

StopSMP  
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October 25, 2005

*via electronic mail and fax*

Mr. Phil Stutzman  
Director of Compliance  
Washington State Public Disclosure Commission  
711 Capitol Way  
Olympia WA 98504

**Re: Seattle Monorail Project**

Dear Mr. Stutzman,

I write on behalf of the StopSMP campaign to ask the Public Disclosure Commission to investigate possible illegal behavior by the Seattle Monorail Project (SMP), and if illegal activity has been found to have taken place, to put a stop to it and to penalize those who have illegally used public tax dollars in support of a ballot proposition. An immediate investigation of these charges is necessary, as ballots are being cast every day now that the election is only two weeks away.

On behalf of the public, we allege, for reasons outlined below, that the “pamphlet” published yesterday by the SMP involves prohibited use of public resources to directly or indirectly influence the outcome of Monorail Proposition One placed on the November ballot by the SMP. As part of your investigation into this allegation, we trust that you will be able to confirm or refute representations made last evening (October 24) at the SMP Board meeting by Ross Macfarlane, Director of Legal and Environmental for the SMP. His remarks can be viewed on the webcast of the meeting posted to the SMP website ([www.elevated.org](http://www.elevated.org)).

We had hoped that the SMP would have learned from past actions, and refrained from using taxpayer dollars to produce promotional materials, such as the pamphlet discussed below, during an election cycle. In fact, we addressed this issue at the public comment period of the October 17 SMP Board meeting and in the attached letter. We have received no response to our letter to date.

Our concerns of October 17 were justified. At 3:40 PM yesterday, October 24, I received the following email from the SMP:

October 24, 2005

## Information Pamphlet Available

In September 2005, the Seattle Monorail Project Board of Directors approved placing two ballot measures before the voters this November. SMP has prepared an information pamphlet describing Proposition 1 and Proposition 2.

The first measure (Proposition 1) would modify the 2002 Seattle Popular Monorail Plan, authorizing an initial monorail phase of 10 miles and 12 stations. Phasing would save over \$330 million from the original plan, resulting in an estimated project cost of \$1.7 billion. The second measure (Proposition 2) would provide for a majority of the Board to be elected rather than appointed. These materials have been prepared, consistent with Public Disclosure Commission guidelines, to inform the general public about factual issues relevant to these propositions. They are not intended to influence voters to support or oppose either measure.

In addition to a new project description, the pamphlet also covers the new Finance Plan and the effect of phased construction on project operations and the proposed design, build, operate, and maintain contracts. You can download or read a copy online at [http://www.elevated.org/\\_downloads/project/board/newplan/SMP\\_Booklet\\_Reader\\_Version.pdf](http://www.elevated.org/_downloads/project/board/newplan/SMP_Booklet_Reader_Version.pdf)

These materials will also be distributed in public locations throughout the city.

The e-mail message and pamphlet refer to the "new Finance Plan" as if it had been adopted at the time of posting and printing, which must have taken place days before. In fact, the "new Finance Plan" was not adopted until several hours after the e-mail was sent and the Board approved Resolution No. 05-38. But this does not tell the whole story.

Mr. Macfarlane represented that the pamphlet, and its contents, had been cleared by the PDC. Given the nature of the contents of the pamphlet—conjectural to highly speculative in some instances and simply untrue in others—the only purpose to be served by its publication and distribution at this time is to influence voters into supporting the SMP sponsored ballot proposition.

The pamphlet is replete with inaccuracies which are hastily summarized below to trigger your deeper inquiry. They include (but are not limited to):

1. **Claim** - ridership: 42,200 in 2010 and 57,000 in 2030.

**Fact** - This claim is speculation at best and most probably deceptive with the intention of influencing voters to support Monorail Proposition One. The SMP does not know what the fare to ride the monorail will be and therefore cannot know the ridership.

Note: Seattle City Council Preliminary Review of the Seattle Monorail Project Green Line, submitted by Manuel Padron & Associates, Inc. ("Padron Report") to the City Council on October 24th was in the hands of the SMP prior to posting the pamphlet. Padron was hired by the City Council to act as its independent financial consultant. The monorail cannot be built until it receives a grant of city rights of way from the City Council—a fact not mentioned in the pamphlet. The City Counsel has conditioned this grant on confirmation by Padron that the monorail can be built – a fact nowhere stated in the pamphlet. The conclusion reached by the Padron Report with respect to ridership is: "The inconsistencies among the ridership model, SMP cash flow forecast, and the DBEC and OMC result in either the underestimation of *capital and operating costs*, or an over-estimation of *ridership*." [Italics in original.]

2. **Claim** – "SMP has negotiated a fixed-price agreement for the construction of the Green Line with Cascadia Monorail Company." "Estimated project costs have been reduced by \$330 million to \$1.7 billion. Lower up-front costs result in shorter debt repayment and lower overall project costs."

**Fact** - The contract with Cascadia is for the 14-mile line, not the shortened 10 mile line described in the pamphlet. The SMP does not have a contract for the shortened line. The SMP cannot know the price of the shortened line until a new contract is renegotiated—the existing contract, which took 9 months negotiate, releases Cascadia from any obligation if not executed by December 15, 2005. It may well be that the existing contract can be renegotiated to save \$330 million, but this is speculation at best and a very real risk not mentioned in the pamphlet. To claim that a contract exists for the shortened line is untrue, deceptive, and can only be intended to influence voters to support Monorail Proposition One.

3. **Claim** – "Debt repayment is estimated to be 31 years, and total principal and interest is estimated at \$3.9 billion."

**Fact** – The 31 year debt repayment claim, based on widely disputed if not discredited 6.1% MVET growth rate, is one of four scenarios set out in pamphlet. At last night's SMP Board meeting, Board member Cleve Stockmeyer went on at length about how the Board did not know which of the four MVET growth rates set out in the Finance Plan was correct and that bonds might well be outstanding for 38 years, the time period he mentioned most. (See webcast.) In fact, the bonds may be outstanding for far longer if MVET growth projections are not realized.

The Padron Report comment on this issue: "MVET revenue estimates indicate potentially significant risk to the monorail. Actual MVET revenues have been

lower than originally estimated, and the base and growth rates have been the subject of debate among area economists."

In sum, the 31 year claim, asserted as fact in the pamphlet, is speculation at best, deceptive, and can only be intended to influence voters to support Monorail Proposition One.

4. **Claim** - "the finance plan is designed to work at a variety of different levels of protected growth."

**Fact** – The pamphlet does not acknowledge MVET growth rates below 5.0%, including Dick Conway's 4.4% and the Padron Report's 4.5%. (See Padron Report.)

5. **Claim** - Passenger service expected in late 2010.

**Fact** - There is no contract schedule. Beyond the failure to mention the necessity of re-negotiating the Cascadia contract, and the unmentioned critical condition that no monorail may be built before the SMP finance plan is approved by the City Council (highly speculative given the Padron Report), the claim is, again, deceptive and can only be intended to influence voters to support Monorail Proposition One.

6. **Claim** - References to travel time and train speeds.

**Fact** - SMP cannot know travel time and speeds because the length of the line, the number of stations and even the route will be unknown until a contract is entered and City Council approval is obtained.

7. **Claim** – "The remainder of the 14-mile Green Line can be completed if the City approves construction permits following review of the SMP's Finance Plan."

**Fact** - This statement clearly implies that the only element of the plan that requires City approval is the remainder of the 14-mile Green Line. The reason for the ballot is that the SMP does not have sufficient funds to build 14 miles. To suggest otherwise is deceptive.

Irrespective to your response to the above complaint, an immediate response to the following questions will be appreciated:

1. Was this pamphlet approved for pre-election distribution by the PDC? If yes, what is the procedure for an expedited appeal and/or review of this approval?
2. If pre-approved by the PDC, please advise us of the representations, if any, made by or on behalf of the SMP with respect to factual content of the pamphlet?

3. If not pre-approved by the PDC, what procedures are available to the StopSMP campaign to have the pamphlet destroyed, the claims disavowed, and penalties imposed as provided by law?

Time is obviously of the essence. Your acknowledgment of receipt of this letter and your immediate response the above allegations, will be much appreciated.

Respectfully,

Henry M. Aronson  
StopSMP Campaign,