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JUN 23 2010

PUGET SOUND REGIONAL COUNCIL

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CASCADE BICYCLE CLUB, ET AL

vs

PUGET SOUND REGIONAL COUNCIL

Plaintiff(s)

Defendant(s)

NO. 10-2-22228-6 SEA

Order Setting Case Schedule (Administrative Appeal) (\*ORSCS)

ASSIGNED JUDGE Downing 43

FILE DATE: 06/23/2010

TRIAL DATE: 01/31/2011

A Notice of Appeal of a decision of an administrative agency or appeal board has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

THE PERSON APPEALING A DECISION OF AN ADMINISTRATIVE AGENCY/APPEAL BOARD MUST:

1. File a *Notice of Appeal* with the administrative agency/appeal board within the time frames as instructed by applicable statutes.
2. Serve a copy of the *Notice of Appeal* and this *Order Setting Case Schedule (Administrative Appeal) (Schedule)* (including these Notices) on all other parties to this action. You, as the person who started this appeal, must make sure the other person and/or agency is notified of your action and gets a copy of the Schedule. You may choose certified mail, personal delivery by someone other than you, or a "process serving service" (see telephone directory). Your signature must appear on this form showing that you understand that you must make sure the other person and/or agency gets a copy of this form.
3. Pay the statutory filing fee to the Clerk of the Superior Court in which the *Notice of Appeal* is filed, unless the party filing the *Notice* first secures an "Order of *In Forma Pauperis*" from the Presiding Judge of the Superior Court, or is exempt from paying fees by statute.

**"I understand that I am required to give a copy of these documents to all parties in this case."**

Print Name

Sign Name

## I. NOTICES (continued)

### **NOTICE TO ALL PARTIES:**

All attorneys and parties should make themselves familiar with the rules of the court -- especially those referred to in this Schedule. In order to comply with the Schedule, it will be necessary for attorneys and parties to pursue their appeals vigorously from the day they are filed. All events must occur promptly. If they are late, the Superior Court Clerk is authorized by the *King County Superior Court Local Rules* to schedule the appeal for a dismissal hearing.

### **PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:**

When a final decree, judgment, or order of dismissal of all claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

**If you miss your scheduled Trial Date**, the Superior Court Clerk is authorized by KCLR 41(b)(2)(A) to present an *Order of Dismissal*, without further notice, for failure to appear at the scheduled Trial Date.

### **NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:**

*All parties to this action must keep the court informed of their addresses.* When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

### **NOTICE OF NON-COMPLIANCE FEES:**

**All parties** will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

**King County Local Rules are available for viewing at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk).**

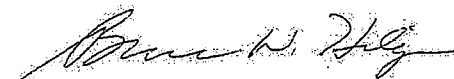
## II. CASE SCHEDULE

| CASE EVENT  | DEADLINE<br>or<br>EVENT DATE | Filing<br>Needed |
|---|------------------------------|------------------|
| Notice of Appeal/Petition for Review Filed and Schedule Issued.   | Wed 06/23/2010               | *                |
| Filing of Notice of Appearance (if applicable).   | Wed 07/21/2010               | *                |
| Filing of Administrative Agency Record.   | Wed 08/25/2010               | *                |
| Filing of Jury Demand (if applicable).  | Wed 09/15/2010               | *                |
| Filing of Petitioner's Trial Brief.   | Mon 12/13/2010               | *                |
| Filing of Respondent's Trial Brief.   | Mon 01/03/2011               | *                |
| <b>DEADLINE</b> for Engaging in Alternative Dispute Resolution [KCLCR 16(b)].                                     | Mon 01/03/2011               |                  |
| <b>DEADLINE</b> to file Joint Confirmation of Trial Readiness – <b>FOR JURY TRIALS ONLY</b> [See KCLCR 16(a)(2)]. | Mon 01/10/2011               | *                |
| Filing of Petitioner's Reply Brief.   | Tue 01/18/2011               | *                |
| Review Hearing or Trial Date (See KCLCR 40).  | Mon 01/31/2011               |                  |

## III. ORDER

Pursuant to King County Local Civil Rule 4 (KCLCR 4), It is ORDERED that all parties involved in this action shall comply with the schedule listed above and that failure to meet these event dates will result in the dismissal of the appeal. It is FURTHER ORDERED that the party filing this action **must** serve this *Order Setting Case Schedule (Administrative Appeal)* and attachment on all other parties.

**DATED:** 06/23/2010



**PRESIDING JUDGE**

#### **IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE**

##### **READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE**

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

**COMPLEX LITIGATION:** If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

**APPLICABLE RULES:** Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

##### **CASE SCHEDULE AND REQUIREMENTS**

Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

##### **THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.**

##### **A. Joint Confirmation regarding Trial Readiness Report:**

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment, etc.).

The form is available at <http://www.kingcounty.gov/courts/superiorcourt.aspx>. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding said report.

##### **B. Settlement/Mediation/ADR**

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

**C. Trial:** Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website <http://www.kingcounty.gov/courts/superiorcourt.aspx> to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

#### **MOTIONS PROCEDURES**

##### **A. Noting of Motions**

**Dispositive Motions:** All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

**Nondispositive Motions:** These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule 7 governs these motions, which include discovery motions. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

**Motions in Family Law Cases not involving children:** Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

**Emergency Motions:** Under the court's local civil rules, emergency motions will be allowed only upon entry of an Order Shortening Time. However, emergency discovery disputes may be addressed by telephone call and without written motion, if the judge approves.

## **B. Original Documents/Working Copies/ Filing of Documents**

**All original documents must be filed with the Clerk's Office.** Please see information on the Clerk's Office website at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk) regarding the new requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. On June 1, 2009 you will be able to submit working copies through the Clerk's office E-Filing application at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk).

**Service of documents.** E-filed documents may be electronically served on parties who opt in to E-Service within the E-Filing application. The filer must still serve any others who are entitled to service but who have not opted in. E-Service generates a record of service document that can be e-filed. Please see information on the Clerk's office website at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk) regarding E-Service.

**Original Proposed Order:** Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. Do not file the original of the proposed order with the Clerk of the Court. Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order.

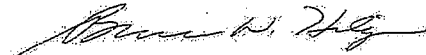
**Presentation of Orders:** All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

**Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department.** Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.**

**C. Form**

Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

**IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.**



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**PRESIDING JUDGE**

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2010 JUN 23 PM 3: 39

KING COUNTY  
SUPERIOR COURT CLERK  
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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

CASCADE BICYCLE CLUB, a  
Washington non-profit Corporation,  
FUTUREWISE, a Washington non-profit  
Corporation and SIERRA CLUB, a  
California non-profit corporation,

Plaintiffs,

v.

PUGET SOUND REGIONAL COUNCIL,  
a state regional transportation planning  
organization and a federally designated  
metropolitan planning organization

Defendant.

NO.

**10 - 2 - 22228 - 6 SEA**  
SUMMONS

TO: PUGET SOUND REGIONAL COUNCIL, Defendant.

A lawsuit has been filed in the above-entitled court by CASCADE  
BICYCLE CLUB, FUTUREWISE and SIERRA CLUB, plaintiffs. Plaintiffs' claim  
is stated in the complaint, a copy of which is served upon you with this  
summons.

SUMMONS - 1

COPY

ARAMBURU & EUSTIS LLP  
720 Third Avenue, Suite 2112  
Seattle, Washington 98104  
Tel. (206) 625-9515 Fax (206) 682-1376

1 In order to defend against this lawsuit or to object to the complaint, you  
2 must respond to the complaint by stating your defense or objections in writing,  
3 and by serving a copy upon the person signing this summons within 20 days  
4 after the service of this summons, excluding the day of service, or a default  
5 judgment may be entered against you without notice. A default judgment is one  
6 where plaintiffs are entitled to what has been asked for because you have not  
7 responded. If you serve a notice of appearance on the undersigned person,  
8 you are entitled to a notice before a default judgment may be entered.  
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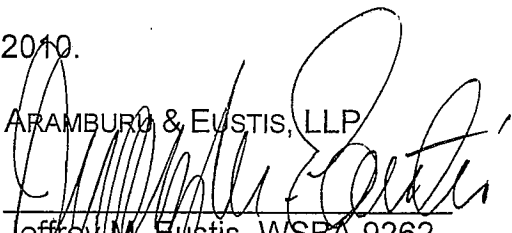
10 You may demand that the plaintiffs file this lawsuit with the court. If you  
11 do so, the demand must be in writing and must be served upon the person  
12 signing this summons. Within 14 days after you serve the demand, the  
13 plaintiff(s) must file this lawsuit with the court, or the service on you of this  
14 summons and complaint will be void.  
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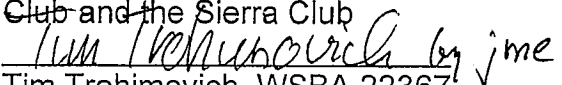
16 If you wish to seek the advice of an attorney in this matter, you should do  
17 so promptly so that your written response, if any, may be served on time.

18 This summons is issued pursuant to Rule 4 of the Superior Court Civil  
19 Rules of the State of Washington.

20 DATED this 23<sup>rd</sup> day of June 2010.

21 ARAMBURU & EUSTIS, LLP

22   
23 Jeffrey M. Eustis, WSBA 9262  
24 Attorneys for the Cascade Bicycle  
25 Club and the Sierra Club

  
Tim Trohimovich, WSBA 22367  
Attorney for Futurewise



ARAMBURU & EUSTIS LLP  
720 Third Avenue, Suite 2112  
Seattle, Washington 98104

Tel. (206) 625-9515 Fax (206) 682-1376

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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

CASCADE BICYCLE CLUB, a  
Washington non-profit corporation,  
FUTUREWISE, a Washington non-profit  
corporation and SIERRA CLUB, a  
California non-profit corporation,

Plaintiffs,

v.

PUGET SOUND REGIONAL COUNCIL,  
a state regional transportation planning  
organization and a federally designated  
metropolitan planning organization,

Defendant,

NO. **10-2-22228-6 SEA**

COMPLAINT FOR DIRECT REVIEW  
UNDER SEPA, DECLARATORY RELIEF  
AND CONSTITUTIONAL WRIT OF  
REVIEW

Pursuant to Article IV, Section 6 of the Washington State Constitution  
and Chapters 7.24, 7.40, and 43.21C RCW, plaintiffs plead as follows:

COMPLAINT FOR DIRECT REVIEW,  
DECLARATORY RELIEF AND CONSTITUTIONAL  
WRIT OF REVIEW - 1

ARAMBURU & EUSTIS LLP  
720 Third Avenue, Suite 2112  
Seattle, Washington 98104  
Tel. (206) 625-9515 Fax (206) 682-1376

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## I. JURISDICTION AND VENUE

1.1 This court has jurisdiction over this matter under Article IV, Section 6 of the Washington State Constitution and Chapter 7.24 RCW for failure of the Puget Sound Regional Council (PSRC) to meet statutory greenhouse gas reduction requirements in its adoption of the Transportation 2040 Plan, under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, for failure of the PSRC to comply with SEPA's requirements, and under Ch. 7.40 RCW for issuance of injunctive relief.

1.2 Venue properly lies before this court because plaintiffs Cascade Bicycle Club, Futurewise and the Sierra Club (through its Cascade Chapter) have their principal places of business within King County and defendant PSRC has its principal place of business in King County.

## II. PARTIES

2.1 The Cascade Bicycle Club (Cascade Bicycle, or the Club) is a Washington nonprofit organization based in Seattle, Washington. Cascade Bicycle is the largest organization in the nation that promotes bicycling for recreation and as a means of non-motorized transportation for human health and safety, to combat traffic congestion and to reduce greenhouse gas emissions and other forms of air pollution. The Club has over 13,000 active members and over 50,000 people in its database. The majority of Cascade Bicycle's members reside within the four county region covered by PSRC's

1 recently adopted Transportation 2040 Plan (Transportation 2040, or simply  
2 T2040), the state action challenged within this action.

3 2.1.1 Cascade Bicycle Club and its members are directly affected,  
4 harmed and injured by PSRC's adoption of T2040 because the plan, including  
5 the transportation projects whose funding the plan allows and authorizes, fails  
6 to meet the statutory requirements for the reduction of greenhouse gas (GHG)  
7 emissions and it fails to attain GHG reductions necessary for climate  
8 stabilization and to prevent further harm to the environment. Exceedance of  
9 those statutory limits and of the limits necessary to prevent further degradation  
10 of the environment will result in greater vehicle miles traveled, higher levels of  
11 GHG production and the exacerbation of climate change impacts upon the air,  
12 land, water and public infrastructure used and enjoyed by Club members.  
13 Failure to meet GHG reduction limits results in greater motor vehicle traffic  
14 volumes on the region's highways and arterials, the construction of fewer miles  
15 of facilities for non-motorized travel and commensurate increases in the risks  
16 and hazards to bicyclists through the increased risk of collision and increased  
17 release of harmful and toxic pollutants, such as carbon monoxide, lead,  
18 benzene, volatile organic compounds, nitrogen and sulfur oxides and fine  
19 particulates, which Club members, as well as other members of the public,  
20 inevitably inhale through their use of the public streets and highways, all to the  
21 detriment of their health and well being.  
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1           2.1.2 The Cascade Bicycle Club and its members are harmed and  
2 injured by T2040's failure to meet the statutory GHG reduction requirements  
3 and its failure to meet GHG reduction requirements necessary to prevent  
4 further deterioration of climate conditions and further degradation of the  
5 environment. The exceedance of GHG reduction requirements causes  
6 Cascade Bicycle and its members to suffer the adverse impacts of climate  
7 change and global warming, including, but not limited to, the greater frequency  
8 and severity of rainfall events, the damage to public transportation through  
9 increased flooding, the diminution in snow pack, the increased frequency of  
10 forest fires, decreases in fresh water supplies, sea level rise and coastal  
11 flooding, and the increasing acidification of marine waters and declines in  
12 shellfish production. Members of Cascade Bicycle use the streets, trails,  
13 forests, public water supplies, marine waters and marine shorelines adversely  
14 affected by climate change. T2040's failure to meet statutory GHG reduction  
15 requirements and necessary reductions to achieve climate stabilization harms  
16 and injures Cascade Bicycle and its members by exposing them to higher  
17 levels of damage to trails, streets and highways, reduced supplies of freshwater  
18 and diminished use and enjoyment of marine waters. Cascade Bicycle and its  
19 members have been procedurally harmed by PSRC's actions in violation of  
20 SEPA by depriving them of the benefits of an environmentally fully informed  
21 decision. These impacts are concrete, particularized, imminent and traceable to  
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1 T2040's failure to meet the GHG reduction requirements and its adoption in  
2 violation of SEPA.

3 2.1.3 Cascade Bicycle Club commented upon T2040 and its EIS, have  
4 otherwise participated in the proceedings leading up to the adoption of T2040  
5 and have exhausted available administrative remedies.

6 2.2 Futurewise is a Washington nonprofit organization with its  
7 principal place of business in Seattle, Washington, although Futurewise has  
8 offices in other areas of Washington State, including Snohomish County.  
9 Futurewise's mission is to promote healthy communities and cities while  
10 protecting working farms, working forests, and shorelines for the present and  
11 future generations. Futurewise has 1,200 members throughout Washington  
12 State with many of whom live and own property within the four counties and the  
13 cities in those counties that are members of PSRC and are covered by PSRC's  
14 recently adopted Transportation 2040 Plan, the state action challenged within  
15 this action.  
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18 2.2.1 Futurewise and its members are directly affected, harmed and  
19 injured by PSRC's adoption of T2040 because the plan, including the  
20 transportation projects whose funding the plan allows and authorizes, fails to  
21 meet the statutory GHG reduction requirements and it fails to attain GHG  
22 reductions necessary for climate stabilization and to prevent further harm to the  
23 environment. Exceeding these statutory limits and the limits necessary to  
24 prevent further degradation of the environment will result in higher levels of  
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1 GHG production and the exacerbation of climate change impacts upon the air,  
2 land, water and public infrastructure used and enjoyed by Futurewise's  
3 members. These adverse impacts on Futurewise's members include, but are  
4 not limited to, increased flooding from more severe storms and greater winter  
5 runoff, which will threaten their real and personal property with damage and  
6 damage public transit infrastructure. The reduced winter snow pack will also  
7 put the region's drinking water supplies at risk. Counteracting these threats will  
8 require greater expenditures by local governments, expenditures that will likely  
9 require increased taxes and storm water and potable water utility fees paid  
10 directly by property owners and directly and indirectly by renters. Increased  
11 summer temperatures will increase illness and death, putting the members'  
12 health at risk.

14           2.2.2 The failure to meet the GHG reduction requirements will increase  
15 the frequency of forest fires, decrease fresh water supplies, increase sea level  
16 rise and coastal flooding, and increase the acidification of marine waters,  
17 including Puget Sound, and cause declines in shellfish production. Members of  
18 Futurewise use the streets, trails, forests, public water supplies, marine waters  
19 and marine shorelines adversely affected by climate change. T2040's failure to  
20 meet statutory GHG reduction requirements and necessary reductions to  
21 achieve climate stabilization harms and injures Futurewise and its members by  
22 exposing them to higher levels of damage to trails, streets and highways,  
23 reduced supplies of freshwater and diminished use and enjoyment of marine  
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1 waters. Futurewise and its members have been procedurally harmed by  
2 PSRC's actions taken in violation of SEPA by depriving them of the benefits of  
3 an environmentally fully informed decision. These impacts are concrete,  
4 particularized, imminent and traceable to T2040's failure to meet the GHG  
5 reduction requirements and its adoption in violation of SEPA.

6 2.2.3 Futurewise commented upon T2040 and its EIS, has otherwise  
7 participated in the proceedings leading up to the adoption of T2040 and has  
8 exhausted available administrative remedies.

9  
10 2.3 Sierra Club is a California non-profit corporation. Founded in  
11 1892, Sierra Club is the oldest conservation organization in the United States.  
12 Sierra Club's mission is to explore, enjoy, and protect the wild places of the  
13 earth, to practice and promote the responsible use of the earth's ecosystems  
14 and resources, to educate and enlist humanity to protect and restore the quality  
15 of the natural and human environment and to use all lawful means to carry out  
16 these objectives. Sierra Club works on a number of environmental and human  
17 health issues, including projects to reduce air pollution, address global climate  
18 change and promote environmental sustainability. At the state level, Sierra  
19 Club works through its state chapter and local groups. The Cascade  
20 (Washington State) Chapter of the Sierra Club has approximately 30,000  
21 members. Within the Puget Sound region, the Cascade Chapter has  
22 approximately 25,000 members, the majority of whom reside within the region  
23 covered by PSRC's recently adopted Transportation 2040 Plan. Sierra Club's  
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1 work at the state level and within the Cascade Chapter includes, but is not  
2 limited to, issues related to transportation planning, energy, climate change,  
3 public and private lands, outdoor activities and environmental justice.

4 2.3.1 Sierra Club and its members are directly affected, harmed and  
5 injured by PSRC's adoption of T2040 because the plan, including the  
6 transportation projects whose funding the plan allows and authorizes, fails to  
7 meet the statutory GHG reduction requirements and it fails to attain GHG  
8 reductions necessary for climate stabilization and to prevent further harm to the  
9 environment. Exceeding these statutory limits and the limits necessary to  
10 prevent further degradation of the environment will result in higher levels of  
11 GHG production and the exacerbation of climate change impacts upon the air,  
12 land, water and public infrastructure used and enjoyed by Sierra Club's  
13 members. These adverse impacts on the Club's members include, but are not  
14 limited to, increased flooding from more severe storms and greater winter  
15 runoff, which in turn will damage their real and personal property and the  
16 forests, trails and other lands that they use for recreation, travel and aesthetic  
17 enjoyment. The reduced winter snow pack also puts at risk the region's  
18 drinking water supplies and increases incidence of forest fires. The failure to  
19 meet the GHG reduction requirements contributes to the rise in sea levels rise,  
20 the increase in coastal flooding, the acidification of marine waters and declines  
21 in shellfish production.  
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1           2.3.2 Members of Sierra Club use the streets, trails, forests, public  
2 water supplies, marine waters and marine shorelines adversely affected by  
3 climate change. T2040's failure to meet statutory GHG reduction requirements  
4 and necessary reductions to achieve climate stabilization harms and injures  
5 Sierra Club and its members by exposing them to higher levels of damage to  
6 trails, streets and highways, reduced supplies of freshwater, diminished use  
7 and enjoyment of marine waters and the degradation of shellfish. Sierra Club  
8 and its members have been procedurally harmed by PSRC's actions in  
9 violation of SEPA by depriving them of the benefits of an environmentally fully  
10 informed decision. These impacts are concrete, particularized, imminent and  
11 traceable to T2040's failure to meet the GHG reduction requirements and its  
12 adoption in violation of SEPA.  
13

14           2.3.3 Sierra Club commented upon T2040 and its EIS, has otherwise  
15 participated in the proceedings leading up to the adoption of T2040 and has  
16 exhausted available administrative remedies.  
17

18           2.4 The injuries and interests of the Cascade Bicycle Club, Futurewise  
19 and Sierra Club and their respective members fall squarely within their interests  
20 under SEPA and under the GHG reduction requirements of Chapter 70.235  
21 RCW. Vehicular traffic and transportation systems, air and water quality, storm  
22 water, public water supplies, the release of toxic substances and climate,  
23 among many others listed at WAC 197-11-444, are elements of the  
24 environment requiring consideration under SEPA. As persons who use the  
25

1 state transportation system, breathe the air, use the forests, drink fresh water  
2 and enjoy marine waters, the interests of the plaintiff organizations and their  
3 members fall within the zone of interests of Chapters 43.21C and 70.235 RCW.

4           2.5 The Puget Sound Regional Council is the federal Metropolitan  
5 Planning Organization (MPO) created and designated under 23 U.S.C. §134  
6 and 49 U.S.C. §5301 *et seq.* for the four county Metropolitan Planning Area  
7 created for King, Kitsap, Pierce and Snohomish counties. As the designated  
8 MPO, the PSRC is charged by federal statute with preparing and adopting a  
9 metropolitan transportation plan for the four county region to guide the funding  
10 and development of future transportation projects. Without inclusion in the  
11 federally required transportation improvement plan, federal funding of  
12 transportation projects in the region would not be available. Under the  
13 provisions of Ch. 47.80 RCW the PSRC is the Regional Transportation  
14 Planning Organization (RTPO) for the same four county area. As the RTPO,  
15 the PSRC is charged with preparing and periodically updating a regional  
16 transportation plan for the four county area that is to be used, in part, for  
17 certifying the transportation elements within the comprehensive plans of the  
18 cities and counties within its region and assuring consistency with the state-  
19 wide transportation plan and other regional transportation plans. Further, the  
20 four counties and cities within those counties have entered into an interlocal  
21 agreement establishing the PSRC as a regional planning agency under the  
22 provisions of the Interlocal Cooperation Act, RCW Ch. 39.34. In adopting  
23  
24  
25

1 T2040 the PSRC has taken action under 23 U.S.C. §134, *et seq.*, 49 U.S.C.  
2 §5301 *et seq.* and Chapters 47.80 and 43.21C RCW.

### 3 III. FACT ALLEGATIONS

4 3.1 In 2008, the state legislature adopted statewide GHG reduction  
5 requirements, as follows: by the year 2020, the reduction of overall GHG  
6 emissions to 1990 levels; by 2035 the reduction of GHG emissions to 25%  
7 below 1990 levels; and by 2050 the reduction of GHG emissions to 50% below  
8 1990 levels, or 70% below the state's expected emissions for that year, the  
9 stated overriding objective being for the state to do its part to reach global  
10 climate stabilization. Chapter 14, Section 3, Laws of 2008, codified at RCW  
11 70.235.020. While this statute directs the state Department of Ecology to  
12 prepare a greenhouse gas reduction plan, it further provides that nothing within  
13 its provisions limits any prior state agency authority and that actions under  
14 existing statutory authority may proceed prior to approval of the greenhouse  
15 reduction plan.  
16  
17

18 3.2 On or about April 24, 2008, the PSRC adopted Vision 2040 to  
19 provide a regional growth strategy and to provide a framework for  
20 transportation planning, to be further refined and implemented through a 30  
21 year transportation plan, to be known as Transportation 2040, or simply T2040.

22 3.3 On or about May 29, 2009, the PSRC issued a draft Environmental  
23 Impact Statement (EIS) for T2040, in response to which the plaintiff  
24 organizations submitted comments.  
25



1 reductions by the years 2020, 2035 and 2050 toward the end of achieving  
2 global climate stabilization levels.

3 4.2 As an agency created by state statute under Chapter 47.80 RCW  
4 and certified by Washington's governor as the metropolitan organization for the  
5 four-county region under 23 U.S.C §134 and 49 U.S.C. §5303 (formerly, 49  
6 U.S.C. §1607), the PSRC is an instrumentality of the state of Washington  
7 whose actions are governed by the GHG reduction requirements established  
8 within RCW 70.235.020. The PSRC's adoption of T2040 further constitutes  
9 action by the State of Washington because the plan provides a basis for the  
10 state transportation plan under RCW 47.01.071 and 47.80.070.

12 4.3 By adopting a plan that fails to meet the statutory GHG reduction  
13 requirements, the PSRC has violated state statute, acted arbitrarily and  
14 capriciously and otherwise in a manner contrary to law, as the court shall find  
15 and determine under RCW 7.24.010, *et seq.* and Article IV, Section 6 of the  
16 Washington State Constitution.  
17

18 4.4 Under SEPA, Chapter 43.21C RCW, the PSRC has the duty to  
19 protect the public health and safety of present and future generations, to  
20 prevent and eliminate damage to the environment and biosphere and to give  
21 full consideration to the environmental consequences of its actions.  
22

23 4.5 The PSRC has violated its duties under SEPA by adopting a  
24 transportation plan that exacerbates, rather than prevents or eliminates,  
25 damage to the environment and biosphere, by specifying improvements to the

1 transportation infrastructure the implementation of which would far exceed  
2 statutorily established requirements for the reduction of GHG emissions and  
3 which would far exceed GHG reductions necessary to stabilize climate impacts,  
4 and by failing to prepare an environmental impact statement that adequately  
5 identifies, considers and analyzes alternatives and mitigations capable of  
6 attaining the GHG reductions necessary to meet statutory requirements and to  
7 prevent further degradation of the environment and that adequately discloses  
8 the extent to which its adopted plans would exacerbate climate impacts.  
9

10 4.6 The FEIS has been issued and T2040 has been adopted in violation  
11 of SEPA, as the court shall find and determine under RCW 43.21C.080(2) and  
12 7.24.010, *et seq.*

#### 13 **V. RELIEF REQUESTED**

14 Wherefore, plaintiffs plead for the following relief:

15  
16 5.1 Pursuant to the provisions of RCW 43.21C.075 and .080 and Article  
17 IV, Section 6 of the State Constitution the court shall issue an order and/or writ  
18 directing the PSRC to prepare a complete record of its adoption of T2040,  
19 including its preparation of a Draft and Final EIS in support of that plan.

20 5.2 The court shall find and declare that the Final EIS adopted for  
21 T2040 fails to meet the requirements of RCW chapter 43.21C and is  
22 inadequate as a matter of law.  
23

24 5.3 The court shall find and declare that T2040 has been adopted in  
25 violation of the provisions of Chapters 43.21C and 70.235 RCW, is arbitrary

1 and capricious and contrary to law and shall direct the PSRC to amend and  
2 revise T2040 to achieve full compliance with Chapters 43.21C and 70.235  
3 RCW.

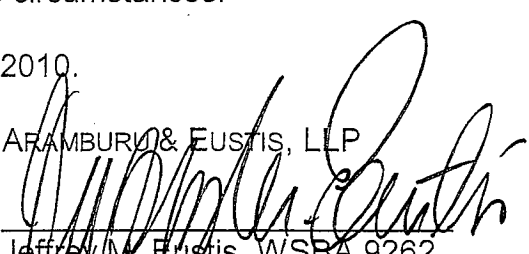
4 5.4 The court shall award such affirmative and injunctive relief under  
5 Chapter 7.40 RCW that it deems necessary to ensure the enforcement of its  
6 rulings and determinations.

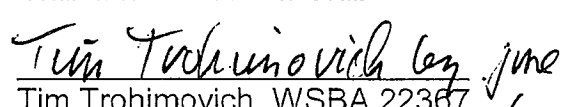
7 5.5 The court shall award to the plaintiffs their allowable costs and  
8 attorney fees.

9 5.6 The court shall award such other relief, at law or equity, as would be  
10 just, appropriate and equitable under the circumstances.

11 DATED this 23<sup>rd</sup> day of June 2010.

12 ARAMBURU & EUSTIS, LLP

13   
14 Jeffrey M. Eustis, WSBA 9262  
15 Attorneys for the Cascade Bicycle  
16 Club and the Sierra Club

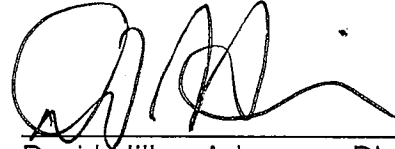
17   
18 Tim Trohimovich, WSBA 22367  
19 Attorney for Futurewise *per authorization*

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VERIFICATION

I, David Hiller, hereby declare under the penalty of perjury under the laws of the State of Washington that I have read the foregoing Complaint and believe the contents to be true and accurate.

Signed in Seattle, Washington this 23 day of June 2010.



David Hiller, Advocacy Director  
Cascade Bicycle Club

# Appendix A

RESOLUTION NO. PSRC-A-2010-02

**A RESOLUTION of the Puget Sound Regional Council Adopting  
Transportation 2040 (the 2010 Metropolitan Transportation Plan)**

*WHEREAS*, the Puget Sound Regional Council is designated by local governments and the Governor of the State of Washington, under federal and state laws, as the Metropolitan Planning Organization (MPO) and Regional Transportation Planning Organization (RTPO) for the central Puget Sound region encompassing King, Kitsap, Pierce, and Snohomish counties; and

*WHEREAS*, the Interlocal Agreement signed by all Regional Council members establishes the Council as a forum for collaborative work on regional growth management, transportation and other issues requiring regional coordination and cooperation; and

*WHEREAS*, as the MPO and RTPO for the four-county region, the Regional Council has specific responsibilities under federal and state laws, including the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and Clean Air Act, and the state Growth Management Act (GMA) and Commute Trip Reduction law, as well as responsibilities pursuant to the Interlocal Agreement signed by all members; and

*WHEREAS*, in 2008 the Regional Council adopted VISION 2040, the long-range environmental, growth management, economic development, and transportation strategy for the central Puget Sound region; and

*WHEREAS*, state legislation requires Regional Transportation Planning Organizations to work with local jurisdictions to establish regional guidelines and principles to assist local jurisdictions in developing their local transportation plans; and

*WHEREAS*, VISION 2040 multicounty planning policies constitute the regional guidelines and principles for the central Puget Sound region; and

*WHEREAS*, federal and state laws require that the Regional Council periodically review and update its Metropolitan Transportation Plan to reflect progress and changes regarding plan implementation directions using the latest forecasts of regional demographic and development patterns; and

*WHEREAS*, in 2001 the Regional Council adopted Destination 2030 to comply with transportation capacity needs of the central Puget Sound region; and

*WHEREAS*, the 2007 Destination 2030 Update was adopted in 2007 as a limited scope update of Destination 2030 that addressed new federal SAFETEA-LU requirements, new state Commute Trip Reduction law requirements, an updated project list and financial strategy, and

minor language and technical changes to update the plan, and was subject to various minor amendments in subsequent years by Executive Board action as provided for in the plan; and

*WHEREAS*, from May 2007 through March 2010, the Regional Council's Transportation Policy Board directed development of a new Transportation 2040 metropolitan transportation plan in compliance with federal and state laws, and developed a draft "Transportation 2040" document; and

*WHEREAS*, consistent with federal and state mandates, state environmental requirements, and with the Regional Council's Interlocal Agreement, Public Participation Plan, and other operating procedures, the Regional Council has worked with local, state and federal jurisdictions and agencies in a continuing, cooperative and comprehensive planning process; has made draft documents available for public review; has conducted informational mailings, workshops, open houses, and other efforts including providing extensive data and information related to the plan update on the Regional Council's website, to involve communities, agencies, businesses, interest groups, and individuals in order to facilitate their ability to provide input, discussion and review of Transportation 2040; and has incorporated the work of local governments, and the suggestions of citizens, businesses, and interests throughout the region in the plan document; and

*WHEREAS*, the Regional Council has prepared a draft and final environmental impact statement ("EIS") on Transportation 2040 pursuant to the State Environmental Policy Act and the Regional Council's *Procedures and Policies Implementing the State Environmental Policy Act*; and

*WHEREAS*, the Regional Council is to certify that Transportation 2040 complies with all the applicable requirements of the Federal Transit Act, Clean Air Act, Civil Rights Act, the Americans with Disabilities Act, SAFETEA-LU, the state Commute Trip Reduction law, and all other applicable state and federal laws and regulations; and

*WHEREAS*, Transportation 2040 is to serve as the required regional transportation plan under state law and as the metropolitan transportation plan under federal law; and

*WHEREAS*, based on analyses, Transportation 2040 will provide transportation, land use and economic benefits to the region; and

*WHEREAS*, on October 28, 2009, the Washington State Department of Transportation published *Least Cost Planning Guidance* for regional transportation planning organizations, and Regional Council staff have reviewed such guidance and determined that Transportation 2040 conforms with state requirements and has documented this determination in the *Benefits-Cost Analysis: General Methods and Approach* report; and

*WHEREAS*, Transportation 2040 supersedes the 2007 Destination 2030 Update adopted in 2007 and amended in 2008;

*NOW, THEREFORE BE IT RESOLVED*, that the Regional Council General Assembly adopts Transportation 2040 and its plan Appendices as the functional transportation element of

VISION 2040, to serve as the region's official regional and metropolitan transportation plans, and finds Transportation 2040 to be in conformity with the Clean Air Act, SAFETEA-LU requirements, the state Commute Trip Reduction law, and state Regional Transportation Planning Organization requirements, and the requirements of the State Environmental Policy Act.

*BE IT FURTHER RESOLVED*, that the Regional Council General Assembly adopts the federally required 2011-2014 Coordinated Transit-Human Services Transportation Plan and thereby incorporates the plan into Transportation 2040 as Appendix K;

*BE IT FURTHER RESOLVED*, that the Regional Council hereby certifies that Transportation 2040 complies with all applicable requirements of the Federal Transit Act, Clean Air Act, Civil Rights Act, the Americans with Disabilities Act, SAFETEA-LU, and other applicable state and federal statutes and regulations;

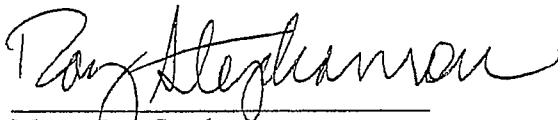
*BE IT FURTHER RESOLVED*, that the Regional Council's Executive Board is authorized to make minor amendments to Transportation 2040 and its Appendices;

*BE IT FURTHER RESOLVED*, that the Regional Council's Executive Director is authorized to transmit Transportation 2040 to the Federal Transit Administration and the Federal Highway Administration to make the conformity determination in accordance with the federal Clean Air Act and the Environmental Protection Agency's transportation conformity regulations, and for review based on the planning process requirements of SAFETEA-LU and other federal statutes;

*BE IT FURTHER RESOLVED*, that the Regional Council's Executive Director is authorized to transmit Transportation 2040 to the Governor and the Washington State Department of Transportation in compliance with Regional Transportation Planning Organization requirements;


*BE IT FURTHER RESOLVED*, that the Regional Council staff is directed to prepare, reproduce and distribute the final Transportation 2040 plan document with any final minor corrections that may become necessary.

*ADOPTED* by the Assembly this 20<sup>th</sup> day of May, 2010.



\_\_\_\_\_  
Mayor Ray Stephanson  
City of Everett  
President, Puget Sound Regional Council

ATTEST:



\_\_\_\_\_  
Bob Drewel, Executive Director

APPROVED AS TO FORM: Melody McCutcheon, Hillis Clark Martin & Peterson P.S.

**WAC 197-11-990,  
SEPA RCW 43.21C.080**

**Notice of Action:**

The Puget Sound Regional Council General Assembly adopted Transportation 2040, the 2010 Metropolitan Transportation Plan for the central Puget Sound region, in accordance with Resolution No. PSRC-A-2010-02 on May 20, 2010. The document may be examined during regular business hours at PSRC, 1011 Western Avenue, Suite 500, Seattle, WA, 98104, at 15 regional library branches, or online at psrc.org. The process was a nonproject environmental review, which included a Draft Environmental Impact Statement released to the public on May 29, 2009 and a Final Environmental Impact Statement, released to the public on March 19, 2010. The PSRC hereby gives notice that any action to set aside, enjoin, review, or otherwise challenge this action on the grounds of noncompliance with the provisions of chapter 43.21C RCW shall be commenced on or before Wednesday, June 23, 2010 - twenty-one days from the date of the last newspaper publication of the notice, or be barred. This notice is filed by Norman Abbott, SEPA Officer, PSRC.

May 26 & June 2, 2010 AD#20100960