

May 8, 2006

Ms. Karyn L. Rotker  
Poverty, Race & Civil Liberties Attorney  
American Civil Liberties Union of Wisconsin  
207 East Buffalo Street, Suite 325  
Milwaukee, WI 53202-5774

Dear Ms. Rotker:

This will respond to your memorandum of May 2, 2006, expressing concerns about the adequacy of the Commission's Federally required analyses of the impacts on low-income and minority residents attendant to the regional transportation plan. Before addressing the points raised in the memorandum, we would make the following statements concerning this matter:

1. The Commission strives to do all it can to comply with the letter and the spirit of the "environmental justice" requirements set forth in Federal law attendant to transportation planning. Moreover, we try to comply with the spirit of those requirements in other Commission regional planning efforts as well. The essence of the Federal "environmental justice" requirement is that "high and adverse" effects of transportation system development proposals, should such effects be found to disproportionately impact low-income and minority populations, be identified, avoided, minimized, and/or mitigated. In other words, while there may be adverse impacts attendant to transportation system development proposals, the transportation agency concerned has a responsibility to document, using the best available data, whether or not such adverse impacts fall significantly more upon low-income and minority groups than upon those members of the public who are not in those groups. In addition, low-income and minority populations are to receive the benefits of the transportation system, and to be given opportunities to participate in the planning process.
2. Commission regional plans are done at what is called the "regional" and "systems" level of planning. As such, analyses of impacts of all kinds are necessarily general in nature and represent the best estimates of impacts that would actually be incurred should transportation proposals be implemented through project design and construction. Commission regional and system impact analyses cannot be done at the depth and level of precision found in "project" level planning, engineering design, and environmental impact statement preparation.
3. The Commission's planning processes are continuous in nature. While at present we are busily engaged in completing and readying for Commission adoption an updated regional transportation system plan, that plan must be periodically reviewed, reaffirmed, and updated and extended to a new design year. Thus, the plans and analyses prepared should be viewed as iterative in nature, with each iteration improving upon the last. We might note in this respect that the "environmental justice" document released by the Commission staff as part of the public hearing process on an updated and extended regional transportation system plan was a draft document, with the intent that any comments on the draft will result in modifications to the draft before it is provided to the Regional Planning Commission for its consideration. In February, you, along with other groups, submitted some of these same comments about this draft report. A copy of a revised draft report which has been amended to respond to all comments made, is enclosed as Exhibit A.

4. Lastly, you raise concerns about the composition of the Commission’s Advisory Committee on Regional Transportation Planning, which has guided the preparation of the regional transportation plan. This Committee is composed of representatives of local (county and municipal) units of government within southeastern Wisconsin with a population-proportional basis (the Mayor of Milwaukee has four representatives). The only exception to the local government representatives is representatives from the State of Wisconsin Departments of Transportation and Natural Resources and the U.S. Department of Transportation and Environmental Protection Agency.

The following comments specifically respond to the points raised in the memorandums:

1. You question Table C-4 in the draft report which presents for each county and the region the percentage of the total population located in proximity to the freeways proposed to be widened under the plan that is of each minority population—Black/African American, American Indian or Alaskan Native, Asian or Pacific Islander, Other Minority, or Hispanic—or of low-income to the percentage of the total population of each county and the Region which is of each minority or low-income population. You ask that Table C-4 be modified to include analyses of the total minority population and you request that the text be modified to describe the minority and low-income population adjacent to freeways proposed to be widened as compared to the total minority and low-income population in each county and the Region.

Table C-4 has been modified as requested, and the text describing Table C-4 has been modified also as follows:

“The results of this analysis, as presented in Table C-4, indicate that within each county the percentage of the total population located in proximity to the freeways proposed to be widened under the regional plan alternative that is of a minority population—Black/African American, American Indian or Alaskan Native, Asian or Pacific Islander, Other Minority, Hispanic, and total minority population—or of low-income is generally similar (equal or only a few percent lower or higher) to the percentage of the total population of each county which is of a minority or low-income population. On a regional level, the percentage of the total population located in proximity to proposed widened freeways that is of each minority group population or of low-income is a few percent higher—between 0.2 and 3.8 percent higher—than the percentage of the total population in the seven-county Region that is of a minority population. For example, about 18.1 percent of the population adjacent to proposed widened freeways within the Region are Black/African American, and about 14.3 percent of the total Region population is Black/African American. Also on a regional level, about 30.7 of the population that is located in proximity to freeways are minorities, as compared to about 23.7 percent of the total Region population are minorities. Thus, this analysis would appear to indicate that at the county level there is not a significant over-representation of minority and low-income populations in areas located in proximity to the freeways proposed to be widened. With respect to the Region as a whole, there is a greater minority and low-income population in areas adjacent to freeways proposed to be widened.”

2. You suggest that SEWRPC did not incorporate demographic data on low-income and minority households in all aspects of the regional transportation plan and land use plan.

Detailed demographic data on minority and low-income populations have been used throughout the preparation of the regional land use and transportation plans. This demographic data is set forth on Maps C1 through C7 and Tables C1 through C3 and C-15 in the document attached as

Exhibit A. These data are taken from the U.S. Census of Population and Housing conducted in 2000, and represent the most detailed data available for this purpose. These data were used to prepare the Federally required “environmental justice” analysis and throughout the preparation of the regional transportation system plan and land use plan. Indeed, these data have been used in prior Commission work, including the regional freeway reconstruction study.

3. You state that we did not consider U.S. Census Year 2000 data regarding residence, workplace, occupation, and income for minority populations.

This data was indeed considered. The residence data is summarized in Maps C1 through C7 and Tables C1 through C3 of Exhibit A. Data on workplace, occupation, and income were also reviewed and analyzed. However, the evaluation of the regional transportation plan was directed towards how well the future transportation system would connect the minority and low-income population with all future jobs and job locations, and not just current job types and locations. Comments from minority populations suggested that this be the focus of our analysis. Maps C29 through C37 attempt to show how the public transit element of the regional transportation plan would connect minority and low-income populations with jobs.

4. You state that the environmental justice analysis should further emphasize the greater dependence of minority and low-income populations on public transit, by not only citing data on household vehicle availability, but also data on driver licenses.

The text describing Table C15 regarding minority population group vehicle ownership and availability will be expanded to include a discussion of the holding of driver licenses:

As shown in Table C-15, low-income households and a number of minority populations are particularly dependent upon public transit, as a significant proportion of those populations have no private vehicle available for travel. Driver’s license data indicate a similar conclusion. Only about 68 percent of Milwaukee County Black/African American households indicate they have an automobile available for travel, and only an estimated 60 percent of Black/African American adults have a driver’s license. Only about 80 percent of Milwaukee County Hispanic households indicate they have an automobile available for travel, and only an estimated 50 percent of Hispanic adults have a driver’s license.

5. You state your concern that the text states that “residing in proximity to an arterial street or highway proposed to be widened is perceived as having adverse effects”.

This text was changed on March 8, 2006, by the staff and Advisory Committee to state: “Automobile and truck traffic on arterial streets and highways emit air pollutants and noise”.

6. You state that SEWRPC presupposes that congestion is a problem and that it will worsen without highway expansion.

Your statement is simply not correct. An alternative which proposed doubling public transit service, including development of complete rapid transit commuter rail and express transit bus guideway systems, was fully tested and evaluated through application of travel simulation models. This testing and evaluation demonstrated that this expansion of public transit would have minimal impact on reducing existing and future traffic congestion. This is because travel on public transit represents only about 2 percent of all travel in the Region. Even with a doubling of public transit, travel on public transit may be expected to account for less than 3 percent of all

travel in the Region. This was determined to have little impact on current traffic volumes and congestion, and on a projected 40 percent growth in travel to the year 2035.

7. You raise a concern about the equity of the transit and highway elements of the plan as transit accessibility to jobs in the year 2035 under than plan is less than highway accessibility to jobs.

The year 2035 regional transportation plan proposes a doubling of public transit service, but only a 4 percent increase in the lane-miles of arterial streets and highways. An estimated 34 percent of plan capital and operating costs are proposed to be allocated to public transit, which is expected to carry about 3 percent of all travel within the Region. It is axiomatic that, given the essential differences between automobile travel and transit travel and given the diffuse land use patterns, transit will never result in the same accessibility to jobs as automobiles.

8. You suggest that the analysis of the proposed transit element of the regional plan address how transit will improve accessibility to jobs for 2<sup>nd</sup> and 3<sup>rd</sup> shift workers.

The text describing the public transit recommendations of the regional plan and its potential benefits describe the proposed expansion of rapid transit service from a largely peak-period, peak direction, weekday service to an all day and evening, bi-direction, weekday and weekend service, and the proposed provision of express and local service on similar basis -- all day and evening, bi-direction, and weekday and weekend service. The proposed plan would greatly improve service for 2<sup>nd</sup> and 3<sup>rd</sup> shift workers, although it will not address every conceivable travel need. To further illustrate this, the following text has been added:

The transit element of the regional plan would in particular provide an expansion of service to serve 2<sup>nd</sup> and 3<sup>rd</sup> shift workers. Rapid transit service would be significantly expanded from a largely peak-period, peak direction, weekday service to an all day and evening, bi-direction, weekday and weekend service. The proposed express and local transit service would also be all day and evening, bi-direction, weekday and weekend service. Table C-16 illustrates the proposed expansion of transit service hours under the regional plan.

9. You state that “In an email I sent you on Sept. 30, 2005, I specifically requested consideration of the impact of then-occurring gas price increases on transportation options, but SEWRPC failed to do so.” Your September 30, 2005, e-mail stated: “the 2035 plan calls for much more development of alternatives to highway expansion - given that, plus rising gas prices, plus (what New Orleans made very clear) the limited transportation options of low-income and minority communities, plus the recent cutbacks in transit service and fare increases - all highway expansion - including the I-94 widening in Milwaukee - needs to be reconsidered.”

The consideration of highway capacity expansion as part of the regional plan was first initiated at a December 2005 meeting of the Advisory Committee. At that same meeting, the Advisory Committee first considered the current and potential future cost of motor fuel. All consideration and evaluation of the regional transportation plan was done within the context of the existing and potential future price of motor fuel. Again, the regional plan proposes a doubling of transit service and a 4 percent expansion of arterial street and highway lane-miles. In addition, the proposed highway capacity expansion was designed to address highway traffic volumes and congestion which would remain even with a doubling of transit service, including development of complete rapid transit commuter rail and express transit bus guideway systems, and even with current and projected future high motor fuel prices.

10. You state that the “current or proposed accessibility to services and facilities other than jobs - including schools, medical care, shopping, and recreation” -- was not evaluated.

This information was not presented in the “environmental justice” document, but was included in the evaluation of the regional plan. (See Chapter VIII, “Regional Transportation Plan Development and Evaluation” of SEWRPC Planning Report No. 49, A Regional Transportation System Plan for Southeastern Wisconsin: 2035). The following text with attendant maps has been added to the “environmental justice” analysis:

Maps C-40 through C-43 illustrate how the transit element of the plan would improve transit service, particularly with expanded rapid transit service and new express transit service, to hospitals, colleges and universities, recreational facilities, and major passenger terminals. Maps C-44 through C-48 further illustrate the improvement in transit service under the plan to major retail centers, hospitals, major parks, technical colleges and universities, and General Mitchell International Airport.

11. You note that public transit has expanded in the late 1990’s, but has been in decline in the 2000’s. You state that “SEWRPC has not, however, made a serious or meaningful effort to determine how to immediately implement transit improvements; to evaluate how to encourage increased transit use by low-income and minority communities and others, especially in light of rising gas prices and road construction; or to evaluate whether increasing transit usage and limiting road construction (or some other method) could render some of the widening plans unnecessary.”

With respect to the implementation of transit improvements, the staff and Advisory Committee concluded that State funding was key to the increases in transit in the late 1990’s and the declines in the early 2000’s. The plan recommends that the State return to providing sufficient funding to address inflation and provide for system expansion as recommended by the plan. The plan also recommends local dedicated funding for public transit, and a regional transit authority. To encourage increased transit use, the regional plan has been developed, and is recommended to be implemented. The plan includes greatly expanded service coverage, days of service, hours of service, frequency of service, and development of true rapid and express transit services. Lastly, the expansion of public transit was first examined under the regional plan, and highway capacity expansion was proposed only to address the traffic volumes and congestion that would remain even with a doubling of public transit service, including development of rapid transit commuter rail and express transit bus guideway systems.

12. You state that you brought to our attention a newspaper article which referenced a U.S. Environmental Protection Agency report regarding toxic emissions levels and state that the Commission did not utilize the data in the “environmental justice” report.

The Commission staff did review this report. It provided estimates of toxic emissions and pollutant levels from chemical factories. The Commission staff did prepare estimates of transportation related air pollutant emissions, including toxic substance emissions. Harmful emissions of both volatile organic compounds and nitrogen oxides -- the precursors of ozone -- from transportation sources are expected to continue to dramatically decline over the next thirty years. Thus, the transportation sector will significantly contribute to the lessening of adverse impacts in terms of ozone pollution. Indeed, by the year 2035 these harmful pollutants from transportation sources, even with increasing traffic, may be expected to be reduced by about 73 percent from current emission levels with respect to volatile organic compound pollutants, and be reduced by about 88 percent with respect to nitrogen oxide pollutants.

The following text is proposed to be added to the “environmental justice” report:

Transportation system air pollutant emissions have been declining even with increasing traffic, and are projected to continue to decline even with the projected 40 percent regionwide increase in traffic under the plan. As shown in Table C-3A, ozone – related emissions are projected to decline by over 70 percent, fine particulates and carbon monoxide by over 50 percent, and air toxic substances by 70 percent.

13. You state that you asked Commission staff attempt to identify qualitative data on conditions in minority and low-income communities that would be useful for transportation and land use planning, and elicit issues of concern to minority and low-income communities.

The Commission staff has conducted extensive outreach to minority and low-income communities in an attempt to identify issues of concern. The issues identified include a need to improve and expand transit service. The regional plan was designed to address this need. Other issues included concern with traffic congestion, and the role of minority labor force and businesses on transportation projects. Many of the concerns the Commission has heard within the minority and low-income communities of the Region may be thematically grouped under employment concerns: job availability, location, access, and commute options and times. The regional transportation system plan proposed rapid and express transit improvements which would more than double the population served and nearly triple the employment served under the existing system.

14. Lastly, you note that a disproportionate number of the Region’s minority and low-income population reside in Milwaukee County, and that there has been “no evaluation of whether or how the disproportionate impact on Milwaukee County could adversely affect low-income and minority communities.

We strongly disagree with your conclusion. The analysis that has been done has presented results at county and regional levels, and has specifically addressed your concern. For example, we would note that Table C-4, which analyzes the population adjacent to freeways proposed to be widened, presents such data at county and regional levels to specifically address this issue. Table C-4 indicates that within each county the percentage of the total population located in proximity to the freeways proposed to be widened under the regional plan that is of a minority population—Black/African American, American Indian or Alaskan Native, Asian or Pacific Islander, Other Minority, Hispanic, and total minority population—or of low-income is generally similar (equal or only a few percent lower or higher) to the percentage of the total population of each county which is of a minority or low-income population. However, on a regional level, the percentage of the total population located in proximity to proposed widened freeways that is of each minority group population or of low-income is a few percent higher—between 0.2 and 3.8 percent higher—than the percentage of the total population in the seven-county Region that is of a minority population. For example, about 18.1 percent of the population adjacent to proposed widened freeways are Black/African American, and about 14.3 percent of the total Region population is Black/African American. Also, on a regional level, about 30.7 percent of the population that is located in proximity to proposed widened freeways are minorities, as compared to about 23.7 percent of the total Region population are minorities. Thus, this analysis specifically addressed your concern, indicating that there is not a significant over-representation of minority and low-income populations in areas located in proximity to the freeways proposed to be widened within each county. With respect to the Region as a whole, there is a greater minority and low-income population in areas adjacent to freeways proposed to be widened.

It should also be noted that most of the transit service improvement and expansion under than plan is within central Milwaukee County, and particularly serves minority and low-income populations.

Again, the Commission strives to do all it can to comply with the letter and spirit of “environmental justice” to identify the impacts of the regional plan on minority and low-income populations. We hope to learn from each regional planning effort to develop improvements in the next effort.

Sincerely,

Philip C. Evenson  
Executive Director

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Enclosures

cc: Mr. Lee Holloway, Chairman, Milwaukee County Board of Supervisors  
Members, Milwaukee County Board of Supervisors  
Mr. Thomas Barrett, Mayor, City of Milwaukee  
Members, City of Milwaukee Common Council  
Mr. Dwight E. McComb, Planning and Program Development Engineer,  
Federal Highway Administration

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