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HILLIS, CLARK, MARTIN & PETERSON

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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

NOTICE OF APPEAL TO COURT OF
APPEALS, DIVISION ONE

Cascade Bicycle Club, Sierra Club and Futurewise, Plaintiffs, seek
review by the designated appellate court of the Findings of Fact, Conclusions of
Law, and Order of Dismissal entered on July 15, 2011.

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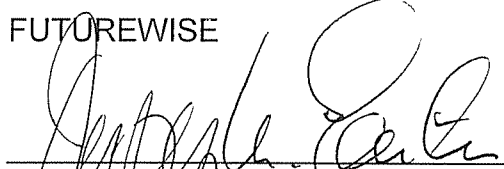
A copy of the decision is attached.

Dated: August 15, 2011 Dated: August 15, 2011

ARAMBURU & EUSTIS, LLP

FUTUREWISE


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DECLARATION OF SERVICE

I am an employee in the law offices of Aramburu & Eustis, LLP, over
eighteen years of age and competent to be a witness herein. On the date
written below, copies of the foregoing document were sent by legal messenger
to:

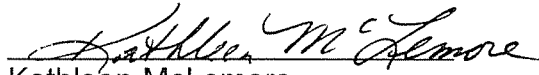
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I declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct to the best of my knowledge
and belief.

DATED: August 15 2011


Kathleen McLemore

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THE HONORABLE CAROL SCHAPIRA

HILLIS CLARK MARTIN & PETERSON

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

CASCADE BICYCLE CLUB, et.al.,

Plaintiffs,

v.

PUGET SOUND REGIONAL COUNCIL,

Defendant.

No. 10-2-22228-6 SEA

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER OF DISMISSAL

*Clerk's Action
Rec'd*

THIS MATTER came on for hearing before this Court on June 28, 2011, on Plaintiffs' Complaint for Direct Review under SEPA, Declaratory Relief and Constitutional Writ of Review. The record consisted of the Administrative Agency Record and its Supplement. Plaintiffs Cascade Bicycle Club and Sierra Club were represented by Jeffrey M. Eustis, Aramburu & Eustis LLP. Plaintiff Futurewise was represented by Tim Trohimovich. Defendant Puget Sound Regional Council ("PSRC") was represented by Melody B. McCutcheon and Karen D. Breckenridge of Hillis Clark Martin & Peterson P.S., and by Rodney L. Brown, Jr. and Joseph A. Rehberger of Cascadia Law Group.

The Court has reviewed excerpts from the record brought forward by the parties, and has considered the pleadings on file in this matter and the arguments of counsel at the hearing.

Findings of Fact, Conclusions of Law, and Order of Dismissal - 1

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COPY

1 The Court makes the following Findings of Fact and Conclusions of Law and enters the
2 following Order:

3
4 I. FINDINGS OF FACT

5 1. This action is a Complaint for Direct Review under the State Environmental
6 Policy Act in RCW 43.21C ("SEPA"), a request for Declaratory Relief under RCW 7.24, and
7 a Constitutional Writ of Review under Article IV, Section 6 of the Washington State
8 Constitution.

9
10 2. PSRC is a Metropolitan Planning Organization under federal law. Under
11 RCW 47.80.020, regional transportation planning organizations ("RTPO") are formed
12 through the voluntary association of local governments. PSRC was formed as an RTPO
13 through an Interlocal Agreement.

14
15 3. PSRC is responsible for preparation of a regional transportation plan for the
16 four-county Puget Sound region, consisting of King, Kitsap, Pierce and Snohomish counties.
17 Pursuant to SEPA, PSRC issued a Draft Environmental Impact Statement in May 2009, and a
18 Final Environmental Impact Statement in March 2010 (together referred to as the "EIS"),
19 which analyzed various alternatives for transportation planning in the four-county Puget
20 Sound region, the environmental impacts associated with those alternatives, and measures to
21 mitigate environmental impacts.

22
23 4. In May 2010, PSRC adopted the regional transportation plan known as
24 Transportation 2040 ("T2040") to address transportation needs in the region for the next thirty
25 years. T2040 includes a four-part strategy for reducing greenhouse gas emissions from
26 transportation in the region.
27
28

1 II. CONCLUSIONS OF LAW

2 Based on the foregoing, the Court enters the following Conclusions of Law:

3 1. PSRC challenged Plaintiffs' standing to bring this lawsuit arguing that
4 Plaintiffs had not shown adoption of *T2040* would cause an immediate, concrete or specific
5 injury to Plaintiffs. The declarations filed by Plaintiffs are sufficient to show that *T2040*
6 would have a direct effect on Plaintiffs. Thus, Plaintiffs have adequately shown that they
7 have standing to bring this lawsuit.
8

9 2. PSRC argued that the issues Plaintiffs raised in this lawsuit and their requested
10 relief presented non-justiciable issues under the separation of powers or political question
11 doctrine reviewed in *Brown v Owen*, 165 Wn.2d 706, 206 P.3d 310 (2009), and *Baker v.*
12 *Carr*, 369 U.S. 186, 82 S. Ct. 691 (1962). Although this case has complexities, the Court is
13 not deprived of jurisdiction in this instance by virtue of the separation of powers or political
14 question doctrine.
15

16 3. Plaintiffs argued that adoption of *T2040* violated the emissions limits in
17 RCW 70.235.020(1)(a). However, those emissions limits apply to the state as a whole. PSRC
18 is a voluntary regional planning board and is not the state. Therefore, RCW 70.235.020 did
19 not impose a requirement on PSRC to meet the emissions limits in that statute. PSRC has
20 thus prevailed in showing that Plaintiffs have failed to state a claim under Civil Rule 12(b)(6).
21 Moreover, RCW 70.235.020 contemplates that it is the state of Washington that is responsible
22 for carrying out the statute, such as through the actions of the Washington State Departments
23 of Ecology and Transportation. It is not up to PSRC to decide how state-wide greenhouse gas
24 emissions limits will be met. Instead, it is up to the state legislature to make those decisions.
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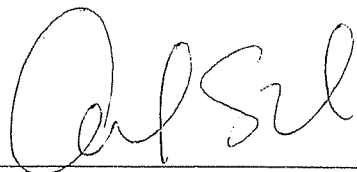
1 Under RCW 70.235.020, the state retains control over how the emissions limits in
2 RCW 70.235.020(1)(a) will be met.

3 4. Plaintiffs argued that the EIS violated SEPA by not adequately disclosing the
4 emissions impacts of T2040 and by not having an alternative or mitigation measure that:
5 1) met the state's emissions limits in RCW 70.235.020(1)(a), or 2) reduced greenhouse gas
6 emissions even further than the reductions achieved by T2040. PSRC's EIS was a non-
7 project EIS on a plan. The EIS needed to be mindful of the state's emissions limits, and the
8 record shows that those emissions limits, and greenhouse gas emissions in general, were
9 adequately analyzed and disclosed in the EIS. PSRC's work was well informed, it moves the
10 process of reducing emissions forward as PSRC said it would, and PSRC has done its part to
11 reduce emissions from transportation. Thus, the EIS is adequate under SEPA.

12
13
14 **III. ORDER**

15 Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby
16 ORDERED, ADJUDGED AND DECREED that Plaintiffs' appeal of the adequacy of the EIS
17 is DENIED; Plaintiffs' Motion to Strike the Declaration of Janice Adair is DENIED; and
18 Plaintiffs' Complaint for Direct Review under SEPA, Declaratory Relief and Constitutional
19 Writ of Review is DISMISSED.
20

21
22 DONE IN OPEN COURT this 15th day of July, 2011.

23
24
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26 
27 _____
28 Judge Carol Schapira

1 Presented by:

2 ARAMBURU & EUSTIS LLP

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By s/Melody B. McCutcheon

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