

Exhibit J

4 charged under hate crime law in Waukesha

Man beaten outside tavern, complaint says

By DAVID DOEGE
ddoege@journal sentinel.com

Waukesha — Three men and a woman were charged Tuesday under the state's hate crime law with brutally beating a tavern patron.

The four were charged in a criminal complaint that identified them as white supremacists and their victim as a Hispanic man who angered the woman by supposedly flirting with her.

The beating was witnessed in part by police, who were in-

volved in a nearby traffic stop and who had momentary difficulty quelling the assault as they rushed to the victim's aid while identifying themselves as police, according to the complaint.

When the defendants were arrested, police noticed they sported Nazi and skinhead tattoos, the complaint says. A car belonging to one of the defendants had a Confederate flag and a "White Power" bumper sticker in the rear window and a variety of compact discs in the passenger compartment featuring white supremacist music, according to the complaint.

Charged with substantial

battery as a hate crime were Mark W. Lentz, 22, Kasey A. Bieri, 22, and Mark Allen Davis II, 27, all of Watertown, and Jeffrey C. Gerloski, 31, of Waukesha.

The complaint says the beating took place early Sunday outside Hannon's Bar at 857 Broadway.

According to the complaint, Lentz, Bieri, Davis and Gerloski went to the bar after stopping at several other taverns and drinking beer. While at Hannon's, the complaint says, a patron overheard the four taunting others with remarks including "I want to kill somebody tonight."

The complaint says Bieri

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Exhibit K

This summary was compiled doing a side by side comparison of the SEWRPC Housing Study recommendations with the recommendations adopted by Waukesha County, October 2014

By Kori Schneider Peragine, Metropolitan Milwaukee Fair Housing Council and SEWRPC Regional Housing Study Advisory Committee member

The following is a list of recommendations Waukesha County did not adopt:

Affordable Housing

- It is recommended that the Governor and State Legislature develop a new funding strategy that would eliminate or reduce the heavy reliance on property taxes to fund schools and local government services to help reduce housing costs and to help address concerns by school district and municipal officials that lower-cost housing is not as beneficial as higher cost housing for school district and municipal revenues.
- Local government should reduce or waive impact fees for new single and multi family development that meets the affordability threshold for lot and home size, in accordance with section 66.0617(7) of the Wisconsin Statutes, which allows local governments to provide an exemption or to reduce impact fees for land development that provides low-cost housing.

Fair Housing/Opportunity

- Concerns have been raised that the conditional use process can be used to prevent multifamily residential development through excessive conditions of approval or the length of the review period. Multifamily residential uses should be identified as principal uses in zoning districts that allow multifamily residential development, subject to criteria identified in the ordinance.
- Funding should be maintained for organizations that advocate for fair housing to continue public informational programs aimed at increasing awareness of fair housing rights and anti-discrimination laws and assessing the procedures utilized by agencies charged with the administration and enforcement of housing laws, to ensure that all complaints of discrimination are fairly and expeditiously processed.
- It is recommended that programs to help low income families who wish to move to less impoverished areas be established by counties and communities in the Region to help reduce the concentration of minorities in high poverty central city neighborhoods. Assistance could help in finding suitable housing, work, enrolling children in school, and other services. Such a program could be established as part of a regional voucher program. It is recommended that the Governor and State Legislature provide state funding to help establish and administer these programs, typically referred to as assisted housing mobility programs.

Jobs/Housing Balance

- Amend the State law to prohibit the creation of new TIF districts in communities with a jobs/housing imbalance, as determined by a statewide jobs/housing balance analysis conducted by a state agency, unless the TIF proposal includes documented steps that will be taken to reduce or eliminate the jobs/ housing imbalance. Examples of provisions to reduce or eliminate jobs/housing imbalance include use of the one-year TIF district extension...to fund affordable housing; development of a mixed use project that includes affordable housing as part of the TIF district; contributions to a Housing Trust fund or other funding for the development of affordable housing; and/or amendments to community plans and regulations that remove barriers to the creation of new affordable housing which would address the jobs/housing imbalance. To avoid the creation of a TIF district that would cause a jobs/housing imbalance, State law should also be amended to require TIF proposals to include an analysis of the number and wages of jobs likely to be created as the result of the TIF in relation to the cost of housing in the community, and to include steps to address any potential jobs/housing imbalance identified through the analysis.
- SEWRPC should work with local governments, through its Advisory Committees for Transportation System Planning and Programming ...to establish revised criteria that include jobs/housing balance and provision of transit for the selection of projects to be funded with Federal Highway Administration Surface Transportation Program – Milwaukee Urbanized Area funding and Congestion Mitigation and Air Quality Improvement program funding, and for the inclusion in the Transportation Improvement Program (TIP).
- The WI Department of Workforce Development should develop a method to document the number of migrant agricultural workers that come to the Region without a work agreement to help quantify the potential need for temporary housing for workers and their families.

Accessible Housing

- It is recommended that public funding be maintained for Independent Living Centers to continue providing services to persons with disabilities.

Subsidized and Tax Credit Housing

- Establish a regional Housing Trust Fund for Southeastern WI (HTF-SW) with a focus on county-specific policy goals that will help achieve the objectives of the Regional Plan, e.g. to assist in the acquisition of land and development of affordable housing. Addressing the region's housing needs will require greater public sector coordination, greater private sector participation, and interjurisdictional collaboration that address both the supply side of the equation and the demand side. The foundation of the HTF-SW could be formed initially through the merger of the existing HTF of the City of Milwaukee and the Milwaukee County Special Needs HTF, and the Milwaukee County Inclusive Housing Fund, and expanded to communities in other counties, and ultimately all 7 counties in the Southeastern WI region. A combined fund could ease the administrative burden for applicants, spread the funding burden across larger population and tax bases, raise the profile and scale of the fund, and have more potential to attract donors.

The following is a list of recommendations adopted but modified or lessened from the original Regional Housing Study's recommendations:

- [RHS read]: State, County and affected local governments should work to fully implement the public transit element of the 2035 regional transportation system plan in order to provide better connectivity between affordable housing and job opportunities. Job-ride shuttle services should be maintained or established to provide transportation options to major employment centers as an interim measure until public transit is made available. [WC's recommendation reads instead]: State, County and affected local governments should work to provide better connectivity between affordable housing and job opportunities through transportation options to major employment centers.
- [Waukesha County's recommendation does not include part of the final sentence in italics/underlined which was in the RHS]: In order to provide housing for very low income households, communities should develop partnerships with nonprofit organizations to provide affordable housing, and/or assist in assembling small parcels, remediation brownfields, and disposing of publicly-owned parcels at a reduced cost for development of new affordable housing.

Exhibit L

FREEWAY IMPACT IN MILWAUKEE

PHASE I FINAL REPORT

by

Theodore K. Miller

The research and studies forming the basis for this publication were conducted pursuant to a contract between the Department of Housing and Urban Development and the National League of Cities. The substance of such research and studies is dedicated to the public. The author and publisher are solely responsible for the accuracy of statements or interpretations contained herein.

MILWAUKEE URBAN OBSERVATORY

March, 1972

Specifically, the corridors were those associated with (1) the North-South Freeway (U. S. Rte. 141) between North Avenue and Keefe Avenue (the Northern Segment), (2) the North-South Freeway (Interstate Rte. 94) between Greenfield Avenue and Becher Street (the Southern Segment), and (3) the Park Freeway between 27th Street and Sherman Boulevard (the Park Segment). The Northern Segment was constructed through a mixed black and white (but mainly black), lower to lower-middle income section of Milwaukee; the Southern Segment through a white, largely Polish, lower to lower-middle income section; and the Park Segment through a white, middle income section. The three segments were chosen to reflect as broad a socio-economic cross-section as possible of affected populations and areas of the city.

Given such a set of segments, how does one define the associated impact corridor? The number of possible methods is large and all involve an arbitrary component. The method selected involves the aggregation of census tract units that satisfy a certain density criterion, specifically a density of households establishing residence in a tract after being displaced from a dwelling unit in the freeway path. This is an admittedly narrow definition, but it does have the virtue of being associated with one of the first (in time sequence) types of impact to occur. Also, by using this method, the study is oriented in part to the relocation question which is certainly one of contemporary importance.

considerably shorter than for the other two segments. In fact, the three points in time for which maps have been prepared all fall into the first stage of the diffusion process noted previously, that associated with rapid change and displacement. This is apparent both visually and computationally. The centers of gravity for the Park Segment households which indicate movement roughly to the west, are given in Table 9.

<u>Time</u>	<u>Distance from Base Point in Miles</u>	<u>Direction in Degrees</u>
1	.809	180
2	1.616	179
3	2.042	169

Table 9.

The data in Table 3 (p.7) indicate that, if trends noted previously for the Northern and Southern Segments hold for the Park Segment, the center of gravity at Time 4, ... should be roughly similar to that for Time 3. That is, Time 3 should mark the boundary between the unstable and stable stages of the diffusion process.

Assuming this to be true, it is of interest to compare the distance components of the centers of gravity for the three segments over the period of stability or equilibrium. For the Southern Segment, this distance is approximately 1.85 miles; for the Northern, 1.6; and for the Park, 2.0 miles. These results appear to be consistent with what

little is known about intra-urban migration processes. Specifically, the households displaced from the Park Segment, on the basis of the 1960 census data for tracts through which the segment runs, have a higher economic status than do households displaced from the other two segments. Because of this they would be expected to migrate, on the average, longer distances, as the results indicate they do. For households displaced from the Northern and Southern Segments, the difference in economic status is slight; the primary difference between them is racial.

Various relocation studies, done primarily in relation to urban renewal projects, have found that white households, on the average, migrate longer distances than black households of similar economic status. Presumably, this is due to residential segregation, imposed or self-imposed. The data presented above appears to bear this out, although the absolute difference between the two distances, .25 miles, is smaller than would be expected on the basis of previous research. It may be artificially small, of course, due to the mixed black and white population in the Northern segment area. This question cannot be resolved until specific data by household is available.

The literature on intra-urban migration also indicates a tendency to move away from central business districts (CBD), reflecting an anti-CBD bias among urban residents. The data presented above supports this concept, as the mean direction of movement in all cases is oriented

away from Milwaukee's central business district.

Another aspect of the mapped distributions that may be examined, aside from center of gravity, is that of spread. Here, also, the results are at least suggestive. In particular, it would appear possible to separate each stable phase distribution into two parts, a core area characterized by high densities containing displaced households which have moved only a short distance, perhaps just two or three blocks, and a peripheral area of more distant movement. This is particularly clear in the maps of the Northern Segments (Maps 11-16, Appendix D). It is less clear, although still visually perceptible, in Maps 4-8 of the Southern Segment and Map 19 of the Park Segment.

What are the characteristics of displaced households which select residences in the immediate neighborhood rather than some distance away? Are households which select core area residences similar from segment to segment in certain aspects? Are those that select peripheral residences similar between segments? It would appear that these are important questions, at least from the point of view of relocation planning. However, due to a lack of specific household data, they cannot be answered with any confidence at present.

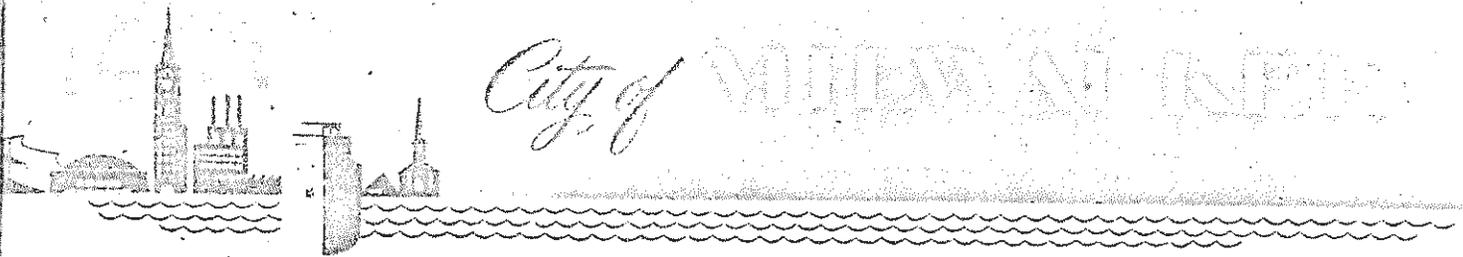
Pursuing this point along a somewhat speculative vein, consider Maps 16 and 19, both of which display data gathered from the 1970 city directory. On Map 19, notice the blank area just to the right (east) of the Park Segment core area. By overlaying Map 16 on 19 it becomes

Exhibit M

FREEWAY TASK FORCE

REPORT

June, 1972



DEPARTMENT OF CITY DEVELOPMENT

210 WEST MICHIGAN STREET

WENETH E. FRY
Commissioner of City Development

LIAM H. CLAPLIN
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MILWAUKEE, WISCONSIN 53201

TELEPHONE (414) 275-2690

June 23, 1972

IN REPLY PLEASE REFER TO:
Common Council
File No. 69-277
Relative to re-
evaluation of t
necessity for
freeway extensi

To the Honorable
Common Council Committee on
Public Improvements
City Hall
City of Milwaukee

Gentlemen:

When we assembled the Freeway Task Force well over a year ago to study the city's stake in the future construction of freeways in Milwaukee, we intentionally brought together a wide range of available technical perspectives which included the Bureau of Engineers in the Department of Public Works and the Divisions of Planning and Economic Development in the Department of City Development. It was our contention then, as it now is, that previous freeway planning, in disregarding the crucial importance of many social, economic and environmental concerns, has generated the current public and private opposition to completion of Milwaukee's freeway system. If there is any thread which runs consistently through the attached Task Force report, it is this constant referral to the lack of social, environmental and economic considerations in freeway planning and the inevitable loss of credibility and confidence among large segments of the public.

The Task Force attempt to produce a responsible technical position on future freeway construction was a particularly difficult job because of the divergent philosophies of its members, the steady stream of changing events emanating from both the public and private sectors and the heightened political and social tensions which continue to surround the freeway issue.

But we believe the Task Force has provided a responsible technical assessment, particularly in light of their own special interests. For example, the Division of Economic Development thinks that of all the planned freeways remaining

in the city, only the Stadium North would have a large, direct economic contribution to Milwaukee since it would enhance the development of the city's Land Bank. However, this single economic factor, when weighed against the factors of lost housing, business relocation, lost tax base and ecological damage, was not enough to move the Economic Development Division in favor of that freeway. Yet freeway planners have used a one-dimensional approach to planning over the years and the economic, social and environmental fallout of a strictly engineering perspective has produced the irrationality and chaos we hear about every day.

We do not blame the technicians who designed the freeways as much as we blame those who gave them policy direction. To make sure that this kind of blind, single-faceted planning approach is not continued, I offer three recommendations to the Common Council, based on findings of the Task Force:

First, we recommend consideration of a two-year moratorium on all freeway construction while intensive analysis and re-evaluation of the entire network is done. Some freeway plans are more than a decade old and times and priorities have changed. This re-evaluation must include inputs from private citizens and be a joint effort of state, county, regional and city governments with the latter receiving adequate funds from freeway construction coffers to make realistic analysis possible. We are not suggesting this moratorium lightly, but rather as part of our responsibility as a city department to protect this city's overall development and quality of life. It no longer seems sensible to continue spending millions of dollars to aid the affluent mobile and at the same time refuse to spend one penny for transit fare reduction for the elderly who neither own nor drive automobiles.

Second, the city's liaison and arrangements with those institutions which plan or control freeways must be overhauled. At present, the City Engineer is Milwaukee's official link with the Expressway Commission. Though he does a professional job, the City Engineer cannot be expected to inject the city's critical non-engineering needs such as social, economic and environmental concerns into technical freeway planning and policy.

We therefore strongly urge that the Task Force recommendation to create a modified Transportation Analysis Team, using existing city personnel, be created as soon as possible. The Department of City Development must have a strong role in the makeup of this team since there is little doubt in the minds of our technical staff that freeways are not just a land use, but are land use generators, directly affecting every single facet of this city's development. This team, composed of many different city disciplines, can begin to provide the comprehensive analysis our city requires

and provide the Council and Mayor with the overall effects of freeway placement and planning on our quality of life. One of the team's first orders of business should be an attempt to get federal funding to support a permanent, fully staffed transportation analysis unit on an ongoing basis.

Third, freeway planning and now its implementation has resulted in a grossly inadequate dependence on the automobile at the expense of high-quality mass transit alternatives. It is now time for the county to move toward decisive transportation planning and shift its resources into planning for a mass transit system in partnership with the city. The Expressway Commission must begin to reflect the other half of its title: a Transportation Commission.

We do not make these recommendations casually. We have seen what freeways have done to this city's development programs, the need for housing, the effects on people and, most of all, the movement toward an automobile-choked social desert.

Freeways must become a means to an end, not an end in themselves. They must begin to be weighed on the same scale with housing needs, employment needs, educational needs and all of the other social and economic priorities which are the business of this city.

Why should the city allow ribbon after ribbon of concrete to tear up its housing, destroy its neighborhoods and chase out its businesses while the true benefactors of freeways live far beyond the city's limits?

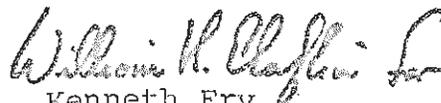
Freeways were to have increased land values -- they have, in Waukesha County, not in Milwaukee.

Freeways were to have increased industrial development -- they have, in Ozaukee County, not in Milwaukee.

Freeways were to have increased shopping -- they have, in Brookfield Square and in Southridge, not in Milwaukee.

When you don't get what you pay for, then it's time to stop paying. And spending money blindly just because it's there can be more costly for future generations than we may be able to conceive. Taking time now to improve freeway planning and restoring public confidence seems to us fiscally sound as well as socially responsible.

Sincerely,


Kenneth Fry
Commissioner

cc: Mayor Maier
Alderman William R. Drew
Herbert W. Goetsch

June 19, 1972

Mr. Kenneth E. Fry
Commissioner
Department of City Development
210 West Michigan Street
Milwaukee, Wisconsin 53203

Dear Mr. Fry:

Enclosed is the final report produced by the Freeway Task Force. As could be expected from the varying interests and perspectives of the members, significant differences arose concerning the basic approach of the study and a few of the specific recommendations. The final report contains numerous compromises which, by definition, are not completely to each member's satisfaction but which do represent essential agreement on the basic points.

Our report is an attempt to raise the critical issues of freeways and our transportation system and provide possible options for consideration and discussion by the Council and the community. Furthermore, in response to our directive in Common Council File 69-2772, we have made specific recommendations on individual freeway segments and have provided alternatives for policy makers in the city.

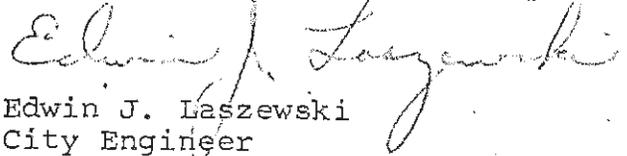
We greatly appreciate the assistance and cooperation we have received from various governmental agencies and community organizations. Many of the comments received are included in Appendices B and C, available in the files of the Division of Economic Development.

The Task Force is, of course, more than willing to meet with any member of our city government to discuss the findings of the report.

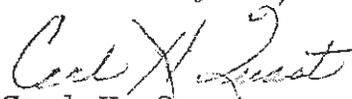
Respectfully submitted,



Ronald C. Kysiak
Acting Director
Division of Economic Development



Edwin J. Laszewski
City Engineer



Carl H. Quast
Acting Chief of
Planning Administration
Department of City Development

JH:mg

II. INTRODUCTION

During the past year, a task force consisting of planners, economists and engineers has been studying the questions raised in Common Council File No. 69-2772, which asked for policy options on remaining expressway construction. It has met with officials of the Wisconsin Department of Transportation, the Milwaukee Expressway Commission, the Southeastern Wisconsin Regional Planning Commission and with representatives of several groups opposed to various sections of the projected freeway extensions.

Before going into details on the specific questions raised in File 69-2772, the task force believes that several observations concerning the nature of existing transportation planning procedures are in order. The thrust of these remarks is that the City of Milwaukee is not currently prepared, either in terms of personnel or financial resources, to adequately deal with the vital questions posed by the county's freeway program.

An interim report on the task force findings was sent to the Committee on Streets-Zoning in mid-1971, over the signature of Commissioner Fry (attached). The primary finding spelled out in the interim report is that, in the words of Mr. Fry: "Overriding all these concerns (engineering, social, economic) is the inadequate transportation research assistance available to Mayor Maier and the aldermen. The blunt truth is that the city does not have all the kinds or numbers of trained personnel properly organized to provide the transportation answers that the elected officials so desperately need."

"Accordingly, it is my strong recommendation that the Mayor and Common Council immediately create and staff a full time Transportation Analysis Team or Bureau...to perform the massive research which will be necessary in the remaining years of this century on a variety of critical transportation issues. The stakes are too high for guesswork."

The Common Council's objection to this recommendation was based on financial constraints. Due to the critical need for such a unit, the task force recommends that the nucleus of such a team be created by reallocating existing positions from various city departments. An important function of this bureau would be to seek outside sources of financing, part of which could be used to fill the positions which call for new talents not currently available. As a result of this proposal, city officials would have available the social and economic support needed to reach their decisions in developing a coordinated city input to Milwaukee's transportation planning process.

It must be recognized that the freeway plans under study have been years in preparation and promotion by the large technical staffs of the State Department of Transportation, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and the Milwaukee County Expressway and Transportation Commission with staff support from the Transportation Division of the County Department of Public Works. In addition, huge sums of money have been spent by the Expressway Commission for the services of private consulting firms dealing with a broad range of planning inputs extending from the selection of routes to landscape architecture.

Compared to this interrelated array of well organized and well financed agencies, vertically unified to promote specific county freeway projects, the city can call upon only a handful of trained technicians, each with other full time staff responsibilities, who must function with only a fraction of the support resources available to each of these groups mentioned. This means that the city does not now have the capacity to thoroughly analyze the battery of plans produced and subject to city endorsement or rejection.

This lack of an overall municipal transportation system analysis capability has generally meant that city inputs to freeway planning have often been limited to suggesting minor modifications to the plans, such as ramp locations, changes in route alignment, surface street connection designs, etc. Even here, however, city technicians have had to rely more on personal judgement than on firm statistical conclusions. This report, unfortunately, will suffer from the same shortcomings.

Although it is only a slight consolation to Milwaukee, the nation's central cities, with few exceptions must all operate under similar constraints. The chronology of all the factors which have contributed to the central cities' weakness or near helplessness in transportation research is too extensive to reiterate in this report. However, several crucial variables can be highlighted as primary contributing factors to the central cities' inability to adequately and intelligently deal with freeway project decision-making:

1. Allocation of Federal Planning Funds

The federal policy which allocates planning funds only to regional or metropolitan transportation agencies has effectively cut the central city off from the significant stages of the planning process. Once regional planning momentum has begun, transportation corridors defined, etc., the cities are forced to fall back on their own resources if they desire to influence final project implementation decisions.

2. Disproportional Federal Aids for Freeways and Public Transit: Effect on the Long-Range Planning Process

Although the United States Congress has recently begun to demonstrate an awareness of the urban center's dramatic needs for financial assistance in public transit development, funds available or allocated are minimal relative to the magnitude of the job to be done. On the other hand, billions of dollars flow through the Highway Trust Fund every year to be spent on interstate and urban freeway programs. This obvious disparity between alternative and competitive transportation systems means that Washington has effectively dictated the local options in favor of a freeway emphasis. The recent urging by Transportation Secretary, John A. Volpe that money in the federal Highway Trust Fund should be diverted to finance mass transit indicates that this disparity may be ending in the near future.

Moreover, even if additional federal assistance for public transit is made available in the future, a pro-freeway climate is likely to prevail for some time due to the fact that most existing regional plans, particularly so in the case of Milwaukee, were written with federal highway fund availability

considerations. Freeway emphasis is also likely to continue because, in most cases, again with a particular emphasis on Milwaukee, the same personnel who were responsible for drafting original plans are the current advocates of those plans. Finally, these are largely the same institutions who have the only financial capability to test and evaluate these plans.

3. Regional Planning

One major problem for the City of Milwaukee except for some staff input, is that it has not had effective representation on the Regional Planning Commission, the State Highway Commission, or the County Expressway Commission. The 1963 Southeastern Wisconsin Regional Planning Commission's Land Use - Transportation Plan represented the blueprint for the State Highway Plan as it affected the seven counties of southeastern Wisconsin. And following state administrative traditions, the SEWRPC structure and its approach to planning emphasized state to county liaison. Wisconsin's municipalities, cities, villages and towns were simply not involved in the planning process.

The SEWRPC plan was recognized as being quite sophisticated and modern in 1963. From a purely highway engineering point-of-view, the primary planning perspective which has been applied to date, the comprehensive SEWRPC freeway plan will do what it is designed to do: provide practically unlimited capability for automobile users to drive anywhere in the Milwaukee urban area in relatively short periods of time.

When SEWRPC officials vigorously promoted their freeway plans, they were confident that on technical engineering criteria their plans made sense.

With the benefits of hindsight, we can now see that this over-emphasis on the auto and the efforts to serve the public demands for eliminating congestion have produced some serious detrimental side effects. Contrary to the former claims of the planners that transportation facilities only serve planned land uses, there are strong indications that there exists an important feedback whereby the freeway is an important determinant of land use. The existing spread of costly urban sprawl has been accelerated to a large degree by the extension of the freeway system into vast amounts of formerly rural lands. The central city has also belatedly come to realize that as a result of freeway construction, it has had to bear a number of social and economic costs such as removal of needed housing, increased pollution, reduced tax base, and the loss of jobs.

The SEWRPC Plan of 1963 was not then criticized for its lack of consideration for such factors as tax base benefits and costs, municipal fiscal responsibilities, relocation housing, and neighborhood disruption. This plan was developed during an era when nearly everyone, including the City of Milwaukee, was pressing for freeways; and it was only recently that the critical nature of the above concerns was realized. While documenting past mistakes seen in the light of present day understandings may be helpful, our task is to reorient the planning process and encourage SEWRPC in its efforts to

do so. Alternative means of transportation and controls on urban sprawl must receive top priority both from regional planners and the central city.

It is important to note that as a freeway plan based primarily on the criterion of highway engineering efficiency, SEWRPC's assumptions on commuter behavior, general land development directions, and an increase in auto registration and population, the plan is very tightly pulled together. With the important assumption that public transit will remain a relatively low priority program, failure to complete all the planned freeway segments will destroy the integrity of the system. In other words, it is not realistic to assume that this freeway segment or that one can simply be stopped. Assuming that a high quality public transit system is not developed, along with current auto use preferences, the result would be endemic traffic congestion on existing freeways and local service streets.

Given these conditions, city officials have four broad available options to meet existing freeway plans:

- A. Accept the long-range plan and encourage final completion at the earliest possible date. This has in fact been the city's position until the past several years.
- B. Reject the SEWRPC plan as now written, and support the drafting of a new plan which would provide a primarily public transit system solution to future metropolitan area transportation needs.
- C. Enforce a moratorium on new freeway construction in the city until a reversal of the city's current

negative fiscal and social benefit/cost relationships can be achieved through legislative channels, while the SEWRPC plan is retained.

- D. Permit the SEWRPC plan to continue as the long-range master plan for the metropolitan area but insist that city officials be given the financial resources to adequately evaluate program alternatives and the authority to carry out specific project planning and execution within the city limits.

Of these four options, the task force believes that A and B are not likely to occur. The first has already met with a considerable amount of opposition towards an unlimited freeway commitment under existing circumstances. The second option which has been dramatically seized upon by such central cities as San Francisco, Toronto, Washington, D.C., would very likely be too costly.

This leaves options C and D, or perhaps some combination of C and D, as the course or courses of action best suited to the city's needs. An approximation of option C (moratorium on freeway construction) has in effect been basically the policy for the past three years. Although it is a valid position, it obviously can not be used as a long-term strategy.

This limits the scope of the task force's efforts to a crude approximation of alternative D. Lacking resources in numerous areas, the task force has been unable to do the sophisticated research it should have had at its

disposal, and it can do very little more than suggest small modifications to the SEWRPC plan or to the direction the county is taking.

4. General Conditions

The specific project recommendations which follow are made by the task force with the explicit understanding that all future freeway activities undertaken within the city limits will be required to meet the conditions on relocation and relocation housing as laid down by the Common Council and Mayor Maier in the unanimously adopted resolution contained in Common Council File No. 70-544, June 30, 1970.

Adequate provision for relocating the residents in the path of the Lake Freeway has not as yet been made. In particular, it is currently proposed to relocate elderly residents by placing them in the city's new public housing projects. What was not considered was the fact that applications already exceed available spaces. The Department of Housing and Urban Development has recently rejected county relocation plans as being inadequate and noted that relocation appears to be a very minor and secondary concern to the state and county.

Even if all residents self-relocate, the construction of freeways in Milwaukee results in a net reduction in the housing supply and invites federal government pressures such as those imposed by the 1971 HUD Arrangement on the City of Milwaukee.

A second general condition for project acceptance by the city should be that all existing and uncompleted freeways

within the City of Milwaukee be re-evaluated in terms of present federal guidelines and regulations particularly as they pertain to such areas as landscaping. This is of particular importance in regard to the past policies of taking park lands, removing housing without replacement, and providing of very limited freeway landscaping. Equally important would be a requirement that legitimate environmental impact statements be done in accordance with federal guidelines.

On January 5, 1972, U.S. District Judge Bailey Brown in Memphis remanded the plans for I-40 approved in 1969, back to the Department of Transportation because the project evaluation could not have incorporated the March, 1971 Supreme Court interpretation on the right-of-way acquisition for freeways. This has particular relevance to the Park Freeway West which should now be evaluated as if it were proposed today. The task force believes that state and county officials should accept this constraint as a show of good faith. There are no good reasons to ignore a reiteration of the public's best interests in these critical matters.

Following is an analysis of the four specific items raised in Common Council File No. 69-2772 (attached).

Exhibit N

November 17, 2000

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF CIVIL RIGHTS

LEAH WALLACE,
individually,

Complainant,

vs.

Docket No. 99-020

TOMMY THOMPSON, Governor of Wisconsin
CHARLES THOMPSON, Secretary, Wisconsin
Department of Transportation, and
WISCONSIN DEPARTMENT OF TRANSPORTATION,

Respondents.

CAMPAIGN FOR A SUSTAINABLE MILWAUKEE, et al.

Complainants,

vs.

Docket No. 99-029

GOVERNOR TOMMY THOMPSON
SECRETARY CHARLES THOMPSON, and
WISCONSIN DEPARTMENT OF TRANSPORTATION,

Respondents.

SETTLEMENT AGREEMENT

This settlement agreement is made and entered into effective on the 17th day of November 2000.

WHEREAS, complainants filed Administrative Complaints with the United States Department of Transportation pursuant to 49 CFR Part 21 et. seq. on November 19, 1998 and December 3, 1998 against respondents;

WHEREAS, this complaints alleged, among others, that certain acts and omissions of respondents in connection with the Locally Preferred Alternative developed as a result of a Major Investment Study/Draft Environmental Impact Statement ("MIS/DEIS") commonly known as the East-West Corridor Study in the Milwaukee metropolitan area violated various provisions of federal law including Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d; the Intermodal Surface Transportation Efficiency Act of 1991, 49 U.S.C. §5301 et. seq.; and Executive Order 12898 entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations;

WHEREAS, on April 20, 1999, the City of Milwaukee, Milwaukee County, and the State of Wisconsin entered into an agreement for the allocation of federal Interstate Cost Estimate Substitute Project (ICE) funds according to the procedure specified under Section 1045 of ISTEA, Public Law 102-240, December 8, 1991, as affected by Section 373 of the Omnibus Appropriations Act, Public Law 105-277, enacted October 21, 1998;

WHEREAS, the City, County and State agreed that \$91.5 million of the local share of these ICE funds would be allocated to the project that results from the study of Local Transportation Options as determined by the Wisconsin Center District's transportation study;

WHEREAS, on January 21, 2000, the Secretary of the United States Department of Transportation withheld approval of the \$91.5 million Local Transportation Options element of the ICE agreement in view of two Title VI "complaints and the lack of specifics on that project;"_

WHEREAS, the Wisconsin Department of Transportation believes that any refusal to release these funds pending informal resolution of these two complaints violates 42 USC 2000d-1, 49 CFR 21.13 and 21.15;_

WHEREAS, the parties agree that the Wisconsin Department of Transportation is committed to the goal of improving mass transit service in the Milwaukee Metropolitan area, and, in particular, service for low income, minority, elderly and disabled persons;

WHEREAS, two groups of complainants, by their attorneys, and representatives of the Wisconsin Department of Transportation have participated in mediation under the auspices of federal mediator, Marvin Johnson, in an effort to resolve the two Title VI complaints;

WHEREAS, in April 2000, the Wisconsin Center District entered into a contract to undertake a study of mass transit improvement needs in and around the Milwaukee central business district with Federal Transit Administration funds known as the Milwaukee Downtown Transit Connector Study;

WHEREAS, this Local Transportation Options study includes project scoping activities early in the study to allow stakeholders, elected officials and the general public to review and provide information to adjust the proposed intent, scope, direction and community involvement of the study;

WHEREAS, this Local Transportation Options study at the outset included no-build, transportation system management and build alternatives, including rubber tire bus on exclusive right of way, vintage light rail transit, modern light rail transit, and suspended light rail transit potentially in combination with rubber tire transit technologies;

WHEREAS, on June 14, 2000, as published in the June 26, 2000, Federal Register at pages 39464-65, the Federal Highway Administration (FHWA) formally terminated the Environmental Policy Act process at the conclusion of the Draft Environmental Impact Statement/Major Investment Study (DEIS/MIS) phase of the Locally Preferred Alternative project commonly known as the East-West Corridor Study that was completed and made available to the public on November 8, 1996;

WHEREAS, the FHWA states that work completed to date on the DEIS/MIS will serve as a starting point for developing environmental analysis and documentation for potential individual projects expected to follow;

WHEREAS, the DEIS/MIS evaluated five transportation components: (1) Redesign of the Marquette Interchange (I-94/I-43/I-794); (2) re-design of the East-West Freeway (I-94) between downtown Milwaukee and Waukesha; (3) special purpose lanes for carpools and buses in the East-West Freeway Corridor; (4) light rail transit in Milwaukee County; and (5) expanded bus transit service throughout the metro Milwaukee area;

WHEREAS, a Locally Preferred Alternative which included all five of the above-mentioned transportation components was accepted by the relevant county boards in 1997;

WHEREAS, the FHWA found, however, that none of the elements of the Locally Preferred Alternative have advanced into preliminary engineering and therefore, FHWA concluded the Major Investment Study process for the I-94 East-West Corridor in Milwaukee and Waukesha Counties;

WHEREAS, the FHWA found that because the corridor-wide MIS is in place, and recognizing that the components of the LPA are unlikely to proceed on the same schedule, the I-94 East-West Corridor DEIS will not be followed by a corridor-wide Final EIS or Record of Decision;

WHEREAS, the FHWA states that the previous work completed on the DEIS will now serve to provide a solid foundation of information on which to begin environmental analysis of individual components. Then, if found to satisfy State and Federal requirements, the individual component could be advanced through the final design and construction phases. Advancing an individual component requires its own sponsoring agency. This advancement of a component would not preclude or assure that another component would move forward;

WHEREAS, the Milwaukee County Transit System, in cooperation with the Wisconsin Department of Transportation had implemented 29 of 59 bus service improve-

ments that were recommended in the Locally Preferred Alternative of the East-West Corridor MIS/DEIS;

WHEREAS, the Wisconsin Department of Transportation may sponsor a Title VI and Environmental Justice Summit meeting in cooperation with USDOT, FTA, FHWA and interested members of the Milwaukee community in the future; and

WHEREAS, all parties acknowledge that they lack authority to legally bind subsequent legislative branches of government or others who are not party to this agreement;

NOW THEREFORE, complainants, Leah Wallace and Campaign for a Sustainable Milwaukee, et al., with the exception of Repairers of the Breach and CNI/Fondy/North Business Association, hereby agree to dismiss their complaints against all respondents upon the following terms and conditions:

1. Complainants, through their designated representatives, Attorney Robert J. Bauman and Attorney Richard Saks, shall be entitled to participate, and have participated, in the Milwaukee Downtown Transit Connector Study through participation on various advisory committees and in such other ways as the parties mutually agree in order to insure that any mass transit improvements recommended by that Study are designed to accommodate future expansion and/or integration into a regional mass transportation system serving the transportation needs of not only the Milwaukee central business district, but low income, minority, elderly, and disabled residents of the City of Milwaukee.
2. The Wisconsin Department of Transportation shall fully cooperate, and has fully cooperated, with the Wisconsin Center District, its agents, representatives, and contractors, in connection with the performance of the Milwaukee Downtown Transit Connector Study.
3. Upon completion of the Milwaukee Downtown Transit Connector Study the Wisconsin Department of Transportation shall cooperate in efforts to insure that the recommendations of the Study are fairly considered for inclusion in the local Long-

Range Transportation Plan under 23 USC 134(g) and Metropolitan Transportation Improvement Program under 23 USC 134(h) prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), and include the recommended project, if consistent with applicable federal and state laws and approved by SEWRPC, in the state Transportation Improvement Program under 23 USC 135(f)(2)(C)(ii).

4. The Wisconsin Department of Transportation shall continue to use its best efforts to assist the Milwaukee County Transit System to expand and improve transit service within the Milwaukee Metropolitan Area to enable transit dependent residents of Milwaukee to better access areas of job growth.

5. When executed by the attorneys listed below, upon dismissal of their complaints, this Settlement Agreement is applicable as of the date first above written.

IN WITNESS WHEREOF, the parties hereto have set their hand effective as of the date first hereinabove set forth.

COMPLAINANT:

Leah Wallace

COMPLAINANT'S ATTORNEY:

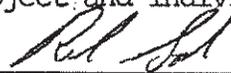


Robert J. Bauman, Esq.

COMPLAINANTS:

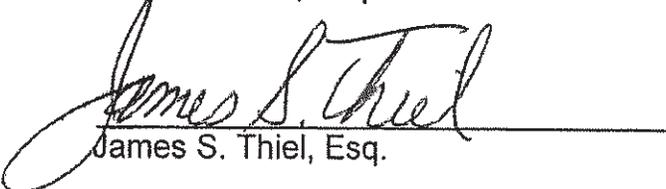
Campaign for a Sustainable Milwaukee, et al., with the exception of Repairers of the Breach and CNI/Fondy/North Business Association, Women & Children Project and Individual Complainants

COMPLAINANTS' ATTORNEY:



Richard Saks, Esq.

WISCONSIN DEPARTMENT OF
TRANSPORTATION:



James S. Thiel, Esq.

UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF CIVIL RIGHTS

CAMPAIGN FOR A SUSTAINABLE MILWAUKEE,
by the Co-Chair of its Transit Task Force, Martha Toran;
AMALGAMATED TRANSIT UNION, LOCAL 998,
by its President, Lloyd Perkins, Sr.; REPAIRERS OF THE
BREACH, by its Executive Director, Sr. MacCanon Brown;
MILWAUKEE COUNTY LABOR COUNCIL, by its
Secretary-Treasurer, John Goldstein; FEDERATION FOR
CIVIC ACTION; by its President, Ernesto G. Chacon;
9TO5 NATIONAL ASSOCIATION OF WORKING WOMEN,
by its Co-Director Ellen Bravo; 9TO5'S POVERTY NETWORK
INITIATIVE, by its Organizer, Betsy Felt;
WOMEN & CHILDREN PROJECT, INC., by its Treasurer
and Board Member, Irene Senn; JOURNEY HOUSE, INC.
by its Program Analyst Steve Stanislawski;
ESPERANZA UNIDA, INC., by its Executive Director, Richard
Oulahan; CNI/FONDY/NORTH BUSINESS ASSOCIATION,
by its Chair, Mary Glass; CITIZENS FOR A BETTER
ENVIRONMENT, by its Wisconsin Director, Susan Mudd;
KAROL McCrary; ANTHONY MURPHY; JAMES
CAMPBELL; HENRY CALDWELL; GENE HARRIS;
LINDA MARTIN; and MINNIE H. JOHNSON,

Administrative Complaint
Docket No. _____

Complainants,

v.

GOVERNOR TOMMY THOMPSON;
SECRETARY CHARLES THOMPSON;
and WISCONSIN DEPARTMENT OF
TRANSPORTATION,

Respondents.

ADMINISTRATIVE COMPLAINT

INTRODUCTION

1. This complaint is filed on behalf of the seven individuals, identified in paragraphs 19-25,

who are all African-American citizens and residents of the city and county of Milwaukee, Wisconsin. The individual complainants all reside in the highly segregated African-American community in Milwaukee's central city. The complainants -- like scores of thousands of similarly-situated minority residents in Milwaukee -- have no means of private transportation via automobile and rely almost exclusively on public transportation for access to jobs, family, medical care, churches, education, and other fundamental necessities. This complaint is also filed on behalf of twelve organizations, identified in pars. 7-17, engaged in civil rights, religious, community, labor, or environmental endeavors. These organizations' membership includes minority and low-income individuals similarly situated to the individual complainants, with a similar acute dependence upon public transportation, as well as citizens concerned about environmentally sound economic and infrastructural development.

2. Complainants contend that the chief executive officer of the State of Wisconsin, Governor Tommy Thompson, and his appointee, Secretary Charles Thompson, chief executive officer of the Wisconsin Department of Transportation ("WisDOT"), have blocked, obstructed, and conspired to use federal transportation funds in a manner that adversely impacts complainants and other similarly-situated minority residents in the city of Milwaukee who are dependent upon public transportation for the necessities of life.
3. Respondents Gov. Thompson and Secy. Thompson have refused to spend authorized and appropriated federal transportation funds available pursuant to the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"), Public Law 102-240, and reauthorized pursuant to the Transportation Equity Act for the 21st Century ("TEA-21"), Public Law

105-178, in a manner that will benefit all Wisconsin citizens, irrespective of color or race, as required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.

4. Specifically, respondents have blocked -- via executive order and legislative action and inaction -- the use of said federal funds to study and commence preliminary engineering for the mass transit components of a locally adopted transportation plan for what is known as the East-West Corridor which primarily passes through Milwaukee County and westerly into part of Waukesha County. Instead of studying all components of a balanced transportation plan, as required by ISTEA and TEA-21, respondents have arbitrarily refused to commence preliminary engineering on the principal component of the local transportation plan devoted to mass transit, namely, light rail transit. *SHOW TRACKS.*
5. Approximately 95% of white residents in the Milwaukee metropolitan area possess means of private transportation via automobile. In contrast, nearly half of all African-American residents do not have private transportation, and are segregated and clustered in the central north side sections of the city without mass transit options to access the vast majority of emerging employment opportunities located in suburban areas. *city* Thus, respondents' use of federal funds will have a severely disparate impact upon complainants on account of their race. Unless respondents implement a well-balanced and comprehensive transportation plan for the East-West Corridor, which is the transportation spine of the Milwaukee metropolitan area, minority citizens will continue to suffer inferior employment opportunities and access to other recreational, educational, and commercial amenities.
6. As a remedy, complainants seek to end the discriminatory allocation of federal

transportation resources in the metropolitan Milwaukee area, and specifically seek a change in the public planning for transit improvements for the Milwaukee East-West Corridor such that WisDOT is compelled to study and initiate preliminary engineering for a balanced transportation system that includes the mass transit options of light rail and expanded bus services for citizens without means of private transportation.

PARTIES

Organizational Complainants

7. The Campaign for a Sustainable Milwaukee (“CSM”) is a coalition of over 200 Milwaukee-based civil rights, community, labor, religious, and environmental justice organizations, with offices located at 2201 North 35th Street, Milwaukee, Wisconsin, seeks to improve economic opportunities for low-income and minority residents of the city of Milwaukee. Since its formation, CSM has been intimately involved in working to improve the economic welfare and employment opportunities for Milwaukeeans currently afflicted by Milwaukee’s low-wage job market. CSM’s central mission is linking central city workers with jobs that pay family-supporting wages. To this end, CSM houses and operates an organization called the Central City Workers’ Center which has over 2,000 members, nearly all of whom are low-income minority workers residing in Milwaukee’s inner city. The principal project of the Workers’ Center is to connect its members with jobs in the construction and manufacturing sectors of the economy. Recently, CSM also led the successful campaign for a living wage for municipal and county workers, whereby the Milwaukee County Board, the Milwaukee Common Council, and the Milwaukee

Board of School Directors each enacted ordinances raising the wages for their lowest-paid employees. CSM's members include hundreds of minority residents hampered by inadequate transportation in their search for employment. Through its work, CSM has learned that an improved mass transportation system is essential to enable central city workers to avail themselves of the benefits of economic growth underway in Milwaukee's suburban communities to Milwaukee's largely unemployed and underemployed minority workforce. CSM brings this action by the Co-Chair of its Transit Task Force, Martha Toran.

8. Complainant Amalgamated Transit Union ("ATU"), Local 998, with offices located at 734 North 26th Street, Milwaukee, Wisconsin, represents over fifteen hundred transit workers, predominantly bus drivers, employed by the public transportation systems of southeast Wisconsin, including Milwaukee County, City of Waukesha, City of Sheboygan, and City of Kenosha, as well as the para-transit companies contracting with Milwaukee County to provide transportation for seniors and disabled citizens. For many years, ATU Local 998 has lobbied the local, state, and federal government for increased funding for public transportation to ensure that Milwaukee maintains the transportation infrastructure essential for a growing local economy. ATU Local 998 has consistently supported the creation of greater mass transit options in the Milwaukee metropolitan area to properly serve Milwaukee's increasing number of citizens without cars who require adequate and convenient transportation to and from work, school, shopping, church, homes of family and friends, and other life necessities. ATU Local 998 brings this action by its President, Lloyd Perkins, Sr.

9. Complainant Repairers of the Breach is a nonprofit organization with offices located at 1335 W. Vliet Street, P.O. Box 13791, Milwaukee, Wisconsin. Repairers of the Breach works with homeless and at-risk people in the greater Milwaukee area. Repairers of the Breach opposes discriminatory policies and works to create opportunities by which its members can rise out of poverty. The vast majority of individuals associated with and served by Repairers of the Breach are low-income and minority residents of Milwaukee's central city who rely exclusively on existing public bus service for their transportation needs. Repairers of the Breach brings this action by its Executive Director, Sr. MacCanon Brown.
10. Complainant Milwaukee County Labor Council ("MCLC") represents 70,000 labor union members in Milwaukee County, and has offices located at 633 S. Hawley Road, Suite 110, Milwaukee, Wisconsin. MCLC has worked for over nine years for major transportation improvements in the Milwaukee East-West Corridor in order to promote a sound infrastructure that can support economic development and attract and retain high skill, high wage employers. Inner city workers current currently face high unemployment and a tight labor market. MCLC seeks major public transportation improvements that will enable such workers to be employed in jobs that exist in outlying areas while simultaneously bringing jobs back to the central city. MCLC brings this action by its Secretary-Treasurer, John Goldstein.
11. Complainant Federation for Civic Action is a non-profit community advocacy and civil rights organization with offices at 719 N. 6th Street, Milwaukee, Wisconsin. The Federation is active in Milwaukee's near south side Latino community, and has

historically contested discrimination in all areas, including employment, education, and government services. The Federation brings this action by its President, Ernesto G. Chacon.

12. Complainant 9to5 National Association of Working Women, with offices located at 231 W. Wisconsin Ave., Milwaukee, Wisconsin. 9to5 is devoted to improving the economic and social conditions of employment for women, and for example, played a major role in the passage of the federal Family and Medical Leave Act. Complainant 9to5's Poverty Network Initiative is a non-profit organization with offices located at 223 Maple Ave., Waukesha, Wisconsin, and is affiliated with complainant 9to5. The Poverty Network Initiative is comprised of working women, most of whom are mothers in low-wage jobs, seeking to combat the growing impoverishment of women caused by Milwaukee's low wage job market, the lack of adequate child care, and the insecurity caused by temporary and seasonal jobs. The vast majority of the Initiative's members do not own automobiles and rely on public transportation. Many of the Initiative's members travel on bus lines for several hours per day, just to get themselves to work on time and their children to day care and schools. Many women are unable to secure more permanent or better-paying employment due to the lack of adequate mass transit in the suburban areas where most job openings exist. The creation of a light rail transit system in the city with good connecting bus service would greatly enhance the ability of working women to seek and retain better family-sustaining jobs and more stable lives. Attached hereto as Ex. A is a letter from Betsy Felt stating the interests of 9to5's members in improved mass transit. The 9to5 Poverty Network Initiative brings this action by its

Organizer, Betsy Felt, and 9to5 National Association of Working Women brings this action by its Co-Director, Ellen Bravo.

13. Complainant Women & Children Project, Inc. is a non-profit organization with offices located at 1032 E. Knapp St., Suite 213, Milwaukee, Wisconsin. Women & Children Project is a collaborative effort of several congregations of religious women to coordinate the ministries of agencies addressing the needs of women and children, including low-income and minority women previously on welfare and now entering the workforce. Inadequate public transportation stands as a great barrier for such women seeking employment opportunities outside the central city, and greater mobility. Women & Children Project brings this action by its Treasurer and Board Member, Irene Senn.
14. Complainant Journey House, Inc. is a community based non-profit organization operating an Adult School and Offices at 1900 W. Washington St., Milwaukee, Wisconsin, and a Youth Center located at 2212 W. Greenfield Ave., Milwaukee, Wisconsin. Journey House's programs are based in the Clarke Square neighborhood on Milwaukee's near south side Latino community. Journey House's programs include job training and job preparation classes, and are attended predominantly by low-income, Latino residents. In addition, Journey House helps students actually find jobs, and confronts everyday the transportation barriers facing the low-income minority population. Journey House currently has a transportation program that takes community members to work daily, but the overall need in the community for such a program is too great for any one organization. Students with inadequate transportation persistently request Journey House's assistance in finding jobs, while suburban businesses not reached by the existing

bus lines approach Journey House about filling open positions with its students. Journey House has actively opposed state policies which ignore the critical transportation needs of Milwaukee's low income people of color while ensuring that wealthier and white suburbanites can travel the freeways in comfort. Attached hereto as Ex. B is a letter dated November 4, 1998 from Journey House Program Analyst Steve Stanislawski stating the needs of Journey House students in expanded mass transit options. Journey House brings this action by its Program Analyst, Steve Stanislawski.

15. Complainant Esperanza Unida, Inc., is a non-profit job training and economic development community organization with offices located at 1329 W. National Ave., Milwaukee, Wisconsin. Esperanza Unida serves over 900 Milwaukee residents each year, many of whom are of Latino descent. One of Esperanza Unida's primary services is job training and placement for Milwaukee's unemployed and underemployed citizens. A large number of the family supporting jobs suitable for Esperanza Unida's clients exist outside the city limits and inadequate transportation is the major barrier to their being able to accept such jobs. Attached hereto as Ex. C is memorandum dated November 30, 1998 stating the interests of Esperanza Unida trainees and students in public transportation improvements. Esperanza Unida brings this action by its Executive Director, Richard Oulahan.

16. Complainant CNI/Fondy/North Business Association represents many individuals who live, work, and invest in the business district on and adjacent to Fond du Lac Avenue and North Avenue on Milwaukee's north side. The residents and shoppers in the Fond du Lac/North Ave. business district are overwhelmingly low income, African-American

citizens who depend primarily on public transportation. Employment opportunities in Milwaukee's central city area are limited, and most north side residents try to fill existing job vacancies in outlying suburban areas, but typically find that the absence of reliable public transportation is a prohibitive barrier to their satisfactory attendance. Fond du Lac Avenue is the most traveled street in Milwaukee County, yet remains an untapped source of economic development and job creation. The Fond du Lac Avenue corridor is part of Milwaukee's East-West Corridor and was the subject of the planning study that led to the adoption of the locally preferred alternative now rejected by respondents. The CNI/Fondy/North Business Association has worked vigorously to expand mass transit opportunities for Milwaukee's low-income African-American community, and understands that improved mass transit will facilitate substantial investments in the community while providing a means for north side residents to access better-paying permanent employment. Attached hereto as Ex. D is a letter dated November 17, 1998 from Mary Glass stating the interests of members CNI/Fondy/North Business Association in improved mass transit in the Fond du Lac corridor. CNI/Fondy/North Business Association brings this action by its Chair, Mary Glass.

17. Complainant Citizens for a Better Environment ("CBE") has worked since 1971 for clean air and environmental health and justice. CBE engages in research, public environmental education, and citizen participation in public policy matters regarding environmental issues. CBE operates in several Midwest states, with over 7,000 members in Wisconsin. Most of CBE's Wisconsin members live in southeast Wisconsin, the area intimately affected by the issues at dispute in this complaint. CBE's members and supporters are

affected by the serious ozone situation every summer which limits many of their physical activities as well as their enjoyment of the short summer season. This problem is caused in no small part by the ever expanding reliance on the automobile, ever decreasing transit options for citizens, and resulting automobile emissions. CBE has also worked for nearly a decade trying to reform WisDOT's budgeting and environmental impact processes to ensure a more balanced transportation system, better meeting the employment and health needs of its members and other Wisconsin residents. CBE brings this action by its Wisconsin Director, Susan Mudd.

Individual Complainants

18. Complainant Karol McCrary, is 28-year old adult female African-American resident of the city of Milwaukee, and mother of two sons, aged 4 and 5. Ms. McCrary does not possess either an automobile or a driver's license, and is primarily dependent upon public transportation. Ms. McCrary became a Certified Nursing Assistant in 1995, and has worked in several suburban health care facilities since that time. Because the bus lines did not travel reliably to her suburban work sites, she has been unable to retain employment in her area of training. In most job interviews, prospective employers typically require applicants to indicate that they own a car. Because she has been unable to secure permanent work, Ms. McCrary has recently worked for temporary agencies which offer less stable and erratic employment without benefits and health insurance. Reliable transportation also is an obstacle to employment with these agencies because employees with access to reliable and speedy transportation are always afforded the

opportunities for better jobs, especially in the suburbs. Ms. McCrary must also rely on public transportation to visit family and friends, go shopping, and engage in other activities outside her neighborhood. A light rail system with good connecting bus service would provide Ms. McCrary greater access to jobs and other amenities in areas outside the city. Ms. McCrary's affidavit is attached hereto as Ex. E .

19. Complainant James Campbell is a 37-year old African-American male who lives in the central city of Milwaukee. Mr. Campbell has no automobile and his driver's license was revoked due to unpaid fines. Mr. Campbell received a Welding Certificate from the Blackwell Job Corps in 1978, but has never secured steady permanent employment within his area of training. Mr. Campbell has been employed with several suburban manufacturing facilities, but his employment has always been terminated because he lacked a reliable means of getting to and from work. Mr. Campbell's affidavit is attached hereto as Ex. F.

20. Complainant Anthony Murphy is a 34-year old African-American male who lives on the near north side of the city of Milwaukee. Mr. Murphy does not own an automobile, and has no access to private transportation. Mr. Murphy moved from Chicago, Illinois to Milwaukee in 1993, and worked at a near minimum wage job in a Milwaukee factory. Mr. Murphy subsequently obtained a better-paying job as an assistant manager for a large grocery store in a southern suburb, and then as a maintenance man for a southwest suburban health care facility. On each occasion, Mr. Murphy lost these better-paying jobs because the public transportation to the work site was extremely slow and subject to changing schedules. Mr. Murphy is currently without permanent work, and often works

for temporary agencies. Mr. Murphy cannot secure the better-paying opportunities provided by such temporary agencies because they typically require private transportation. Mr. Murphy's affidavit is attached hereto as Ex. G.

22. Complainant Henry Caldwell is a 40-year old African-American who lives in the central city of Milwaukee, Wisconsin, on the north side. Mr. Caldwell has no automobile. Unemployed, Mr. Caldwell is actively seeking employment in locations served by reliable and convenient public transportation, including areas outside Milwaukee. Mr. Caldwell has been employed in the past, but was forced to leave at least two well paying jobs because he was without transportation. After dedicating several hours for travel to one job outside of the city, making multiple bus transfers, and often walking three miles to his place of employment, Mr. Caldwell was forced to quit his job due to inadequate transportation. He lost another job because repeatedly slow service on the earliest morning bus to Waukesha caused him to miss the only shuttle of the day to his place of employment. Transportation continues to be an obstacle to employment as he seeks placement through temporary agencies. Because of limited connecting services, long travel times and short transfer periods, Mr. Caldwell had trouble getting to work on time. Mr. Caldwell's affidavit is attached hereto as Ex. H.

23. Complainant Gene Harris is an adult African-American resident of Milwaukee County. Because of the lack of mass transit options permitting him to live in the city of Milwaukee and to commute to work on time at a manufacturing plant near the airport in Waukesha, he lives for several nights a week in a homeless shelter in Waukesha County. Everyday he bikes from the shelter to work near the Waukesha County airport.

Meanwhile, he resides on the weekend in Milwaukee's north side central city. Mr. Harris' affidavit is attached hereto as Ex. I.

24. Complainant Linda Martin is an adult African-American. She lives in Milwaukee's central city on the north side with her two minor children. Ms. Martin does not own an automobile. Ms. Martin relies on public transportation to attend GED classes, to transport her children to their health care provider and to child care, as well as to conduct an ongoing job search. The present transit system does not meet Ms. Martin's transportation needs. Slow service makes it difficult to take jobs outside of her immediate community, as it adds to the time Ms. Martin's children spend away from her and in child care. In Ms. Martin's experience, most of the employment opportunities available through temporary agencies, as well as the better paid permanent jobs are located outside of the reach of reliable and adequate public transportation. Ms. Martin's affidavit is attached hereto as Ex. J.

25. Complainant Minnie B. Johnson is a 73-year old African-American living in Milwaukee County, in Milwaukee's central city with her 94-year old mother. Ms. Johnson does not own an automobile. Ms. Johnson is retired and relies on public transportation to get to medical appointments for herself and her mother at Froedtert Memorial Hospital at the Milwaukee Regional Medical Center in Wauwatosa, Wisconsin. They have to transfer and their travel time to get there by bus is approximately one hour. If they miss a bus, they often wait 45 minutes before the next bus arrives. Ms. Johnson and her mother also use the bus to visit their pastor's wife in a nursing home on 107th and Appleton Avenue. Ms. Johnson does this to perform her religious ministry which involves Bible study,

prayer and singing. Her 93-year old mother joins her to get outside of the house and enjoy the company of other people. Doing this enhances the quality of their lives. Bus service is limited and the connections are poor. Ms. Johnson's affidavit is attached hereto as Ex. K.

26. Improved public transportation, such as expanded bus service and light rail connecting the central city, where most individual complainants or their clients live, to the jobs and services they need, would enable low income people of color to secure and maintain employment, get to work faster, and more readily engage in other life activities, like being with loved ones, visiting doctors, attending schools, going to churches and meeting other basic needs.

Respondents

27. Respondent Governor Tommy Thompson is the chief executive officer of the State of Wisconsin, and appoints the Secretary of WisDOT, who serves at the Governor's pleasure, and through the biennial budget, ultimately reviews and directs the activities of WisDOT and other administrative agencies.
28. Respondent WisDOT Secretary Charles Thompson has overall management responsibility for Respondent WisDOT, which plans and directs all aspects of the state's transportation system, including its highways and mass transit. WisDOT works with federal agencies in the administration and use of federal transportation aids.

FACTS

- A. **Since 1992, the Milwaukee metropolitan community participated in a comprehensive planning process for a balanced, efficient, and nondiscriminatory transportation system in Milwaukee's east-west corridor that Governor Thompson and WisDOT Secretary Thompson have arbitrarily rejected.**
29. In 1991, Congress authorized funds under ISTEA wherein the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) would coordinate project development with WisDOT for planning major capital improvements in transportation and mass transit in what is called the "East-West Corridor" of Milwaukee and Waukesha counties. Since 1992, the development process for major transit investments in Milwaukee's East-West Corridor has occurred with the participation of numerous federal, state, regional, and local bodies. Consistent with federal law, specifically ISTEA and now TEA-21, these governmental and planning bodies have undertaken extensive studies to identify transportation problems, goals, financial resource concerns, and ultimately alternative short and long range transportation improvement programs for the metropolitan Milwaukee area.
30. The first major step in this process was completed in December of 1994 under the auspices of the Southeastern Wisconsin Regional Planning Commission ("SEWRPC"), which adopted a new, third-generation transportation system plan for the year 2010, entitled A Regional Transportation Plan for Southeastern Wisconsin: 2010, SEWRPAC Planning Report No. 41 (the "Plan"). The substance of this report was summarized by SEWRPAC in its 1994 Annual Report, at 61-81, attached hereto as Ex. L. SEWRPAC had previously issued two prior regional transportation plans, in 1966 and 1978. The

1994 Plan addressed three elements: 1) transportation system management, 2) public transit system maintenance and improvement; and 3) arterial street and highway system maintenance and improvement. Regarding the mass transit system, the Plan recommended a significant expansion of freeway flyer bus service and twelve new express transit routes, several of which were identified as having strong potential for light-rail service. These light rail lines included the following routes: 1) from downtown to the Milwaukee Regional Medical Center and the Milwaukee County Research Park; 2) from downtown to the University of Wisconsin-Milwaukee and then on to near north suburban Glendale; 3) from downtown to the airport; 4) from downtown to Northridge shopping center; and 5) southerly along 27th Street from W. Florist Ave. and then west to Southridge Shopping Center. *Id.* at 72-72.

31. On October 23, 1996, the Major Investment Study/Draft Environmental Impact Statement (the "Corridor MIS/DEIS"), was published by WisDOT, the FWHA and FTA. Ex. M. The MIS/DEIS examined long-range highway and mass transit improvement for the Milwaukee East-West Corridor. The MIS/DEIS defined the Milwaukee East-West Corridor as the major travel corridor between Milwaukee and Waukesha counties connecting seven cities: Brookfield, Glendale, Milwaukee, New Berlin, Waukesha, Wauwatosa, and West Allis; three villages: Elm Grove, Shorewood, and West Milwaukee; and three towns: Brookfield, Pewaukee, and Waukesha. For purposes of the MIS/DEIS, the East-West Corridor begins at I-43 and Hampton Ave, passes the University of Wisconsin-Milwaukee, proceeds through downtown Milwaukee, and follows in a westerly direction on I-94 out to the City of Waukesha at State Hwy. 116.

The MIS/DEIS also studied an additional travel corridor on the near northwest side of Milwaukee area running along Fond du Lac Ave. from Congress St. to downtown Milwaukee.

32. The MIS/DEIS was an in-depth investigation into the comprehensive transportation needs of the metropolitan Milwaukee area, and was intended to propose a range of alternatives and options for major transportation improvements that would engender public input and facilitate the decision-making process regarding selection of the best transportation options. The MIS/DEIS proposed ten transportation planning alternatives, and provided comparative information regarding each option's cost-effectiveness, environmental impact, economic benefits, and overall contribution to the local and state regional planning. Pursuant to ISTEA, the MIS/DEIS contemplated that after the MIS/DEIS study was circulated at public hearings, a locally preferred alternative ("LPA") would then be prepared by WisDOT upon consultation with other planning bodies and citizen input. Upon adoption of the LPA, the next step was seeking federal approval for Preliminary Engineering/Final Environmental Impact Statement ("PE/FEIS"), in which the design, cost, ridership, and environmental impacts for the LPA would be refined. *Id.* at S-4.

33. The ten transportation alternatives and their primary features proposed by the MIS/DEIS were:

- | | |
|----------------|---|
| Alternative 1: | Maintain I-94, with spot improvements and Bus Transit Systems (Environmental "No Build"). |
| Alternative 2: | Expand Bus Transit Services, plus Maintain I-94, with spot improvements. |
| Alternative 3: | Light Rail "A" plus Maintain I-94 and Expand Bus Transit |

Services

- Alternative 4: Light Rail "B" plus Maintain I-94 and Expand Bus Transit Services
- Alternative 5: Modernize I-94 (without Special Lanes), plus Expand bus Transit Service
- Alternative 6: Modernize I-94 (with Special Lanes), plus Expand Bus Transit Service
- Alternatives 7-8: Light Rail "A" or "B" and Modernize I-94 (without Special Lanes), plus Expand Bus Transit Services
- Alternatives 9-10: Light Rail "A" or "B" and Modernize I-94 (with Special Lanes), plus Expand Bus Transit Services.

34. The above alternatives are summarized in Table S.1 and S-9-12, and secs. 2.1-2.3 of the MIS-DEIS (Ex. M) and by Wisconsin Legislative Audit Bureau. In essence, these alternatives included various combinations of the following three freeway reconstruction alternatives, one expanded bus transit service alternative, and two light rail alternatives:

- (a) The three freeway reconstruction alternatives included: (1) \$835.6 million to rebuild I-94 as it is currently configured, with some spot improvements to help reduce accidents and improve traffic flow; (2) \$1.45 billion to rebuild I-94 to current design standards, which would include safety improvements such as eliminating left lane on and off ramps; or (3) \$1.89 billion to rebuild I-94 to current design standards and add special lanes for multiple occupancy vehicles ("HOV") such as buses and car pools.
- (b) The single expanded bus service alternative included: route expansions and increases in the frequency of freeway flyer, express, and local service in

Milwaukee County, Waukesha County, and five other southeastern Wisconsin counties; designation of dedicated transit lanes on some local roads to facilitate higher and more reliable travel speeds for transit vehicles; and construction or enlargement of 13 park-and-ride lots and expansion of bus service to these facilities to improve commuter access to the transit system.

- (c) The two light rail alternatives included: (1) Light Rail A, with a longer western terminus extending to Highway 100 with an end-of-line park-and-ride lot extending to downtown along Wisconsin Ave. and Wells St.; a line from Capitol Court extending to downtown along Fond du Lac Avenue; and a line from Glendale to downtown; and (2) Light Rail B, which included a shorter western terminus extending to the Milwaukee Regional Medical Center with an end-of-line park-and-ride lot, extending to downtown along Highland Ave.; the same line from Capitol Court to downtown along Fond du Lac Avenue; and the same line from Glendale to downtown with a spur into the University of Wisconsin-Milwaukee campus.

Ex. N, An Evaluation of Transportation Programs and Revenues, Department of Transportation, State of Wisconsin Legislative Audit Bureau, (Paper 96-19, December 1996) at 36, 78; see generally Ex. M, MIS/DEIS at S.3.2, pp. 2-6 to 2-39.

35. WisDOT conducted public hearings on the alternatives proposed in the MIS/DEIS on December 10, 11 and 12, 1996. These hearings were also preceded by open house sessions with project staff to view exhibits and explain the alternatives. Large numbers of citizens attended, and the vast majority of those providing oral testimony supported

development of light rail. Staff from WisDOT, FTA, and FWA received testimony at the hearings. Support was overwhelming for an intermodal approach to major transportation investments, and particularly for major improvements in mass transit. In addition to the hearings, numerous meetings were held with business, community, and political leaders. Ex. P, Milwaukee East-West Corridor Transportation Study. Locally Preferred Alternative 2-12 (Wisconsin Department of Transportation, May 1997) (hereinafter "LPA").

36. The first hearing on December 10 from 4-9 p.m. occurred at the Waukesha Expo Center, and 200 people recorded their attendance. Twenty-six (26) people submitted comment forms, with the largest numbers in support of light rail. Oral testimony was provided by 128 persons, and 81 spoke in support of light rail or commuter rail, 6 were against rail development, 8 supported bus expansion, 16 were in favor of highway expansion and improvements, 7 were opposed to highway expansion, 4 supported HOV lanes, 3 opposed HOV lanes, and 3 were general comments on transportation. Ex. P, LPA at 2-12.
37. The second hearing on December 11 was conducted at Riverside High School on Milwaukee's east side from 4-9 p.m. Twenty-nine (29) people submitted comment forms, and the largest numbers of comments expressed support for light rail. There were 238 people in attendance and 158 people provided oral testimony, with 85 expressing support for light rail, 8 opposed to light rail, 14 in favor of expanded bus service, 9 in opposition to highway expansion, 19 in support of highway improvements, and 17 opposed to HOV lanes.Id.
38. The third day of hearing was held on December 12 at the Milwaukee County Zoo from 1-

9 p.m., and it drew the largest attendance. A total of 439 people attended. Comment forms were submitted by 129 people. Light rail was the most common subject of the written comments, as 37 expressed support for light rail with 7 opposed. In terms of oral testimony, 173 people gave oral testimony, with 78 expressing support for light rail, 15 in opposition, 10 in favor of expanded bus service, 2 opposed to expanded bus service, 20 in favor of highway reconstruction, 15 expressed opposition to HOV lanes, 6 supported HOV lanes, and 9 opposed any highway expansion. Id. at 2-12 to 2-13.

39. In addition to the public hearings, 415 comments were mailed to WisDOT, with the largest group -- 125 -- favoring light rail development, while 31 opposed light rail. Id.

40. In summary, out of a total of 3,008 comments recorded, there were 959 comments in favor of rail and 190 against rail. Regarding other components of the MIS/DEIS, 172 supported expanded bus service, 28 were against expanded bus service, 541 opposed to HOV lanes, 70 in support of HOV lanes, 426 in favor of highway reconstruction, 174 in favor of highway expansion, and 122 against highway expansion. Id. at 2-13. In addition to the public hearings, numerous meetings were conducted with local elected officials, business groups, and community organizations. Id. at 3-3.

41. On January 30, 1997, WisDOT adopted the Draft Locally Preferred Alternative. East-West Corridor, Draft Locally Preferred Alternative ("Draft LPA") at 1, attached hereto as Ex. O. The Draft LPA recommended the following four components, with the capital costs of each noted parenthetically: 1) reconstruction of the I-94 and I-43 Marquette interchange (\$460 million); 2) expanded bus transit (\$90 million); 3) light rail (\$330 million); and 4) I-94 modernization with special HOV lanes (\$860 million).

42. In May 1997, after extensive public hearing, an extended comment period, and discussions with local officials, business groups, and community organizations, WisDOT published the final LPA, attached hereto as Ex. P. The LPA received extensive citizen input. The LPA was prepared in conjunction with and for USDOT, FHWA, and FTA. Like the draft LPA, it recommended the same four principal components as contained in the draft LPA, but made some modifications. Specifically, the Executive Summary of the LPA identified the four major components of the LPA as follows:

1. Reconstruction of the Marquette Interchange

Due to the advanced deterioration of the interchange, this project is considered the most time sensitive. Because of local sensitivities to expanding the interchange and requiring the relocation of area businesses, the LPA calls for the interchange to be rebuilt essentially within its existing footprint with safety and operational improvements. To further reduce the need to enlarge the Marquette Interchange, the proposed HOV lanes will exit IH 94 east of 35th Street and continue downtown through the Menomonee Valley.

2. Reconstruction and Modernization of IH 94 and the Addition of Special Lanes for Car pools and Buses from the Marquette Interchange to STH 164

Beginning in 2008, the East/West corridor would be rebuilt and modernized to current standards. Improvements would include correction of problems such as drop-off lanes and left hand interchange ramps. HOV lanes are also proposed but would be reviewed prior to actual construction to determine if the projected needs were still there. Furthermore, the HOV lanes would be separated from the general purpose lanes by a four foot painted buffer instead of a physical barrier to reduce cost and right-of-way concerns.

3. Light Rail Transit in Milwaukee County

The proposed initial LRT system would extend from downtown Milwaukee to the Milwaukee County Zoo with stops at key destinations and transit transfer points in between. A spur would serve the Miller Park complex. Debate has continued on the inclusion of Fond du Lac Avenue or the 30th Street rail corridor as a northwest route. This would have to be studied further in the next phase. The proposed LRT system would be confined to Milwaukee County only.

4. Expansion of Two-County Bus Service

Bus service in the two counties would be increased by approximately 21% under this proposal. The expanded service would be targeted at getting workers to jobs in the two counties. This proposal would work in concert with the proposed HOV lanes on IH 94 but would also use arterial highways to serve business and industrial parks, not currently served, in Milwaukee and Waukesha Counties.

Ex. P, LPA, S-1.

43. The LPA clearly articulated the rationale for selecting the above components, identifying five specific goals and corresponding objectives consistent with ISTEPA:

Goal: Improve mobility in the corridor.

Objectives:

- * Improve service for transit users.
- * Reduce traffic congestion on streets and highways.
- * Improve safety on existing freeways.
- * Improve freeway traffic operations.
- * Improve connections between workers and jobs.
- * Distribute the benefits, costs, and impacts in an equitable manner.

Goal: Develop an efficient system, which maximizes limited resources for the greatest public benefit.

Objectives:

- * Provide cost-effective transit service within the Corridor.
- * Minimize total transportation costs in the Corridor.
- * Identify a fiscally realistic solution.

Goal: Preserve and protect the environment.

Objectives:

- * Minimize noise impacts.
- * Improve air quality.
- * Protect sensitive areas such as historic and cultural resources, wetlands, and river crossings in the Corridor.
- * Support non-motorized transportation, such as bicycle and pedestrian paths.
- * Build major structures and stations that are aesthetically pleasing and compatible with adjacent areas.

Goal: Support development and redevelopment efforts.

Objectives:

- * Attract jobs and residents to the Corridor.
- * Encourage efficient land use patterns.

Goal: Maximize community acceptance, consensus, and institutional support for transportation improvements.

Objectives:

- * Implement a solution with community support.
- * Provide a public involvement program that is open, fair, understandable, and responsive to all facets of the community.

Id., at Table 3.0, East-West Corridor Goals and Objectives (emphasis in original).

38. By the end of May, 1997, the Milwaukee County Board and the Waukesha County Board both passed resolutions signed by their respective Executives endorsing the LPA, and urging completion of PE/FEIS. Id. at 3-2 to 3-6 & App. B.
44. The LPA proposed a project financing plan for the design, construction, and operation of the recommended transportation improvements. Fiscal year 1997-98 was to be dedicated to preliminary engineering and completion of the final PE/FEIS at a cost of \$20 million. Id. at 4-1 to 4-2 & Table 4.2. Funding was available from two ISTEA authorizations -- New Starts and the Interstate Cost Estimate ("ICE") -- plus existing WisDOT funds. Ex. Q, Legislative Fiscal Bureau Memo from Program Supervisor Fred Ammermann to Sen. Brian Burke, dated May 21, 1997.
45. On September 29, 1997, respondent Secy. Thompson -- in complete derogation of the LPA, its express recommendations, and the resolutions endorsing the LPA approved by the Waukesha and Milwaukee County Boards -- wrote a letter to respondent Gov. Thompson rejecting further study of light rail and special lanes and refusing to allocate state funds or seek federal funds to go forward to the PE/FEIS stage for that part of the

LPA. Ex. R. Respondent Gov. Thompson concurred with this position, stating publicly that "not one nickel will be spent on light rail as long as I am Governor."

46. On May 22, 1998, Congress modified the original ISTEA transit authorization of \$241 million reserved for the Milwaukee East-West Corridor PE/FEIS study of the LPA. providing that Governor Thompson and/or WisDOT had the discretion to spend such money on highway modernization or reconstruction. This Congressional action, as part of the ISTEA re-authorization leading to TEA-21, was taken upon motion by Rep. Thomas Petri (R-Wis.) at the request of respondent Gov. Thompson. In response to such action, on May 28, 1998, City of Milwaukee Mayor John Norquist, Milwaukee County Executive Thomas Ament, and Rep. Tom Barrett (D-Wis.) wrote to respondent Gov. Thompson, objecting to his part in politically orchestrating the May 22 action effectively preventing the use of federal transit funds for mass transit options in the Milwaukee East-West Corridor. Ex. S.

47. On October 20, 1998, Congress amended its May 22 action and agreed to give state and local officials six months to decide how to spend the previously authorized \$241 million originally earmarked for the PE/FEIS for major investments in transportation improvements for the Milwaukee East-West Corridor. To date, Respondents Gov. Thompson and Secy. Thompson refuse to initiate the PE/FEIS for the light rail component of the transportation improvements recommended by the LPA. Light rail, when combined with the recommended expansion of bus service, would markedly improve mobility for the thousands of minority and low-income citizens in Milwaukee who depend upon public transportation to get to and from work, school, stores, loved

ones, health care facilities, and other essential destinations in the Milwaukee metropolitan area.

B. Respondents' focus on highway improvements will adversely effect African-Americans and other minorities in Milwaukee's central city who are disproportionately dependent upon public transportation.

48. Jobs & Workers "Mismatch" in the Corridor: The MIS/DEIS conclusively found that any major investments in transportation improvements had to address what is called the mismatch between jobs and workers in the metropolitan Milwaukee region. The MIS/DEIS defined this problem as the distance of workers' homes from jobs in the region. The MIS/DEIS concluded that:

Population and employment growth in the corridor is occurring at a rapid rate in Waukesha County and is declining slightly or remaining stable in most parts of Milwaukee County. . . . Data from area employment studies show there is a reservoir of unfilled jobs available in Waukesha County and a large unemployed, or under employed, transit dependent group in the Central City of Milwaukee. For example, there is a 12 percent unemployment rate among males in [the Milwaukee central city] Study Section 3 compared to a Milwaukee area average of five percent unemployed, and more than 30 percent of the adult males are not in the labor force. Public transportation problems are often cited by employer and prospective employee as a major problem. More Central City workers, including those residing in the Fond du Lac Avenue corridor, could thus be traveling to suburban job sites if transit service were available offering reduced travel time through better routing, better distribution, and greater schedule opportunities.

Ex. M, MIS/DEIS at 1-17.

49. There is an extremely high correlation between race, poverty, and lack of access to an automobile for residents residing in the sections of the Corridor to the immediate north and west of Milwaukee's downtown area -- commonly referred to as the "North side". The MIS/DEIS study found that African-Americans and other minorities reside predominantly in a single, contiguous section of the Corridor. The study stated:

In terms of racial distribution, most minority residents within the Corridor reside in the City of Milwaukee; the majority are concentrated in the central and north-central areas of the city. Other communities within the Corridor have only a small number of non-white residents, especially in Waukesha County.

Id. at 3-18. Incredibly, in a large area of the freeway corridor, 94% of the Milwaukee's north side central city residents are African-American, of whom 53% have income below the poverty line. Id. at 5-28, Table 5-10.

50. Study Section 3 (Fond du Lac) and Study Section 4 (Near West Side) incorporate the segregated insular sections of Milwaukee's African-American community. In the northside Fond du Lac area, 31% of the households do not own a car. In near west side area, 47% of the households do not own a car. In suburban Waukesha, only 5% of households do not own a car. In discussing the central city African-American neighborhoods, the MIS/DEIS study concluded: "The availability and reliability of transit service to these communities is important to their economic and social survival." Id. at 7-18-19 & Table 7.6. These figures are confirmed by a study in a random sample of 500 central city residents, where only 33.8% of unemployed job seekers had a car and a valid driver's license, and of those employed and seeking a better job, only 52.9% had a car and valid license. Ex. T, "Current Status and Trends in the Milwaukee Area Job Market," Lois Quinn, Employment and Training Institute, University of Wisconsin-Milwaukee.

51. Milwaukee ranks as one of the U.S.' most segregated cities, where African-Americans are overwhelmingly isolated and clustered in a tight, constrained pattern stretching north from the downtown section, incorporating the Fond du Lac and Near West Side, i.e.,

Study Sections 3 & 4, of the MIS/DEIS study. See Peter Eisinger, "Racial Disparities in Milwaukee," pp. 8-11, attached hereto as Ex. U.

52. Poverty is dramatically increasing in Milwaukee's African-American neighborhoods and in Study Sections 3 and 4. Between 1980 and 1990, the proportion of Milwaukee's black population below the federal poverty level rose from 30% to over 41%. Of the 38 metropolitan areas in the U.S. with a population of 1 million or more, Milwaukee has the highest level of what is called ghetto poverty, *i.e.*, concentrations of people who live in census tracts where 40% of the population falls below the federal poverty level. In Milwaukee, 54.8% of the African-American population lives in ghetto poverty, according to 1990 census data. In addition, unemployment for African-Americans is roughly four times the Milwaukee metropolitan figure. Ex. U, Racial Disparities in Milwaukee, P. Eisinger, pp. 2-4.
53. Among the low income, minority workers expected to join the workforce are some 26,000 welfare recipients who are or will be Wisconsin Works (W-2) participants. Most are African-Americans residing on the city's north side and, as a group, are dependent upon mass transit. In assessing the difficulties of placing such citizens in permanent jobs, the Private Industry Council of Milwaukee County concluded that although entry level placements in Milwaukee County are accessible by public transit, "four job seekers exist for every one full-time opening in Milwaukee County; five job seekers exist for every part-time opening." Ex. V, TANF Transportation Proposal by Private Industry Council of Milwaukee County ("PIC Study"), at 6. The PIC found that all potential W-2 participants typically share four common transportation-related barriers to employment: 1) low

automobile ownership and driver's license rates; 2) concentration in central city away from suburban areas of high job growth; 3) evening/weekend hours and shift work incompatible with current public transit schedules; and 4) additional transit needs for school and child care, visiting training facilities. Ex. ____, PIC Study at 8-9.

54. There are extraordinary disparities in access to private transportation between predominantly African-American central city residents and white suburban residents. Between 90% and 95% of all residents in Waukesha, Ozaukee, northern and southern Milwaukee County suburban residents used a car to get to and from work, while only 62% of central city residents used a car to travel to work.
55. WisDOT expenditures on mass transit have historically been a small component of the state's overall transportation expenditures. In fiscal year 1987-88, the state spent \$945.6 million in total transportation expenditures, and only \$48.4 million, or just 5.1%, on local transit assistance. This small percentage has remained essentially constant. In fiscal year 1996-97, the state spent \$1.58 billion in total transportation expenditures, while only spending \$89.2 million in local transit assistance, or just 5.6% on local transit assistance. Ex. N, An Evaluation of Transportation Programs and Revenues, WisDOT at 20-21 & Fig. 3 (December 1996 Paper No. 96-19). State aid for mass transit in Milwaukee County was only \$43.1 million in 1996, or just 2.7% of the state's total 1996 transportation expenditures of \$1.58 billion. In 1996, Wisconsin had a population of 5,142,999, and WisDOT spent a total of nearly \$316 per capita, the vast majority of which was dedicated to highways and automobiles. Yet, in Milwaukee County, where 963,903 people reside (including 195,470 African-Americans), the state spent only \$45

per capita on mass transit for a population where nearly half the African-American population has no car or driver's license and is dependent upon mass transit. *Id.* at 20-21, 70, Fig. 3, Table 22; WISCONSIN LEGISLATIVE REFERENCE BUREAU, STATE OF WISCONSIN BLUE BOOK 734, 762, (1997-98 ed.).

56. The racial disparities in employment trends, poverty, and access to private transportation underscore the profound and adverse discriminatory impact that is perpetuated by respondents' arbitrary allegiance to ignoring mass transit improvements while devoting inordinate amounts of federal transportation funds to highway improvements. Respondents' excessive planning focus on development patterns for transportation options that primarily benefit white suburban residents with cars only reinforces the segregated residential and employment patterns which isolate transit dependent persons from job opportunities. Such a policy perpetuates the hyper-segregation and impoverishment of Milwaukee's African-American community.

LEGAL AUTHORITIES

57. Complainants bring this action under Title VI of the 1964 Civil Rights and ISTEA, TEA-21, and applicable implementing regulations.

A. First Legal Grounds for Administrative Complaint: Title VI Prohibition of Racial Discrimination in Expenditure of Federal Transportation Funds.

58. Title VI of the 1964 Civil Rights Act provides:

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000(d).

59. United States Department of Transportation administrative regulations prohibit the expenditure of federal transportation funds in a manner that subjects racial minorities to adverse discriminatory effects. Any entity receiving funds

... may not, directly or through contractual or other arrangements, utilize criteria or methods of administration *which have the effect* of subjecting persons to discrimination because of their race, color, or national origin; or *have the effect* of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

49 C.F.R. § 21.5(2) (emphasis added).

60. Complainants allege that respondents Gov. Thompson and Secy. Thompson, in substantial reliance on federal transportation funds, have arbitrarily refused to utilize federal funds to plan mass transit options that would benefit the majority of minority citizens residing in Milwaukee's north side, nearly half of whom do not have private means of transportation. Instead, respondents have persisted in a policy of utilizing federal funds solely for the planning and development of highway modernization and reconstruction that would predominantly benefit white citizens with cars. African-American citizens without cars are left unable to realize the benefits of their fair share of federal transportation expenditures. These actions have a disproportionately adverse and discriminatory effect on minority citizens who rely on mass transit for travel to and from work sites, schools, hospitals, clinics, child care, loved ones, stores, and other life necessities.

64. Complainants further allege that respondents Gov. Thompson and Secy. Thompson are fully aware of the invidious residential segregation and impoverishment facing African-

Americans in the metropolitan Milwaukee area. Moreover, respondents are aware that nearly half of Milwaukee's African-American population is without private transportation such that substantial improvements in mass transit, including development of light rail, will provide African-Americans in Milwaukee with the requisite mobility to seek employment and other economic and social opportunities outside the insular African-American community. Opposition to light rail and other mass transit options is aimed precisely at keeping African-Americans geographically, economically, and socially confined within Milwaukee's central city and apart from the overwhelmingly white neighborhoods and suburbs in the greater metropolitan area. Accordingly, respondents' failure to utilize federal transportation funds in a fair and equitable manner that facilitates economic and social improvements for all citizens, regardless of race or color, constitutes intentional discrimination against complainants in violation of Title VI of the 1964 Civil Rights Act.

62. Respondents have not offered any legitimate justification for their discriminatory acts and omissions.

B. Second Legal Ground for Administrative Complaint: ISTEA

63. The Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"), Pub. L. 102-240, and its reauthorizing statute, the Transportation Equity Act for the 21st Century ("TEA-21"), Pub. L. 105-178 (enacted June 9, 1998), provide for federal transportation funds to enhance transportation planning and improvements. The law broadened the federal transportation focus from merely constructing roads and highways to providing diverse surface transportation options to help make communities more livable. ISTEA

also established funding and planning provisions aimed at improving community life and encouraging public involvement in transportation decisions to achieve a more integrated planning process to better meet the needs of all constituents. ISTEA further requires that metropolitan planning organizations (MPO's) cooperate with state agencies and transportation providers in formulating a transportation plan for the metropolitan areas. See 49 U.S.C. §§ 5501 et seq., 23 U.S.C. §§ 133-134.

64. ISTEA specifically requires that federal transportation funds be used to build an intermodal transportation system that "will move individuals and property in an energy efficient way." 49 U.S.C. § 5501 (a). Many of the provisions that encourage energy efficiency in transportation also work to support other goals. Specifically, ISTEA requires that our nation's intermodal system "shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation . . . and mobility for . . . economically disadvantaged individuals in urban and rural areas of the United States." 49 U.S.C. § 5501(b)(3). Further, the implementing regulations of ISTEA also provide that public participation in the planning process and any proposed major transportation improvements shall be consistent with Title VI of the Civil Rights Act of 1964, and that no person shall be discriminated against or denied the benefits, on account of race or color, of any program receiving federal transportation funds. 23 C.F.R. 450.316(b)(2). The implementing regulations further provide that state planning for transportation improvements must explicitly seek out and consider the needs of those traditionally underserved by existing transportation, including low-income and minority households. 23 C.F.R. § 450.316(b)(1)(v) & (vi).

65. Respondents Gov. Thompson and WisDOT Secy. Thompson have violated the spirit and letter of ISTEA and the USDOT's implementing regulations. Respondents have ignored the transportation improvement plan adopted pursuant to the MIS/DEIS and the Locally Preferred Alternatives. Respondents have failed to pursue an intermodal transportation improvement plan for the Milwaukee metropolitan area that is energy efficient and that serves low-income and minority households. Respondents have unilaterally and arbitrarily rejected the locally preferred transportation improvement plan -- which was properly adopted pursuant to the metropolitan planning criteria set forth under ISTEA -- that includes the mass transit options of light rail and expanded bus service. Such a transportation improvement plan complied with the comprehensive planning and enlightened policy goals of ISTEA and TEA-21.
66. Instead of adopting the plan for major transportation improvements set forth in the LPA, respondents Gov. Thompson and Secy. Thompson have pursued a plan primarily involving expenditure of federal funds for preliminary engineering and study for further major investments in the Corridor's highway system. In so doing, respondents violate ISTEA by failing to consider the needs of Milwaukee's minority and low-income population, nearly half of whom have no access to private transportation that might enable them to benefit from such major investments in the Corridor's highway system.
67. Respondents further violate ISTEA by pursuing a mono-modal highway transportation system that relies exclusively on cars, and in so doing, fail to promote a more energy-efficient intermodal system of public transportation in the Milwaukee metropolitan area.



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
DEPARTMENTAL OFFICE OF CIVIL RIGHTS

LEAH WALLACE,
individually,

Complainant,

vs.

Docket No.

TOMMY THOMPSON, Governor of Wisconsin
CHARLES THOMPSON, Secretary, Wisconsin
Department of Transportation, and
WISCONSIN DEPARTMENT OF TRANSPORTATION,

Respondents.

COMPLAINT PURSUANT TO 49 CFR 21.11(b)

I. SUMMARY

This Administrative Complaint is filed pursuant to the provisions of 49 CFR Part 21 et. seq. on behalf of Leah Wallace who is an African American adult resident of the City of Milwaukee and State of Wisconsin, and on behalf of tens of thousands of similarly situated low income and minority residents of the City of Milwaukee.

The grounds for this complaint is that the Governor of Wisconsin, Tommy Thompson, and the Secretary of the Wisconsin Department of Transportation ("WisDOT"), Charles Thompson, have arbitrarily and unilaterally refused to spend authorized and appropriated federal and state funds to perform a Preliminary Engineering/Final Environmental Impact Statement ("PE/FEIS") study of the mass transit components of a Locally Preferred Alternative ("LPA") that was adopted following completion of a Major Investment Study/Draft Environmental Impact Statement commonly known as the Milwaukee East-West Corridor Transportation Study ("MIS/DEIS"). Tommy Thompson and Charles Thompson did not refuse to spend federal and state funds to perform a PE/FEIS study of the highway components of the LPA.

The basis for this complaint is that Tommy Thompson and Charles Thompson's decision and the continuing action and inaction of WisDOT pursuant to that decision

violate:

(a) Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d ("Title VI") and implementing regulations codified at 49 C.F.R. Part 21;

(b) The Intermodal Surface Transportation Efficiency Act of 1991, 49 U.S.C. §5301 et. seq. ("ISTEA"), and regulations promulgated pursuant thereto and codified at 23 CFR 450, et. seq.; and

(c) Executive Order 12898 entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" and "DOT Order to Address Environmental Justice in Minority Populations and Low Income Populations", OST Docket No. 50125, February 3, 1997.

This complaint demands that the United States Department of Transportation ("USDOT"):

(a) Suspend and terminate the transfer of any and all federal funds to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin which would be used directly or indirectly to perform PE/FEIS in connection with all or any portion of the LPA adopted by WisDOT following completion and approval of the MIS/DEIS.

(b) Refuse to grant federal monies, now or in the future, to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, to perform PE/FEIS in connection with all or any portion of the LPA adopted by WisDOT following completion and approval of the MIS/DEIS.

(c) Suspend and terminate the transfer of any and all federal funds to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, which would be used, directly or indirectly, to plan, design, implement, construct or build any and all transportation improvements contemplated in said LPA, including, but not limited to, the reconstruction of the IH 43/94 Marquette Interchange in the City of Milwaukee and the modernization and reconstruction of IH 94 from downtown Milwaukee to Wisconsin STH 164 in Waukesha County.

(d) Refuse to grant federal funds, now or in the future, to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, to plan, design, implement, construct or build any and all transportation improvements contemplated in said LPA, including, but not limited to, the reconstruction of the IH 43/94 Marquette Interchange in the City of

Milwaukee and the modernization and reconstruction of IH 94 from downtown Milwaukee to Wisconsin STH 164 in Waukesha County.

In the alternative, complainant requests that USDOT compel Tommy Thompson, Charles Thompson, and WisDOT to perform a Preliminary Engineering/Final Environmental Impact Statement study of all transportation improvements recommended in the Locally Preferred Alternative.

II. COMPLAINANT

1. Complainant, Leah Wallace, is a 36 year old African American residing at 1931 W. Fiebrantz Avenue in the Central City of Milwaukee. Ms. Wallace has two minor children. She cannot afford to own or operate an automobile because of her low income. Ms. Wallace is employed with a temporary job service agency and has to use public transportation to get to her job sites. Ms. Wallace has identified many permanent job opportunities for which she would be qualified in the Milwaukee suburbs and outlying areas of the city, however, she cannot even apply for these jobs because there is no public transportation to these job locations. These jobs would provide Ms. Wallace with more income and greater job security than she currently enjoys. Ms. Wallace also relies on public transportation to meet her and her children's needs such as health care, shopping and other necessities of life.

Improved public transportation, such as expanded bus service or light rail, connecting the Central City to outlying job centers would enable her and other single parents in her neighborhood to optimize their employment prospects, to provide greater security for their families, to spend more time with their children, and to more readily engage in other life activities. (Affidavit of Leah Wallace is attached hereto as Exhibit A).

III. BACKGROUND

A. MASS TRANSIT IN THE MILWAUKEE METROPOLITAN AREA

2. Milwaukee, like most urban areas in the United States, has experienced a steady decline in mass transit service and ridership over the last forty years. While mass transit service exists in Milwaukee's Central City, service is poor or non-existent in outlying areas of the metropolitan areas. However, over the last two decades most of the region's economic growth and job creation has occurred in these outlying areas.

3. Nevertheless, the Milwaukee County Transit System, like most large urban transit systems, still serves a significant percentage of the region's minority, low income, elderly and disabled citizens who do not own or cannot drive an automobile. Such persons are dependent on mass transit to meet the needs of daily life.

4. Deteriorating transit service coupled with changing growth patterns prompted local officials to call for a study of mass transit improvements in the late 1980's.

B. ALTERNATIVES ANALYSIS/DRAFT ENVIRONMENTAL STATEMENT

5. In March, 1992, WisDOT was given approval by the Federal Transit Administration ("FTA") to undertake an Alternative Analysis/Draft Environmental Impact Statement ("AA/DEIS") study of mass transit improvement alternatives in the East-West Corridor of the Milwaukee metropolitan area pursuant to applicable law. The AA/DEIS was a joint effort of WisDOT and a team of consultants, in cooperation with the FTA, the Southeastern Wisconsin Regional Planning Commission ("SEWRPC"), (the designated Metropolitan Planning Organization ("MPO") for the region), Milwaukee County, the City of Milwaukee, and other involved jurisdictions. WisDOT had ultimate control of the project and decision-making authority. Federal funds were utilized in conducting the AA/DEIS study process.

6. The East-West Corridor is a major travel corridor bisecting Milwaukee and Waukesha Counties. The corridor included portions of six cities: Brookfield, Milwaukee, New Berlin, Waukesha, Wauwatosa, and West Allis; three villages: Elm Grove, Shorewood and West Milwaukee; and three towns: Brookfield, Pewaukee, and Waukesha. Beginning at the University of Wisconsin-Milwaukee on Milwaukee's northeast side, the Corridor proceeded through downtown Milwaukee to the City of Waukesha. Generally, Locust Street, in the City of Milwaukee, was considered the Corridor's northern boundary, Lincoln Avenue, in the City of Milwaukee, was considered the southern boundary and County Trunk Highway T, in Waukesha County, was considered the western boundary. The Corridor had a population of 469,880 persons in 1990 which constituted 37.2% of the total combined population of Milwaukee and Waukesha Counties.

7. The AA/DEIS proposed the study of four mass transit improvements in the Corridor. These included: (i) no build option/Transportation System Management (maintain general status quo); (ii) express bus service; (iii) express light rail service; and (iv) rapid light rail service.

8. The objective and purpose of the AA/DEIS was to provide a detailed evaluation of the costs, benefits and impacts of various mass transit alternatives with a view to designating a Locally Preferred Alternative. Once a Locally Preferred Alternative was selected, further study and evaluation was contemplated leading to the possible construction and implementation of the Locally Preferred Alternative. Federal funds would be used at every stage of the process, including implementation and construction.

9. Twelve transit improvement alternatives were developed. A preliminary recommendation was made in late 1993 to adopt Alternative 12 as the Locally Preferred Alternative. Alternative 12 proposed the construction of 17 miles of busway or special lanes for car pools and buses parallel to IH 94 between downtown Milwaukee and the City of Waukesha; construction of 16 miles of light rail transit extending from Glendale through downtown Milwaukee to the Milwaukee County Medical Center in

western Milwaukee County and a substantial increase in metro area bus service throughout the corridor.

C. MAJOR INVESTMENT STUDY/DRAFT ENVIRONMENTAL STUDY

10. In early 1994, before the Locally Preferred Alternative was formally adopted under the AA/DEIS process, the scope of the study was altered and expanded because of changes in federal laws and regulations following enactment of ISTEA.

11. ISTEA, among others, mandated a more comprehensive approach to transportation planning which would include both highway alternatives and mass transit alternatives. Accordingly, the AA/DEIS study of mass transit alternatives was combined with an ongoing but heretofore separate study of the reconstruction and/or improvement of the IH 43/94 Marquette Interchange in downtown Milwaukee and the reconstruction, expansion and/or improvement of Interstate Highway 94 ("IH 94") from downtown Milwaukee to State Trunk Highway 16 in Waukesha County.

12. This modified process was termed a Major Investment Study/Draft Environmental Impact Statement study process ("MIS/DEIS") as required by applicable USDOT regulations and commonly known as the East-West Corridor Transportation Study.

13. The geographic scope of the East-West Corridor study area was expanded under the MIS/DEIS. The modified Corridor began at IH 43 and Hampton Ave., in Glendale, Wisconsin, included the University of Wisconsin-Milwaukee area then proceeded to and through downtown Milwaukee, and followed IH 94 west to the City of Waukesha. An additional travel corridor was added to the East-West Corridor study area that commenced at Congress Street and Fond du Lac Avenues on Milwaukee's northwest side and proceeded southeast to downtown Milwaukee along Fond du Lac Avenue. The boundaries of the modified East-West Corridor were as follows: Hampton Avenue and Burleigh Street, in Milwaukee, on the north, Lake Michigan on the east, Lincoln Avenue, in Milwaukee, on the south and State Trunk Highway 16, in Waukesha County, on the west. The population of this expanded corridor was 552,000 in 1990.

14. The East-West Corridor study area was divided into six sub areas as follows: Section 1: University of Wisconsin-Milwaukee/East Side; Section 2: Downtown Milwaukee/Central Business District; Section 3: Fond du Lac Avenue Corridor (Walnut street to Capitol Court Shopping Center); Section 4: Near West Side of Milwaukee; Section 5: Milwaukee County-West; and Section 6: Waukesha (the Waukesha County portion of the Corridor).

15. Five of the six sub areas are in Milwaukee County. Sections 1, 2, 3 and 4 are entirely within the City of Milwaukee and generally encompass substantially all of the so called "Central City" of Milwaukee where the majority of residents are low income and non white.

16. The MIS/DEIS was a joint effort of WisDOT and a team of consultants, in cooperation with the FTA, Federal Highway Administration ("FHWA"), SEWRPC, Milwaukee County, the City of Milwaukee, and other involved jurisdictions. WisDOT had ultimate control of the project and decision-making authority. Federal funds were utilized to finance the MIS/DEIS study process.

17. Ten transportation alternatives were considered in the MIS/DEIS study process. These were:

Alt. 1: Maintain IH 94 and bus transit systems as is. (No Build option);

Alt. 2: Expand bus transit service and maintain IH 94 as is;

Alt. 3: Light rail "A" plus maintain IH 94 as is and expand bus transit service;

Alt. 4: Light rail "B" plus maintain IH 94 as is and expand bus transit service;

Alt. 5: Modernize IH 94 (without special lanes/High Occupancy Lanes ("HOV")) and expand bus transit service;

Alt. 6: Modernize IH 94 with special lanes, plus expand bus transit service;

Alt. 7: Light rail "A" and modernize IH 94 (without special lanes), plus expand bus transit service;

Alt. 8: Light rail "B" and modernize IH 94 (without special lanes), plus expand bus transit service;

Alt. 9: Light rail "A" and modernize IH 94 (with special lanes), plus expanded bus transit service; and

Alt. 10: Light rail "B" and modernize IH 94 (with special lanes), plus expanded bus transit service.

18. The purpose of the MIS/DEIS was to assist decision makers in selecting a transportation option from the alternatives evaluated which best met project goals and objectives identified for the East-West Corridor. Among these goals and objectives was the following:

Goal: Improve mobility in the corridor.

Objectives:

Reduce traffic congestion on streets and highways.

Improve safety on existing freeways.

Improve freeway traffic operations.

Improve connections between workers and jobs.

Distribute the benefits, costs, and impacts in an equitable manner.

(Exhibit B, p. 1-26).

19. In November, 1996, a fully approved MIS/DEIS was issued by WisDOT.
(Exhibit B).

20. Among the "Purpose and Need" findings made in the MIS/DEIS was that

1.2.4 Jobs and Workers "Mismatch".

The location of workers' homes in a part of the region substantially different from the location of jobs is termed a jobs and workers "mismatch". Population and employment growth in the Corridor is occurring at a rapid rate in Waukesha County and is declining slightly or remaining stable in most parts of Milwaukee County. Dense suburban centers, such as downtown Waukesha, the Regional Medical Center, Waukesha industrial parks, and the Bluemound Road areas, are continuing to grow.

Data from area employment studies show there is a reservoir of unfilled jobs available in Waukesha County and a large unemployed, or under employed, transit dependent group in the Central City of Milwaukee. [Study Sections 1,2,3, & 4]

For example, there is a 12 percent unemployment rate among males in Study Section 3 (Fond du Lac corridor) compared to a Milwaukee area average of five percent unemployed, and more than 30 percent of the adult males are not in the labor force. Public transportation problems are often cited by employer and prospective employee as a major problem. More Central City workers, including those residing in the Fond du Lac Avenue corridor, could thus be traveling to suburban job sites if transit service were available offering reduced travel time through better routing, better distribution, and greater schedule opportunities.

(Exhibit B, p. 1-17).

21. Among the "Evaluation Findings" of the MIS/DEIS was the following:

(a) Identification of Communities.

Corridor-wide population and income characteristics for the study area were derived from the 1990 U.S. Census and are presented in Chapter 3. Mapping of the data illustrates that the minority populations are largely concentrated in the City of Milwaukee, while the outlying areas are predominately non-minority. Figure 7.1 illustrates concentrations of African American, American Indian, Asian and other minorities within the Corridor. The geographic distribution of median household income (Figure 7.2) shows that the lowest median incomes are within the City of Milwaukee while the highest are in the outlying districts of Waukesha County.

Minority populations within the study area are concentrated within the City of Milwaukee, in Study Sections 1 through 4. Over 36% of the population within these study sections are of minority extraction. All other communities have minority communities of 8% or less of the total population.

Table 7.5 summarizes the socio-economic characteristics of the various sections. The City of Milwaukee (Study Sections 1 through 4) has the highest percentage of households under the poverty line, the lowest median household income, lowest percentage of high school graduates, and the lowest median age. Study Sections 5 and 6 tend to have a higher percentage of high school graduates, have a higher median income, and a higher degree of auto ownership.

Portions of the Corridor are experiencing high unemployment rates. The average unemployment rate of the Milwaukee area is 5 percent; the unemployment rate among males is 12 percent in Study Sections 3 and 4, Fond du Lac Avenue and Near West Side.... Study Sections 3 [Fond du Lac Corridor] and 4 [Near West Side] have the highest overall unemployment rate, 12 percent, but minority males are two to three times as likely to experience unemployment as white males. The lowest unemployment rates for minority males and females are to be found in Study Section 6 (Waukesha County). Minority females experience unemployment rates three, four, five and up to eight times that of white females.

Auto ownership levels provide a good indication of the level of transit dependency within the community. Table 7.6 illustrates that a large percentage of the study area household members are transit dependent: approximately 52,000 of the approximate 220,000 households have no automobile.

In 1990, an even higher 30 to 47 percent of the households (43,000 carless households) in Study Sections 1, 2, 3, and 4, the inner

city communities, did not own a car. The availability and reliability of transit service to these communities is important to their economic and social survival.

(Exhibit B, p. 7-18).

22. The MIS/MEIS "Impact Analysis" provided as follows:

Within the context of the Executive Order on Environmental Justice (Executive Order 12898) and the information presented previously, the portion of the MIS/DEIS study area that is most susceptible to impact and can be considered a minority and disadvantaged community is Study Section 3 Fond du Lac Avenue. Its relatively high minority population, high unemployment, large percentage of households below the poverty level, degree of transit dependency, and age structure are contributing factors. Although other areas within the City of Milwaukee boundaries exhibit some degree of these characteristics, this analysis focuses on the most sensitive geographic areas. The analysis includes focus on adverse impacts as well as the opportunities to enhance the economic opportunities for residents and businesses.

Travel Time and Link to Employment Opportunities. One of the principal goals and objectives of the Milwaukee East-West Corridor work is to provide better linkages between where the majority of employment opportunities are (Study Section 6 Waukesha County) and the underutilized labor force in the City of Milwaukee (Study Sections 1 through 4). Based on travel time differences and enhancements, implementation of any of the alternatives succeeds in improving the accessibility of jobs to the disadvantaged and transit dependent populations....

...

In summary, the alternatives are not expected to have disproportionately high or adverse impact on either minority or low-income populations. This document is therefore in compliance with U.S., WisDOT and FHWA policies to determine whether a proposed project will have induced socioeconomic impacts or any other adverse impact on minority or low-income populations; and it meets the requirements of Executive Order on Environmental Justice 12898—"Federal Action to Address Environmental Justice to Minority and Low-Income Populations."

(Exhibit B, p. 7-21).

23. Pursuant to applicable law, the MIS/DEIS was the subject of public hearings and public comment. Out of a total of 3,008 comments recorded, there were 959 comments in favor of light rail, 190 against light rail, 172 for expanded bus service, 28 against expanded bus service, 541 opposed to HOV lanes, 70 in support of HOV lanes, 426 in support of reconstruction of IH 94 within its current right-of-way, 174 in support of highway expansion, 122 opposed to highway expansion, 147 in favor of maintaining IH 94 with spot improvements, 73 against a land bridge in the Story Hill neighborhood, 10 opposed to expanding the Marquette Interchange, 60 in support of a balanced transportation system, 13 in favor of raising state gasoline tax to provide highway funding, and 8 opposed to increasing the gas tax or vehicle registration fees. (Exhibit C, p. 2-13).

24. Following public hearings and review, WisDOT prepared a Draft Locally Preferred Alternative which selected MIS/DEIS Alternative 9 with modifications. The Draft Locally Preferred Alternative was reviewed by local elected officials and other interested parties and the county boards of Milwaukee and Waukesha Counties both adopted resolutions recommending that the Draft Locally Preferred Alternative move into the next phase of study which would have been Preliminary Engineering/Final Environmental Impact Statement.

25. In May, 1997, WisDOT issued the Locally Preferred Alternative ("LPA"). (Exhibit C).

26. The components of the LPA and the capital cost to build each component were to be as follows:

(a) Reconstruction of the Marquette Interchange. Cost: \$460 Million.

(b) Reconstruction and modernization of IH 94 and the addition of special lanes for car pools and buses from the Marquette Interchange to STH 164. Cost: \$860 Million including \$250 Million for construction of special lanes for car pools and buses.

(c) Light rail transit in Milwaukee County. Cost: \$444 Million

(d) Maintain and expand two-county bus service. Cost: \$328 Million including \$90 Million attributable to expanding bus service.

Total Capital Cost: \$2,092 Million (\$2.09 Billion).

27. Subsequent to the issuance of the LPA, all of its recommended transportation improvements were incorporated into the Transportation Improvement Plan ("TIP") for Southeastern Wisconsin pursuant to ISTEA and 23 CFR Part 450.

28. On or about September 29, 1997, WisDOT Secretary Charles Thompson wrote a letter to Governor Tommy Thompson at the instance and direction of Tommy

Thompson in which he indicated that WisDOT would not spend authorized and appropriated state or federal funds to conduct preliminary engineering and prepare a final environmental impact statement with respect to certain components of the LPA, to wit: light rail and the construction of special lanes. (Exhibit D).

29. Light rail and special lanes were the foundation of the expanded bus service component since new and expanded bus routes were to use the special lanes to provide express bus service to suburban job centers, and light rail was to serve as a transit backbone serving new and expanded local bus routes thereby creating an integrated mass transit network. Therefore, Charles Thompson's September 29, 1997 action meant that no state or federal funds would be spent to study and evaluate expanded bus service as well. Even if WisDOT continues to study expanded bus service, expanded bus service represents only 6.4% of the total cost of the LPA improvements after excluding light rail and special lanes.

30. The components of the LPA that involved the reconstruction of the Marquette Interchange and modernization of IH 94 (excluding special lanes) were to proceed to PE/FEIS.

31. Charles Thompson's action had the effect of amending the LPA from a transportation plan that proposed a range of both highway and mass transit improvements into a transportation plan that proposed only highway improvements.

32. No public hearings were held prior to this amendment. No evaluation or study was made of the impact this amendment would have on the MIS/DEIS goals and objectives or whether such an amendment complied with applicable federal law and regulations, including, but not limited to, Executive Order on Environmental Justice 12898.

33. As such Tommy Thompson and Charles Thompson made a unilateral and arbitrary decision which rejected the results of a planning process conducted pursuant to federal law and regulations. Furthermore, Tommy Thompson and Charles Thompson's unilateral and arbitrary decision rejected the results of five years of study and evaluation, the results of extensive public hearings and comment, and the conclusions reached by local elected officials in the involved areas. Tommy Thompson and Charles Thompson unilaterally and arbitrarily rejected a LPA which was deemed to best meet the goals and objectives of the MIS/DEIS and conformed to applicable federal law and regulations.

34. Since no major transportation investment can be implemented without a PE/FEIS study, the mass transit improvements recommended in the LPA will not and cannot be implemented in the foreseeable future.

D. ADDITIONAL DEMOGRAPHIC AND SOCIO-ECONOMIC CHARACTERISTICS RELEVANT TO THIS COMPLAINT

35. According to the 1990 U.S. census, the City of Milwaukee had a total population of 628,088 people of which 30.5% or 191,567 people are African American. Recent estimates based on a Milwaukee Public School census of school age children suggest that Milwaukee is now a majority minority city—non whites comprising greater than 50% of the population. (Exhibit E).

36. Milwaukee's African American population is concentrated in Milwaukee's Central City. The MIS/DEIS Study Sections 1, 2, 3, & 4 encompass substantially all of this Central City area.

37. According to the 1990 U.S. census, 20.3% of the Milwaukee County population (195,551 of 959,275) are African American. Milwaukee County encompasses Milwaukee and several suburbs.

38. In contrast, only .3% of the residents of Waukesha County are African American (1,002 of 304,715). Study Section 6 is entirely within Waukesha County.

39. The Milwaukee metropolitan area is one of the most racially segregated metropolitan areas in the United States.

40. The Milwaukee metropolitan area is the most segregated metropolitan area in the United States based on income. In 1990, Milwaukee had the highest rate of segregation of the poor among the 100 largest metropolitan areas. (Exhibit F).

41. The segregation and concentration of low income persons in the Central City areas of Milwaukee has shown a steady rate of growth. From 1970 to 1990, Milwaukee exhibited the highest rate of increasing segregation of low income persons of the 100 largest metropolitan areas. (Exhibit F).

42. According to the 1990 U.S. census, 42.7% of African American households in Milwaukee did not have automobiles (25,834 out of 60,475). By contrast, only 3.5% of Waukesha County households (3,769 out of 106,051) did not have automobiles.

43. The socio-economic characteristics of the Milwaukee metropolitan area demonstrate a stark contrast between the haves and have nots with a distinct racial dimension. This is documented in *The Economic State of Milwaukee: The City and Region 1998* published by the Center for Economic Development, University of Wisconsin-Milwaukee. (Exhibit G).

(a) Poverty in the City of Milwaukee.

As dramatic as the increase in Milwaukee's overall poverty rate has been, the poverty crisis here is even more grave for the city's minority communities. (Exhibit G, p. 52).

...

The poverty rate for whites in the city of Milwaukee increased modestly between 1970 and 1990, and Milwaukee has consistently ranked among the best Frostbelt cities on this indicator: 3rd lowest poverty rate in 1970, the lowest in 1980, and 3rd lowest in 1990.

Not only has the black poverty rate in Milwaukee climbed significantly since 1970, but Milwaukee now ranks as the most distressed Frostbelt city in the rate of black poverty...[t]he proportion of blacks in the city of Milwaukee living under the poverty line increased from 27.1% in 1970 to 41.2% in 1990. The city ranked 10th best of the 14 Frostbelt cities in black poverty in 1970, rose to 5th in 1980...and then collapsed to 14th of 14 in 1990, as black poverty increased by 39.5% in the 1980s (the highest rate of increase in the Frostbelt). (Exhibit G, p. 53-54).

...

The upshot of all these trends is that Milwaukee ranks worst among Frostbelt cities in the disparity between white and black poverty. By 1990, blacks in the city of Milwaukee were almost four times as likely as whites to live in poverty.... The ratio of black to white poverty increased in Milwaukee from 3.27 to 1 in 1970, to 3.92 to 1 in 1990. In each census year since 1970, the black-white poverty gap has been greater in Milwaukee than any other Frostbelt big city. (Exhibit G, p. 56).

(b) Concentration of Poverty in the Milwaukee Metropolitan Area.

Figure 4.7 shows the proportion of city residents in 1990 [22.4%] living in "extreme poverty" neighborhoods: census tracts in which at least 40% of the residents fell below the poverty line. Here, the concentration of poverty in Milwaukee becomes more evident: Milwaukee ranked 13th among Frostbelt big cities in the proportion of the city population living in "extreme poverty" census tracts. Only Detroit, with an astonishing 36.5% of the city population living in "extreme poverty" neighborhoods had a worse showing than Milwaukee (22.4%) in 1990. (Exhibit G, p. 58).

...

The tables show the huge increase between 1970 and 1990 in Milwaukee area residents living in high poverty neighborhoods: from

17,319 in 1970 to 140,825 in 1990 (an increase of 713.1%). (Exhibit G, p. 58).

...

The development of concentrated “extreme” poverty in metropolitan Milwaukee has a distinct racial dimension. As Table 4.13 reveals, the proportion of metropolitan Milwaukee blacks living in high poverty neighborhoods increased from 8.4% to 46.7% between 1970 and 1990. The surge in concentrated black poverty in Milwaukee occurred in the 1980’s, when the proportion jumped from 14.9% to 46.7% during a single decade. In 1970 and 1980, Milwaukee ranked 6th best among the Frostbelt metropolises in the rate of concentrated, extreme poverty for blacks; by 1990, Milwaukee had tumbled to 14th of 14. Milwaukee had, in 1990, the highest proportion of blacks living in high poverty neighborhoods of any metropolitan area in the Frostbelt.... (Exhibit G, p. 59).

...

Unlike metropolitan areas such as Baltimore, St. Louis, Cleveland and, to a certain extent, Detroit, there has been very little suburbanization of blacks in Milwaukee. As a consequence of the well-documented metropolitan hyper-segregation here, even blacks who themselves are not poor are likely, to a greater degree in metropolitan Milwaukee than anywhere else in the Frostbelt, to live in neighborhoods where a high percentage of the population is poor. Thus, for almost half of all blacks in metropolitan Milwaukee in 1990, conditions of extreme poverty were a part of daily neighborhood life. (Exhibit G, p. 59-60).

(c) Racial Disparity in Unemployment.

Since 1970, Milwaukee has had the highest disparity in black-white unemployment rates among the largest Frostbelt metropolises. Even with the reported declines in black unemployment in metro Milwaukee in the 1990s, we still ranked worst among the 12 Frostbelt metropolises for which data was available, in the disparity of black and white unemployment rates. Blacks were four times as likely as whites to be unemployed in Milwaukee in 1996—an improvement from the ratio of 4.95 to 1 that existed in 1990, but still the highest ratio in the Frostbelt. (Exhibit G, p. 81-82).

(d) Disparity in income between city and suburb.

As Table 3.6 reveals, when we adjust for cost of living differences, the city of Milwaukee ranked 9th in per capita income among the 14

Frostbelt cities in 1990 (a decline, however, from 6th in 1980, which again underscores how difficult the 1980's were for the city's economy).

By contrast, in 1990 Milwaukee's suburbs ranked 2nd among the Frostbelt metropolises in per capita income controlled for cost of living differences. Milwaukee's suburbs have climbed steadily in the rankings, from 6th in 1970 to 4th in 1980 to 2nd in 1990. In short, although the city of Milwaukee languishes among the lower ranks of U.S. Frostbelt cities in cost-of-living adjusted per capita income, suburban Milwaukee appears to be flourishing.

This conclusion is starkly illustrated in Table 3.8 and 3.9, and Figure 3.2. In 1970, per capita income in the city of Milwaukee was 83.6% of suburban per capita income; by 1990, that percentage had fallen to 63.4%. On this important measure of city-suburban disparities, Milwaukee ranked 7th among the Frostbelt metropolises in 1970; by 1990, we had fallen to 12th (trailed, again, only by Cleveland and Detroit). In short, by 1990 the city of Milwaukee was poorer in relation to its suburbs than all but two of the Frostbelt's big cities. Moreover, in percentage terms, the growth in the city-suburban income gap was greater in Milwaukee between 1970 and 1990 (24.2%) than any other region in the Frostbelt except Detroit (34%) which is widely recognized as "exhibit A" of city-suburban polarization. (Exhibit G, p. 35-36).

(e) Disparity in income based on race.

An inescapable finding of this study is that, to borrow the haunting phrase of the Kerner Commission in the 1960's, black and white Milwaukee are two separate societies, separate and unequal. (Exhibit G, p. 42).

...

The most recent family income data for metropolitan areas and cities is for 1990. As Table 3.17 and Figure 3.3 reveal, there were dramatic differences by race in median family income trends in Milwaukee between 1970 and 1990:

In the city of Milwaukee, between 1970 and 1990, median family income for whites, adjusted for inflation, fell by 5%; real median family income for blacks declined by 35.8% during this period.

In metropolitan Milwaukee, between 1970 and 1990, median family income for whites, adjusted for inflation, rose by 7.7%; real

median family income for blacks declined by 34.6% during this period.

No other city or metropolitan area approached the rate of decline in Milwaukee in real family income for blacks during this period. Also, no other city or metropolitan area approached Milwaukee's racial gap in the rate of family income growth during this period.

The data arrayed in Table 3.18 illustrate, in comparative terms, the astonishing racial income gap in Milwaukee. The median family income for blacks in metropolitan Milwaukee in 1990 was only 39.5% of white median family income (down from 65.1 in 1970). Milwaukee ranked last among the 14 Frostbelt metropolises in 1990 in the ratio of black to white median family income. In 1970, the metropolitan area ranked 8th among the 14. Thus not only has racial income inequality increased dramatically in Milwaukee in absolute terms since 1970, but, relative to other Frostbelt metropolitan areas, we are doing much worse on this indicator. (Exhibit G, p. 42-44).

44. The areas of extreme poverty referred to hereinabove are concentrated in Study Sections 1, 2, 3 and 4 of the East-Corridor Study.

45. In 1995, the actual unemployment rate in Milwaukee's Central City was estimated at 21.5% when all persons interested in employment were counted. Among unemployed job seekers in the Central City, 42.1% had no car or driver's license, 6.2% had a valid license but no car, and 17.9% had a car but no valid license. This left 33.8% with a car and a valid license. Among employed job seekers, the story was similar: 24.1% had no car or license, 5.8% had a valid license but no car, and 17.2% had a car but no license. 52.9% had a car and a valid driver's license. (Exhibit H). If nothing else can be concluded from this statistical evidence, Tommy Thompson and Charles Thompson's decision is forcing many low income job seekers to operate a motor vehicle without a valid driver's license to find and maintain employment to support themselves and their families. It is interesting to note that the largest single category of criminal convictions in Milwaukee County in 1995 was for offenses involving the operation of a motor vehicle without a valid license.

46. Based on the foregoing, the African American and low income residents of Study Sections 1, 2, 3, and 4 of the East-West Corridor suffer from hyper segregation, higher rates of poverty than whites, lower median family income than whites and higher rates of unemployment than whites. Furthermore, these disparities are growing. These persons were the intended beneficiaries of the mass transit improvements recommended in the LPA and these study areas, comprised primarily of African American and low income residents, were the areas where the mass transit improvements were intended to be located.

47. Based on the foregoing, the highway improvements recommended in the LPA were intended to be primarily located in Study Section 5 and 6--areas primarily inhabited by affluent whites. These highway improvements would primarily benefit whites, who because of higher levels of employment and income compared to African Americans, are far more likely to own cars and therefore able to utilize the improved and expanded highways.

48. Complainant is an African American resident of the East-West Corridor and a permanent resident of the Central City of Milwaukee She lives in Study Section 3. Complainant is an intended beneficiary of the public transit improvements recommended in the LPA and would have in fact benefited from the implementation of these public transit improvements.

49. Complainant will not benefit from the highway improvements recommended in the LPA because complainant has low income and cannot afford to own or operate an automobile.

50. Complainant is representative of tens of thousands of similarly situated African American persons who live in Study Sections 1 through 4 who have low incomes, are elderly, have disabilities and do not own or cannot drive an automobile.

E. PRACTICE AND PATTERN OF TRANSPORTATION DECISION MAKING AND FUNDING BY WisDOT

51. This Complaint must be considered in the context of the history of transportation decision making and funding by WisDOT. This history demonstrates a pattern and practice that has consistently favored highway projects and has disfavored mass transit and the regions of the state where mass transit plays a critical role in providing mobility. This pattern and practice has consistently ignored the mobility needs of persons who do not own automobiles, and specifically the mobility needs of minorities, low income persons, the disabled and the elderly in urbanized areas who do not own automobiles. In addition to ignoring the mobility needs of a significant portion of the state's population in general and of the state's urban population in particular, this pattern and practice has been a catalyst for urban sprawl which has further exacerbated the economic disadvantages of urban areas and their citizens and has been a catalyst for increased single occupancy vehicle usage further exacerbating air pollution problems in the state's urban areas. In short, "intermodal" is a dirty word at WisDOT. The transportation needs of low income and minority residents of Wisconsin are not on WisDOT's radar screen. WisDOT is not a department of "transportation" but a department of automobiles.

52. Between 1986 and 1992, the non partisan Wisconsin Legislative Audit Bureau estimates that state transportation expenditures for highways increased by 64% from just over \$400 million to about \$750 million annually. In the category of major highway improvements, spending increased 98.1% from \$56.7 Million to \$154.4 Million annually. Expenditures on mass transit, however, increased by only 7% (essentially

stagnating at around \$90 million annually).

53. Milwaukee County, the most populous and urbanized Wisconsin county and home to the vast majority of Wisconsin's African American population, does not receive its fair share of WisDOT transportation spending. Between 1974 and 1991, Milwaukee County comprised 20.26% of the state population, but received only 13.64% of state transportation spending and only 10.78% of state highway spending. In addition, WisDOT per capita transportation expenditures in Milwaukee County was \$38.53 compared to state wide per capita spending of \$72.44 or 46.8% less.

54. In 1991, spending per Wisconsin resident on highways was almost ten times the amount spent per capita on mass transit. In Waukesha County, per capita spending on mass transit was less than 5% of that spent on highways.

55. Transportation System Plans (long range planning that is now mandated by ISTEA) developed by SEWRPC during the last three decades have consistently recommended increased and improved mass transit in the Milwaukee metropolitan area. These goals have never been met. However, SEWRPC goals for expanding, building and improving highways have been met or exceeded. This disparity has largely been a function of WisDOT fiscal policy which, among others, requires local units of government to fund the non federal share of capital costs for mass transit improvements while WisDOT assumes the burden for the non federal share of capital costs for highway projects.

V. APPLICABLE LEGAL AUTHORITIES

56. Complainant bases this complaint on Title VI and ISTEA, and the rules and regulations promulgated thereunder, and on Executive Order 12898.

A. Title VI of the 1964 Civil Rights Act

57. Title VI provides that

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

58. USDOT's applicable regulations prohibit not only intentional discrimination, but proscribe the use of federal funds in ways that have racially discriminatory effects. 49 C.F.R. 21.5(2) provides in pertinent part as follows:

A recipient, in determining the types of services, financial aid, or other benefits, of facilities which will be provided under any such program...may not, directly or through contractual or other arrangements,

utilize criteria or methods of administration **which have the effect** of subjecting persons to discrimination because of their race, color, or national origin; or **have the effect** of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color or national origin. (emphasis added).

49 C.F.R. 21.5(3) provides as follows:

In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose **or effect** of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies on the grounds of race, color, or national origin; or with the purpose **or effect** of defeating or substantially impairing the accomplishment of the objectives of the Act or this part. (emphasis added).

49 C.F.R. 21.5(1) provides in pertinent part as follows:

A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin:

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that which is provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any manner related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the **enjoyment of any advantage or privilege enjoyed by others** receiving any service, financial aid, or other benefit under the program; . (emphasis added):

59. The September 29, 1997 decision of Tommy Thompson and Charles Thompson and the continuing action and inaction of WisDOT pursuant thereto, constitute a violation of the aforementioned regulations in that the expenditure of federal funds for conducting PE/FEIS of only the highway portions of the LPA and not the mass transit portions of the LPA has the effect of discriminating against African Americans because they are disproportionately transit dependent, are disproportionately poor, are disproportionately unemployed and disproportionately inhabit the Study Sections (Sections 1,2, 3, & 4) of the East-West Corridor where the recommended mass transit improvements would be located.

60. The mass transit improvements of the LPA were specifically found to be necessary to improve the mobility of transit dependent citizens, who are disproportionately African American, and to enable unemployed and underemployed citizens in the East-West Corridor, who are disproportionately African American, to access areas of job growth in the suburban areas of the East-West Corridor and thus address the worker/job mismatch.

61. In contrast, the highway improvements of the LPA for which federal and state funds will be used to conduct PE/FEIS are primarily located in the Study Sections (Sections 5 & 6) which are predominately white. The persons who will utilize and therefore benefit from these highway improvements are predominately white.

B. ISTEA

62. ISTEA, among others, governs the transportation planning and funding process that is overseen locally by WisDOT and the governor. ISTEA was, among others, intended to initiate a cooperative, comprehensive and intermodal transportation planning process at both the metropolitan and state levels.

49 U.S.C. §5301(a) provides as follows:

Development of Transportation Systems. It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation in a manner which will efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution.

63. The United States Congress made specific findings regarding the need for comprehensive intermodal transportation planning.

49 U.S.C. §5301(b) provides in pertinent part as follows:

(2) the welfare and vitality of urban areas are jeopardized by deteriorating or inadequate urban transportation services and facilities, the intensification of traffic congestion and the lack of coordinated, comprehensive, and continuing development planning, 49 U.S.C. §5301(b)(2);

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economic and convenient transportation in and between urban areas, 49 U.S.C. §5301(b)(3);

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the

Thompson unilaterally decided to modify and amend the LPA by refusing to spend any federal or state funds on further study and evaluation of the duly recommended mass transit improvements. In so doing, they gave no consideration to intermodalism, the needs of low income and minority households, the elderly or the disabled and did not consider the need to maintain and revitalize mass transit in urban areas.

69. Furthermore, they acted without any public hearings, review by local elected officials or any specific findings regarding whether their unilateral decision complied with ISTEA and regulations promulgated thereunder or with the duly adopted and approved Transportation Improvement Plan for the Milwaukee Metropolitan area. Their decision was in fact directly contrary to the public comments gathered pursuant to ISTEA. Tommy Thompson and Charles Thompson simply ignored the views of local citizens and local elected officials. Public input was entirely irrelevant.

C. EXECUTIVE ORDER 12898

70. On February 11, 1994 the President of the United States issued Executive Order 12898 entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". Section 1-101 of that Order provides in pertinent part as follows:

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States....

Section 2-2 of the Order provides in pertinent part as follows:

Sec. 2-2. Federal Agency Responsibilities for Federal Programs. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities **do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefit of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities because of their race, color, or national origin.** (Emphasis added).

71. On February 3, 1997, the Secretary of Transportation issued a final order entitled "DOT Order to Address Environmental Justice in Minority Populations and Low Income Populations", OST Docket No. 50125. This final order implemented Executive Order 12898.

72. In the present case, the decision of Tommy Thompson and Charles Thompson and the continuing action and inaction of WisDOT pursuant thereto which propose to use federal funds to conduct further study of select components of the LPA that benefit white persons and geographic areas primarily inhabited by affluent white citizens and refuse to spend federal funds to conduct further study of other components of the LPA that would benefit minority and low-income persons and benefit geographic areas inhabited primarily by minority and low-income citizens constitutes a direct violation of this Executive Order and DOT Order.

VI. REMEDIES SOUGHT BY COMPLAINANT

73. Complainant requests USDOT to take the following actions pursuant to 49 C.F.R §21.13:

(a) Suspend and terminate the transfer of any and all federal funds to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, which would be used directly or indirectly to perform PE/FEIS in connection with all or any portion of the LPA adopted by WisDOT following completion and approval of the MIS/DEIS.

(b) Refuse to grant federal monies, now or in the future, to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, for the performance of PE/FEIS in connection with all or any portion of the LPA adopted by WisDOT following completion and approval of the MIS/DEIS.

(c) Suspend and terminate the transfer of any and all federal funds to WisDOT, or any other agency, office of instrumentality of the State of Wisconsin, which would be used, directly or indirectly, to plan, design, implement, construct or build any and all transportation improvements contemplated in said LPA, including, but not limited to, the reconstruction of the IH 43/94 Marquette Interchange in the City of Milwaukee and the modernization and reconstruction of IH 94 from downtown Milwaukee to Wisconsin STH 164 in Waukesha County.

(d) Refuse to grant federal funds, now or in the future, to WisDOT, or any other agency, office or instrumentality of the State of Wisconsin, to plan, design, implement, construct or build any and all transportation improvements contemplated in said LPA, including, but not limited to, the reconstruction of the IH 43/94 Marquette Interchange in the City of Milwaukee and the modernization and reconstruction of IH 94 from downtown Milwaukee to Wisconsin STH 164 in Waukesha County.

(e) Direct WisDOT and the Governor to reimburse complainant and her counsel for the costs, including actual attorney fees, incurred in prosecuting this Complaint as a condition for the restoration of any and all federal funds for PE/FEIS and/or implementation of the improvements contemplated therein.

In the alternative, complainant requests that USDOT compel Tommy Thompson, Charles Thompson and WisDOT to perform a Preliminary Engineering/Final Environmental Impact Statement study of all transportation improvements recommended in the Locally Preferred Alternative.

VII. CONCLUSION

This Complaint is about a process and the decision of Tommy Thompson and Charles Thompson which unilaterally and arbitrarily rejected the results of that process after a Locally Preferred Alternative had been developed that recommended an intermodal solution to transportation needs in the East-West Corridor of the Milwaukee metropolitan area. Because federal funds have been used and are to be used in future phases of the study, evaluation and implementation of these transportation improvements, Title VI, 49 CFR Part 21 et. seq., ISTEA and Executive Order 12898 are implicated in the process.

The direct impact of Tommy Thompson and Charles Thompson's decision is to permit the further study, evaluation and possible implementation of certain highway improvements that primarily benefit white citizens and geographic areas primarily inhabited by affluent white citizens and not permit the further study, evaluation and, therefore, possible implementation of recommended mass transit improvements that would primarily benefit African American and low income residents of the corridor and that would primarily benefit geographic areas primarily inhabited by African American and low income residents.

Such disparate impact, directly flowing from an executive decision by state officials involving the use of federal funds, is a quintessential example of what Title VI, 49 CFR Part 21 et. seq., ISTEA and Executive Order 12898 are designed to prevent.

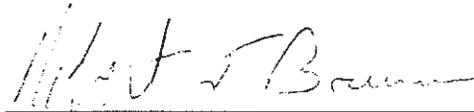
If this decision is allowed to stand, and federal funds are spent on an PE/FEIS study of only the highway improvements recommended in the LPA, Congress may as well repeal Title VI and ISTEA, and the President may as well rescind Executive Order 12898 for they will have little meaning to state transportation officials and agencies. A federally mandated and sanctioned process was commenced, goals and objectives were established, the process was completed, a Locally Preferred Alternative was adopted that best met those goals and objectives and then Tommy Thompson and Charles Thompson simply ignored the results and did what they wanted regardless of the law. This is not what Congress and the President had in mind when Title VI, ISTEA and Executive Order 12898 were enacted and issued.

Furthermore the decision of Tommy Thompson and Charles Thompson had the intent and effect of perpetuating and reinforcing patterns of segregation, unemployment and economic distress that disproportionately impact African Americans and other minorities and disfavoring poor Central City urban areas while favoring affluent suburban areas. Their decision was based on considerations of race and class. Such considerations have no place in decision making that involves the expenditure of

federal funds.

For these reasons, the Complainant respectfully requests the relief demanded herein.

Dated this 18th day of November, 1998.

A handwritten signature in cursive script, appearing to read "Robert J. Bauman".

Robert J. Bauman
Attorney for Complainant

P.O. Address:
808 N. Third Street
Suite 327
Milwaukee, Wisconsin 53203
(414) 273-3585

Exhibit O

ENROLLED RESOLUTION 164-11

OPPOSITION TO INCLUDE WAUKESHA COUNTY IN THE REGIONAL TRANSIT
AUTHORITY FOR SOUTHEASTERN WISCONSIN

WHEREAS, the Governor and Legislators from Milwaukee, Kenosha and Racine counties have proposed legislation that creates a Southeastern Regional Transit Authority (SERTA) to improve bus and rail service in Milwaukee, Kenosha and Racine counties; and

WHEREAS, the proposal of any legislation that authorizes the creation of a new type of Regional Transit Authority known as an Interim Regional Transit Authority (IRTA), which is a public body corporate and politic, which IRTA may be established by a municipality or county in the counties of Kenosha, Milwaukee, Ozaukee, Washington, Racine and Waukesha; and

WHEREAS, the SERTA must assume responsibility for providing transit service and transit planning within the jurisdiction covered by the IRTA, when defined revenue thresholds are met; and

WHEREAS, an IRTA may generate revenue by imposing a local motor vehicle registration fee, levying a room tax of up to 8 percent, imposing a sales and use tax, or charging a membership fee to the participating political subdivision of the IRTA; and

WHEREAS, Waukesha County has limited public transit services which does not include planned routes for commuter rail; and

WHEREAS, Waukesha County has no potential for major property tax relief as is anticipated in the legislation for the current counties with extensive public transit systems; and

WHEREAS, Waukesha County supports the governance of our local transit services by the County's elected Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED by the Waukesha County Board of Supervisors that Waukesha County not be included in any SERTA legislation unless the Waukesha County Board votes in the affirmative to participate.

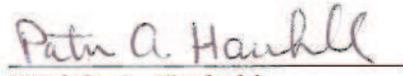
BE IT FURTHER RESOLVED that Waukesha County could opt out of a regional transit agreement with one years notice.

BE IT FURTHER RESOLVED that the County Clerk is instructed to send a copy of this resolution to all Southeastern Counties in the State of Wisconsin, all Senators and Representatives serving Waukesha County, the Southeastern Wisconsin Regional Planning Commission and the Wisconsin Counties Association.

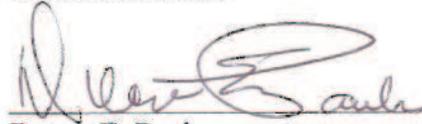
OPPOSITION TO THE SOUTHEASTERN WISCONSIN REGIONAL TRANSIT
AUTHORITY AS PROPOSED IN THE 2009-2011 GOVERNOR'S BUDGET

Presented by:
Executive Committee


James T. Dwyer, Chair

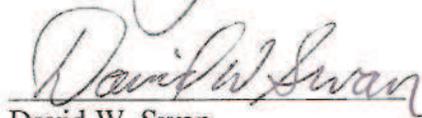

Patricia A. Haukohl


Bonnie J. Morris

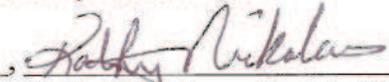

Duane E. Paulson

ABSENT
Fritz Ruf


Thomas J. Schellinger

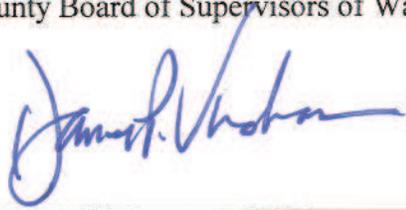

David W. Swan

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,
Wisconsin, was presented to the County Executive on:

Date: 3-30-2010, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,
Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 3-30-10, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/23/10

(RES) NUMBER-1640002

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 P. DECKER.....AYE
15 P. MEYERS.....
17 J. TORTOMASI.....AYE
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 J. PLEDL.....AYE
25 G. YERKE.....AYE

2 T. ROLFS.....
4 J. DWYER.....AYE
6 J. BRANDTJEN.....
8 T. SCHELLINGER....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 B. MORRIS.....AYE
16 D. PAULSON.....AYE
18 K. CUMMINGS.....AYE
20 P. JASKE.....AYE
22 P. GUNDRUM.....
24 W. KOLB.....AYE

TOTAL AYES-21

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-21