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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

THE BALLARD COALITION

Of the adequacy of the Final Environmental
Impact Statement, prepared by the Seattle
Department of Transportation for the Burke-
Gilman Trail Missing Link Project,

Appellants.

Hearing Examiner File
W-17-004

DECLARATION OF MATTHEW COHEN

OPPOSITION TO BALLARD COALITION
MOTION TO CONTINUE HEARING

I, Matthew Cohen, declare and state as follows:

1. I am an attorney for the Cascade Bicycle Club (“Cascade”).
2. I am over the age of 18, am licensed to practice law in the state of Washington,
am competent to testify in a court of law, and this declaration is based on my personal
knowledge.

3. Appellant, the Ballard Coalition (the “Coalition”), served its First Set of
Interrogatories and Requests for Production to Cascade on July 11, 2017 (“Coalition’s Discovery
Request to Cascade”). Attached as Exhibit A is a true and correct copy of the Coalition’s
Discovery Request to Cascade.

1 4. Attached as Exhibit B is a true and correct copy of an email I received on August
2 3, 2017 from the Coalition’s attorney, Josh Brower.

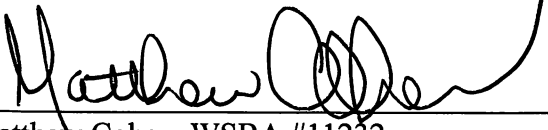
3 5. Attached as Exhibit C is a true and correct copy of an email I sent on August 11,
4 2017 to Coalition attorney, Josh Brower.

5 6. On September 25, 2017, I searched Google Maps for a “street view” image of
6 Salmon Bay Sand & Gravel. Attached as Exhibit D is a true and correct copy of the image from
7 Google Maps for Salmon Bay Sand & Gravel taken in September 2016. The image shows
8 several cars parked in the City’s right-of-way outside of Salmon Bay Sand & Gravel.
9

10 7. Attached as Exhibit E is a true and correct copy of an email chain provided by the
11 Coalition in response to Cascade’s discovery requests.
12

13
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17 I declare under penalty of perjury that the foregoing is true and correct.

18 Dated this 25th day of September, 2017.

19
20 
21 _____
Matthew Cohen, WSBA #11232

CERTIFICATE OF SERVICE

I certify that on this date of September 25, 2017, I electronically filed a copy of the foregoing document with the Seattle Hearing Examiner using its e-filing system. I also certify that on this date I caused to be served a true and correct copy of the foregoing on the following persons in the manner listed below:

Joshua C. Brower
Danielle N. Granatt
Leah B. Silverthorn
Veris Law Group PLLC
1809 Seventh Ave., Suite 1400
Seattle, WA 98101
Tel: 206-829-9590
Fax: 206-829-9245

- Via U.S. 1st Class Mail
- Via E-mail
josh@verislawgroup.com
danielle@verislawgroup.com
leah@verislawgroup.com
megan@verislawgroup.com
- Via Fax
- Via Overnight Delivery

Attorneys for Plaintiff/Petitioner
The Ballard Coalition

Patrick J. Schneider
Foster Pepper PLLC
1111 3rd Ave., Suite 3000
Seattle, WA 98101-3292
Tel: 206-447-2905
Fax: 206-749-1915

- Via U.S. 1st Class Mail
- Via E-mail
pat.schneider@foster.com
brenda.bole@foster.com
Alicia.pierce@foster.com
- Via Fax
- Via Overnight Delivery

Attorneys for Plaintiff/Petitioner
The Ballard Coalition

Erin E. Ferguson
Asst. Seattle City Attorney
Land Use Section - Civil Division
Office of the Seattle City Attorney
701 Fifth Ave., Suite 2050
Seattle, WA 98104-7097
Tel: 206-684-8615

- Via U.S. 1st Class Mail
- Via E-mail
erin.ferguson@seattle.gov
alicia.reise@seattle.gov
- Via Fax
- Via Overnight Delivery

Attorney for Defendant
City of Seattle Department of Transportation

DECLARATION OF MATTHEW COHEN
OPPOSITION TO BALLARD COALITION
MOTION TO CONTINUE HEARING
W-17-004

1 Tadas A. Kisielius
2 Dale Johnson
3 Clara Park
4 719 Second Avenue, Suite 1150
5 Seattle, WA 98104
6 Tel: 206-623-9372

7 Attorneys for Defendant
8 City of Seattle

- Via U.S. 1st Class Mail
- Via E-mail
tak@vnf.com
dnj@vnf.com
cpark@vnf.com
map@vnf.com
- Via Fax
- Via Overnight Delivery

9 I certify under penalty of perjury under the laws of the state of Washington that the
10 foregoing is true and correct.

11 DATED: September 25, 2017 at Seattle, Washington.

12 

13 Sharman D. Loomis, Practice Assistant
14 STOEL RIVES LLP

15 94195128.1 0099880-01084

EXHIBIT A

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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of
THE BALLARD COALITION
Of adequacy of the FEIS issued by the Director,
Seattle Department of Transportation

Hearing Examiner File:
W-17-004

PETITIONERS' FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION TO THE CASCADE
BICYCLE CLUB

TO: CASCADE BICYCLE CLUB
AND TO: MATTHEW COHEN
STOEL RIVES LLP
600 UNIVERSITY STREET, SUITE. 3600
SEATTLE, WA 98101

Pursuant to HER 3.11, CR and KCLR 26 and 33, and CR 34, please answer the following
interrogatories and requests for production, (collectively, "Discovery Requests"), separately and
fully, under oath, within thirty (30) days after the date of service of these Discovery Requests, by
serving the answers, documents, and other responses upon Veris Law Group PLLC,
1809 Seventh Avenue, Suite 1400, Seattle, Washington 98101, the attorneys for the Ballard
Coalition,

I. INSTRUCTIONS AND DEFINITIONS

A. The answer to each Discovery Request shall include such knowledge as is within
your custody, possession, or control, including but not limited to, knowledge and documents in

1 your custody, possession, or control, or that of associated or related organizations, or those under
2 common control of your consultants, accountants, attorneys, and other agents. When facts set
3 forth in answers or portions thereof are supplied upon information and belief rather than actual
4 knowledge, you shall so state, and specifically describe or identify the source or sources of such
5 information and belief. Should you be unable to answer any Discovery Request or portion
6 thereof by either actual knowledge or upon information and belief, you should describe your
7 efforts to obtain such information.
8

9 B. In response to each Discovery Request, if you do not answer the Discovery
10 Request in whole or in part because you are unable to do so or otherwise, identify each person
11 whom you believe has information regarding the subject of such Discovery Request.
12

13 C. These Discovery Requests shall be deemed to be continuing, and any additional
14 information relating in any way to these Discovery Requests which you acquire subsequent to
15 the date of answering these Discovery Requests, and up to and including the time of trial, shall
16 be furnished to the Ballard Coalition promptly after such information is acquired, as
17 supplemental answers to these Discovery Requests.
18

19 D. For the purpose of these Discovery Requests:

20 1. The term “*document*” shall mean any book, pamphlet, periodical, letter,
21 report, memorandum, notation, list, message, telegram, cable, email, facsimile, record, study,
22 working paper, chart, graph, photograph, film, index, tape, correspondence, spreadsheet,
23 transcriptions or taping of telephone or personal conversations or conferences, and any and all
24 other written, printed, typed, punched, taped, filmed, or graphic matter, or tangible thing,
25 however produced or reproduced, whether in paper or electronic form. The term “*document*”

1 shall include any amendments to the requested document. Documents shall be produced in their
2 native format, with all metadata intact.

3 2. The term “*identify*” or “*identification*” when used in reference to an
4 individual person shall mean to state the person’s full name, present or last known home and
5 business address, occupation, employer, relationship to any party, and home and business
6 telephone numbers.
7

8 3. The term “*identify*” or “*identification*” when used in reference to a
9 corporation or other entity shall mean to state the corporation or entity’s full name, present or
10 last known address, relationship to any party, individual point of contact at that corporation or
11 entity, and telephone numbers.
12

13 4. The term “*identify*” or “*identification*” when used in reference to a
14 document means to state the date and author(s), signer(s), intended recipient(s), and its present or
15 last known location or custodian. If any such document was, but is no longer, in your possession
16 or subject to your control, state what disposition was made of it, and the reason for such
17 disposition.
18

19 5. The term “*identify*” or “*identification*” when used in reference to an oral
20 communication shall mean to state the names, addresses, and telephone numbers of the persons
21 engaged in such communication, the times and places when and where such communication took
22 place, the medium of the communication, and the substance of each such communication.

23 6. The term “*identify*” or “*identification*” when used in reference to an event
24 or transaction shall mean to state the names, addresses, and telephone numbers of the persons
25

1 involved, the dates on which such events or transactions took place, and the full description of
2 the substance of such events or transactions.

3 7. The term “*identify*” or “*identification*” when used in reference to a date
4 shall mean to state the calendar day or days on which the event referred to occurs.

5 8. The term “*identify*” or “*identification*” when used in reference to real
6 property shall mean to state the address and tax parcel identification number of the real property.

7 9. The term “*identify*” or “*identification*” when used in reference to any other
8 matter in these Discovery Requests shall mean to state all information and data regarding the
9 description and substance of the matter involved, up to and including the limits of reasonableness
10 and relevance as provided by law.

11 10. The term “*communication*” means any conversation, meeting,
12 correspondence, conference, electronic mail, and any other means or manner by which
13 information or opinion is or was communicated to or received from others, whether written or
14 oral.

15 11. The term “*person*” means any individual member of Cascade, any of
16 Cascade’s staff, including without limit, its current or former Executive Director, its current or
17 former State, Senior, Local or Puget Sound Policy Directors, and any current or former member
18 of Cascade’s Board of Directors.

19 12. The term “*you*” shall mean the Cascade Bicycle Club, Washington Bikes,
20 or any other related or affiliated entity (“Cascade”).

21 13. The term “*Cascade*” shall mean you, the Cascade Bicycle Club,
22 Washington Bikes and any other related or affiliated entity.
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1 14. The term “SDOT” shall mean the City of Seattle, the Mayor and the
2 Mayor’s Office, and the City’s agencies, including but not limited to the Department of
3 Transportation.

4 15. The terms “and” and “or” shall be understood in both the conjunctive and
5 disjunctive sense, synonymous with “and/or.”
6

7 16. The terms “any” and “all” shall be understood in their most inclusive
8 sense, synonymous with “any or all.”

9 17. The term “FEIS” shall mean the Final Environmental Impact Statement,
10 Burke-Gilman Trail Missing Link Project, issued by the SDOT on May 25, 2017.

11 18. The term “DEIS” shall mean the Draft Environmental Impact Statement,
12 Burke-Gilman Trail Missing Link Project, issued by SDOT on or about June 16, 2016.

13 19. The term “Missing Link” shall mean the Burke-Gilman Trail Missing Link
14 Project, defined by SDOT in the FEIS.
15

16 20. The term “New Segment” shall mean that portion of the Preferred
17 Alternative (defined in the FEIS) located between the Shilshole South Alternative (defined in the
18 FEIS) and NW Market Street in Ballard.

19 21. The term “Environmental Impacts” shall mean and be synonymous with
20 “impacts” as that term is defined in the State Environmental Policy Act (“SEPA”), Chapter
21 43.21C RCW and WAC 197-11-700.
22

23 22. The term “Significant Environmental Impacts” shall having the meaning
24 defined in WAC 197-11-794.
25

1 E. In answering these Discovery Requests, furnish all information and
2 documents available to you, including information and documents that are in the possession of
3 your agents, representatives, attorneys or former attorneys, or are otherwise within your
4 possession, custody, or control.

5
6 F. If you object to any part of a Discovery Request, respond to all parts of such
7 Discovery Request to which you do not object, and as to each part to which you do object, set
8 forth the basis for each objection. For each document you assert to be privileged or otherwise
9 excludable from production, provide the following information: the author(s), the recipient(s),
10 the date, the type of document (e.g., memorandum, letter, chart, etc.), a general description of the
11 document, the privilege being claimed, and the grounds for the privilege claim.

12
13 G. If any Discovery request seeks documents formerly in your possession, custody,
14 or control that have been discarded, misplaced, lost, destroyed, or otherwise placed outside your
15 custody or control, identify the document and describe its contents in detail and state when the
16 document was discarded, misplaced, lost, destroyed, or otherwise placed outside your custody or
17 control. If the document was destroyed, identify each person with knowledge of its destruction,
18 each person requesting or performing the destruction, the reasons for its destruction, and each
19 document that refers or relates to either the existence of or destruction of the document. For each
20 document that was discarded, misplaced, lost, or otherwise placed outside your custody or
21 control, explain all circumstances in relation to the loss of the document and identify each person
22 with knowledge regarding those circumstances.
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1 H. The singular shall include the plural and vice versa and the conjunctive shall
2 include the disjunctive and vice versa. References to the masculine, feminine, or neuter gender
3 shall include the neuter, feminine and masculine genders, as the context requires.

4 **II. DISCOVERY REQUESTS**

5 **A. INTERROGATORIES**

6 **INTERROGATORY NO. 1:** Identify each person who contributed to, evaluated, or
7 assisted with preparing your Responses to this first set of Discovery Requests and for each
8 person:
9

- 10 a) Identify the person; and
11 b) For each person, identify which Response they contributed to, evaluated or assisted
12 with; and
13 c) For each such Response identify with specificity what each person did to contribute,
14 evaluate or assist with preparing each and every such Response.
15

16 **RESPONSE:**

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19 **INTERROGATORY NO. 2:** Identify how many members of Cascade live within
20 the “study area,” as that term is used in the DEIS and FEIS.
21

22 **RESPONSE:**

1 **INTERROGATORY NO. 3:** Identify how many members of Cascade live within
2 the city limits of Seattle, Washington.

3 **RESPONSE:**
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8 **INTERROGATORY NO. 4:** Identify how many members of Cascade live within
9 the geographic/governmental boundary of King County, Washington.

10 **RESPONSE:**
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15 **INTERROGATORY NO. 5:** Identify all documents, data, studies, maps, surveys,
16 plans, and other written information that, between January 1, 2012 to the present, Cascade has
17 prepared, gathered, or was prepared at Cascade’s request or direction related to the Missing Link.

18 **RESPONSE:**
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24 **INTERROGATORY NO. 6:** Identify all bicycle counts, data, or studies that,
25 between January 1, 2012 to the present, Cascade assisted with, participated in or directed the

1 preparation of, or was prepared at Cascade’s request or direction related to the Burke-Gilman
2 Trail or the Missing Link, and for each such count, data set or study, identify: a) the date(s), b)
3 the collection or study method(s); c) who designed or created the count, data set or study; d) all
4 people or entities who paid for or funded the count, data set or study; f) the result of each count,
5 data set or study; and g) with whom you shared, delivered or provided each such count, data set
6 or study.
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8 **RESPONSE:**
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14 **INTERROGATORY NO. 7:** For the Draft EIS, identify each “person” who, between
15 January 1, 2013 and June 16, 2016:

16 a) Contributed to, evaluated, or assisted SDOT with screening, defining, creating and
17 drafting the Project Objective as stated in Section 1.2 of the DEIS; and

18 b) Contributed to, evaluated, assisted with, organized, hosted, directed, lead, facilitated,
19 or participated in the charrette-styled workshop held in March 2015 as disclosed on page
20 1-4 of the DEIS; and

21 c) Contributed to, evaluated, or assisted SDOT in making the decision to exclude
22 “Protected Bicycle Lanes” as an “Alternative Considered but Not Included” in the DEIS
23 as stated on page 1-28; and
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d) Contributed to or assisted SDOT with the evaluation or drafting of the discussion of Environmental Impacts of the Missing Link as stated in the DEIS; and

e) Contributed to or assisted SDOT with the evaluation or drafting of the discussion of “safety” in the DEIS; and

f) For each person so identified, describe with specificity what each person did regarding your Responses above.

RESPONSE:

INTERROGATORY NO. 8: For the FEIS, identify each “person” who, between June

16, 2016 to May 25, 2017:

a) Contributed to, evaluated, or assisted SDOT with screening, defining, creating and drafting the Project Objective as stated in Section 1.2 of the FEIS; and

b) Contributed to, evaluated, assisted SDOT with, organized, hosted, directed, lead, facilitated, or participated in any meetings, workshops or other gatherings where SDOT “developed an additional Build Alternative, identified as the Preferred Alternative...” as stated on page 1-5 of the FEIS; and

c) Contributed to, evaluated, or assisted SDOT in conducting “further evaluation of the merits of each alternative....and determin[ing] that the Shilshole South Alternative best meets the project objectives...” as stated in Section 1.4.2 of the FEIS on page 1-5; and

- 1 d) Contributed to, participated in, were part of, or assisted SDOT in “discussions with
2 transportation and trail experts, bicycle and trail advocacy groups, and representatives
3 from Ballard maritime, industrial and commercial businesses about which alignments...
4 would work best for trail users and businesses along the route” as stated in Section 1.4.2
5 of the FEIS on page 1-7; and
6
7 e) Contributed to or assisted SDOT with the evaluation or drafting of the discussion of
8 Environmental Impacts of the Missing Link as stated in the FEIS; and
9
10 f) Contributed to or assisted SDOT with the evaluation or drafting of the discussion of
11 “safety” in the FEIS; and
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13 g) For each person so identified, describe with specificity what each person did regarding
14 your Responses above.

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19 **RESPONSE:**

20 **INTERROGATORY NO. 9:** Identify every “person” who participated in, contributed
21 to or advised SDOT in “[u]ltimately deciding that the Preferred Alternative...best meets the
22 project objectives, but with some modifications to that route” as stated in Section 1.4.2 of the
23 FEIS on page 1-7 and, for each such person identify with specificity what he or she did to so
24 advise SDOT, and identify all documents each person relied upon in making that decision.

25 **RESPONSE:**

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INTERROGATORY NO. 10: Identify each “person” who, between March 2015 to December 2015, contributed to, participated in, lead, facilitated, attended or assisted SDOT in the “[s]everal workshops” held after March 2015 where SDOT refined trail details and crossings as stated on page 1-4 of the FEIS, and for each such person identify with specificity their participation and contribution, and identify the documents each person relied upon, used, reviewed or considered at the several workshops held after March 2015.

RESPONSE:

INTERROGATORY NO. 11: Do you contend you have a “joint defense” or “common interest” agreement with “SDOT” (as that term is defined herein)? If your answer is “Yes,” please identify: a) the date you first entered into any such agreement; b) the date(s) (from when to when) that agreement has been or is in effect; c) the parties to any such agreement; d) the “joint defense” or “common interest” covered by any such agreement; e) the document(s) that embodies, memorializes or otherwise represents any such agreement.

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B. FIRST SET OF REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

1.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

2.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

3.

RESPONSE:

1 **REQUEST FOR PRODUCTION NO. 4:** Produce all documents that you consulted,
2 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

3 4.

4 **RESPONSE:**

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9 **REQUEST FOR PRODUCTION NO. 5:** Produce all documents that you consulted,
10 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

11 5.

12 **RESPONSE:**

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17 **REQUEST FOR PRODUCTION NO. 6:** Produce all documents that you consulted,
18 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

19 6.

20 **RESPONSE:**

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25 **REQUEST FOR PRODUCTION NO. 7:** Produce all documents that you identified,
consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 7.

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RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Produce all documents that you identified, including raw data files, in your Response to Interrogatory No. 8.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Produce all documents that you identified, including raw data files, in your Response to Interrogatory No. 9.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Produce all documents that you identified, including raw data files, in your Response to Interrogatory No. 10.

RESPONSE:

1 **REQUEST FOR PRODUCTION NO. 11:** Produce all documents that are responsive to
2 or that you identified in your Response to Interrogatory No. 11, redacting any portion you claim
3 to be protected by attorney-client privilege or the work-product doctrine.

4 **RESPONSE:**

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7 **REQUEST FOR PRODUCTION NO. 12:** Produce all documents that relate to or that
8 you relied upon for your analysis of Environmental Impacts of the Preferred Alternative
9 discussed and described in the FEIS.

10 **RESPONSE:**

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13 **REQUEST FOR PRODUCTION NO. 13:** Produce all documents that relate to
14 communications between you or any member or representative of Cascade and SDOT related to
15 the Missing Link from January 2011 to the present.

16 **RESPONSE:**

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21 **REQUEST FOR PRODUCTION NO. 14:** Produce all documents that relate to
22 communications between you or any member or representative of Cascade and the Office of the
23 Mayor of Seattle related to the Missing Link from January 2011 to the present.
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RESPONSE:

REQUEST FOR PRODUCTION NO. 15: Produce all documents that relate to communications between you or any member or representative of Cascade and Seattle City Councilmember Mike O'Brien's Office related to the Missing Link from January 2011 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: Produce all documents that relate to communications between you or any member or representative of Cascade and every Seattle City Councilmember other than Mike O'Brien's Office related to the Missing Link from January 2011 to the present.

RESPONSE:

1 **REQUEST FOR PRODUCTION NO. 17:** Produce all documents that relate to
2 communication between you or your attorneys or other representatives of Cascade and the office
3 of the Seattle City Attorney related to the Missing Link from 2008-present.

4 **RESPONSE:**
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9 **REQUEST FOR PRODUCTION NO. 18:** Produce all documents related to the Burke-
10 Gilman Trail Missing Link Design Advisory Committee you have received, authored, sent or are
11 otherwise in your possession since September 1, 2016 to the present.

12 **RESPONSE:**
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17 **REQUEST FOR PRODUCTION NO. 19:** Produce all documents you have received,
18 authored, sent or are otherwise in your possession since September 1, 2012 to the present that
19 relate to any analysis, evaluation, consideration, or discussion of alternatives for completing the
20 Missing Link considered but not included in the DEIS or the FEIS.

21 **RESPONSE:**
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And

FOSTER PEPPER PLLC

/s/ Patrick Schneider
Patrick J. Schneider, WSBA No. 11957

Attorneys for the Ballard Coalition

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VERIFICATION

STATE OF)
) ss
COUNTY OF)

_____, being first duly sworn upon oath, deposes and says:

I am the _____ of Cascade Bicycle Club and am authorized to sign this document on its behalf. I have read the above and foregoing **FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION ISSUED BY PETITIONERS, THE BALLARD COALITION, TO THE CASCADE BICYCLE CLUB AND RESPONSES THERETO**, know the contents thereof and believe the same to be true.

Signature

Print Name

SIGNED AND SWORN to before me this _____ day of _____, 2017.

Notary Public in and for the State of

Residing at _____

My Commission expires: _____

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ATTORNEY CERTIFICATION

The undersigned attorneys for Respondent the City of Seattle have read the foregoing **FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION ISSUED BY PETITIONERS, THE BALLARD COALITION, TO THE CASCADE BICYCLE CLUB AND RESPONSES THERETO**, know and hereby certify that they are in compliance with CR 26(g).

DATED this ____ day of _____, 2017.

CASCADE BICYCLE CLUB

Matthew Cohen

4830-4096-4939, v. 1

EXHIBIT B

From: Josh Brower
To: [Cohen, Matthew](#); [Erin Ferguson \(erin.ferguson@seattle.gov\)](#); [Cox, Rachel H.](#); [Tadas Kisielius](#)
Cc: [Pat Schneider \(pat.schneider@foster.com\)](#); [Leah Silverthorn](#); [Danielle Granatt](#); [Megan Manion](#)
Subject: Re: discovery
Date: Thursday, August 03, 2017 11:08:03 AM
Attachments: [image002.png](#)

Matt, we are willing to grant the professional courtesy you request if CBC and the City agree to the following:

1. The Coalition will agree to extend CBC's discovery response deadline from August 10 to August 21 (the extra 11 days you requested);
2. CBC **and** the City **stipulating** now that, **if necessary**, the Coalition can prepare and you both will sign a Joint Motion to extend the deadline for the parties to disclose preliminary witnesses and exhibits (currently Sept. 8) by up to 11 days to no later than Sept. 19. The Coalition will determine whether or not it needs any extra time to do so once we receive CBC's discovery responses—we cannot make that determination now since we have no idea what we are going to receive from CBC and the City. And;
3. CBC gives the Coalition a similar 11 day extension to respond to CBC's discovery requests-- the Coalition's responses will be due September 4.

Erin and Matt, please let me know today if you agree.

Regards, Josh

Joshua C. Allen Brower
Veris Law Group PLLC
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HUNGER DOESN'T HAVE TO HAPPEN

Be a [SUPERHERO](#) this summer!



From: "Cohen, Matthew" <matthew.cohen@stoel.com>

Date: Thursday, August 3, 2017 at 8:04 AM

To: Josh Brower <josh@verislawgroup.com>, "Pat Schneider (pat.schneider@foster.com)" <pat.schneider@foster.com>, Leah Silverthorn <leah@verislawgroup.com>, Danielle Granatt <danielle@verislawgroup.com>, Megan Manion <megan@verislawgroup.com>

Cc: "Cox, Rachel H." <rachel.cox@stoel.com>, Erin' 'Ferguson <erin.ferguson@seattle.gov>

Subject: discovery

Counsel, I am writing to request the Ballard Coalition's consent to an eleven day extension of the date for Cascade to respond to your First Interrogatories and Requests For Production to Cascade. We propose to serve answers, documents and objections by August 21. The reason for our request is that your discovery requests are sweeping in scope, they require internal review of thousands of documents and the response period included long-planned vacations for Cascade staff and counsel.

Matthew Cohen

STOEL RIVES LLP | 600 University Street, Suite 3600 | Seattle, WA 98101-4109

Direct: (206) 386-7569 | Mobile: (206) 714-1671

mcohen@stoel.com | www.stoel.com

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EXHIBIT C

From: [Cohen, Matthew](#)
To: [Josh Brower](#)
Cc: [Erin E. Ferguson](#); [Tadas A. Kisielius](#); [Clara Park](#); [Dale Johnson](#); [Marya Pirak](#); [Cox, Rachel H.](#); [Danielle Granatt](#); [Leah Silverthorn](#); [Megan Manion](#); [Patrick J. Schneider](#); [Brenda Bole](#)
Subject: RE: E-Service W-17-004 In Re the Ballard Coalition - Intervenor Cascade Bicycle Club's Objections and Responses to Petitioners' First Set of Interrogatories and Requests for Production
Date: Friday, August 11, 2017 5:40:08 PM

Josh, your aggressive responses to the efforts of both SDOT and Cascade to answer the Ballard Coalition's discovery requests raise questions about whether the real goal of your efforts is to set up a motion to defer the schedule for resolution of the Coalition's appeal. With respect to Cascade the Coalition will have a difficult time justifying any claim of prejudice, in part because you will receive our document production with plenty of time to develop your case, and in part because documents reflecting Cascade's efforts to complete the Missing Link are indeed irrelevant to the case your clients must present to challenge the adequacy of the FEIS. Nevertheless Cascade staff have invested many hours locating and screening documents solicited by the Ballard Coalition's broad and burdensome discovery requests. Barring production problems you will have Cascade's document production electronically on August 21.

If you are inclined to pursue some form of relief from the Hearing Examiner, I encourage you to wait until you receive our documents, because Cascade committed to produce documents in response to many of your requests, notwithstanding our objections. If after reviewing our document production you still contend that Cascade's discovery response is inadequate, you should at least be able to narrow the scope of your grievances.

In light of the foregoing, can we defer your demand for a "meet and confer" discussion on Monday? If you still believe such a conference is necessary, I can talk at 10 am or at 2 pm. Let me know if we need to do this on Monday.

Matthew Cohen

STOEL RIVES LLP | 600 University Street, Suite 3600 | Seattle, WA 98101-4109
Direct: (206) 386-7569 | Mobile: (206) 714-1671
mcohen@stoel.com | www.stoel.com

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From: Josh Brower [<mailto:josh@verislawgroup.com>]

Sent: Friday, August 11, 2017 9:19 AM

To: Cohen, Matthew

Cc: Alicia Reise; Erin E. Ferguson; Tadas A. Kisielius; Clara Park; Dale Johnson; Marya Pirak; Cox, Rachel H.; Danielle Granatt; Leah Silverthorn; Megan Manion; Patrick J. Schneider; Shore, Judy A.; Brenda Bole

Subject: Re: E-Service W-17-004 In Re the Ballard Coalition - Intervenor Cascade Bicycle Club's Objections and Responses to Petitioners' First Set of Interrogatories and Requests for Production

Matt, respectfully, CBC's responses are incomplete and late. We remain puzzled why CBC will not stipulate to an extension.

As I am sure you know, under the Civil Rules that control discovery, CBC cannot refuse to produce documents because it believes they are irrelevant. The Rules permit CBC to interpose an objection

but it must still produce the requested documents, or seek a protective order (by motion or stipulation) to quash the discovery. The Examiner decides whether the information is relevant or not, not you or I. Please confirm CBC will produce all requested information and documents.

Likewise, CBC cannot unilaterally elect to deliver documents late. Again, we made a reasonable offer to resolve this situation and you rejected it. Please confirm that CBC will agree to the terms we offered for an extension. If not, please let me know if you are available Monday for a meet and confer. CBC's late production is prejudicing our ability to properly prepare for hearing.

Regards, Josh

Joshua C. Allen Brower
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From: "Shore, Judy A." <judy.shore@stoel.com>

Date: Thursday, August 10, 2017 at 5:57 PM

To: Josh Brower <josh@verislawgroup.com>, Danielle Granatt <danielle@verislawgroup.com>, Leah Silverthorn <leah@verislawgroup.com>, Megan Manion <megan@verislawgroup.com>, "Patrick J. Schneider" <pat.schneider@foster.com>, Brenda Bole <brenda.bole@foster.com>

Cc: Alicia Reise <alicia.reise@seattle.gov>, Erin' 'Ferguson <erin.ferguson@seattle.gov>, "Tadas A. Kisielius" <tak@vnf.com>, Clara Park <cpark@vnf.com>, Dale Johnson <dnj@vnf.com>, Marya Pirak <map@vnf.com>, "Cohen, Matthew" <matthew.cohen@stoel.com>, "Cox, Rachel H." <rachel.cox@stoel.com>

Subject: E-Service W-17-004 In Re the Ballard Coalition - Intervenor Cascade Bicycle Club's Objections and Responses to Petitioners' First Set of Interrogatories and Requests for Production

Attached please find a copy of Intervenor Cascade Bicycle Club's Objections and Responses to Petitioners' First Set of Interrogatories and Requests for Production.

Also attached in Response to Request for Production No. 11 is the Common-Interest and Confidentiality Agreement.

Judy Shore | Practice Assistant to Jeffrey W. Leppo | Cherise M. Gaffney | Rachel H. Cox | Jared R. Wigginton

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EXHIBIT D

From: Scott Anderson
To: Danielle Granatt
Sent: 8/11/2017 2:23:58 PM
Subject: Fw: FW: Dunshee email

From: Gael Tarleton <gael@gaeltarleton.com>
Sent: Wednesday, May 21, 2014 10:39 PM
To: Peter Schrappen; Michelle 'Nance
Cc: Scott Anderson
Subject: Re: FW: Dunshee email

Michelle,

Please get this meeting with Peter and Scott set up as fast as possible.

Peter and Scott, t's my understanding that there are some very recent developments - positive ones - regarding the "Missing Link" resolution, at least according to Eugene Wasserman and Josh Breuer. Mayor Murray has been forthcoming. I'll be speaking at the North Seattle Industrial Assn meeting on Tuesday morning, May 27th, and Eugene says that someone will be discussing Burke-Gilman.

Gael Tarleton

On 5/21/2014 at 3:41 PM, "Peter Schrappen" <peter@nmta.net> wrote:

Hi Gael, Well, well, well, another bike vs. maritime issue. Gael, can we make some time to check out CSR and the situation they describe? I have no problem w them reaching out to Rep. Dunshee but it's silly not to start w you.

Can you send me some dates/times that would work?

Regards,
Peter

From: Scott Anderson [mailto:scott@csrmarine.com]
Sent: Tuesday, May 20, 2014 11:34 AM
To: Peter Schrappen
Cc: FRANK RYAN
Subject: Re: Dunshee email

Great idea. When do you what to meet over at CSR?

CSR MARINE - FULL SERVICE BOATYARDS

Seattle - Des Moines

4701 Shilshole Ave NW, Seattle WA 98107

206-632-2001 Office

206-390-9252 Cell

From: Peter Schrappen <peter@nmta.net>
To: Frank Ryan <frank@csrmarine.com>
Cc: Jeremiah Jewell <jeremiah@csrmarine.com>; Scott Anderson <scott@csrmarine.com>
Sent: Monday, May 19, 2014 7:53 PM
Subject: Re: Dunshee email

I love the letter but it's bigger than hans. We need more people in on this issue, like rep Gael tarleton (it's a city issue, but it's her district and Scott campaigned for her and she loves maritime -- was in two maritime meetings just today w her).. Can I send this

to her? Can we meet to discuss so I can learn more?

Sent from my iPhone

On May 19, 2014, at 4:13 PM, "Frank Ryan" <frank@csrmarine.com> wrote:

Peter-- I'm an old college buddy of Hans Dunshee. Scott asked me if I would send him a quick email regarding the impact a bike trail would have on our business. Please review and get back to me with your comments. Thanks!

Frank Ryan, CSR Marine/Seattle
4701 Shilshole Ave NW
Seattle WA 98107
206.632.2001
frank@csrmarine.com - csrmarine.com

Hey Hans- I'm wondering if you remember me?! My name is Frank Ryan and I lived across the hall from you at Lander Hall back at the UW. Anyway, I've kind of followed your career and am very impressed at the job you're doing in the legislature.

The reason I'm contacting you is regarding a situation we have down here at the boatyard that my brother Tim Ryan, and Scott Anderson own, and where I've worked for the last eight years. (I think you may even know Scott - he went to Ingraham with you and Jay Inslee. You might even know Tim). I know we're out of your district, but I also know that you have some interest in our maritime industry and I hope you can help us out.

We're currently employing about 45 people, most of them making pretty good money. We're one of the larger employers in all of Ballard. We have a situation with the Burke Gilman "Missing Link" bike trail, where if it goes through as currently configured, we're going to lose virtually all of our employee and customer parking. Now I know this is a public right of way and that the land isn't ours, but the whole business has been built on the idea of us having access to that land for our vehicles. To lose it would be a huge blow to our operation, as there is very little other parking anywhere nearby, and on-site parking is virtually a non-starter.

I'm all in favor of finishing the Burke Gilman trail, but it seems like there must be a better solution that doesn't so severely impact so many of these marine business along the north shoreline of Salmon Bay, including CSR Marine, Salmon Bay Sand and Gravel, Pacific Fisherman, and others. Perhaps you could help broker a meeting with some top-level guys, maybe including the Governor himself. This is such a complex issue that we really need some help.

Anyway, I just wanted to bring this to your attention. Otherwise, I hope all is well!

Frank Ryan, CSR Marine/Seattle
4701 Shilshole Ave NW
Seattle WA 98107
206.632.2001
frank@csrmarine.com - csrmarine.com

EXHIBIT E

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