Delray, which was annexed by the City of Detroit in 1906 was located here) On the Canadian side of the border the bridge and plaza would be located in an industrial area referred to by the locals as “Brighton Beach”



### ***1c. Preliminary Design Features***

Because of the significant level of commercial traffic on the Detroit River, the U.S. Coast Guard has mandated that any new structure spanning the river must be able to do so without placing any piers in the water. At this time there are only two bridge types capable of spanning the Detroit River without placing piers in the water, a suspension bridge, or a cable stayed bridge. A final decision of which type of bridge will be constructed will likely be a function of commodity prices at the time when the formal design phase is initiated. The decision may also depend on whether this project is constructed as a Public Private Partnership (PPP) and how that partnership is organized.

### *1d. Estimated Capital Costs*

The U.S. portion of this project is estimated to cost between \$1.064 and \$1.240 billion in 2007 dollars (or between \$1.277 and \$1.488 billion when expected inflation is factored in). The following table provides a more detailed breakdown of the costs:

	<b>Lowest Cost (millions) Crossing X-10, Alternative #14 with Cable-stay Bridge</b>	<b>Highest Cost (millions) Crossing X-10, Alternative #16 with Suspension Bridge</b>
Bridge (U.S. Cost Only)	\$282	\$344
Plaza	150	150
Interchange	167	204
Utilities	145	183
<b>Subtotal</b>	<b>\$744</b>	<b>\$881</b>
Property	\$171	\$183
<b>Subtotal</b>	<b>\$915</b>	<b>\$1,064</b>
Fees (Management, final design and permits, construction engineering)	\$149	\$176
Inflation <sup>a</sup>	\$213	\$248
<b>Total<sup>b</sup></b>	<b>\$1,277</b>	<b>\$1,488</b>

<sup>a</sup> To be spread to each construction phase for Preferred Alternative to translate total costs to year of expenditure.

<sup>b</sup> Cost to limit extraction of minerals to protect the DRIC crossing/plaza is not now known. It will be included in the FEIS. Such costs are associated with all Build Alternatives.

Source: The Corradino Group of Michigan, Inc.

### *1e. Proposed Delivery Schedule*

The current schedule anticipates that this structure will be open to traffic by the end of 2013.

### *1f. Financing Mechanism*

The currently proposed financing scheme is as follows:

On the U.S. side of the border:

- The U.S. portion of the bridge may be financed by bonds, secured by future toll revenues, or it may be financed from cash reserves by a private sector partner.
- The U.S. plaza will be financed by bonds secured by a capital lease with the U.S. General Services Administration (GSA) for the secured portion of the plaza which will be occupied by Customs and Border Protection and other federal agencies with border inspection responsibilities.
- The remainder of the plaza bonds will be secured by lease payments from a Duty Free store and by toll revenue.
- The interchanges to I-75 will likely be funded as a traditional highway project, using state and federal highway funds, although various project delivery mechanisms will be considered.

On the Canadian side of the border,

- The Canadian portion of the bridge will be financed by bonds, secured by future toll revenues.
- The Canadian plaza will be financed by bonds which will be secured by lease payments from a Duty Free store and by toll revenue.
- The connecting roadway from the plaza to the current ending point of Hwy 401 will be funded as a normal highway project, using provincial and federal transportation funds.

If this project proceeds as a PPP, it is likely that we will want authorization to use Private Activity Bonds (PAB) as the financing mechanism. If this project proceeds as a public authority, the bonds issue will be tax free municipals.

### ***1g. Levels of Service***

Current Levels of Service on the US approaches to the Detroit border crossings are expected to be in the “C” range upon completion of the Gateway Project which is currently under construction. On the Canadian side of the border, the roadways approaching the existing border crossings are averaging Level of Service “E.” This is expected to deteriorate into the “F” range in the next few years. Construction of the DRIC project would not lead to a further deterioration on the US side of the border, and it is expected to produce significant improvements on the Canadian side of the border.

### ***1h. Status of Current Agreements***

The Ontario-Michigan Border Transportation Partnership (Bi-National Partnership) was formed in February 2001 for the purpose of improving the safe and efficient movement of people, goods, and services across the U.S./Canadian border at the Detroit and St. Clair Rivers, including improved connections to national, provincial, and regional transportation systems. The Bi-National Partnership is comprised of the Michigan Department of Transportation (MDOT), the U.S. Federal Highway Administration (FHWA), the Ministry of Transportation for Ontario (MTO), and Transport Canada (TC). (See attached Partnership Framework, Partnership Charter, and Memorandum of Cooperation documents. All of these documents are currently in effect.) The partnership is currently engaged in parallel processes to produce the appropriate environmental documents to comply with each nation’s respective environmental laws. In addition to the partnership agreements, the following federal agencies have agreed to be cooperating agencies for the project:

- U.S. Environmental Protection Agency
- U.S. Army Corps of Engineers
- U.S. Fish & Wildlife Service
- U.S. General Services Administration – Great Lakes Region
- U.S. Coast Guard
- U.S. Department of Homeland Security – U.S. Customs & Border Protection
- U.S. Department of State

A cooperating agency has jurisdiction by law or expertise over an environmental issue. Their participation is provided for by the Council on Environmental Quality regulations implementing the National Environmental Policy Act. Each reviewed and approved release of the DEIS in the role of cooperating agency. (See attached Streamlining Agreement) The Streamlining Agreement will remain in effect until a Record of Decision (ROD) is issued on the Final Environmental Impact Statement.

## ***2. Congestion Reduction and Reduction in Land Border Travel Times***

(The proposed land border project may address current or future congestion. The Applicant should describe where and how the proposed project would (a) reduce current congestion levels, or (b) address future expected congestion based on projected travel trends at the land border crossing. The Applicant should discuss the impact of the project on movement of individuals or freight and/or traffic congestion. The congestion reduction discussion should present all relevant data related to the proposed congestion relief benefits of the project including information about the annual volume of commercial and passenger vehicle traffic at the relevant land border crossing, expected reduction in vehicle travel times through the land border crossing, and potential benefits to the U.S. economy.)

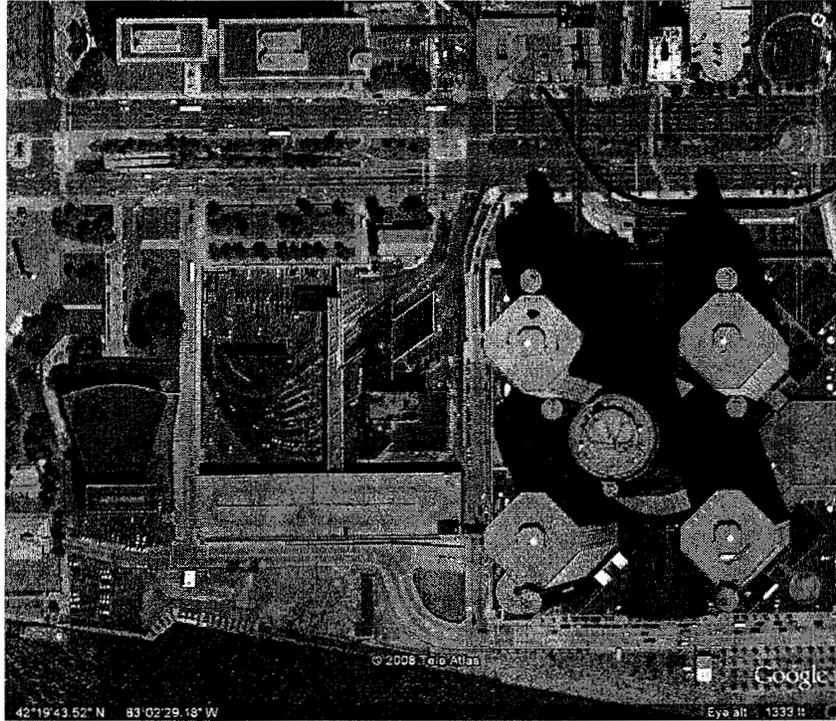
### ***2a. Current Congestion***

Historically the existing border crossings along the Detroit River have suffered from a number of traffic related problems that can be traced back to choices made when they were originally constructed.

#### **Detroit-Windsor Tunnel**

The Detroit-Windsor Tunnel was constructed between 1926 and 1930 and is 5,160 feet long (1,573 meters) with a height clearance of 13 feet 2 inches (4 meters). The roadway is 22 feet wide (6.7 meters) and allows for two lanes of traffic in opposite directions. Because of these dimensions, the tunnel is physically incapable of handling most of today's trucks. In 2007, the Detroit Windsor Tunnel handled a total of 4,898,425 vehicles, including 111,082 trucks. Its peak year of operation was 1999 when it handled 9,608,655 vehicles, including 205,115 trucks. The peak year for truck traffic occurred in 1992 when it was used by 294,496 trucks.

## Detroit Plaza – Detroit Windsor Tunnel



The toll and inspection plazas on each side of the border are virtually landlocked by adjacent developments. On the Detroit side (see picture above) the tunnel plaza is flanked by Ford Auditorium on the left and the GM Renaissance Center, a group of seven interconnected skyscrapers including the tallest all-hotel skyscraper in the Western Hemisphere, and the tallest building in Michigan since 1977. Separating the plaza from Jefferson Avenue is the Mariner's Church, an historic building on the National Register of Historic Places. As of this date, we are not aware of any plans to modify the Detroit plaza area for the tunnel.

Similarly, the Windsor plaza for the tunnel is also located in the central business district (see picture on following page) and is hemmed in by city streets and several commercial and office buildings. Currently the City of Windsor is exploring the possibility of removing one or more of those buildings in order to expand the secondary commercial inspection facilities.

## Windsor Plaza – Detroit Windsor Tunnel



Because of increased security concerns in the wake of the events of 9/11/2001, whenever the queues for primary border inspection extend to the mouth of the tunnel, the access on the other side of the river is temporarily closed, causing queues and congestion on the adjacent city streets. This practice has been relaxed in recent years, but it is reinstated whenever alerts are issued by the Department of Homeland Security.

### **Ambassador Bridge**

The Ambassador Bridge is a privately owned suspension bridge that connects Detroit, Michigan, with Windsor, Ontario. Construction began in 1927 and was completed in 1929. The bridge, over the Detroit River, had the longest suspended central span in the world when it was completed in 1929 at 1,850 feet (564 m). The total bridge length is 7,500 feet (2,286 m) and it rises 133.5 feet above the river at the shoreline and 152 above the river at the center of the span. The roadway is 47 feet wide (14.33m) and allows four lanes of traffic, two in each direction. It is the busiest commercial international border crossing in North America, handling an average of 10,000 trucks per day. In terms of trade volume, more than 25 percent of all merchandise trade between the United States and Canada crosses the bridge. In 2007 the Ambassador Bridge handled a total of

9,083,835 vehicles, including 3,398,745 trucks. Its peak year of operation was in 1999 when it handled 12,440,026 vehicles, including 3,428,151 trucks. The peak year for truck traffic was 2006 when it was used by 3,498,127 trucks.

### **Detroit Plaza – Ambassador Bridge**



Like at the Detroit Windsor Tunnel, The Ambassador Bridge's Detroit plaza also has limited opportunities for expansion (See picture above). On the south and west, the plaza is bordered by a major state trunkline (M-85 (Fort Street)) and a freeway (I-75/Fisher Freeway) and on the east expansion is limited by a residential neighborhood and an historic church (St. Anne's) which is on the national register for Historic Places. Immediately to the north of the existing plaza, is the future site of a state operated "Welcome Center." MDOT and the Detroit International Bridge Company are in the middle of a major project to provide direct access from I-75 and I-96 to the bridge plaza. As a result, much of the area to the left of the bridge in the picture above will be occupied by new ramps and plaza circulation roadways. Expansion of the primary and secondary inspection facilities will be minor under this project. The bridge company has announced plans to expand the plaza southwards, but has not yet identified where the funds to relocate the trunkline facility, and the underlying utilities will come from.

## Windsor Plaza – Ambassador Bridge



The Windsor plaza for the Ambassador Bridge is also hemmed in by adjoining development (See picture above). Directly north of the existing plaza is an historic cemetery, to the east is part of the campus of the University of Windsor, and to the west is the oldest part of Windsor, historic Sandwichtowne. Immediately south of the plaza is a rail line, a major city thoroughfare (College Avenue) and more of the University of Windsor's Campus. The bridge company recently completed a minor expansion of the primary commercial inspection facilities (Shown under construction on the left side of the plaza in the picture above.) These facilities have not yet been occupied by the Canadian Border Services Agency (CBSA) due to their separation from the main plaza by a city arterial. Another deficiency of this plaza is that secondary commercial inspection facilities are not available on the plaza, commercial vehicles requiring secondary inspection must travel over 1.5 miles using unsecured city streets to reach the secondary inspection facilities. CBSA is on record that this situation is not sustainable and must be corrected. To date, the bridge company has not identified an acceptable improvement to the existing facilities.

Traffic congestion caused by these facilities prior to the events of 9/11/01 created backups of several miles in length and many hours of border crossing delay. This led to the creation of the Bi-National Partnership early in 2001. In the immediate wake of the events of 9/11/01, border crossing delays of 12 to 15 hours were the norm. This caused several auto manufacturers to resort to using helicopters to move critically needed parts from manufacturing facilities on one side of the border to assembly plants on the other side of the border.

Prior to 9/11, the minimum time it took a commercial vehicle to clear primary inspection at the Ambassador Bridge was 5.9 minutes. The average time was 20.4 minutes, and 95% of all commercial vehicles were able to clear primary processing in 34 minutes. In 2007, with programs like FAST, CTAP, ACES and other improvements, the minimum time necessary to clear primary commercial inspection has been dropped to 2 minutes, and the average time has been reduced to 18.2 minutes, but it now takes over 46 minutes for 95% of the commercial vehicles to clear primary processing. (Note: These delay time numbers do not reflect any waiting time on the bridge or tied up in traffic on Huron-Church Road in Canada)

Much of this extra delay can be traced to the addition of new inspection technologies which have been “shoehorned” into already crowded and functionally obsolete plazas, leading to greater inefficiencies of operation.

#### ***2b. Expected Future Congestion***

Since the opportunities for expanding the existing plazas are limited at best, and unavailable in some places, and since commercial traffic across the border is expected to rise dramatically over the next 20 years, (140% at Detroit according to the DRIC study, and 250% nationally according to Global Insight) congestion at the border crossings is expected to worsen unless new facilities, like the DRIC, are constructed.

#### ***2c. Impacts on Freight Movements***

It is estimated that if additional border processing capacity is not added, delays in freight movements will add as much as \$200 to the price of every automobile constructed in the US and Canada by 2010, and will be responsible for a 1-2% cost increases in every other product that depends on cross border activity for its production or distribution.

### ***3. Use of Intelligent Transportation Systems***

(Whether the proposed project is on a new or existing alignment, the Applicant should explain how transportation technologies would be used to benefit users by enhancing the mobility and efficiency of the land border crossing. Examples of mobility improvements include use of intelligent transportation systems, traffic conditions monitoring, computerized traffic control systems, traveler information systems, electronic toll collection, and open road tolling.)

One of the goals of the project is to create a “state of the art” border crossing station. As a means of achieving this goal, Intelligent Transportation Systems (ITS) and other technology innovations can be employed to:

- Facilitate and accelerate transportation-related operational improvements at international land border crossings that will improve border travel times and help reduce associated national and regional economic costs
- Implement innovative solutions to help address land border travel time delay and facilitate trade and travel without compromising the vital mission of securing US borders

Objectives met through the deployment of ITS technology include:

- Reduce border travel time delays by promoting non-traditional transportation project delivery and operation approaches at or near international land border crossings.
- Improve system connectivity to facilitate trade and the safe, legitimate, movement of people and goods across the US border by decreasing border travel times without compromising border security

### ***1. Congestion Reduction and Reduction in Land Border Travel Times***

The DRIC project will address current or future congestion. MDOT will demonstrate where and how the proposed project will (a) reduce current congestion levels, or (b) address future expected congestion based on projected travel trends at the land border crossing. The impact of the project on movement of individuals or freight and/or traffic congestion is described.

Benefits expected reduction in vehicle travel times through the land border crossing and potential benefits to the US economy.

### ***2. Use of Intelligent Transportation Systems***

MDOT will utilize transportation technologies to benefit users by enhancing the mobility and efficiency of the land border crossing.

### ***3. Economic Benefits and Support of Commerce***

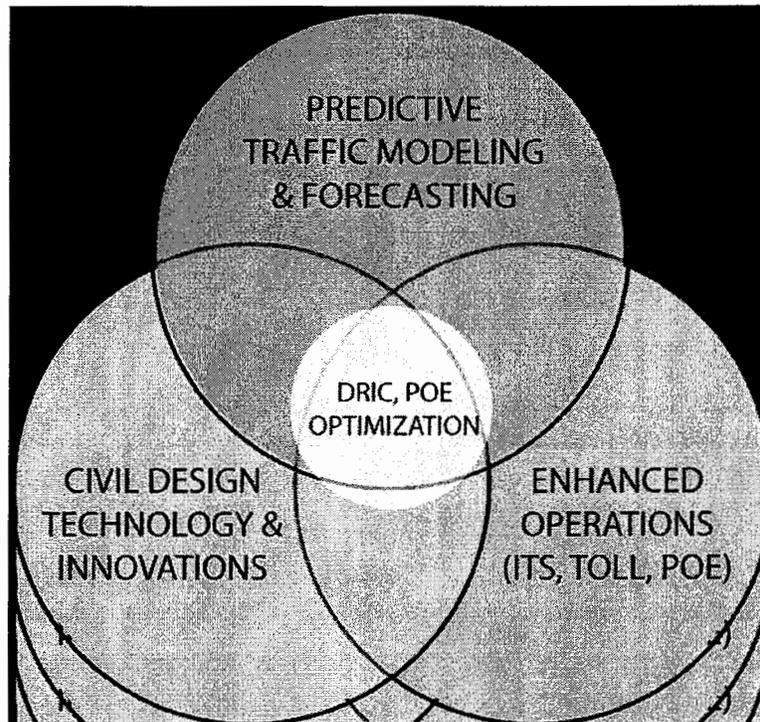
The proposed project will support US economic growth by improving the predictability of freight movements or travel by individuals through the land border crossing.

### ***4. Value to the Users of the Project***

The value to users includes reduced border travel times, increased safety, faster and more convenient access to terminals for commercial vehicles, environmental benefits,, and increased travel speeds.

### ***Utilization of Systems Engineering and Development of a Concept of Operations for Enhanced Border Crossing Operations and Reduced Delays***

The Michigan DOT will employ a systems engineering approach to identify viable concepts for the implementation of innovative technology to meet program objectives. These operational goals of the system as a whole, determine how the parts of the system (ITS, Toll, Operations, Civil Design) behave. The operations component of this model includes predictive models to estimate border wait times and to provide information to motorists. The following figure demonstrates how these components work in concert to meet program objectives.



A Concept of Operations and phased implementation plan will be developed detailing the operations and high-level requirements of the proposed system and providing guidance for the phased implementation of technology solutions. Some of the solutions that will be considered as part of the Concept of Operations include systems for information sharing among border crossing stakeholders, additional ITS deployment at crossings and on approach highways, advance notification of border wait times and delay information within the I-94, I-75, and I-69 corridors, innovative mechanisms to predict wait times and delays at alternate border crossings, implementation of technology to improve plaza efficiency, opportunities for expedited tolling, and the implementation of technology for infrastructure security, incident and emergency management.

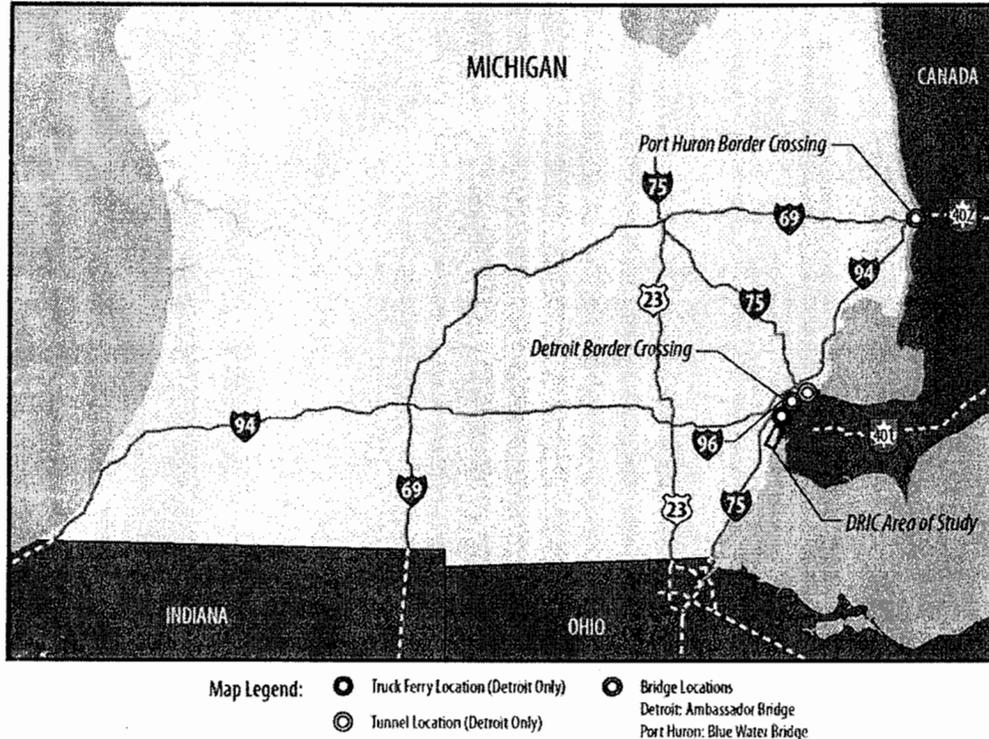
The concept will include all crossings between the U.S. and Canada in Southeast Michigan with a focus on the DRIC. The concept will also focus on commercial vehicle operations. However, all vehicular traffic will realize the benefits of this program. A collaborative process will be used to refine the concept and to describe individual projects to improve border crossing efficiency without jeopardizing security and safety.

Possible ITS, technology and security solutions that will be addressed in the Concept of Operations are described below:

1. ITS deployment associated with the DRIC will be addressed in a regional context - how it fits into the regional ITS network deployed by both MDOT and the Ontario Ministry of Transportation. The Blue Water Bridge, the Ambassador Bridge, the Detroit Truck Ferry and the Detroit-Windsor Tunnel provide alternate

border crossings in Southeast Michigan, so consideration will be given to the expansion of ITS infrastructure at all crossings and along their approaches to reduce wait times and improve commercial vehicle operations between the two nations. The map on the following page shows how the Interstate Highway System is connected with the border crossings in Southeast Michigan.

MICHIGAN-CANADA BORDER CROSSING LOCATIONS



ITS infrastructure such as traffic sensors, CCTV cameras, and dynamic message signs (DMS) will be used to monitor traffic conditions, manage incidents, and provide information to motorists to facilitate diversion and reduce delays. These same ITS components will also be used to significantly enhance security and surveillance capabilities of critical infrastructure at all crossings, including the DRIC. Examples include:

- a. Additional traffic sensors and CCTV cameras will be deployed to monitor traffic conditions, estimate queue lengths and provide data for traveler information systems.
- b. Information systems such as dynamic message signs (DMS) should be deployed along the I-94, I-75, and I-69 corridors to provide advance border crossing wait times and travel time information to motorists and commercial vehicle operators for improved routing decisions.

- c. The DRIC facility will be equipped with dynamic lane use signs to allow contra-flow operations during peak hours and to manage traffic during incidents or maintenance operations.
  - d. Environmental sensors will be installed to detect icing and adverse weather conditions on the bridge.
  - e. Emergency Transportation Operations (ETO) is an additional critical function of the ITS infrastructure to be detailed in the Concept of Operations. Each of the ITS devices, sensors, and system components mentioned previously would be used to support operations for emergency situations ranging from everyday traffic incidents to large-scale natural or man-made disasters that may require mass evacuations to/from the US and Canada. Furthermore, the information and data received from these devices would be shared/integrated with Emergency Operations Centers (EOCs), Data Fusion Centers, and other emergency response entities to facilitate real-time communications and coordination between the transportation and public safety communities during times of serious need.
2. The Michigan DOT, in cooperation with the FHWA, the Ontario Ministry of Transportation, and other border crossing stakeholders, will consider the integration and deployment of a system that is able to accurately measure, dynamically predict, and disseminate reliable, real-time and predictive border crossing travel time information to multiple users. This information is valuable to those planning crossings as it will allow them to better determine departure time, know the length of delay to expect and in locations where multiple crossings exist, and select the optimal route. It is also valuable to those responsible for operating the crossings so they can better monitor, manage, and staff their facilities as well as provide a basis for congestion pricing of toll facilities, if applicable.

This concept envisions a partnership between Michigan Department of Transportation, FHWA, GSA, Customs and Border Protection (CBP), the Ontario Ministry of Transportation, and the private sector working together to develop and implement this solution as part of the DRIC POE and then expand the operation to include Michigan's other border crossing facilities (the Blue Water Bridge Port of Entry (POE), the Ambassador Bridge POE, the Truck Ferry POE, and the Detroit-Windsor Tunnel POE).

Although complex in operation, border stations can be abstracted in a larger sense as impedances on a roadway traffic network. As such, traditional travel demand methodologies may be employed to model the current and expected traffic state on the network. Management of a traffic system depends on an extensive knowledge of the current traffic conditions. Roadside detection and/or probe vehicles provide only a limited picture of what is happening at a point in the transportation network and are only effective where deployed. Likewise, historical information is valuable but limited in that roadway networks are constantly changing either due to construction of new roads, incidents (work

zones, accidents), or time-dependent lane restrictions (managed lanes such as high occupancy vehicle/toll lanes). The solution is to develop an intelligent and dynamic traffic model to *fill-in* the traffic state where detection is unavailable and augment historical with current traffic information to accurately predict the current and future traffic conditions.

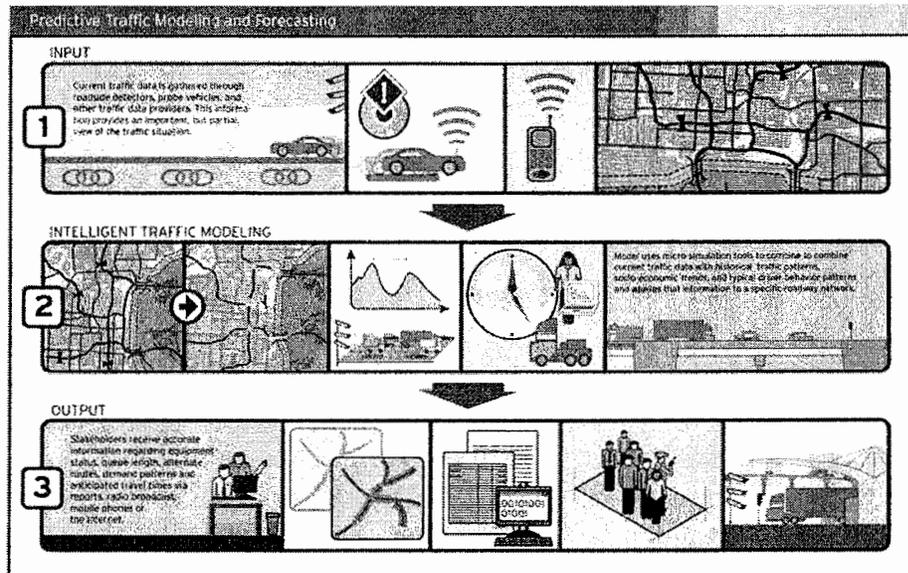
This requires the development of a regional model down to the arterial level and of sufficient size to incorporate all expected vehicle flows and adjacent border crossing stations. The technology exists today to develop these real-time and predictive traffic simulation models and several have been deployed throughout the world. This approach would be compatible with existing efforts at multiple POEs, including the FHWA-sponsored Freight Performance Measurement as well as the site-specific facility simulation models.

Initially the concept would look to combine the traffic model with existing border simulation models. It would also employ the use of existing technologies for vehicle detection and tracking, along with CCTV surveillance to monitor a selected border crossing or crossings to measure the traffic flow, vehicle mix, and queue lengths (as suggested in item 1 above). The information gathered would then be used to provide current and short-term forecasts of border crossing times.

Due to the challenges presented by varying traffic flow, processing rates, and the time lag associated with vehicle tracking, the border crossing time calculations must be a combination of several factors. The real-time simulation would use input from multiple sources, including historical data based on measured crossing times from predefined queue locations, the number and type of lanes in operation, the mix of vehicles in the queue, and the upstream vehicle flows from the traffic model that will be added to the queue. Once the information is gathered, the simulation is able to provide current and forecasted crossing times.

This information can then be disseminated through a variety of methods. For those already on the road, the information can be provided through dynamic message signs, highway advisory radio, as well as traveler information services such as telephone 511 and Radio Data System Traffic Message Channel (RDS-TMC) for FM radios, and on-board satellite navigation systems. The information could also be disseminated via the Internet. Online portals would allow those planning a trip to view the information and choose their time of departure or receive route guidance recommendations for which crossing to take. Web services would allow logistics vendors to incorporate the data into their operations/planning software and route guidance systems. Internet-based information could also be available to mobile phones, PDAs, and other nomadic navigation devices. The figure on the following page demonstrates this concept.

3. Information sharing and forecasting will improve operations for US Customs and Border protection. The ultimate success of the border crossing is dependent upon the utilization of the incoming ITS System data and historical data. This data will



packaged within a forecasting model whose output, when applied to the Customs Agency Management Plan, will advise the Agency well in advance of a high influx of traffic enabling the Agency to create a flex staffing plan, thus reducing the possibility of a bottlenecks at the Custom or Toll booths. In addition, the real time data from downstream will enable the diversion of traffic if an incident is detected by the ITS System, heading off massive delays and congestion.

4. Users of the facility range from occasional to frequent commuter, visitor, and commercial traffic. A tolling plan will be developed as part of the Concept of Operations to meet the needs and driving behaviors of each type of user group. For instance, a cash based gated system is best suited for infrequent or one-time visitors, while an electronic toll collection system (pre or post inspection) may be best suited for commercial vehicles that frequent the crossing on a daily, weekly or even monthly basis. These and other types of tolling alternatives, such as registered video tolling, should be considered as part of the plan.
5. Other technological innovations will be considered as part of the Concept of Operations to maximize the safety, efficiency and protection our borders. Technologies such as hazardous materials detection, contraband detection, infrared detection, machine vision processing, Vehicle Infrastructure Integration and others should be considered.

6. The DRIC facility will be constructed on a new alignment to minimize the risk of damage or destruction from terrorist attacks or natural disasters. In addition to this security measure, the facility will be equipped with specialized sensors and security cameras to monitor watercraft movements and other areas under the bridge. Risk assessment models should be developed to identify critical infrastructure elements (existing and proposed) and their susceptibility to damage based on location specific incidents.

These systems will work together in an integrated manner to reduce the impacts of congestion and incidents at the border between Michigan and Ontario. ITS can address travel impacts at the border and along the corridors leading to the border crossings in Southeast Michigan by making drivers more aware of the travel conditions, assisting them in making informed decisions, and improving border crossing operations by providing better data regarding existing and expected traffic conditions. This will facilitate better decision making regarding the allocation of resources among agencies at the border. The collaborative process employed by MDOT as part of this plan also will facilitate the sharing of information among stakeholders and between the U.S. and Canada.

Finally, DRIC will be a model for safe and efficient transportation of the future. The concepts, technologies and innovations developed and proposed for this facility will address environmental best practices and leverage these technologies for greater fuel efficiency through increased mobility.

#### ***4. Economic Benefits and Support of Commerce***

(The Applicant should explain how the proposed project would support U.S. economic growth including information about how the project would improve the predictability of freight movements or travel by individuals through the land border crossing. In support of the economic benefits, the Applicant should include current data on the national and regional economic impact of delays in border travel times, etc)

In January, 2004 HLB Decision Economics published a report in connection with the DRIC Planning Needs and Feasibility Study detailing the economic impacts of not adding additional border crossing capacity in the Detroit Windsor area. That report was updated in August 2005 (See attached Executive Summary). Their conclusion was that Michigan could lose as much as \$748 million and Ontario could lose as much as CAN\$949 million annually in lost production by 2025 if new border capacity is not added before that time. Combined the region would be looking at the loss of up to 6,100 full time equivalent jobs by 2025. The cost to the national economies could be as high as \$1.603 billion in the U.S. and CAN\$2.004 billion by 2025 annually in lost production by 2025 and a combined loss of up to 14,200 full time equivalent jobs. If new capacity is not added by 2035 the value of lost production in Michigan would rise to almost \$5 billion per year and the loss to the U.S. economy would rise to almost \$11 billion per year.

A recently published study (March 2008) by the Brookings Institute, "The Vital Connection: Reclaiming Great Lakes Economic Leadership in the Bi-National US-Canadian Region" said:

“The increased pressure to secure our common boundary offers a unique opportunity to rethink aging and often inefficient infrastructure, technology, and processes towards a border concept that meets long term security and trade goals, and facilitates efficient movement of people, goods, and services across the border. Such a vision is a key foundation of a revitalized Great Lakes Region. But the creation and implementation of a bi-national policy architecture under the umbrella of the “U.S.-Canada Border of the Future” will require strong, consistent political leadership, both to establish the vision and to push through technical, funding, operational, and bureaucratic impediments.

The Great Lakes Region can serve as the “model” for secure and efficient borders. With this goal in mind, the U.S. and Canadian governments should establish a “blue ribbon committee” comprised of high-level policy, business, and academic experts that articulates a multi-year strategic and operational plan for our shared border. Under this plan the U.S. and Canada should by 2015:

- Achieve secure and unencumbered movements of people across the land, air, and sea borders using mutually recognized credentials, “registered traveler” programs, biometric technology, risk assessment, and other state-of-the-art capabilities and processes designed to eliminate inefficiencies and improve security;
- Establish seamless border pre-clearance of U.S.-Canadian goods transported as part of a comprehensive North American customs clearance system or fully compatible national systems;
- Ensure stable funding sources for border improvements through a coordinated infrastructure investment plan that drives investment on both sides of the border;
- Continue to push for state-of-the-art technology, operations, and processes to support Great Lakes and bi-national economic prosperity.

### ***5. Value to the Users of the Project***

(The Applicant should describe the benefits of the proposed project within the border zone to its users. Potential benefits include reduced border travel times, increased safety, faster and more convenient access to terminals for commercial vehicles, environmental benefits, truck-only lanes, and increased travel speeds, etc.)

Following are several comments from significant users of the Detroit Border crossing that were given in testimony to the Michigan legislature relating to the benefits they expect to reap if this project goes forward:

#### **From Chrysler LLC which is responsible for approximately 1,000 truck border crossings per day in Detroit:**

“Our interest in seeing the project through is basically around three points. First and these are in no particular order of preferences, first is the direct access that the DRIC would provide to the 401. It’s been said many times and I think it bears repeating here that the only non-freeway stretch between Montreal and Miami is the 6 miles between Highway 401 and the Ambassador Bridge. That’s a problem for people traveling in their cars, but much more of a problem for tractor-trailer trying to navigate down here on Huron-Church Road. When there’s congestion on the bridge and we’ve experienced delays as much as two hours or more over the last year at

times, it would be great to have an alternative and right now there isn't one. The second point is operational flexibility. Our carriers are mandated to be 100% Fast Certified and they are currently, that holds true for all of our standard carriers, both vehicles and parts as well as our expediting carriers. And even though that's the case, there are still delays at times because you have to wait behind the truck that's not Fast Certified, if there's long enough of a delay. And again it supports the dual-path of having multiple access points at the border. And the third is quite simply, it would be a better competitive alternative. We've seen the tolls go up steadily, outpacing inflation over the last any amount of time you want to look at and right now it costs approximately \$30 for a loaded tractor to go across each way. That's more than just about any other crossing into Canada and we feel like there needs to be some competition and building a new DRIC would do just that."

**From Ford Motor Company which is responsible for approximately 600 truck border crossings per day in Detroit:**

"Ford Motor Company as you know has a major presence in Michigan with capital investments exceeding \$10 billion since the year 2000 and annual supplier purchases in Michigan of about \$17 billion. Southeast Michigan and Ontario are central to Ford's international competitiveness. The border crossing alone plays a key roll in Ford's business operations. On a typical day 600 of our vehicles cross the border. Anything that improves the flow of goods across the border will help to improve our business. Particularly when congestion costs are expected to add as much as \$200 to the price of every car manufactured in Michigan and Ontario by 2010. The importance of the crossing to Ford is a mirror image of the importance to the region. With more than 40% of our nations trade with Canada transiting the crossings at Detroit and Port Huron. Simply put the Detroit-Windsor border is the busiest trade corridor in the world. In summary, we urge the Governor and legislature to support the completion of the DRIC. We also urge all parties and partners in this effort to move forward and construct a secure and efficient border crossing which will help future economic growth on both sides of the border. That's basically our view."

**From MAGDA International, an automotive parts supplier:**

"We have over 225 facilities dealing with mainly with automotive parts manufacturing and some vehicle assembly work. We've got over 83,000 employees and over \$26 billion in sales. The interaction between the United States and Canada, between our various manufacturing locations is a key part of our ability to service the customer base that we have, which is the OEMs that are here in the North American region. Efficient travel back and forth is most important to us. We are in support of continuing the DRIC's Study to understand truly what that will bring to us in terms of efficiency. We see a come back in the '010 calendar year time frame for us. And overall volumes for the global automotive market are going to increase over the next five years, anywhere from 10 to 15%. So the volumes are going up, production may not necessarily be going up all in the North American region, but we will be producing product here that will be exported as much as possible so the ease of getting back and forth across the border is critical for us. We've got a number of plans that do serve on the JIT basis, the OEMs, two of them in particular in Windsor where we've got a four hour window or less that

we've got to get parts from order into the customer shop floor. And it is often the case that we've got a similar amount of time to get product from our manufacturing facilities here in the states, across the border and into those facilities to produce parts. So, we're highly dependent on fast and efficient border crossing."

**From the United Auto Workers Union (UAW):**

The International Union UAW represents over 400,000 active and retired members throughout Michigan. The UAW supports the Detroit River International Crossing with our neighbor Canada. The Detroit-Windsor border crossing is the busiest trade corridor in the world. The current crossings between these two cities have finite capacities and aging infrastructures. This impedes Michigan's ability to be competitive in the global market and hurts both the Canadian and American economies. They are pre-NAFTA infrastructures in a post-NAFTA world. That impact is seen here in Michigan as industries, including the automotive industry, work to remain competitive in a global economy. One of the ways automotive manufacturers and their suppliers are using to achieve class savings is the concept of just-in-time deliveries. Just-in-time-deliveries have replaced the old system of warehousing the parts and supplies used in the automotive assembly process; instead these parts and supplies are delivered as they are needed for immediate use on the assembly lines. If there is an unforeseen delay at the Detroit River Crossing in this delivery process, production is slowed or stopped causing a loss of revenue. UAW represents thousands of workers in these manufacturing industries who are impacted by the delays of the Detroit River Crossing and these delays ultimately cause Michigan's overall economy millions of dollars. Just-in-time delivery's account for close to \$300 million daily, passing through the Detroit-Windsor region. This translates into thousands of jobs and if additional capacity is not created at the Detroit River Crossing, Michigan will see these jobs negatively impacted and possible lost. On the other hand, thousands of new jobs will be created in construction and the automotive industry and their partner suppliers, as well as other industries and businesses with the building of a new crossing and the enhanced accessibility it will provide. Moving ahead with the DRIC will position Michigan to remain competitive well into the future. It will lead to reduced border congestion, enhanced security and future growth to the economies on both sides of this U.S., Canadian border crossing. It is for these reasons that the UAW asks for your support for the necessary resources needed to ensure completion of the DRIC Project.

***6. Innovations in Project Delivery and Finance***

(The Applicant should highlight any innovative project delivery and financing features proposed for the project. The Applicant should specifically address the eligibility of the proposed project for credit assistance under the Transportation Infrastructure Finance Innovation Act (TIFIA) and Private Activity Bonds (PABs).)

The Detroit River International Crossing (DRIC) is a nationally significant project, as it will provide a higher level of economic security to the region, state, and national economies. DRIC has been recognized as one of five priorities in the 2008 Report to Leaders from the North American Competitiveness Council to the tri-lateral Security and Prosperity Partnership (SPP).

The DRIC appears to offer a viable Public Private Partnership (P3) opportunity and would be a beneficial arrangement to government, the public, and the private sector. Michigan is also currently exploring the use of a long-term concession for the project, TIFIA funding, and private activity bonds (PABs) to off-set project costs.

The DRIC is a prime candidate for TIFIA and Private Activity Bonds (PABs) funding. Project costs will total far above the \$50 million threshold for TIFIA at approximately \$1 billion. Tolls will provide the dedicated revenue source for repayment of the debt. DRIC will meet all planning, environmental review, and compliance requirements and will encompass private sector participation likely in the form of a long-term P3 concession.

### ***7. Exceptional Environmental Stewardship***

(The Applicant should describe any proposed innovative methods for completing the environmental review process effectively, and/or any exceptional proposed measures for avoiding or mitigating air, noise, or water impacts, or impacts to environmental or cultural resources.)

This project has been unique in the number of innovative approaches in connection with environmental issues, beginning with the paralleling of the U.S. and Canadian environmental processes. We have executed a streamlining agreement with seven U.S. federal cooperating agencies and held over 30 meetings with federal or state agencies to shepherd this project through the environmental analyses. Because of the urbanized area in which this project will be located, we recognized that most, if not all, of our impacts will be of a socio-economic, historic, or cultural nature and so we have conducted the most comprehensive public involvement process in the Department's history. Over 80 public meetings and workshops (See Section 9a. for details) have been held and notices of our meetings are regularly distributed by mail to almost 10,000 residences and businesses and published in 6 newspapers, including one Spanish language paper and one Arabic language paper.

We will be working this summer with the city of Detroit to identify appropriate mitigation for displaced recreational areas and facilities. We will also be working with both the city and the State Historic Preservation Office to document and develop appropriate mitigation for those historic and cultural resources that cannot be avoided by this project.

In addition, we plan to control air quality impacts during construction. Mitigation strategies include: minimizing engine operation; restricting construction activities around certain more sensitive receptors, like Southwestern High School (when in session); using particulate matter traps and oxidation catalysts on engines; and, using ultra-low sulfur diesel fuel in advance of the schedule called for in EPA regulations.

Last but not least, we have initiated an extensive Context Sensitive Solutions process with local residents and businesses. We will be continuing this process to ensure that this project does not detract from the neighborhood, and to identify appropriate mitigation strategies to deal with the unavoidable impacts.

## ***8. Finance Plan and Potential Private Sector Participation***

(The Applicant should submit an initial plan that identifies potential sources of financing and the private sector's likely role. This may include proposals for private sector financial contribution to the proposed project. Private sector participation can encompass a wide range of contractual arrangements by which public (Federal, State, or local) authorities and private entities collaborate in the financing, development, operation, and ownership of a transportation infrastructure project. Potential contractual arrangements for the project include, but are not limited to: (a) Long-term concessions or franchise agreements; (b) Design, Build, Operate and Maintain contracts; (c) Design, Build, Finance, and Operate contracts; (d) Build, Own and Operate contracts; and (e) Design-Build contracts. The Applicant should describe the efficiencies likely to result from private sector participation, as well as the process likely to be used to ensure robust competition among private financial entities.)

Key to the construction and operation of the DRIC project is determining a suitable governance structure to manage and implement the project. The Partnership is committed to maintaining public oversight of the crossing and has established that the DRIC appears to offer a viable Public Private Partnership (P3) opportunity and would be a beneficial arrangement to government, the public, and the private sector.

The Partnership has been evaluating the use of a long-term concession P3 against a set of objectives which are to:

- Provide a safe and secure crossing;
- Ensure the efficient and integrated cross-border movement of people, goods and services;
- Minimize the use of public funds to the greatest extent possible; and,
- Provide public transparency and accountability.

This evaluation is being combined with legislative efforts to allow Michigan to enter into an agreement with Canada to implement the project and to provide authority for P3s. While these topics are under regular discussion, it is expected resolution of all issues will coincide with executing the Record of Decision.

As you are aware, P3s offer the possibility of lower cost public financing with construction and operational efficiencies available in the private sector. Agreements between the public and private partners ensures the facilities are properly maintained and secured, addresses the needs of the users and stakeholders, and provides the required level of accountability and transparency. Government ownership of the crossing guarantees full compliance with federal, state, and provincial environmental, safety, and national security laws, regulations, and best practices. It also enables public agencies to have oversight of tolls, profits, and revenues, while the crossing operations are buffered from the politics of state, provincial, and federal governments, therefore appropriate toll setting can be achieved by the private sector to provide revenues for long-term maintenance of the facility. The private sector is also able to deliver the project sooner than if the crossing was designed, constructed, and operated by government.

## ***9. Planning and Coordination Status***

(The Applicant should provide information about the status of planning and coordination activities. The Applicant should identify and discuss: (a) The status of coordination among interested Federal agencies and local stakeholders; (b) relevant consideration and/or coordination with the governments of Canada and Mexico; (c) whether the project is included, or expected to be included, in State and metropolitan planning organization plans and programs; (d) whether the project is consistent with plans and programs developed by empowerment zone and community

organizations; (e) whether the project is consistent with plans developed for compliance with the Clean Air Act; (f) whether or not the project is supported by the U.S. Customs and Border Protection Agency or by the General Services Administration; and (g) whether or not the project has or will require a Presidential Permit.)

The DRIC study has completed a Draft EIS, held the required public hearings and completed the comment period. The DRIC study team is working with the community to identify a preferred alternative and the range of mitigation measures that would be appropriate to address the remaining impacts of the project on the area. The study team is expecting to publish an FEIS before the end of the year. Following the receipt of a Record of Decision, the team will proceed to complete the Presidential Permit Application and the Interchange Access Justification Report.

#### ***9a. Coordination among interested Federal agencies and local stakeholders***

MDOT conducted an agency scoping meeting on August 31, 2005, at Cobo Hall in Detroit. The meeting, which was open to the public, provided the opportunity for federal, state, and local agencies to review and comment on the scoping document prepared to guide the study process. The Local Advisory Council (comprised of representatives of community groups and local elected officials) and the Local Agency Group (comprised of technical professionals from local governments) (See Descriptions below) also participated in the meeting. Prior to it, a scoping packet was mailed to those invited or who requested it.

#### **Cooperating Agencies**

The following federal agencies have agreed to be cooperating agencies for the project:

- U.S. Environmental Protection Agency;
- U.S. Army Corps of Engineers – Detroit;
- U.S. Fish & Wildlife Service
- U.S. General Services Administration – Great Lakes Region;
- U.S. Coast Guard;
- U.S. Department of Homeland Security – U.S. Customs & Border Protection;
- U.S. Department of State.

A cooperating agency has special authority or expertise over the implementation of a project. Their participation is provided for by the Council on Environmental Quality regulations implementing the National Environmental Policy Act. Each reviewed and approved release of the DEIS in the role of cooperating agency. (See attached Streamlining Agreement)

#### **Agency Meetings**

In addition to the scoping meeting, several other meetings were held with federal and state agencies. (See Table) These meetings were held consistent with the commitment by FHWA and MDOT to continuous cooperation throughout the DRIC Study. These meetings assisted in gaining approval on the scoping document, Illustrative Alternatives, the Practical Alternatives and the Draft Environmental Impact Statement.

Date	Location	Purpose/Topics of Discussion
April 27, 2005	Detroit	Project update with technical representatives of local governments.
May 18, 2005	Detroit	Involve the U.S. Cooperating Agencies in the Detroit River International Border Crossing Study.
July 20, 2005	Detroit	Project update with technical representatives of local governments.
August 18, 2005	Detroit	Project coordination with SEMCOG in regard to their travel demand modeling.
October 19, 2005	Detroit	Project update of U.S. Cooperating Agencies with emphasis on Illustrative Alternatives
November 18, 2005	Cleveland	Determine needs of the U.S. Coast Guard as they related to a new crossing of the Detroit River.
December 19, 2005	Detroit	Project update with U.S. Customs and Border Patrol on Plaza location.
December 20, 2005	Detroit	Project update with U.S. Army Corps.
January 9, 2006	Conference Call	Project update and coordination with U.S. Customs and Border Protection.
January 25, 2006	Detroit	Project update with technical representatives of local governments.
February 17, 2006	Detroit	Project update with U.S. Customs and Border Protection.
February 21, 2006	Lansing	Project update of U.S. Cooperating Agencies with emphasis on Illustrative Alternatives Evaluation of Practical Alternatives.
February 23, 2006	Detroit	Project update of U.S. Cooperating Agencies with emphasis on Preliminary Practical Alternatives.
February 24, 2006	Washington, D.C.	Project update with U.S. Customs and Border Protection.
March 8, 2006	Detroit	Project update with the Detroit Department of Environmental Affairs with a focus on the right-of-entry requests to the City for the geotechnical/drilling program.
April 26, 2006	Detroit	Project update with technical representatives of local governments.
May 17, 2006	Lansing	Project update with the State agencies.
May 31, 2006	Detroit	Project update with technical representatives of local governments.
June 13, 2006	Detroit	Project update of U.S. Cooperating Agencies with emphasis on the drilling program and social/cultural workshops.
September 12, 2006	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on the drilling program, Context Sensitive Solution workshops.
September 13, 2006	Windsor	Update the Coast Guard and others on Practical International Crossing Alternatives.
September 25, 2006	Lansing	Project coordination and guidance from the State Historic Preservation Office.
December 5, 2006	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on preliminary project impacts; deep drilling program; and, results of Context Sensitive Solution workshops.
March 14, 2007	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on deep drilling program; Value Planning results; and, Bridge-type Study.
May 17, 2007	Detroit	Update officials at the Detroit Economic Growth Corporation on land use planning that has been done in conjunction with the Delray community.
June 7, 2007	Conference Call	Project update with U.S. Customs and Border Protection and the General Services Administration.
June 13, 2007	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on Screening of Practical Alternatives; deep drilling program; Bridge-type Study; CBP/GSA coordination; and, Delray land use.
September 19, 2007	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on review of Technical Reports
October 22, 2007	Lansing	Resolved issues regarding the <i>National Register</i> eligibility of certain properties/districts, and addressed other project-related issues with the SHPO.
October 29, 2007	Conference Call	To exchange information related to possible mitigation efforts at Fort Wayne with the SHPO, Detroit Recreation Department and the National Parks Service.
October 30, 2007	Lansing	Project update and coordination of project activities with the U.S. Department of Homeland Security.
December 12, 2007	Detroit	Project update of U.S. Cooperating Agencies and State agencies with emphasis on Technical Reports and DEIS.

### **Public Workshops and Meetings**

Engaging the public during the development of the DEIS involved over 80 workshops and formal public meetings. Approximately 10,000 residences and businesses were sent mailings about each formal public meeting. In addition to the mailings, more than a thousand fliers were handed out door-to-door in Delray and along the I-75 service drive north of the freeway for public meetings and workshops. Selected display advertisements and media advisories were also posted in the following newspapers:

- Detroit Free Press
- Detroit News
- Latino Press
- Arab American News
- Michigan Chronicle
- News-Herald Downriver

Additionally, early in the DRIC, when the study area ranged from Wyandotte to Belle Isle, radio advertisements on Detroit's principal stations were used to help promote awareness of the milestone public meetings.

### **U.S. Public Workshops**

The following is a list of DRIC Study Workshops and the principal content of each:

<b>Date</b>	<b>Focus</b>
December 14, 2005	Vision Statement
December 21, 2005	First Step to Plaza Location
January 4, 2006	Final Vision Statement and Presentation of Preliminary Plaza Locations
January 18, 2006	Proposed Plaza Locations and Work Station "Q and A"
February 8, 2006	Proposed Plazas with Preliminary Tie to Bridges and I-75
February 27, 2006	Land Use Goals
March 8, 2006	Community Analysis
March 22, 2006	Community Planning
April 19, 2006	Context Sensitive Solution Terminology/Process
May 9 & 10, 2006	Social and Cultural Issues
May 23, 2006	Illustrative Land Use Plans
June 22, 2006	Bus Tour to View Toledo and Port Huron Bridges
August 24, 2006	Ramp/Plaza Concepts/Aesthetics
November 2 & 15, 2006	Initial Bridge Concepts/Aesthetics
April 26, 2007	Land Use/Urban Design/Crossing System Aesthetics
August 8, 2007	Bridge Aesthetics

Notes of all workshops are on the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)).

## **U.S. Formal Public Meetings**

The list of DRIC Study public meetings and the purpose of each follows.

- **April 2005 Public Meetings – April 11 at Biddle Hall in Wyandotte, April 12 at River Rouge High School in River Rouge, April 13 at Southwestern High School in Detroit, and April 14 at Martin Luther King Jr. High School in Detroit.**

- Introduced the project and solicited input on where the Illustrative Alternatives should or should not go. Public input was used to define evaluation criteria and develop Illustrative Alternatives.

- **June 2005 Public Meetings – June 27 at Martin Luther King, Jr. High School in Detroit, June 28 at Southwestern High School in Detroit, June 29 at River Rouge High School in River Rouge, and June 30 at Crystal Gardens in Southgate.**

- Explained the Illustrative Alternatives and received input. The community was involved in weighting evaluation criteria. The Illustrative Alternatives were then refined prior to evaluation. More than 900 people participated.

- **December 2005 Public Meetings – December 5 at River Rouge High School in River Rouge, December 6 at old HomeQuarters (HQ) in Southgate, December 7 at Southwestern High School in Detroit, and December 8 at Butzel Family Center in Detroit.**

- Reviewed the Illustrative Alternatives evaluation results. Public input led to working with the Delray/Southwest Detroit community to establish the area within which the proposed plaza would be located. The eight workshops listed on the previous page, held between December 14, 2005, and March 22, 2006, fulfilled that objective.

- **March 2006 Public Meeting – Delray Community Center and Southwestern High School.**

- Presented the Practical Alternatives. The Practical Alternatives were refined based on the public input received.

- **December 5, 2006 – Southwestern High School.**

- Discussed preliminary results of analyses of potential impacts of the Practical Alternatives. Public input received allowed further refinement and evaluation of the Practical Alternatives.

- **January 11 and 31, February 28, March 21 and 28, 2007 – Delray Community Center.**

- Reviewed the DRIC deep drilling program to test for the location of brine well cavities. These meetings allowed the local community to be fully aware of all field work and to have questions answered by a team of field representatives.

- **April 25, 2007 – Southwestern High School.**

- Concluded discussion of DRIC deep drilling program and explained the next steps in the analysis process, which would lead to a conclusion to be released to the public in the DEIS.

• **June 20, 2007 – Southwestern High School.**

– Reviewed the screening of Practical Alternatives. Public input received allowed refinements to the alternatives and addition of Alternative #16 to better address local access considerations.

• **December 12, 2007 – Southwestern High School.**

– Reviewed the Context Sensitive Solutions and conceptual land use planning work conducted beginning December 2005. An open house allowed input to be gained on this aspect of the project as well as the cultural resources work addressing significant historic resources.

• **March 18, 2008, - Southwestern High**

Public Hearing on the DEIS

**March 19, 2008, - LA SED Community Center**

Public Hearing on the DEIS

The public hearings were conducted, as most DRIC public meetings, as a combination “open forum/formal presentation/open microphone format.” The open forum allows the public to stop in anytime during the scheduled hours, gather facts on the study, and speak with members of the MDOT Team on a one-to-one basis. MDOT presented a summary of the Draft Environmental Impact Statement (DEIS) during the formal presentation followed by an opportunity for all to hear public comments and questions in the open microphone portion of the meeting. Court reporters were available to record oral comments at any time during the hearing. Citizens were also encouraged to fill out a comment form and deposit it into the comment boxes at the public hearing site. Comments could also be submitted through the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)) using the on-line comment form. The public record was open for comments until May 29, 2008, a total of 90 days.

All written or recorded comments appear in a transcript of the public hearing, which was published on June 10, 2008. Notes of all formal public meetings and a copy of the public hearing transcript are on the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)).

**U.S. Local Advisory Council (LAC) and Local Agency Group (LAG)**

In addition to the series of public workshops and meetings, the DRIC Local Advisory Council (LAC) and the Local Agency Group (LAG) were formed. The LAC is made up of various elected officials, interest groups, and community representatives. It is a representative form of public involvement that involves members bringing ideas and concerns of their respective constituents to the table for discussion. In turn, LAC members communicate results of those discussions to their groups. The Local Agency Group (LAG) was formed to have technical professionals from area governments, directly or indirectly affected by the DRIC proposal, engage in the study process. While held separately for the first year of the project (2005), LAG meetings were consolidated with those of the LAC after that. In March 2006 and November 2006 the LAC met jointly with the Canadian Community Consultation Group. The purpose of the meetings was to review the Practical Alternatives and the preliminary impact data before the public

meetings on these topics. The LAC/LAG meets on the last Wednesday of each month, unless otherwise announced. Each meeting is open to the public and included two public comment periods. Each formal public meeting presentation was pre-screened at the LAC/LAG and refined based on their input. Additionally, monthly input was used to shape the study process, respond to issues and conduct analyses to satisfy the community's interest in the project. (Organizations participating in the DRIC Local Advisory Council are attached. Those invited to the LAG are also attached) Notes of all LAC/LAG meetings are on the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)).

#### **Other Meetings and Public Involvement**

##### **• MDOT Real Estate Meetings with Property Owners in the DRIC Study Area**

Residents who are within the DRIC Study area footprint (see Figure 3-9) received a letter in early July 2007 inviting them to attend open houses held at the Delray Community Center on July 30 and 31 and August 1 and 2 from 10 a.m. to 8 p.m. Owners/tenants were briefed on their rights and benefits, if they are relocated as part of the DRIC project. Information on the project and real estate procedures were available. MDOT did not engage in any discussions of property purchase. One-on-one meetings were held with about half the property owners/tenants on these four days. Additional meetings were held on an as-requested basis. These meetings took place as part of the preparation for the DEIS. Results are documented in MDOT's files. MDOT also interviewed all businesses owners/operators, usually at their place of business.

##### **• Joint Transportation Committee Meetings**

The House Transportation Committee (Rep. Philip LaJoy, Chair) and Senate Transportation Committee (Sen. Judson Gilbert, Chair) conducted joint sessions on March 23 and 30, 2006, and on May 11 and 18, 2006, in Lansing regarding the Detroit River International Crossing (DRIC) Study. These meetings were open to the public. The results are reported on the project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)).

##### **• Other Public Involvement**

The public involvement process has involved many small group/one-on-one meetings requested by the public. These have included meetings with city councils, chambers of commerce, trucking companies, owners and operators of potentially-impacted businesses, public agencies, and other groups. The project Web site ([www.partnershipborderstudy.com](http://www.partnershipborderstudy.com)) includes information on meeting notes and reports. Information is also provided on contacting the project team and being added to the project mailing list. There is also a toll-free telephone system (1.800.900.2649) through which a caller can make comments or ask questions about the project. A DRIC Study Information Office is located at the Delray Community Center, 420 Leigh Street, in Detroit. It is open Monday, Wednesday, and Friday from 1:00 PM to 5:00 PM to provide information and answer questions about the project.

### **Boat and Bus Tours**

On September 28, 2005, a boat tour was conducted of the study area on both sides of the Detroit River. The tour examined different potential river crossing areas and the impacts they might have. The tour was open to agencies, LAC members, and the public. On June 22, 2006, a bus tour examined bridges in Toledo, Ohio, and Port Huron, Michigan. This tour was also open to agencies, LAC members, and members of the public.

### ***9b. Coordination with Canada***

The Ontario-Michigan Border Transportation Partnership (Partnership) was formed in February 2001 for the purpose of improving the safe and efficient movement of people, goods, and services across the U.S./Canadian border at the Detroit and St. Clair Rivers, including improved connections to national, provincial, and regional transportation systems. The Partnership is comprised of the Michigan Department of Transportation (MDOT), the U.S. Federal Highway Administration (FHWA), the Ministry of Transportation for Ontario (MTO), and Transport Canada (TC). (See attached Partnership Framework, Partnership Charter, and Memorandum of Cooperation documents) The organization published a Planning Needs and Feasibility report in January of 2004 which identified the need for a new border crossing over the Detroit River. The partnership has been meeting twice a month since its inception to monitor the progress of the studies underway and to identify and resolve any problems that may have arisen. The partnership is currently engaged in parallel processes to produce the appropriate environmental documents to comply with each nation's respective environmental laws

### ***9c. Inclusion of Project in MPO Plans and Programs***

The Metropolitan Planning Organization for the greater Detroit area is the Southeast Michigan Council of Government (SEMCOG). The DRIC project was approved for inclusion in SEMCOG's Regional Transportation Plan by the Executive Committee on May 8, 2006 and was expected to receive final approval from SEMCOG's General Assembly on June 26, 2008.

### ***9d. Consistency with Empowerment Zone and Community Organization Plans***

The Proposed Project is within an Empowerment Zone.

### ***9e. Compliance with Clean Air Act***

The air quality analysis for the Detroit River International Crossing (DRIC) study illustrates that the project will meet the requirements of the Clean Air Act (CAA) as summarized in Section 176(c)(1).

The U.S. Environmental Protection Agency (EPA) is responsible for establishing national air quality standards. The SEMCOG region is in non-attainment for 8-hour ozone and fine particulate matter (PM<sub>2.5</sub>). The project area is also in maintenance for carbon monoxide (CO) and coarse particulate matter (PM<sub>10</sub>). The proposed DRIC project must be added to the SEMCOG regional transportation plan (RTP) to determine if the DRIC would cause problems in attaining and maintaining air quality standards on a

regional level. The conformity test will occur after a Preferred Alternative is identified. The information of the DRIC's inclusion in the SEMCOG RTP is detailed in section 9c.

A draft *Air Quality Analysis Protocol* (May 31, 2007) was developed through interagency consultation and covered mobile source air toxics (MSAT), General Conformity, and Transportation Conformity including recent guidance on hot-spot analysis for particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). The interagency consultation group consisted of representatives from the Federal Highway Administration, U.S. Environmental Protection Agency, Michigan Department of Transportation, Michigan Department of Environmental Quality, and Southeast Michigan Council of Governments. A summary describing the interagency consultation was signed by the involved agencies' representatives in early 2008 to document the process.

The protocol provided the framework for the analysis and the analysis is documented in the DRIC *Air Quality Impact Analysis Technical Report*, January 2008. The analysis concluded:

- although there is some increase in MSAT around the ramp/plaza system the overall effect in the project area is reduced MSAT.
- the general conformity analysis shows that the project produces one tone of PM<sub>2.5</sub> and PM<sub>10</sub> annually, well below the 100-ton annual *de minimus* level trigger for general conformity.
- the construction general conformity analysis for results show that particulate emissions of 11 tons for PM<sub>10</sub> and 0.6 tons for PM<sub>2.5</sub> are well below the threshold *de minimus* levels.
- through quantitative analysis, the 1-hour CO concentrations are forecasted for 2013, 2025 and 2030 to be 2.9, 3.6, and 3.8 part per million (ppm) respectively, well below the National Ambient Air Quality Standard (NAAQS) of 35 ppm. A comparison to the 8-hour standard is not needed because the 1-hour standard values are less than the 8-hour standard of 9 ppm (page 24, FHWA Technical Advisory T6640.8A, October 30, 1987).
- through qualitative analysis for PM<sub>10</sub> and PM<sub>2.5</sub>, the project will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS for both 24-hour and annual standards.

### ***9f. Support***

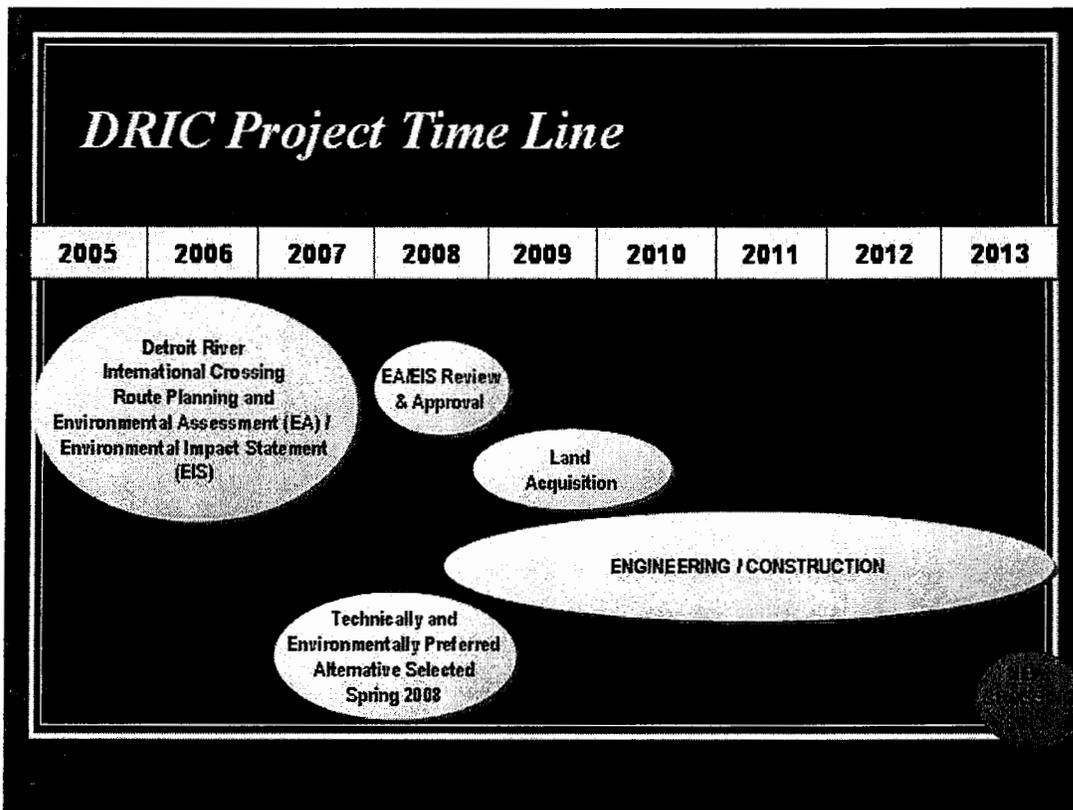
Both the U.S. Customs and Border Protection Agency (CBP) and the General Services Administration (GSA) are cooperating agencies in the development of the Environmental Impact Statement for this project. As such, this document also covers their activities in the eventual construction and operation of this project. Both agencies are fully supportive of the project. GSA has recently initiated their own Land Port of Entry Feasibility Study as a preface to designing the facilities that will need to be constructed to support CBP and the other federal agencies with border inspection responsibilities.

### ***9g Presidential Permit***

This project will require a Presidential Permit. An application for that Permit will be prepared once a Record of Decision has been issued for the FEIS.

### 10. Proposed Project Time-line

(The Applicant should include a proposed project time-line with estimated start and completion dates for major elements of the proposed project such as: (a) Development phase activities (planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities); (b) Inclusion of the project in the relevant State and metropolitan transportation improvement plans; (c) Approval needed for any required Presidential Permits; (d) Acquisition of real property (including land related to the project and improvements to land); and (e) Construction, reconstruction, and/or rehabilitation activities. The Applicant also should describe the results of any preliminary engineering or preconstruction activities done to date and relate it to the project time-line.)



## **Summary Of Traffic And Financial Impacts Of The Proposed DRIC Bridge On Existing Border Crossings**

1. The DRIC study was initiated in 2005 and uses 2004 as the base year for traffic. All impacts are measured against the base year.
2. As identified in the Draft Environmental Impact Statement (DEIS), a DRIC Bridge would impact the projected future traffic at the three existing border crossings in southeast Michigan.
3. The projected traffic volumes, with a DRIC Bridge open to traffic, in 2015 and 2035 would be higher than the traffic volumes in 2004 for both the Blue Water Bridge and the Detroit Windsor Tunnel
4. In 2015, with a DRIC Bridge opened to traffic, the Ambassador Bridge would likely experience traffic volumes below the 2004 level. Traffic will increase after that, to be greater than that in 2004. This up-and-down situation has been experienced in the past by the Ambassador Bridge.
5. MDOT does not currently have access to the detailed financial data necessary to definitively determine the financial impact that a DRIC Bridge would have on the Ambassador Bridge.
6. Based on the data that are available to MDOT, the financial viability of the Ambassador Bridge would not be threatened by a DRIC crossing. (See attached.)

## **Estimate Of The Financial Impact Of The DRIC Bridge On The Ambassador Bridge**

In 2004 the Ambassador Bridge averaged 16,900 automobiles per day at a toll of \$2.75 per auto and 9,300 trucks per day at an estimated average of \$18.83 per truck. **Estimated revenue for the year 2004 was \$80.42 million.**

MDOT has estimated operational and normal maintenance costs for the Ambassador Bridge at approximately **\$15 million** per year in 2007.<sup>2</sup> (For comparison purposes: Operations and maintenance costs for the Blue Water Bridge in 2007 were estimated at \$10.3 million, operations and maintenance costs for the Mackinac Bridge were \$8.68 million for 2007, and operations and maintenance costs at the Peace Bridge were approximately \$20 million in 2007.)<sup>3</sup>

Today's (2008) toll rate structure is \$4 per passenger car and an estimated average of \$21.54 per truck.<sup>1</sup> According to the DRIC DEIS, if the crossing currently being considered as the preferred alternative is constructed, the Ambassador Bridge is expected to carry 14,100 automobiles per day and 2,600 trucks per day in 2015 with the single-logit model. If the **2008 fare structure** was still in place, that would generate **revenues of \$41.12 million**. Assuming operations and maintenance costs increase at the rate of 5% per year, **estimated costs** in 2015 would be **\$22.16 million**. **Because forecast revenues exceed expenses, the viability of the business does not appear to be threatened.**

The DRIC DEIS also modeled traffic using a nested-logit model, which is less sensitive to changes in travel time (see Level 2 Traffic Analysis Technical Report, Volume 1). Using the nested-logit model and the crossing currently being considered as the preferred alternative, the Ambassador Bridge is expected to carry 15,600 automobiles per day and 7,800 trucks per day in 2015. If the **2008 fare structure** was still in place, that would generate **revenues of \$84.10 million**. Assuming operations and maintenance costs increase at the rate of 5% per year, **estimated costs** in 2015 would be **\$22.16 million**. **Because forecast revenues exceed expenses, the viability of the business does not appear to be threatened.**

In the case of the single-logit model **revenues exceed expenses by \$19.5 million**; under the nested-logit model **revenues exceed expenses by \$61.5 million**. If the difference between revenues and expenses were allocated to debt service, \$19 million would be adequate to support a 20-year bond issue of \$245 million at 4.58% interest, a 30-year bond issue of \$300 million at 4.74% interest, or a 40-year bond issue of \$326 million at 5% interest.<sup>4</sup>

**Note:** Estimates of operations and maintenance costs cited in this assessment are for normal operations and maintenance and do not include the costs of large capital projects (such as a plaza expansion) and capital maintenance projects (such as bridge painting and roadway re-decking).

**Note:** Revenue estimates in this assessment are based solely on estimates of toll revenues based on projected traffic volumes and the published toll schedule. Revenue from leases, duty-free stores, or other revenue sources associated with a particular crossing are not included in this assessment.

**Note:** The economic effects of the DRIC extend beyond the three existing border crossings and include broader issues such as jobs, travel time and cost savings.

1. Based on published crossing volumes from the Bridge and Tunnel Operators Association and the published toll schedule for the Ambassador Bridge in 2004 and 2008
2. Based on discussions between FHWA and DIBC management.
3. Estimate for the BWB is based on doubling the actual costs for the U.S. side, Mackinac Bridge costs are based on numbers published in the Mackinac Bridge Authority Business Plan. Estimates for Peace Bridge are from 2007 Annual Report.
4. Municipal bond rates for 20 and 30 year bonds as reported by Bloomberg.com on September 2, 2008. Bond rates for a 40 year bond were imputed from data at the same source. If the Ambassador Bridge Company's pending application to use Public Activity Bonds is approved, they would be eligible for these rates.

**Detroit River International Crossing Study  
Local Advisory/Local Agency Group  
Meeting Notes  
December 10, 2008, 7:00 p.m.  
Southwestern High School**

**Purpose:** To review the progress of the Detroit International Crossing Study.

**Attendance:** See attached.

**Discussion:**

**Introductions/Agenda/Meeting Conduct**

Mohammed Alghurabi opened the meeting and offered a special thanks to Southwestern High School for hosting the meeting in the auditorium. He reviewed the agenda. A discussion of the local traffic effects of the DRIC and DIFT was added to the agenda at the request of Mrs. Leonard.

Mohammed noted that the principal focus of the meeting is to review the contents of the Final Environmental Impact Statement (FEIS) and to provide an overview of the Preferred Alternative. He indicated each LAC member received a copy of the FEIS. It is in the depositories, as listed in the handout, as well as posted on the Web site.

**Public Comments**

Tom Cervenak said he had been with the LAC since near the beginning of the DRIC when some in the community opposed the project. He and others had tried to make the proposed project into a “win-win” situation geared to redevelopment of Delray. He believes the Green Sheet and FEIS do not show the necessary commitment, especially to housing. The MSHDA efforts on housing do not seem to be going anywhere. He feels that if there is a choice between a bridge and no development or no bridge and no development, he would go with the latter.

John Bendzick said he had been continuously checking, and the Canadians want to move forward.

A Delray resident said he felt anything that happens in Delray is a good thing.

Scott Briggs of the CBC said he believes it is possible to develop the bridge with more benefits to the community.

### **LAC/LAG Meeting Notes**

The amended notes of October 29 and those of November 19 were reviewed. There were no suggested changes.

### **Presentation on Preferred Alternative and FEIS**

Joe Corradino used a series of slides to discuss the DRIC study process and the analyses that led to the identification of the Preferred Alternative. He also summarized the environmental and social impacts of that alternative and the mitigation and community enhancements associated with it. He was especially descriptive in his presentation as visually impaired persons were in attendance. At the end of the presentation, he summarized the benefits and impacts of the No Build Alternative and the Preferred Alternative. He noted the Preferred Alternative's cost is estimated at \$1.85 billion. He then asked for questions/comments.

*Q. What triggers the Environmental Justice analysis?*

R. The purpose of the EJ Executive Order is to protect minority and low-income people. EJ is applied when there is a high concentration of these peoples. He said the analysis is in Section 3 of the FEIS and mitigation is on the Green Sheet in the FEIS following Section 4.

*Q. What about local traffic and the DRIC bridge?*

R. 99 percent of the traffic on the DRIC bridge will be to and from I-75.

*Q. What is the process/recruitment for construction jobs?*

R. The concept is to provide job training and English as a Second Language (ESL), where needed, to help some be better equipped to get jobs. More specifics will be provided as time goes on and at later meetings of the LAC.

C. *The City of Detroit requires that 51 percent of jobs be given to Detroit residents.*  
R. That is possible where the project is paid for with City money. The DRIC is a federal/state project. Therefore, it is not possible to direct jobs as the City does.

C. *Please explain bridge type and Crossing X-10A.*  
R. Crossing X-10A was so long (1.3 kilometers) that a cable-stay bridge was not being considered (as no such bridge has been built in the North America) and as a suspension bridge would be the longest in America. This caused additional cost for the X-10A bridge and, therefore, further risk to the DRIC cost and schedule. So, a bridge at crossing X-10A is not the preferred crossing.

Q. *Will my property at 6330 Lafayette be taken?*  
R. No.

Q. *Some time ago I had understood the railroad tracks in Delray would be preserved, but you said something about removing it.*  
R. The comment during the presentation was that the trains on the rail line would be removed, but the track would stay.

Q. *Once the Record of Decision is signed, what are the steps to the ground breaking?*  
R. There would be 18 months of right-of-way acquisition. There would be no construction until 2010.

Q. *What about funding?*  
R. The bridge would be financed with the tolls. The interchange would be publicly funded. All the funding is not worked out. And, the Michigan State Legislature will have to pass legislation allowing for tolling, involvement of the private sector in a public-private partnership, and DRIC construction.

*Q. How does the DRIC project affect the second span at the Ambassador Bridge?*

R. They are totally independent projects.

*Q. Mohammed Alghurabi asked the Detroit International Bridge Company representative if their planned span was a replacement span.*

R. The Detroit International Bridge Company representative said it was.

*Q. You implied there could be some kind of concessionaire. I assumed the state of Michigan would get a loan and build the bridge and get tolls.*

R. As was stated, tolls will be the funding source for the bridge. How that funding will be established is not yet decided. A public-private partnership may build and, perhaps, operate/maintain the bridge. But government will retain ownership and control. The legislature will have a say in all that.

*Q. The pedestrian bridges are all shown with ramps leading to them. The road bridges with sidewalks are not. Why are ramps needed with the pedestrian bridges?*

R. The pedestrian bridges are located over the high points of I-75, while I-75 is at its low points under the road bridges. So, the pedestrian crossings must be higher and, therefore, ramps are needed to access them. These ramps must meet Americans with Disabilities standards.

*C. As a representative of the Fort Wayne Advisory Council, I would like to thank you for the meeting you set up with us. We believe the project represents a hindrance to our conduct of large scale events at Fort Wayne. We will be sending a rebuttal to your findings related to the Fort.*

R. Comment acknowledged.

*Q. Will my property at 351 Campbell be affected by the project?*

R. No.

*Q. I have been reading about the project and about the Ambassador Bridges actions to build a new bridge. So, I went over to Sandwichtown to look. I found a bunch of boarded up buildings that looked abandoned and what looked like a bridge being built. Then on the U.S. side, I saw a bridge deck being built by Fort Street. What's going on?*

R. The Bridge Company has a proposal that must be reviewed by the U.S. Coast Guard for approval. On the Canadian side, the review will be by the Port of Windsor and the Canadian federal

government. So, government on both sides of the border is involved in the decision-making regarding that the second span of the Ambassador Bridge.

#### **Role of the LAC/LAG Post Record of Decision**

Mohammed Alghurabi indicated the LAC will continue to meet, but a schedule has not yet been set. In discussions with representatives of the City of Detroit, it was clear they wanted to have separate meetings, so the Local Agency Group (LAG) that had been merged with the LAC would be split out again. Likely SEMCOG and Wayne County would be invited to these meetings, as well. They would be during working hours, while LAC meetings would continue to be held in the evening.

*Q. What about those design meetings?*

R. Mohammed Alghurabi said there will also be Context Sensitive Solution meetings. These will be public meetings, as in the past.

#### **Canadian Process**

Dave Wake of the Ontario Ministry of Transport explained that Public Information Open Houses were held November 24 and 25. About 1,500 people attended. Written comments on the information presented are due by December 12. These will be responded to in the Environmental Assessment to be completed by the end of the month. The agency approval process will take another six months. Meanwhile, in Canada, right-of-way acquisition and design are moving forward.

*Q. Does Canada have a permit like the Presidential Permit in the U.S.?*

R. Yes, it has something like that.

*Q. Is there money in Canada to do this project?*

R. Federal and provincial funding is in place.

#### **DIFT and DRIC Traffic**

Joe Corradino used graphics that showed the DRIC area and the DIFT rail yard to demonstrate the relationship between the two projects. He spoke about the relationships of the projects and their traffic.

At the Livernois-Junction Yard, CSX, NS and CP will operate. CP will be new to that area occupying land to be acquired on the north side of Kronk Street. CN will not participate at the yard, but is part of the project in other ways.

The road system surrounding these projects has a large amount of excess capacity. There will be no congestion caused by the DRIC or DIFT.

With DIFT, on the east side of the yard, all the trucks will use Livernois north to/from I-94. The I-94 interchange will be improved and the gate to Livernois built so trucks can only go to/from the north. Further, the removal of the I-75 interchange at Livernois/Dragoon will reinforce this need to use I-94 and Livernois to enter the terminal from the north. Also, the existing Dix/Waterman/Vernor gate into the yard will be closed. This will lessen traffic in neighborhoods and place it on a road—Livernois—that can handle it with no congestion. Likewise, terminal access from the west will use I-94/Wyoming Avenue, not local streets.

Joe Corradino showed a slide of the local road system in Delray that had the percentage distribution of trucks on the north-south roads. Heaviest truck use is currently on Dearborn, Westend, and Clark. With the project eliminating truck movements through the plaza area, trucks would have to shift. The greatest shifts would be to Clark and to Westend. International traffic – bridge traffic – will increase. But, local traffic is going down as documented in a SEMCOG report. The DRIC analysis assumed traffic would not continue to go down, but increase. This makes sure the worst case was analyzed.

#### **Comments/Questions**

- C. *John Nagy said he was not speaking for any group, but for himself. He said he was disappointed with the lack of progress on the Community Benefits Program (CBP) requests. He felt that many of the benefits were items for which he already paid taxes. He said he had hoped the future in Delray would be made better by the DRIC, but now felt Delray would go down with or without the DRIC. Of the 62 items submitted by the Community Benefits Coalition, almost all had come back “no.” He does not consider that MDOT working together with the community. He prefers to be disappointed without a bridge than with a bridge.*
- R. It is important to note that the combined cost of community benefits for the DIFT and DRIC projects is almost \$40 million. There is no housing in this, because MDOT cannot do housing.

C. *Simone Sagovac said she had particular concerns: 1) she wanted to make sure there are guarantees that those relocated would be compensated enough; 2) she said there should be funding to upgrade existing trucks; MDEQ supports this; and, 3) though MDOT is spending \$40 million on enhancements on the two projects, other projects in the nation are spending up to 15 percent.*

R. Comment acknowledged.

C. *Scott Briggs said to put the \$40 million in perspective, the study cost is \$33 million. Timing is a concern; they want more time to comment on the FEIS.*

R. Comment acknowledged.

C. *Lisa Goldstein said that 100 trucks may not sound like much, but that's a lot if they are on your street. CBC still wants a truck route.*

R. Comment acknowledged.

C. *John Bendzick said he had been in the neighborhood and up and down Kronk for many years and felt any investment, like that of the railroads, would be good. The projects just need acceptance.*

R. Comment acknowledged.

C. *Mr. Rosen said he applauded Mr. Corradino on the routing of trucks with the DIFT and DRIC projects. He said he was in sympathy with the representatives of Fort Wayne, regarding access and signing and said it was as important as Berwalt Manor, which could be rebuilt. Fort Wayne is unique.*

R. Consultation had occurred with the Fort representatives and had found adverse impacts to Berwalt Manor, but not Fort Wayne. Nonetheless, Fort Wayne is getting a lot of attention from the City of Detroit, the Department of Interior, the State Historic Preservation Office and the Advisory Council of Historic Preservation. They, together, are working on the list of things that can be done for the Fort through the DRIC.

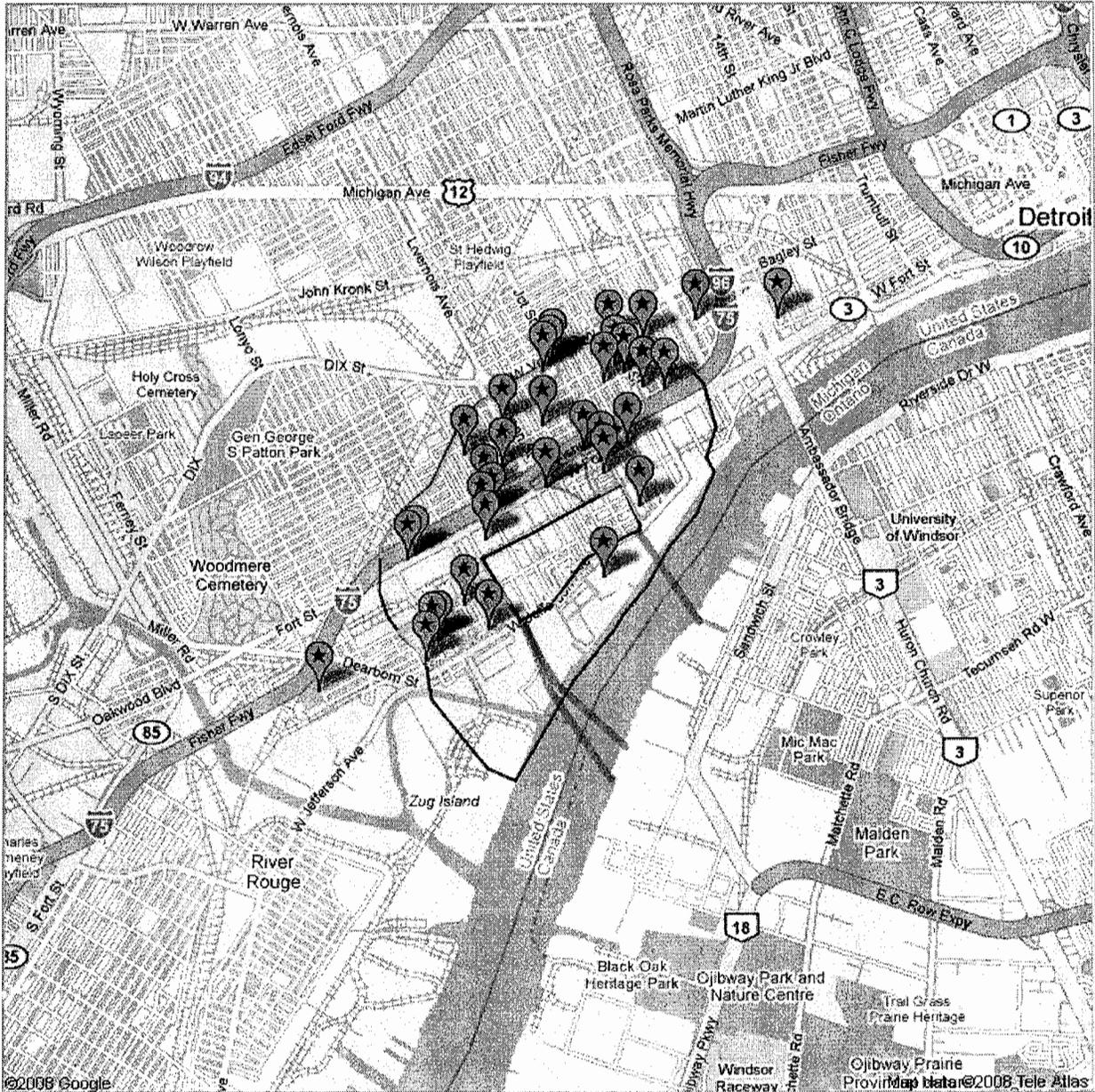
**Next LAC Meeting**

Mohammed Alghurabi said the next LAC had not yet been scheduled but would likely occur on the last Wednesday of January.

The meeting adjourned at approximately 9:00 p.m.



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### DRIC sensitive receptors.kmz

8 views - Public  
Created on Jan 2 - Updated 2 days ago  
By Danielle M  
Rate this map - Write a comment

-  DIRC potential project area
-  0.5 mi radius
-  Possible Bridge Crossing 11

-  Possible Bridge Crossing 10A
-  Possible Bridge Crossing 10B
-  Amelia Earhart Middle School
-  Mc Millan Elementary School - No Current Usage  
School closed in 1999 and building is currently not used
-  Beard Early Childhood
-  St. Anne's Church
-  Clark Park
-  Webster Elementary School
-  Southwestern High School
-  Fort Wayne  
locaton taken fro FEIS Figure 3-29 on page 3-126
-  Delray Recreation Center
-  Community Health and Social Services Center (CHASS)
-  Overcomers Thru Christ
-  Old Landmark Church - Christian and God
-  Kainos International Church
-  All Saints Christian Church
-  First Latin American Baptist
-  Greater Apostolic Faith Temple
-  Solvey Church Cogic
-  True Worship Church
-  Seventh Day Adventist Spanish
-  Berwalt Manor
-  Maybury Elementary School
-  Church of Jesus Christ
-  Latina Mission Society
-  Western High School

-  
-  McKinstry Headstart
-  Holy Redeemer Grade School
-  Holy Redeemer Church and Archdiocese of Detroit
-  Life Skills Center  
Grade 9-12
-  Pentecostal Temple Baptist Church
-  Iglesia Metodista Unida
-  House of God
-  Residence north of I-75
-  Residence west of Plaza
-  Residence west of plaza
-  Residence north of I-75
-  Residential
-  Residence east of Plaza
-  Residence, Junction St. east of plaza
-  Residence north of plaza
-  Residence north of plaza
-  ROW
-  ROW 2
-  Road Relocation
-  Residential
-  Residential
-  ROW 3
-  More Residential

December 1, 2008

Mr. Mohammed Alghurabi, Project Manager  
MDOT, Design Division  
425 West Ottawa  
Lansing, MI 48933

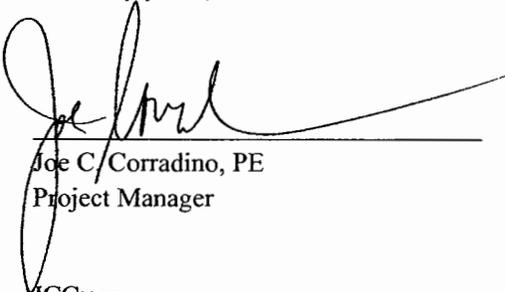
RE: DRIC EPE/EIS Project; Job No. 802330  
TCG Project No. 3600 - Invoice No. 47 Progress Report

Dear Mohammed:

Enclosed is the narrative progress report for the DRIC EPE/EIS Project. It supports Invoice No. 47 for November 2008. The invoice will be submitted under separate cover to Portia VanPelt.

Please call if you have any questions or comments.

Sincerely yours,



Joe C. Corradino, PE  
Project Manager

JCC:scr

I:\Projects\3600 WP ProgRpt.PR47.doc

Attachment

**PROGRESS REPORT  
THE CORRADINO GROUP  
DRIC EPE/EIS PHASE  
NOVEMBER 1 THROUGH NOVEMBER 30, 2008**

The following details the work progress for the project by task (Sections A, B, & C). At the end of the task progress discussion are sections that address updates of the schedule, items needed from MDOT, and a listing of substantive verbal contacts with MDOT. Schedule adjustments and verbal contacts are listed on attachments G and H, respectively.

**A, B, AND C – PROGRESS BY TASK**

**TASK 1 (1220) – VERIFY SCOPE/CONDUCT PUBLIC INVOLVEMENT PLAN**

**A. Work Progress**

- Prepared for and participated in the following meetings:
  - ✓ November 4 – With the Working Group (by teleconference)
  - ✓ November 6 – With the Steering Committee
  - ✓ November 17 – With the Community Benefits Coalition
  - ✓ Week of November 17 – With FHWA and others on cost verification
  - ✓ November 18 – With the Core Team
  - ✓ November 19 – With the City of Detroit

**B. Products**

- Notes and presentation materials, as required, on each of the above-noted meetings.

**C. Task Evaluation**

- Meetings with the City of Detroit will still be required to resolve outstanding issues. One item of significance is the resistance of the Department of Public Works to the discontinuous service drive to avoid Berwalt Manor.

**D. Upcoming Plans**

- Prepare for and participate in the following meetings:
  - ✓ December 3 – With the Working Group (by teleconference)
  - ✓ December 4 – With the Steering Committee
  - ✓ December 10 – With the Local Advisory Council/Local Agency Group
  - ✓ December 16 – With the Core Team

**TASK 2 (2120) – PREPARE TRAFFIC ANALYSIS REPORT**

**A. Work Progress**

- Submitted the revised Level 3 TAR to MDOT.

**B. Products**

- Level 3 TAR Report.

**C. Task Evaluation**

- This task is essentially complete with the approval of the Level 3 TAR in November.

**D. Upcoming Plans**

- Assist in responding to comments on the FEIS.

**TASK 3 (2130) – PREPARE JOB JUSTIFICATION/PURPOSE AND NEED STATEMENT**

**A. Work Progress**

- This task has been completed.

**TASK 4 (2140) – DEVELOP/REVIEW ILLUSTRATIVE ALTERNATIVES**

**A. Work Progress**

- This task has been completed.

**TASK 5 (2160) – DEVELOP SCOPING DOCUMENT**

**A. Work Progress**

- This task has been completed.

**TASK 6 (2310) – CONDUCT SEE TECHNICAL STUDIES**

**A. Work Progress**

- Updated the preliminary FEIS and submitted it to FHWA on November 17 with a final version being delivered on November 24<sup>th</sup>.
- Began printing approximately 500 copies of the FEIS.
- Placed Notice of Availability of FEIS in *Federal Register*.
- Placed FEIS, TAR 3 and Engineering Report in 21 depositories.

**B. Products**

- Final FEIS.

**C. Task Evaluation**

- The work in this area is complete with the submission of the FEIS.

**D. Upcoming Plans**

- Assist in responding to comments on the FEIS.

**TASK 7 (2320) – AERIAL PHOTOGRAPHY**

**A. Work Progress**

- This task has been completed.

**TASK 8 (2330) – GEOTECHNICAL DATA**

**A. Work Progress**

- Completed last two interchange borings.
- Included in the Engineering Report the results of the interchange foundation work.

**B. Products**

- Complete borings in the interchange area.
- Foundations analysis documentation as part of the Engineering Report.

**C. Task Evaluation**

- This task is now complete.

**D. Upcoming Plans**

- None, as none required.

**TASK 9 (2340) – PRACTICAL ALTERNATIVES**

**A. Work Progress**

- This task has been completed.

**TASK 10 (2360) – PREPARE DEIS**

**A. Work Progress**

- This task has been completed.

**TASK 11 (2380) – DEIS AVAILABILITY/PUBLIC HEARING**

**A. Work Progress**

- This task has been completed.

**TASK 12 (2510) – RECOMMENDED ALTERNATIVE**

**A. Work Progress**

- Updated the cost of the Preferred Alternative based on the cost verification meetings held during the week of November 17<sup>th</sup> with FHWA.

**B. Products**

- Final Engineering Report and updated cost estimate.

**C. Task Evaluation**

- The base cost for the DRIC project was within two percent of the base cost developed through the cost verification.

**D. Upcoming Plans**

- Assist in the response to comments on the FEIS.

- **TASK 13 (2525) – ENGINEERING REPORT**

- A. Work Progress**

- Finalized the Engineering Report and submitted it to MDOT on November 26<sup>th</sup>.

- B. Products**

- Final Engineering Report in seven volumes.

- C. Task Evaluation**

- This task is now complete.

- D. Upcoming Plans**

- Assist in the response to comments on the FEIS.

**TASK 14 (2530) – PREPARE FEIS**

- A. Work Progress**

- Submitted the updated preliminary FEIS to MDOT and FHWA on November 17<sup>th</sup>.
- Submitted the final FEIS to MDOT and FHWA on November 24<sup>th</sup>.
- Began printing approximately 500 copies of the FEIS.
- Placed Notice of Availability of FEIS in *Federal Register*.
- Placed FEIS, TAR 3 and Engineering Report in 21 depositories.

- B. Products**

- Final FEIS.

- C. Task Evaluation**

- Notice of Availability was sent by EPA to the *Federal Register* on November 26<sup>th</sup>. It should be published on December 5<sup>th</sup>.

- D. Upcoming Plans**

- Assist in the response to comments on the FEIS.

**TASK 15 (2550) – OBTAIN RECORD OF DECISION**

**A. Work Progress**

- Drafted the preliminary ROD. Delivered it to MDOT.

**B. Products**

- The preliminary ROD.

**C. Task Evaluation**

- This task is proceeding according to schedule.

**D. Upcoming Plans**

- Finalize the Record of Decision based on FDOT and FHWA review.

**TASK 16 (2810) – CONDUCT INITIAL SITE ASSESSMENT**

**A. Work Progress**

- This task has been completed.

**TASK 17 (2820) – CONDUCT PRELIMINARY SITE INVESTIGATION**

**A. Work Progress**

- Completed the PSI technical memo/reports for the sites for which the PSI investigations were conducted.
- Continue to assist MDOT with outstanding right-of-entry issues and continue the PSI investigation as access is granted.

**B. Products**

- Completed PSI reports for the sites on which the access was granted.

**C. Task Evaluation**

- This work will continue into 2009 as access to various sites is gained.

**D. Upcoming Plans**

- Continue PSIs into 2009, as access to various sites is gained.

**TASK 18 (3310) – AERIAL TOPOGRAPHIC MAPPING**

**A. Work Progress**

- This task has been completed.

**TASK 19 (3320) – PHOTOGRAMMETRIC CONTROL SURVEY**

**A. Work Progress**

- This task has been completed.

**TASK 20 (3330) – DESIGN SURVEY**

**A. Work Progress**

- This task has been completed.

**TASK 21 (3350) – HYDRAULICS SURVEY**

**A. Work Progress**

- A determination has been made that there will be no piers in the river. Therefore, work in this task is not needed.

**TASK 22 (4510) – RIGHT-OF-WAY SURVEY**

**A. Work Progress**

- None, as none required.

**B. Products**

- None, as none required.

**C. Task Evaluation**

- Consultation with MDOT is needed in order to determine how to proceed with the right-of-way survey for the Preferred Alternative.

**D. Upcoming Plans**

- Determine how to proceed on the right-of-way survey on the Preferred Alternative.

## TASK 23 (3370) – STRUCTURE SURVEY

### A. Work Progress

- Attended the cost verification meeting during the week of November 17<sup>th</sup>.
- Completed the structure study and included it in the final Engineering Report.

### B. Products

- Final Engineering Report.

### C. Task Evaluation

- This work is essentially complete.

### D. Upcoming Plans

- Assist in responding to comments on the FEIS.

## TASK 24 (3520) – SCOUR ANALYSIS

### A.. Work Progress

- Work in this area will not be initiated as all alternatives with piers in the river have been eliminated.

## TASK 25 (3530) – FOUNDATION INVESTIGATION

### A. Work Progress

- Completed last two interchange borings.
- Included in the Engineering Report the results of the interchange foundation work.

### B. Products

- Complete borings in the interchange area.
- Foundations analysis documentation as part of the Engineering Report.

### C. Task Evaluation

- This task is now complete.

**D. Upcoming Plans**

- None, as none required.

**TASK 26 (3710) – REQUIRED MITIGATION**

**A. Work Progress**

- Met with the Community Benefits Coalition to discuss mitigation/enhancements.
- Continued the coordination with the National Park Service and the City of Detroit on enhancements for Fort Wayne.
- Finalized the mitigation/community enhancement section of the FEIS including the Green Sheet.

**B. Products**

- Final Green Sheet and related section of FEIS.

**C. Task Evaluation**

- This work is essentially complete.

**D. Upcoming Plans**

- Assist in responding to comments on the FEIS.

**D. UPDATE OF PREVIOUSLY APPROVED SCHEDULE (ATTACHED)**

- The latest revisions to the schedule in Section G were completed with the October Progress Report.

**E. ITEMS NEEDED FROM MDOT**

- Determination on conducting the right-of-way survey for the Preferred Alternative.

**F. SUBSTANTIVE VERBAL CONTACTS WITH MDOT**

- At the following meetings:
  - ✓ November 4 – With the Working Group (by teleconference)
  - ✓ November 6 – With the Steering Committee
  - ✓ November 17 – With the Community Benefits Coalition
  - ✓ Week of November 17 – With FHWA and others on cost verification
  - ✓ November 18 – With the Core Team
  - ✓ November 19 – With the City of Detroit
- Daily e-mail and telephone conversations with the MDOT Project Manager.

## ATTACHMENT

G. SCHEDULE DETAIL

Original Date	Anticipated Date	Explanation
Fourth week of February 2005	Fourth week of February 2005	1 Preliminary Evaluation Criteria
Last week of March 2005	Mid-April 2005 <sup>1</sup>	2 Study Kickoff
Third week of June 2005	Third week of June 2005	3 Illustrative Alternatives Definition
Fourth week of June 2005	Fourth week of June 2005	4 Scoping Document
Fourth week of August 2005	Fourth week of August 2005	5 Scoping
Third week of November 2005	Third week of November 2005	6 Preliminary Evaluation of Illustrative Alternatives
Second week of December 2005	Second week of December 2005	7 Preliminary Illustrative Alternatives Evaluation
Fourth week of February 2006	Fourth week of February 2006	8 Evaluation of Illustrative Alternatives/Select Practical Alternatives
Third week of March 2006	Third week of March 2006	9 Practical Alternatives Selection
First week of April 2006	First week of April 2006	10 Context Sensitive Design 1
First week of May 2006	First week of May 2006	11 Community Impact Assessment 1
First week of June 2006	First week of June 2006	12 Community Planning
First week of August 2006 <sup>1</sup>	First week of November 2006	13 Context Sensitive Design 3
Additional Task <sup>1,2</sup>	Second week of February 2007	14 Context Sensitive Design 4
Additional Task <sup>1,2</sup>	Second week of April 2007	15 Context Sensitive Design 5
Additional Task <sup>1,2</sup>	Second week of June 2007	16 Context Sensitive Design 6
Fourth week of July 2006 <sup>1,2</sup>	Last week of July 2007	17 Engineering Concepts Report
Second week of August 2006 <sup>1,2</sup>	Second week of August 2007	18 Preliminary DEIS
Fourth week of November 2006 <sup>1,2</sup>	Second week of November 2007	19 Public Hearing Script/Video
Second week of October 2006 <sup>1,2</sup>	Mid-October 2007	20 Draft DEIS
Second week of December 2006 <sup>1,2</sup>	End of December 2007	21 FHWA Approved DEIS
Second week of January 2007 <sup>1,2</sup>	Mid-January 2008	22 DEIS Public Hearing
Second week of April 2007 <sup>1,2</sup>	Mid-February 2008	23 Public Hearing Transcript Comment Summary
Fourth week of July 2007 <sup>1,2,3</sup>	Second week of June 2008	24 Recommended Alternative
Second week of December 2007 <sup>1,2</sup>	Second week of June 2008 <sup>3</sup>	25 Recommended Alternative Presentation
Fourth week of August 2007 <sup>1,2</sup>	Last week of November 2008 <sup>3,4,5</sup>	26 Final EIS
Fourth week of September 2007 <sup>1,2</sup>	Last week of November 2008 <sup>4,5</sup>	27 Final Engineering Report
Fourth week of November 2007 <sup>1,2</sup>	December,2008-Draft/January, 2009-- Final <sup>4,5</sup>	28 MOU
Fourth week of December 2007 <sup>1,2</sup>	December,2008DRAFT/Januaty,2009- -FINAL <sup>4,5</sup>	29 Access Justification Report (signature after ROD signature)
Fourth week of December 2007 <sup>1,2</sup>	December,2008-Draft/Januaty.2009 Final <sup>4,5,4</sup>	30 ROD

<sup>1</sup> Revised in September 2006. <sup>2</sup> Revised in January 2007. <sup>3</sup> Revised in January 2008. <sup>4</sup> Revised August 2008

<sup>5</sup> Revised November 2008

## ATTACHMENT

### H. CONTACT RECORDS

- Daily contact records, daily e-mails and conversations by phone and in person with the MDOT Project Manager and other MDOT/FHWA personnel.
- Monthly progress report.
- Notes, as appropriate, of the following meetings:
  - ✓ November 4 – With the Working Group (by teleconference)
  - ✓ November 6 – With the Steering Committee
  - ✓ November 17 – With the Community Benefits Coalition
  - ✓ Week of November 17 – With FHWA and others on cost verification
  - ✓ November 18 – With the Core Team
  - ✓ November 19 – With the City of Detroit

>>> Steve Tobocman [REDACTED] > 1/5/2009 9:42:45AM >>>

Attached please find two documents that contain my comments to the FEIS for the DRIC. I will have a hard copy delivered to you in the coming days. As you may know, I am no longer the State Representative for Southwest Detroit. As a result, all future contact should be forwarded to me as a private citizen at:

Steve Tobocman

[REDACTED]

Thank you. Please do not hesitate to contact me immediately if this email is not sufficient to qualify as proper filing of a comment under the NEPA.

Steve Tobocman

**OFFICE OF HOUSE MAJORITY FLOOR LEADER  
STATE REPRESENTATIVE  
STEVE TOBOCMAN  
STATE CAPITOL H-153  
LANSING, MI 48909**

December 31, 2008

Robert H. Parsons  
Public Involvement and Hearing Officer  
Bureau of Transportation Planning  
Michigan Department of Transportation  
P.O. Box 30050  
Lansing, MI 48909

RE: Detroit River International Crossing Final Environmental Impact Statement

Dear Mr. Parsons:

This letter is to provide you with comments on the Detroit River International Crossing Study (DRIC) Final Environmental Impact Statement (FEIS). As you know, I am a very strong believer in the DRIC Study process. For too long the fate of our nation's critical border infrastructure has been a t the mercy of private profit, local politics, and unintended circumstances. The DRIC Study places the future of our nation's most valuable and important land port of entry in the sober, proactive hands of the appropriate federal, state, and provincial agencies to determine what capacity constraints we might faces, as well as our homeland security needs, and how best to address those challenges.

Equally important, the DRIC Study should address the community and environmental impacts of local neighborhoods, residents and businesses that host such important transportation infrastructure. Finally, the DRIC Study is rooted in binational collaboration and coordination, assuring that its final outcome represents a solution that works on both sides of the border, a necessary condition of any workable border strategy.

The DRIC Study offers a great opportunity to plan for and stimulate economic growth in Michigan. My comments on the FEIS are designed to address a number of general issues of particular concern to me and provide input on specific mitigation and enhancement measures in the FEIS "Green Sheet". You may notice that some of these comments mirror my prior letter on the Draft Environmental Impact Statement as the issues and concerns remain relevant.

### Public-Private Partnership

The strategy outlined by Michigan Department of Transportation (MDOT) to develop a public-private partnership to design, build and operate the DRIC is to be commended. **As you know, I have long advocated for public ownership as a critical component of any governance and ownership model through which the many complexities of border crossings will be adequately considered, planned for, and accomplished.**

Completion of the Detroit River International Crossing in Southwest Detroit is critical to U.S. economic competitiveness and security. The Detroit-Windsor border is the most valuable international crossing area in North America. Public ownership and oversight protects this asset by ensuring that structural maintenance and integrity, security, and safety objectives are met. Public ownership further ensures public safety first and foremost as a public function and responsibility. Public ownership insures that the crossing is operated for its public purpose of facilitating commerce, tourism, and travel, as opposed to simply maximizing profit. This should help lower toll rates, making the entire region more competitive and attractive. As the planning for DRIC progresses, the discussion on governance and operations should include initiatives designed to ensure that the international border crossing system is operated in a manner that includes credible security protocols, while improving efficiency and reliability.

It is vital that the selection of private partners and financiers be completed through a transparent, open and fair procurement process that maximizes benefit to the people of the State of Michigan, in general, and the benefit to the host community specifically. The private partner and financiers should be selected based on their qualifications, demonstrated prior successful participation in public-private partnerships, track record of positive relationships with host communities, ability to navigate complex land use and planning scenarios, ability to bring additional capital that the responsible public entities do not already have the ability to access, and demonstrated success working with the public sector to ensure construction projects are that delivered according to plan, on-time and within the agreed upon budget.

According to MDOT, potential temporary construction job creation is estimated to be as many as 13,000 positions on-site and 33,000 indirect positions. Given the extremely difficult economic times in Michigan and across the U.S., it is vital that the DRIC associated employment opportunities are created as soon as possible. To accomplish this, the right partnership must be created with an experienced infrastructure developer/operator and financiers who can deliver a high quality end product in a timely manner.

### Redundancy

**Redundancy is a critical objective of the DRIC.** The current international border crossing system at the Detroit-Windsor border is outdated and does not work in a global economy with heightened international security issues. It constricts billions of dollars of trade onto three lanes of traffic, with limited plaza space in the heart of two, older, and dense residential communities. A breakdown in one lane of traffic, or on a local connector road or freeway entrance, or a similar system failure can significantly disrupt the flow of commerce for the entire region, costing

millions of dollars in lost productivity. A natural disaster or terrorist attack on such infrastructure would have truly enormously debilitating impact on the Great Lakes economic region. Additional lanes across the river, seamless interstate and roadway connections, and adequate plaza capacity are needed for the system to respond to the requirements of global economic integration. Border crossings are a significant source of congestion, delay, unpredictability, and increasing costs. Inadequate border crossing system infrastructure threatens thousands of health care workers crossing into the U.S. to work, air emissions (from additional idling time waiting in congested lines), tourism industry workers, and manufacturing jobs. Only a new crossing with adequate lanes, plaza facilities, and direct freeway connections can truly provide adequate system redundancy

### Southwest Detroit: The Host Community

Southwest Detroit hosts the most extensive and valuable transportation network in Michigan, including the Ambassador Bridge; the Detroit River Rail Tunnel; the Port of Detroit; four Class-One railroads; and three interstate freeways. The Detroit Windsor Truck Ferry and Michigan's largest inter-modal facility are additional components of this transportation system.

Historically, the region has benefited from this comprehensive transportation system, while the host community has shouldered the brunt of the negative impacts. The balance of benefits and impacts must be recalibrated such that the community receives tangible and sustained economic benefits, physical improvements, and air quality protections. The DRIC Study represents an unprecedented opportunity for the Michigan Department of Transportation and the U.S. Federal Highway Administration to systematically reform the manner in which major transportation projects are planned and implemented. Historical analysis and empirical studies have repeatedly demonstrated the long-term, negative unintended consequences of interstate freeway construction on communities, particularly urban locales.

In recent years Southwest Detroit (as defined by the 12<sup>th</sup> State House District boundaries) has been the only growing community in the City of Detroit. It also is the most ethnically diverse neighborhood in Michigan. Southwest Detroit is thriving economically based in large part on its strong support of, and welcoming stance towards, immigrants. It is imperative that the spirit of environmental justice directives are followed, with both initial mitigation described in the FEIS, as well as the development of ongoing organizational and funding structures. It must be a top priority of the DRIC that Southwest Detroit is not further disproportionately impacted by adverse air and noise impacts, loss of cultural and social resources, and an overall undermining of the residential and commercial development potential of this community. Otherwise, all of the economic benefits to manufacturers and commercial enterprises will be more than offset by the adverse impacts to regional economic competitiveness resulting from blight, disinvestment, and environmental degradation resulting from poorly-planned transportation infrastructure run amok.

### Design Objectives and Local Roadways

Context Sensitive Solutions community workshops initiated by MDOT and conducted through several months of planning represent a strong commitment toward an outcome of minimal disturbance and maximal improvements to the host community. In fact, it is precisely because of this kind of community impact planning that sets the DRIC apart from prior developments and infrastructure construction at the border. As the DRIC proceeds to the design phase, similar workshops should recommence. An important component of the workshops was their facilitation by an architectural design firm with substantial knowledge of the impacted communities. It will be important to retain a similarly situated entity to integrate the DRIC design with neighborhood land use plans through the design phase of the project.

The design analysis must be extended to those areas that will be impacted north of Interstate-75 by changes to the local roadway, new freeway ramps, and relocation. Additionally, the current Interstate-75 exit ramps function as the southern access routes to the Southwest Detroit's main commercial corridor. Impacts to the West Vernor and Springwells commercial districts must be thoroughly assessed with optimal traffic routing and signage options to ensure that the customer base can continue to access these districts. Additional impacts on West Fort Street, especially to such important assets as CHASS Clinic (a Federally Qualified Health Center serving some 13,000 individuals annually) and manufacturers, such as Bridgewater Interiors and Arvin Innovations, must be more thoroughly discussed.

It is critical that the project design is completed with the intention of removing the maximum number of trucks from neighborhood streets. The removal of truck traffic from neighborhood streets, particularly Clark Street and Fort Street, must be supported by the new configuration of freeway ramps.

A revitalized Delray neighborhood must be connected to surrounding neighborhoods - especially those neighborhoods north of I-75. Clark, Junction, Springwells and Livernois/Dragoon streets function as the main north and south access routes connecting Southwest Detroit neighborhoods. These routes should be protected for continued residential use. The FEIS goes far to ensure that Livernois/Dragoon will no longer be used by truck traffic. Similarly the redesign of the I-75 intersections with Clark, Junction and Springwells should be completed in such a way that semi-trucks are kept off of these neighborhood streets.

Considerable neighborhood cohesion will be lost with the elimination of two automobile crossings over I-75. The FEIS appears to suggest that the replacement pedestrian bridges will maintain some level of integration between the neighborhoods on each side of I-75. Because of the large number of households without access to an automobile coupled with insufficient mass transit option in Detroit, it is vital that these bridges actually do function in this manner. In order for this to be the case, these pedestrian bridges must be designed with great care so that pedestrian users will feel safe and encouraged to use them. Decorative sidewalks, lighting and landscaping should be incorporated into all of the pedestrian bridges. In particular, the crossing adjacent to Southwestern High School should be wide, friendly, and safe particularly because of the many young people who will need to use it. The Green Street crossing should be designed

as an entryway to the revitalized Delray neighborhood. Considerable enhancements, such as decorative lighting, sidewalks and landscaping, should be incorporated into its design.

Several community land use plans developed during the previous decade by a collaborative of community development corporations included “gateways” into the various Southwest Detroit neighborhoods. Design alternatives to the local roadway changes that include concepts for increasing green spaces, non-motorized paths, lighting, and signage need to be designed in coordination with existing greenway plans for Southwest Detroit and downriver.

Final design plans for the DRIC must work in greater detail to reduce industrial truck traffic through residential neighborhoods. Perhaps beyond the scope of an FEIS, development of a new crossing should include coordination between MDOT, Wayne County, and the City of Detroit to designate truck routes to insure that streets like Dearborn, West Jefferson, and Clark Street (south of I-75) are used to move trucks in and out of Delray, while neighborhood streets as far away as Pleasant Street in the 48217 zip code are not used as local byways by trucks.

#### Community Benefits Agreement

I have been a strong advocate for the creation of a Community Benefits Agreement (CBA) with respect to the DRIC. A CBA is a legally binding contract between a developer (public or private) and a community coalition. It is the result of a negotiation between the two parties that results in mutual benefits. In a typical CBA, the developer agrees to provide tangible benefits to the host community. In exchange the host community agrees to not oppose the project. Examples of successful CBAs include: Staples Center – Los Angeles, CA; Los Angeles Airport – Los Angeles, CA; Milwaukee Downtown Gateway and Riverfront – Milwaukee, WI; Hill District (Pittsburgh Penguins Arena) – Pittsburgh, PA; and the Dearborn Street Project – Seattle, WA.

Case law on the matter clearly indicates that the purpose of an FEIS is to provide local, regional, and national decision-makers with the best estimates or projections on the impact on the environment of a given project. Causes of action to enforce promises of an FEIS have continually been stricken down, especially when made by private entities. While local units of government may have legal rights to enforce specific infrastructure commitments made in an FEIS (e.g. local road improvements), case law suggests local community-based organizations, such as the Delray Community Council or People’s Community Services, and residents have no such legal standing.<sup>1</sup>

Informal commitments are insufficient assurances that the State of Michigan will bring its resources and power to the neighborhoods that host the DRIC in exchange for the burdens that these neighborhoods will bear by being the host community. It is well recognized that huge infrastructure projects like the DRIC and the DIFT have major and long-term impacts on their host communities. Many of these impacts cannot be foreseen much less mitigated through the

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<sup>1</sup> See *Ogunquit Village Corp. v. Davis*, 553 F2d 243 (1<sup>st</sup> Cir. 1977), *City of Blue Ash v. McLucas*, 596 F2d 709 (6<sup>th</sup> Cir. 1979), and *Noe v. Metropolitan Atlanta Rapid Transit Authority*, 644 F2d 434 (5<sup>th</sup> Cir. 1981), cert denied, 454 US 1126 (1981).

initial design and construction of the project. Therefore, a CBA is necessary and ongoing investments in the host community are required to mitigate the project.

**A CBA should be negotiated coincident with the negotiation of a public-private partnership for the design, construction and operation of the DRIC.** Replacement housing, a local jobs and economic development strategy with funding for implementation, additional infrastructure upgrades and greening initiatives, and air quality improvements should all be included as part of the CBA. It should be guided by the priorities identified by the Community Benefits Coalition as areas of critical need in Southwest Detroit.

#### Land Use and Transportation Planning

**For almost a decade, the Southwest Detroit community has advocated for a coordinated and comprehensive approach to transportation and land use planning such that community development objectives are supported rather than undermined.** In addition, the need for a comprehensive jobs and economic development strategy that focuses on Michigan's significant international trade strengths and is designed to develop the Great Lakes region, Michigan, and southeast Michigan as a global logistics and transportation hub has been well documented.

The recent successful creation of the Michigan Supply Chain Development Authority may go a long way towards developing a statewide strategy to grow the supply chain and logistics sectors. So does MDOT's commitment to fund an economic development study in association with the DRIC. It is critical that a substantial portion of this study focuses on bringing the jobs and economic benefits associated with transportation infrastructure investment to the Southwest Detroit host community, while at the same time planning for this development in a way that improves quality of life.

**This study also must identify local relocation feasibility and opportunities for the 52 businesses and nonprofits that will be relocated as a result of a DRIC Study project.** The economic development strategy must be developed and implemented with the goal of retaining these businesses in Southwest Detroit and Delray – particularly since, according to the FEIS, most indicated that their intention and preference is to stay. MDOT should consider funding the Detroit Economic Growth Corporation (DEGC) to complete this work. DEGC possesses the necessary skills and experience to complete this task, but lacks the adequate number of staff to extend its business retention services appropriately to the needs of the DRIC.

#### Residential Development

The FEIS reports 257 dwelling units will be relocated. **It is critical that replacement housing opportunities are developed in Southwest Detroit for those residents who wish to remain in the community, as well as to serve as part of a strategy to mitigate negative impacts faced by residents who are not relocate, but who live in the neighborhoods surrounding a new border crossing.** Residents being relocated must be surveyed to determine how many are

interested in remaining in Delray and what types of housing, price point and amenities need to be available in order for them to decide to relocate in the same neighborhood. In addition, a housing market analysis and feasibility study should be completed to identify other potential homeowners who might be interested in purchasing a home in Delray, what activities must be undertaken to improve neighborhood marketability, and design concepts for future development.

**Funding for housing demolition, board-up, environmental review and remediation, and owner-occupied rehabilitation should be committed immediately to the areas of Delray identified as housing development sites.** Initiating these activities immediately will go a long way towards improving feasibility of new housing development.

Several community development corporations possess successful portfolios of housing projects in Southwest Detroit (such as Bagley Housing Association, Bridging Communities Inc., and Southwest Housing). Additionally, there are nonprofit agencies with experience partnering with developers to build market rate and affordable housing (such as People's Community Services). These entities should be included in the planning for a comprehensive housing relocation and development program. The Michigan State Housing Development Authority (MSHDA) initially showed great interest in supporting such activity and progress towards this agenda appears to have resumed as of the date of this letter.

The housing activity should be described and funded through a CBA. This type of commitment - while necessary in the face of any such burdensome transportation infrastructure project - can be made even more easily in light of the recent federal commitment to the Neighborhood Stabilization Program (NSP). The State should make a clear and defined commitment of these funds to the Delray neighborhood, as well as impacted areas north of I-75, in association with the DRIC project.

### Residential Relocation

Relocation payments to property owners bring a whole new set of challenges with transportation projects located in severely depressed inner-city areas. Specifically when determining reimbursements for future property tax rates. It is likely that any person relocating from Southwest Detroit will be relocated to an area with a higher property tax burden. However, relocation benefits are determined based on the current property taxes paid. In an inner-city area like Southwest Detroit, the annual payments for property taxes are extremely low and it is likely that estimating future property taxes in this manner will create a disproportionate burden for the low-income and minority communities of Southwest Detroit. This is a burden that only persons living in low-income communities with severely depressed property values are faced with when relocation programs are implemented. It is vital that the problem be solved especially in light of the disproportionate impact on low-income, minority populations.

## Air Quality

Given the extensive array of industrial and transportation land uses in Southwest Detroit, it is difficult to fathom how air quality will be improved with the construction of expanded international border crossing capacity that will accommodate the predicted growth in commercial traffic. **The appropriate measure of air quality for the FEIS should not be a comparison of air quality between now and completion of a new crossing, but the comparison of a No Build alternative to that of a new crossing.** Real improvements to air quality must be a component of the DRIC Study project. Air quality can be addressed in three areas – overall air quality improvements in Delray, construction period air quality, and DRIC plaza air quality policies and procedures.

### Overall Air Quality Improvements in Delray

Ongoing air quality monitoring for Southwest Detroit must be accomplished and additional plans must be developed to improve air quality. The plans must focus on reducing emissions from mobile and non-mobile sources. All stakeholders, including the City of Detroit must be engaged and strategies for improving air quality and reducing noxious odors must be developed and implemented.

### Construction Period Air Quality

Specific measures to ensure construction period air quality include:

- Limiting the age of on-road vehicles used in construction
- Minimizing engine operations
- Restricting construction activities surrounding Southwestern High School and other sensitive receptors
- Monitoring of indoor air quality at all area schools (Southwestern, Beard, Roberto Clemente) as a baseline measure before construction, during construction, and regularly for one year after construction is complete. Further improvements if air quality worsens and, possibly, restoration of indoor air quality monitoring.
- Instituting fugitive dust control plans
- Using diesel particulate traps and oxidation catalysts on construction vehicles
- Using existing power sources or clean field generators rather than temporary power generators
- Require contractors to use construction equipment that at least meets the Environmental Protection Agency's (EPA) Tier 3 standards for off-road equipment. If Tier 4 equipment is available, this should be used
- Regular Sweeping of road to minimize fugitive dust

### DRIC Plaza Policies and Procedures

MDOT's call for ongoing mitigation in the FEIS is generally consistent with the recommendations from the community. The DRIC should insure implementation of anti-idling strategies at inspection queues and overnight areas. Traffic routes should be

planned and maintained to maximize safety and minimize exposure to emissions. Finally, investment in diesel reduction for Detroit and Windsor truck fleets to off-set local project impacts and to further reduce overall diesel emissions should be subsidized and encouraged. Additional comments on this topic are outlined in the attachment to this letter.

### Noise and Vibrations

The FEIS calls for infrastructure designs that reduce noise impacts are along the north side of I-75, adjacent to residential areas, and Southwestern High School. Noise barriers and walls should be designed in consultation with those immediately impacted and through the Context Sensitive Solution workshops. Particular care for the historic character of the area should be considered, as well as opportunities for further greening. Noise monitoring must be planned for at regular intervals into the future. A commitment from MDOT or through the CBA to further mitigation if noise or vibration levels exceed the established standards is needed. Additional noise walls should be planned and funded through the DRIC design period as a housing strategy is developed for the area south of I-75 and west of the Plaza.

### Southwestern High School

Southwestern High School is one of the most impacted community resources by the DRIC project. The school must be equipped with a state-of-the-art air filtering system, new windows, and other emission control equipment if indoor air quality during or after DRIC construction reaches unacceptable levels. Increased greening and buffering must be designed around the school. Opportunities to enhance the campus, curriculum, and extra-curricular programs – in part as a component of the local jobs and economic development strategy – should be developed. Particular attention to the ingress and egress of the school campus must be a component of the design workshops.

### Jobs and Economic Development

The FEIS projects that the DRIC will produce 13,000 direct and 33,000 indirect construction jobs, as well as 775 jobs for bridge and plaza operations, not to mention the thousands of jobs in related logistics, transportation, freight expediting, and customs brokering industries. Yet, residents are ill-prepared to compete for such jobs. According to the FEIS, 40 percent of Delray residents live in poverty, 97 percent do not have a college degree, and twice as many are unemployed as the regional average. Statistics for the greater Southwest Detroit community are only slightly better.

While efforts to work with the Michigan Department of Energy, Labor, and Economic Growth (DELEG) are important, as are English as a Second Language (ESL) classes, more needs to be done. The State and Federal governments need to work with the Detroit Workforce Development Board and local nonprofit agencies with job training experience, such as SER

Metro and Young Detroit Builders, Inc., to insure that localized training programs are developed for the job opportunities that DRIC construction, bridge and plaza operations, and the logistics, transportation, freight expediting, and customs brokering industries will be able to provide.

*Other Mitigation and Enhancements*

Specific input on the “Green Sheet” mitigations and enhancements contained in Section 4 of the FEIS are provided in the attached document.

Thank you for the opportunity to comment on the DRIC Study FEIS. This represents the most important project in decades to impact the future of the 12th District, the region, and the state of Michigan. I commend the Michigan Department of Transportation for its partnership with the community I represented, its respect for our input, and the open and transparent manner in which this long process is being conducted.

Sincerely,

Steve Tobocman  
House Majority Floor Leader  
State Representative  
12<sup>th</sup> District – Southwest Detroit

**Recommended Revisions to the  
Detroit River International Crossing Project  
Mitigations and Enhancements  
Contained in Section 4 “Green Sheet” of the FEIS**

**Provided by State Representative Steve Tobocman**

This document sets forth recommended revisions to the Detroit River International Crossing (DRIC) Project Mitigations and Enhancements. Depending on the recommendation, they are intended to clarify mitigation/enhancement measures as described in the DRIC Final Environmental Impact Statement (FEIS) “Green Sheet”, strengthen or improve the proposed mitigation measures, add additional measures that are within the authority of MDOT and FHWA, and ratify MDOT’s commitment to carry out certain statutory and regulatory obligations. With regard to the latter, it is expected that MDOT and the State will comply with all applicable regulations, these recommendations do not mean to suggest otherwise. Other measures are intended to insure that the FEIS’ predictions of minor or non-existent impacts were, in fact, accurate and to establish a basis for additional mitigation measures if they were not. Finally certain recommendations are intended to memorialize assurances, which the community has received from MDOT, but are not reflected on the “Green Sheet”.

All of the items below are believed to be within MDOT’s authority to implement. Most of the items qualify as mitigation measures and are eligible for federal highway funding from one or more sources of funds. Most can be implemented at a very low cost in comparison to planning and engineering costs to date, and are very small in comparison to total project costs.

The overall mitigation/enhancement package proposed by MDOT is far below what might be considered for a project of this magnitude - perhaps the largest project considered by MDOT in a decade or more. A recent national study prepared for the American Association of State Highway and Transportation Official (AASHTO) found that mitigation costs as a percentage of total construction cost excluding right of way averaged 8 percent, with mitigation costs as high as 12 percent of construction costs. Nathan Macek, *Right-of-Way and Environmental Mitigation Costs – Investment Needs Assessment*, NCHRP Project 20-24(54)B (2006). Mitigation costs in urban/suburban areas averaged 12 percent of total cost net of right of way acquisition. The cost of the bridge and plaza should exceed \$1 billion. Based on statistics for other projects, mitigation costs in the range of \$80 million to \$120 million would be expected. MDOT’s proposed mitigation budget is about \$20 million, a fraction of average mitigation costs on projects elsewhere.

The recommendations below are provided as text to be inserted in the Green Sheet. Thus, while they are written as declaratory statements, they are provided as recommendations.

## Mitigation

### I.b Relocations

Recent devaluation in housing prices in the general market, as well as the lower quality of housing stock in the Delray and north of I-75 areas, may make the usual calculation of replacement housing cost under the Uniform Relocating Act inadequate. MDOT's relocation program will focus on this issue and, as necessary, use Housing of Last Resort assistance under 49 C.F.R. 24.404 to the maximum extent permitted by the regulation. Upon issuance of the ROD, MDOT will designate and publicize to the community a Relocation Specialist who will be assigned to respond to inquiries from Delray residents in advance of implementation of any property acquisition and relocation activities.

The State of Michigan, through the Michigan State Housing and Development Authority (MSHDA), will develop funding programs to support neighborhood stabilization activities (e.g. demolition, board-up, and greening/re-naturalization), planning and construction of new housing, and single-family home rehabilitation programs for existing housing in Delray and impacted neighborhoods north of I-75.

Where opportunity presents, MDOT will meet its temporary property needs (e.g., construction staging areas) by acquiring or leasing abandoned property in coordination with community redevelopment plans and will work with its contractors, to the extent they acquire staging areas and the like, to accomplish the same ends.

### I.c Environmental Justice

MDOT will work with the Detroit Public School system to install new windows, sound-proofing, and HVAC system improvements to school buildings to eliminate any unacceptable levels of PM 2.5 or other airborne contaminants within Southwestern High School and area elementary schools. In addition, MDOT will carry out periodic indoor air quality studies in these schools during bridge construction and for one year after bridge construction to confirm that the EIS' prediction of no adverse indoor air or noise impact was correct. If indoor noise and air quality issues attributable to bridge construction or traffic are noted, further noise and HVAC improvements will be made.

### I.d Parks and Open Space

MDOT will obtain binding commitments from City of Detroit Department of Parks and Recreation that all funds provided by the DRIC that are intended to replace loss of park and recreation space are spent on replacement facilities servicing the Delray area and any lost open space north of I-75.

As part of its park/recreation acquisition and replacement program, MDOT will include funds to support planning for park replacement by the City of Detroit Department of Parks and Recreation. MDOT will insure that representatives of the community are directly represented and participate in that planning process. The scope of the study will include both recreation and open space planning funds. This planning process also will be used to plan for the implementation of an "urban forest" air quality mitigation project discussed below. The open space plan will integrate MDOT's property acquisition for storm water swales or detention

basins, lighting and noise buffers, construction staging and all other purposes, in addition to park and recreation uses in order to maximize post construction recreation and open space uses.

I.e Noise

MDOT will conduct noise monitoring during construction. Noise mitigation measures will be implemented on the south side of I-75 where heavy traffic noise on I-75 creates an undesirable environment for businesses on Fort Street and in concert with housing development plans. The design of ramps and flyovers will include features to reduce traffic noise. MDOT will identify and implement truck traffic control measures to reduce truck noise within the bridge and plaza footprint as well as in the Delray area. MDOT will conduct noise monitoring before and after construction at those locations where residents have requested noise attenuation measures, but MDOT's studies have suggested noise mitigation is not justified.

Construction will be limited to the hours of 8 a.m. to 8 p.m. except for any construction activities, which by their nature must be conducted outside of those hours.

I.f Infrastructure and Post Construction Traffic

The planning and design of improvements to Green Street will extend north to the service drive on the north side of I-75. The design will be intended to create Green Street as a north-south gateway into Delray. Likewise the Campbell Street improvements will be designed to enhance that street's functioning as a gateway into Delray. Before finalizing plans for Green Street, Campbell Street or the Local Road Improvements that are included in the Enhancement Section of the Green Sheet, MDOT will fund a Delray vehicular and truck traffic plan by the City of Detroit, SEMCOG, or similar public entity in a planning process which involves active participation by Delray businesses and residents. Final decisions on Green Street, Campbell Street, Local Road improvements and a truck traffic control plan will be made after completion of that study and its approval and adoption by the City of Detroit.

The State of Michigan will fund at least one full-time State Police position to enforce truck traffic restrictions and load limits in the Delray and DRIC area.

MDOT will earmark transportation planning funds for a post construction bus transit routing study for the Delray and Southwest Detroit area.

I.g Pedestrian and Bicycle Effects

MDOT will earmark transportation planning funds to help integrate local street improvements into existing present greenway plans and to revise existing greenway plans as necessary to integrate those plans into the post construction street system.

MDOT will undertake a pedestrian crossing safety study where the new pedestrian crossings intersect with I-75 service drives. All such crossings will have special pedestrian crossing signs and lighting and will have pedestrian-activated crossing signals, if necessary.

The Waterman pedestrian crossing will be widened and provided aesthetic treatments to facilitate its function as a pedestrian and bicycle gateway to Delray. The Bagley pedestrian bridge constructed as part of the Gateway project will serve as a model for this crossing.

The bridge and plaza design will accommodate pedestrian and bicycle traffic.

#### II.a Tree Removal

All trees removed from within the right-of-way will be replaced. Trees removed outside of the right-of-way will be replaced at the owner's option. Tree removal plans will be developed and shared with property owners least 30 days before trees are removed and will be provided to all properties at which trees will be removed. Replacement trees will have a minimum diameter of 4-5 inches.

#### III.a Contaminated Sites

Specific dust control plans will be developed for demolition activities and the removal of contaminated soils. MDOT will actively inspect and enforce the dust control plans.

No soil disposal will incur in Delray or Southwest Detroit without express approval from MDOT. No contaminated soils will be disposed in Delray or Southwest Detroit under any circumstances.

#### IV.a Historic

The Green Sheet should be amended to include the provisions to deal with impacts at Fort Wayne.

#### V.a Vibration

Vibration monitors will be placed to identify the distance from construction activity beyond which the strength of vibrations will not damage property or exceed acceptable levels of vibration.

#### V.b Maintenance of Traffic

A detailed construction traffic control plan will be developed with a planning process, which includes direct and active participation by businesses and residents. During construction MDOT will conduct ongoing construction traffic surveillance to insure the construction traffic plan works and that construction and other traffic comply with the plan. The construction traffic management plan may include temporary roadways. Every effort will be made to minimize impact on local businesses and residents.

During construction on the bridge project and the associated reconstruction of Fort Street or any local streets, temporary, convenient off street parking, ingress, and egress will be maintained.

#### V.d Permits

Notice of all permit applications, permit hearings, actions on permits and the like will be sent by first class mail to each of the organizations and local officials represented on the Local Advisory Council.

#### Other

The ROD will contain an explicit plan for monitoring and reporting on implementation of mitigation and enhancement measures. That plan will include a community council that includes local businesses, residents, and nonprofits which will be integrally involved in all aspects of implementation of mitigation and enhancement measures, from plan development to plan approval to involvement in the contractor selection process.

#### Community Enhancements

##### a. Local Roads

Enhancements to Local Roads will be based on a Delray traffic study to be funded by MDOT. MDOT has committed at least \$12 million to carry out Local Road improvements.

##### c. Economic Development

MDOT will participate with other stakeholders in funding a \$500,000 study of new economic development opportunities associated with the DRIC, as well as Michigan's significant international trade strengths. It is critical that a substantial portion of this study focus on bringing the jobs and economic benefits associated with transportation infrastructure investment to the Southwest Detroit host community, while at the same time planning for this development in a way that improves neighborhood quality of life. The study also must identify local relocation feasibility and opportunities for the 52 businesses and non-profits that will be relocated as a result of a DRIC Study project. The economic development strategy must be developed and implemented with the goal of retaining these businesses in Southwest Detroit and Delray.

MDOT will support enabling legislation for a small bridge surcharge to be dedicated to fund ongoing mitigation and enhancement measures.

##### d. Air Quality

*[Because the DRIC preferred alternative will have adverse air quality impacts when compared to the No Build alternative, air quality measures should be addressed in the project mitigation section, not the enhancement section.]*

MDOT will include in its project specifications "Best in Class" specifications based on cutting edge practices on other FHWA and USDOT projects nationwide for minimizing and controlling air quality impacts during construction. The project contract will include significant penalties for failure to comply with the construction emissions plan. MDOT will continuously monitor contractor activities to insure compliance with construction emissions plan and will scrupulously enforce penalties and corrective measure for all violations.

To mitigate conventional air quality impacts (PM 2.5, NOx, VOCs, etc.) of the project in Delray and north of I-75 in comparison to the “No-Build” alternative, and to offset emissions from induced traffic, as well as to offset associated greenhouse gas emissions, MDOT will acquire 200 acres within Delray and north of I-75 for intensive tree planting. The location of this urban “offset” forest will be coordinated with storm water measures, the Delray open space plan to be developed, and planned residential and commercial redevelopment. Greenhouse gas credits will be sold through the Michigan Department of Agriculture GHG credit program.

During construction, MDOT will locate three air quality monitors in the Delray area to track mobile source conventional and hazardous pollutant emissions as well as PM2.5 emissions. Local streets used by construction traffic and any streets impacted by dust from construction activities will be swept daily. Truck underbodies and tires will be washed before leaving the construction site.

f. Job Training

MDOT will require that contractors adopt local “first source” hiring programs possibly modeled on Arvin Meritor’s “zipcode” hiring plan and commit contract funds to recruit local workers if formal set asides or hiring mandates are not permitted by state or federal law.

MDOT will work with the Detroit Workforce Development Board and local nonprofit agencies with job training experience, such as SER Metro and Young Detroit Builders, Inc., to insure that localized training programs are developed for the job opportunities that DRIC construction, bridge and plaza operations, and the logistics, transportation, freight expediting, and customs brokering industries will be able to provide.