



Project Coordinator  
NY Gateway Connections Project  
New York State Department of Transportation  
100 Seneca Street  
Buffalo, NY 14203

Clean Air Coalition  
of Western New York  
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July 18, 2013

Dear Project Coordinator,

I am writing on behalf of the Clean Air Coalition of Western New York regarding the Federal Highway Administration (FHWA) and the New York State Department of Transportation's (DOT) proposed "NY Gateway Connections Improvement" Project to the US Peace Bridge Plaza.

The Clean Air Coalition of WNY protects the right of Western New York residents to breathe clean air and live, work, and play in a healthy environment. Clean Air works to advance policy that protects public health and the environment through grassroots organizing.

Our work on the West Side of Buffalo is important because of the 4,000 trucks and 20,000 cars that pass through the neighborhood to and from the Peace Bridge Plaza, the nation's third largest land port, on a daily basis. Two-thirds of diesel emitting international truck traffic in the region is processed in this neighborhood. Studies have found that nearly 45% of West Side households have someone with a respiratory illness and the neighborhood has elevated levels of lung and breast cancer. In 2012, diesel exhaust was declared a human carcinogen by the World Health Organization.

We are committed to pursuing policies that will improve public health outcomes in this neighborhood and to improving the quality of our democracy.

Our members and staff attended both Public Scoping Meetings hosted by the NYSDOT, Parsons Consulting Group, and Ecology and Environment Consulting. This letter details our response to the scoping meeting.

#### *Environmental Justice and Public Outreach*

The West Side of Buffalo is an environmental justice neighborhood. It is the most diverse, dense and resurgent neighborhood in the City of Buffalo. According to 2011 US Census data, the population on the West Side, zip codes 14201 and 14213 specifically, is approximately: 36% Hispanic/ Latino, 25% Black or African American, 11% Asian, 20% are of another race that is not white, and 30% of the West Side speaks Spanish at home. It is also one of the poorest neighborhoods in Buffalo, with a median household income of \$11,000.

Historically, many barriers have excluded people of color and people who live in poverty from fully participating in public life. The environmental justice movement worked for decades to ensure that



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marginalized populations have protections and are included in environmental decision making. One outcome of this movement was the 1994 Executive Order on Environmental Justice signed by President Clinton.

The order states that, “each Federal agency shall 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”, to which the DOT is committed to an inclusive and comprehensive approach, as stated on the FHWA’s website.

The US DOT is committed to the principles of EJ, which include:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

The Title VI Act of 1964, as amended, helps to ensure anti-discrimination is enforced throughout the work undertaken by all recipients of federal funding. New York State Department of Transportation's (NYSDOT) Title VI/Environmental Justice program serves to create, implement and regulate procedures that comply with Title VI of the Civil Rights Act of 1964.

NYSDOT’s Environmental Interagency Taskforce identifies its goals as “ensuring that all affected groups, including environmental justice communities, are recognized, consulted, and given the opportunity for meaningful input.”

The scoping meeting failed to include environmental justice communities in a meaningful way. First, the public was not fully aware of the Public Scoping meeting. Two public notices were printed in the local Buffalo News on May 28<sup>th</sup> and 29<sup>th</sup>, only two (2) weeks before the meeting. No notices were published in Spanish, or any other language spoken on the West Side or in the local Hispanic newspaper, Panorama Hispano News, which is widely read and is published in English and Spanish.

Mailings for the initial public scoping meeting were printed only in English and were received by a small number of residents one (1) week before the meeting. Fliers were posted one (1) week in advance of the meeting in few and barely visible locations, and were handed to agencies and organizations three (3) days



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before the meeting leaving very little time for residents to make the necessary arrangements, like childcare, for example, in order to attend the meeting.

When community members expressed concern about the lack of proper notification, a representative from Parsons Consulting made excuses about how “busy they have gotten and how they ran out of time.”

Materials available at the first public scoping meeting were only in English. The presentation, the handouts, and the poster boards were all in English. Representatives from DOT, Parsons and E&E only spoke and understood one language: English. Representatives at the scoping meeting made sure to let us know that there was a Spanish translator available, if needed, but they did not know where or who she was. One translator is not sufficient to translate the entire presentation, handouts and poster boards for anyone who needed it. Materials regarding the project were not available online in English or Spanish until June 25<sup>th</sup>, but when asked to extend the public comment period because of this delay, Ms. Lehman refused.

These actions would not be considered attempts of including the public, much less inclusion of environmental justice communities, in meaningful participation. The DOT should, and is fully capable of:

- translating materials in the language(s) spoken by the affected community,
- publishing notices thirty (30) days in advance of the public scoping meeting in languages spoken by affected community,
- of providing relevant materials in languages spoken by affected community, thirty (30) days before comments are due for submission,
- to publish those materials online in languages spoken by affected community, thirty (30) days before comments are due for submission,
- and to meaningfully engage individuals regardless of race, national origin, or language.

### *Project Design*

Members of the Clean Air Coalition who attended the Public Scoping Meeting left with more questions than answers.

The need for the project was not clearly defined. Residents were unsure of the need for the project and do not understand why the FHWA and the DOT are “improving New York’s Gateway connection” by “restoring” Front Park, removing Baird Drive, and building a ramp(s) and a possible traffic circle on Porter Avenue. The Clean Air Coalition collected surveys from residents who attended, 40% said they felt the project need was not clearly explained.



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If the need is to improve traffic entering and exiting the Peace Bridge Plaza, we propose waiting until the recently announced traffic study for the Peace Bridge Plaza is done in order to determine if there is actual need for the proposed project. We also propose expanding the traffic study area to include more of the low income and minority community that would be affected by the proposed project, particularly into the zip code 14201, which includes Buffalo Municipal Housing Authority units where residents often report trucks idling on residential streets.

Many residents expressed concerns about the proposed traffic circle. Representatives at the meeting could not provide a clear answer to the question if the traffic circle on Porter Avenue was a design component of the project or an alternative to the project. If a traffic circle is being proposed, residents need to be aware of that option, and alternatives to the circle need to be presented. The Coalition also requests that the circle's impact on-traffic and congestion, air quality, noise levels, and most importantly, safety be addressed. Would a traffic circle make it safer/ easier or harder for residents to cross the street at Porter and 7<sup>th</sup>, and/or to access Front and LaSalle Parks? Would trucks and wide loads be able to navigate a traffic circle?

Additionally, alternatives to the project design were not presented at the public scoping meeting.

- Alternatives to removing Baird Drive were not presented.
- Alternatives to the proposed ramps were not presented.
- A “no build” alternative was not presented.

### *Safety*

85% of residents who responded to our survey were concerned that issues pertaining to the safety of the proposed project were not addressed at the public scoping meeting. There are two parks within walking distance of the project: Front Park and LaSalle Park. There is also a public elementary school, a public library, a University, and a Burger King all within walking and biking distance of the proposed project and the surrounding neighborhood. Almost 16% of working adults aged 16 and older commute using public transit, and about 37% of West Side residents do not own a vehicle. Residents expressed concern that safety was not mentioned at the scoping meeting, and representatives could not answer questions pertaining to the safety of the proposed project on the neighborhood, to pedestrians, bikers, children, and university students.



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The Environmental Impact Statement (EIS) must address if and how safety will be improved by moving traffic from Baird Drive to the foot of Porter Avenue? How will the proposed project affect individuals crossing to LaSalle and Front Parks, children attending D'Youville Porter Public School 3, students attending D'Youville College, residents of Buffalo Municipal Housing Authority (BMHA) and Lakeview Family Homes on 7<sup>th</sup> Street? How will the proposed project impact individuals who are visually and hearing impaired, people with disabilities, and senior citizens? How will the project alternatives, if any, affect these populations?

### *Air Quality*

As stated previously, the neighborhood adjacent to the Peace Bridge is already disproportionately affected by the number of trucks passing through it; currently it receives two-thirds of the truck traffic in the region despite there being other bridges in the area. Peer-reviewed studies have found that almost half of all households on the West Side have someone with asthma, or another respiratory disease, residing in them; rates that are 2.5 times higher than other parts of the city. The scoping meeting did not address air quality impacts in any meaningful way. The only air quality data was the word "air quality" printed on a list of impacts that would be studied. Again, representatives present at the scoping meeting could not answer questions pertaining to the effects the proposed project would have on air quality even though air quality was a topic of "concern" for the proposed project. Representatives could not tell us what type of air monitoring would be conducted, if any, or if air monitoring data recently gathered from the Department of Environmental Conservation would be referenced for information.

Furthermore, mitigation, such as green buffers, to current and future air quality concerns if the proposed project proceeds were not discussed at the scoping meeting.

The EIS must address air quality impacts in a meaningful way.

### *Cumulative Impacts*

The Council for Environmental Quality (CEQ)'s guidelines for implementing the National Environmental Policy Act (NEPA) states that cumulative effects are impacts which result from the incremental consequences of an action when added to other past and reasonably foreseeable future-actions. Additionally, the NYSDOT has indicated, as an agency action for their Environmental Justice Interagency Taskforce, that "major roadway expansion projects should include the impacts of existing facilities and mobile sources contributions to air quality."



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The “NY Gateway Connections Improvement” project is just one of a number of projects impacting the Peace Bridge and the lower west side community. No environmental assessment of the “gateway connection” project will be complete and in compliance with the requirements of NEPA and SEQRA if it does not meaningfully examine the cumulative impacts of the various projects referenced in the so-called “Peace Bridge Understanding” made public by New York’s Governor and the Peace Bridge Authority on June 26, 2013.

Those projects include, in addition to the “Gateway Ramp Project,” the “Customs Warehouse Project,” the “Approach Widening Project,” the “Episcopal Church Home Acquisition,” the “Busti Avenue Acquisition,” and the “Pre-Inspection Pilot Program.” Also, the Federal Highway Administration and the Office of Public Works of the City of Buffalo have presented improvements to Niagara Street, a local street which is also designated as a highway, which, if approved, will reduce the street from the two (2) lanes going both ways (4 lanes in total) as it is currently, to one (1) lane (2 lanes in total) with a center turning lane and bike lanes going both directions.

Representatives present at the scoping meeting or materials regarding the proposed project did not address cumulative impacts, nor were questions answered regarding cumulative effects of a number of proposed projects on the West Side. The Coalition’s membership wanted, and did not receive, answers to the following questions:

How would the Gateway Improvement Project affect traffic exiting the Peace Bridge Plaza onto Niagara Street or traffic entering Porter Avenue from Niagara Street, and consequently, how will these proposed projects affect air quality? Will reducing Niagara Street to one lane in both directions significantly slow down traffic, therefore increasing idling times from cars and more importantly, trucks, leading to poorer air quality on the West Side? What will a traffic circle do to air quality if constructed independently of Niagara Street changes, and coupled with those changes? And what will one, or both of these projects do to the air quality of the neighborhood if the Peace Bridge Plaza is expanded?

The effects on air quality if both or only one of these proposed changes to the neighborhood get approved need to be addressed, and studied before either of these projects proceed, as does the potential for a larger Peace Bridge Plaza.

As this project moves forward, the Clean Air Coalition’s membership of impacted residents are deeply concerned about the NYSDOT’s outreach efforts and lack of meaningful data about the proposed project. Expansions and improvements to the Peace Bridge Plaza have been a topic of discussion in the City of Buffalo for more than two decades, but the same can not be said for the inclusion of the low income communities of color living adjacent to the plaza. We were assured by Maria Lehman, and Parsons that meaningful public outreach would take place and that relevant materials and presentations would be in languages spoken by the residents of the West Side. And, consequently, we assured our members of such. Needless to say, it was a



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disappointment when the minimal amount of outreach that was done was anything but inclusive or just. The public was not given the opportunity it deserves, and has been fighting for, to participate in the decisions that affect their neighborhood, their health, and their lives. And those that could participate were shocked at the lack of answers representatives of the NYSDOT provided regarding the NY Gateway Connections Improvement Project.

Due to the lack of inclusion exhibited by the DOT so early in the process, Clean Air and its membership fear that the best interests of the neighborhood and the health and well-being of residents are not being considered; the residents of the West Side deserve better. We propose that the agency conduct a Health Impact Assessment (HIA) rather than just an EIS to ensure that the health of the West Side and the people that live there- not trucks, are the primary concern for the proposed project.

We also fear the Peace Bridge Authority (PBA) is violating the Council for Environmental Quality's (CEQ) regulations on segmentation; that this project, as well as the Niagara Street Corridor Improvement Project, which will be using federal funding, and the recently purchased Episcopal Church Home, is an attempt to segment the PBA's larger Plaza expansion plans.

The Clean Air Coalition and its membership is willing to discuss these concerns and answer any questions with you or someone from your agency. We are looking forward to your response.

Sincerely,

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