

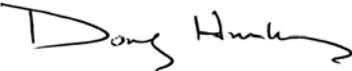


# TRANSPORTATION PERFORMANCE AUDIT BOARD

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Date: June 30, 2006

To: Governor Christine Gregoire  
Senate Transportation Committee  
House Transportation Committee

From: Doug Hurley, Chair 

Subject: Review of Port Angeles Graving Dock Project Performance Audit

In May 2005, the Transportation Performance Audit Board (TPAB) contracted with the Joint Legislative Audit and Review Committee (JLARC) to conduct a review of the Port Angeles Graving Dock Project. The audit reviews the chain of events, starting with the initial Hood Canal Bridge replacement project, which led to the decision to construct a graving dock at the Port Angeles site and to the abandonment of that construction due to the discovery of a historically significant Native American village with extensive archaeological resources and human remains. The review addresses legislative and TPAB member questions concerning the Hood Canal Bridge project and the graving dock including site selection, environmental permitting, archaeological assessment, and the interactions of interested parties. JLARC also conducted a fiscal review that provides an analysis of expenditures on the Port Angeles site.

Most importantly from TPAB's viewpoint the study, based on the information obtained from the review, identifies lessons learned that can be incorporated into project procedures to minimize risks for future WSDOT projects. This was an explicit part of TPAB's charge to JLARC. The public has entrusted the Washington State Department of Transportation (WSDOT) with one of the largest capital programs in the nation with over 1,500 projects in the 2005 ten-year investment plan and \$19.7 billion in planned expenditures. WSDOT will be making crucial pre-construction decisions in the immediate future on projects that are in archaeologically sensitive areas including such major projects as the Alaskan Way Viaduct, the Columbia River Crossing, the SR 520 bridge and improvements to the Washington State Ferry terminals.

We simply cannot afford to let pass an opportunity to learn from the decisions that led ultimately to a three year delay in completion of the Hood Canal Bridge East-Half Replacement/Rehabilitation Project and contributed in a significant way to an increase in the project budget from \$275 million in June 2003 to \$470 million in March 2006. This is not an effort to lay blame. We respect the hard work and tremendous effort made by teams of staff from WSDOT, the Department of Archaeology and Historic Preservation (DAHP), and other state agencies to make difficult decisions in fast moving circumstances and in circumstances that, with the discovery of large numbers of human remains, became increasingly emotionally charged.

At its final meeting today TPAB has received the audit and approved its distribution to you. In doing so, we add to the report additional comments and observations based on the knowledge and experience of our members. We urge you to consider providing funding within the transportation improvement program to enhance WSDOT's project management

capabilities and for the development of additional information on buried archaeological sites in areas where major transportation projects are planned. Such funding would represent important investments from the lessons learned from the graving dock project.

### **AUDIT RECOMMENDATIONS**

We note that the agency responses from WSDOT, DAHP and the Office of Financial Management (OFM) concur with the overwhelming majority of the recommendations. Only two recommendations are not concurred in by WSDOT and both of those have concurrence or partial concurrence from one of the other agencies.

WSDOT has already implemented substantial improvements in project management, environmental permitting and, with DAHP, in archaeological assessment and consultation. These improvements, some of which are the direct result of TPAB assessments of WSDOT's project management and environmental permitting practices, are outlined in the attached summary and provide an important context within which to consider the audit's recommendations.

#### **Site Selection/WSDOT Project Management**

The audit makes seven recommendations related to project management stemming from its review of site selection. We concur with these recommendations, with the same caveats expressed by OFM that strategic partnering to improve intra- and inter-agency relationships, requiring mandatory implementation and evaluation plans on new processes, and the use of consulting firms for project and program management should be done judiciously and where cost-effective. We note that OFM and WSDOT otherwise concur with or take no position on the project management recommendations.

Most importantly, TPAB notes the underlying emphasis that the audit places on the importance of quality project management in furthering the states' investment in transportation. Highly skilled, motivated and well-trained people are key to the goal of managing the WSDOT capital program so that projects are delivered within established schedules, budgets and scopes.

WSDOT, as outlined in the attached summary, is making improvements in project management that are partially the result of recommendations made in an earlier TPAB study conducted by JLARC and Gannet Fleming. Executive Order 1032.00 issued on July 1, 2005 by Secretary MacDonald mandates refinements to WSDOT's project management process. WSDOT has, among other actions, invested in training programs for its staff, engaged consulting assistance for project implementation and increased the level of staffing of its Cultural Resources Section. TPAB urges the Governor and Legislature to make further investments that:

1. Improve WSDOT's project management and financial reporting information systems: Through Eclipse Solutions' *Critical Applications Modernization & Integration Strategy* report of December 2005 and WSDOT's statewide program management group, WSDOT is identifying specific investments needed to bring its information systems to the level of sophistication necessary to manage its capital program. TPAB once again recommends that requests for funding of these systems be given high priority by the Governor and Legislature.
2. Allow WSDOT to attract and retain top flight project staff: We note with alarm the information contained in recent WSDOT reports on upcoming retirements of project related staff and the high turnover of their entry level project engineers. Finding ways to attract and retain project staff will be critical to the success of the capital program and we recommend funding be provided for such efforts.
3. Increase WSDOT's strategic capacity: At the time of the Hood Canal Graving Dock WSDOT had two major highway projects, the Hood Canal Bridge and the Tacoma Narrows Bridge. Today WSDOT is responsible for many more projects that are as

complex and fraught with potential problems as these two. WSDOT should consider the addition of experienced staff and consultants that can assist the Secretary and Assistant Secretary with oversight of these major projects.

4. Increase training for WSDOT staff: WSDOT has developed a project management training program to be supplemented by recommendations from the statewide program management group. Funding this training, particularly modules related to cultural resources, will be important to improve future WSDOT projects.

### **Environmental Permitting**

The audit makes three recommendations with regards to environmental permitting. OFM concurs with all three recommendations and WSDOT agrees or generally agrees with two. WSDOT does not concur with the recommendation to promote stronger inter-agency permitting team leadership by finding someone who can act as a facilitator for the team.

In Oct. 2005, JLARC issued a Business Process Review of Environmental Permitting for Transportation Projects report to TPAB. The review noted that the most important priority for process improvements should focus on efforts that improve communication followed by improvements that result in clear and complete applications, timely regulatory review and the use of supporting technology.

The Hood Canal Bridge Project was one of the pilot projects for the Transportation Permit Efficiency and Accountability Committee (TPEAC). TPEAC dissolved in March 2006, with the Governor's Office of Regulatory Assistance (ORA) now working statewide to build on the progress made under TPEAC, including continuation of the Transportation Multi-agency Permitting Team (MAP) process and the development of multi-agency program permits. As noted in the attached matrix, WSDOT has been a leader in working with these multi-agency systems and in securing programmatic permits.

### **Archaeological Assessment/Consultation**

The report includes eighteen recommendations related to archaeological assessment and consultation with tribes. TPAB notes that DAHP concurs with all of the recommendations on which it chose to comment, that OFM concurs, partially concurs, or concurs subject to funding availability with all of them and that WSDOT concurs, generally concurs, or takes no position on all but one of the recommendations.

WSDOT does not concur with the recommendation that a standard protocol for project documentation that includes written monthly summaries and recording meeting minutes be developed. TPAB finds DAHP's response that such summaries and meeting minutes are crucial to communication compelling. Both the May 16, 2006 WSDOT Report to the Governor and Legislature on the Hood Canal Bridge Rehabilitation Project and Graving Dock Program and the audit state that one of the problems during the period from March 2004 when the Memorandum of Agreement (MOA) was signed and September 2004, was that the WSDOT project manager did not comply with the requirement under the MOA to provide project summaries and monthly reports.<sup>1</sup> WSDOT manages a wide range of projects, varying significantly in size and type. While a standard protocol for all projects may not be necessary, a standard protocol for reporting on major, complex projects may help avoid the problems incurred with the Graving Dock.

TPAB notes, as shown on the attached, the progress WSDOT and the DAHP have made in improving archaeological assessment and consultation. WSDOT has increased the size and technical competency of its Cultural Resources Section staff and elevated its Office of Tribal Relations to an executive level. A draft Section 106 programmatic agreement has been

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<sup>1</sup> WSDOT report pg 148 notes that the Tribe complained at a meeting Sept. 1, 2004 that five monthly reports called for in the MOA had not been submitted and notes that the tardy reports were submitted on Sept. 25, 2004.

prepared between WSDOT, DAHP, and the Federal Highway Administration (FHWA) in consultation with the tribes.

TPAB recommends that the Governor and Legislator provide funding through the transportation capital improvement program to support modeling. A standardized geologic mapping/modeling across potentially sensitive areas expected to have large transportation projects would appear to be cost-effective. The cost would probably be a fraction of the expenses incurred at the Port Angeles graving dock site and would be a prudent investment for the state to consider. Early identification of the risk of finding a buried site will be key to avoiding a repeat of the problems experienced at Port Angeles.

### **Fiscal Review**

OFM concurs in both of the fiscal review recommendations, with the improvements to the financial reporting structure subject to available funding. WSDOT concurs with one and will take under consideration the establishment of policies and guidelines for the application of different levels of economic analysis.

TPAB strongly disagrees with OFM's statement that improvements to WSDOT's financial reporting structure should be subject to available funding. TPAB prepared a report in April 2006 on the Transportation Working Group on WSDOT's Capital Project Delivery Reporting. We noted in that report that the strength of the agreements reached on capital project reporting would be enhanced by strong information technology systems at WSDOT. We continue to believe that this is the case and urge the Governor and Legislature to approve such funding. There should be ample room for funding a financial reporting system within WSDOT's \$19.7 billion capital program. To not do so would be penny wise and pound foolish. WSDOT should develop a strategic plan for information technology investments and consider funding the costs of implementing the plan through an allocation of overhead expenses to individual projects, as is done in many other jurisdictions.

### **AUDIT FINDINGS**

TPAB has focused its efforts on the audit recommendations, which are the central focus of our desire to inform future project decisions. We note the considerable disagreement expressed by WSDOT over the findings and the disagreement by DAHP with one of them. We believe that, in combination, the audit and the recently released report by WSDOT to the Governor and Legislature on the Hood Canal Bridge Rehabilitation Project and Graving Dock Program (May 16, 2006) provide a thorough review of the chain of events. Further investment in sorting out history and factual disagreements would not be money well spent.

TPAB has two comments of its own on the findings, both of which are with regard to the fiscal review.

1. The fiscal review indicates that the Port Angeles site expenditures are \$86.8 million through June 30, 2005, which is based on an analysis provided by the WSDOT Auditor. The Governor and Legislature should be aware that there are on-going costs for the Port Angeles site not included in the \$86.8 million. The WSDOT budget for the Hood Canal project shows a work in progress budget of \$2,150,000 for remaining archaeology work and there is the potential for additional costs from the pending litigation.
2. The \$86.8 million cost does not include any cost for the increase of materials resulting from the three year delay. The costs that the WSDOT auditor has included in arriving at the \$86.8 million figure include \$60.5 million for Port Angeles site expenditures, \$15.2 million for other delay costs such as construction engineering/reengineering, new site assessment, negotiations with the construction contractor (not including the increased cost of materials resulting from the three year delay) and \$11.1 million in additional mobilization costs.

## **CONDUCT OF THE AUDIT**

TPAB would be remiss if we did not acknowledge the concerns about the conduct of the audit expressed by WSDOT and the concerns expressed in the attached letter from the OFM. These concerns fall into two categories: 1) was the audit conducted in accordance with Generally Accepted Governmental Accounting Standards (GAGAS) issued by the General Accountability Office of the Comptroller General for performance audits; and 2) did the audit address all of the elements of the scope of work.

1. TPAB has contracted with JLARC to perform this and other performance audits. We understand that such audits are to be conducted in conformance with the GAGAS as required by RCW 44.28 and note that the Legislative Auditor provided an additional verbal attestation of conformance at the June 2, 2006 TPAB meeting.
2. WSDOT's response and OFM's letter of June 24 both raise questions about the validity of drawing systemic conclusions as a result of the audit of one project. TPAB accepts responsibility for charging JLARC to make recommendations based on the Graving Dock Project review to inform future project decisions. In the future, TPAB recommends that those conducting single project performance audits consider including in the scope of work a testing of findings against other projects to determine if key findings are isolated instances related only to the audited project or reflect a systemic situation. We also note that, as demonstrated in the attached matrix, TPAB's previous project management and environmental permitting reports provide information that could be used to provide a context for this report's recommendations.
3. The GAGAS provide a process for verifying an audit called referencing, in which an independent auditor reviews the audit.<sup>2</sup> TPAB is concluding its work on June 30 and does not intend to conduct such a referencing process on this audit. Performance audits reach to whether policies and judgments applied are correct and are likely to be more difficult to conduct and yield contentious results than a traditional legal or financial audit. Performance auditors and auditees may need to prepare for a higher level of conflict and greater need for conflict resolution techniques, in which case referencing may be a useful tool.
4. TPAB recognizes that the ability of the audit to fully conform to the original scope of the audit was constrained by the Lower Elwha Klallam Tribe's withdrawal from participation in the audit after an initial interview because they filed suit against the State. TPAB was informed of this problem when it occurred and elected to proceed with the audit. If TPAB had an opportunity to do further audits (or were to conduct this audit again) we would want to build into the audit process not only periodic reports on problems encountered such as the Tribe's withdrawal from the audit, but also an opportunity to review the scope as the study progressed. As we note below, the most critical decision was the decision to resume construction in March 2004. Had we known this as the audit progressed, TPAB might have requested a refinement of the scope to really focus on the key issues surrounding that decision.
5. The timeline for this audit was seriously impacted by WSDOT's delays in providing information and comments to the auditor and by the volume of their comments during technical review. This has led to our consideration of this audit on the last day of official action available to us. In the future we recommend ways be developed to adhere to audit schedules through the prompt provision of requested information and comments by the audited agency.

## **CONCLUDING OBSERVATIONS**

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<sup>2</sup> GAGAS Chapter 8.45 "One way to help ensure that the audit report meets these reporting standards is to use a quality control process such as referencing. Referencing is a process in which an experienced auditor who is independent of the audit verifies the statements of facts, figures, and dates are correctly reported, that the findings are adequately supported by the audit documentation, and the conclusions and recommendations flow logically from the support". (2003)

There were three critical decision points on the Graving Dock: to go to Port Angeles, to resume construction after the MOA was signed in March 2004 and the decision to stop construction in December 2004.

The audit concludes that the decision to go Port Angeles was understandable. "Natural resource, regulatory and statutory requirements and perspectives all indicate that Port Angeles was the only apparent viable choice (give the target float-in date, information available for this audit, and the available choices at the time of the site-selection process)". The decision to stop construction in December 2004 following the request of the tribe appears to have been unavoidable at that time given the building political and public relations problems.

The question of whether the decision to go ahead in March 2004 – the decision that triggered the largest expenses on the project - is more difficult to assess. Critically, the technical report was not completed that provided the underlying archaeological assessment on which the MOA and its site treatment plan were based.

But the real question is not so much one of whether the right decisions were made at these key points at that time. We recognize that at each step WSDOT, DAHP and the other agencies involved acted in good faith. The question is whether, if followed, the recommendations included in this report can help to prevent a recurrence of reasonable decisions that ultimately wind up being, in hindsight, bad decisions.

We believe they can. It is vitally important that we take this opportunity to raise awareness of the critical importance of cultural resources work. Let us make use of the latest geomorphology and other archaeological techniques that can help inform decision-makers about risks and let's provide an environment in which consultant reports are questioned and challenged and that project managers are well supported by technical experts. The WSDOT report on the Hood Canal Bridge also draws some important conclusions and lessons learned. One related to the initial Section 106 compliance effort is a clear call for corrective action: "WSDOT believes that the Section 106 assessment, while procedurally in order and on its face in accordance with regulatory requirements, was not conducted with the thoroughness, care or insight that it should have received in light of the information available about the site." (p. 4-53) We believe conformance with the audit recommendations can help us to ensure that this does not happen again.

#### **TPAB RECOMMENDATION**

WSDOT's attention to and implementation of the recommendations in this report is critically important. It will require policy changes at WSDOT and the development of clear guidance on cultural resource issues that is consistently communicated across the regions and is consistently implemented on WSDOT's projects. It is vitally important that all project managers, and particularly those responsible for such major projects as the Alaskan Way Viaduct, the Columbia River Crossing, the SR 520 bridge and improvements to the Washington State Ferry terminals, consult with WSDOT's cultural resources staff and, as necessary, DAHP early and in an informed, proactive way. Breakdowns in communication cannot be tolerated.

We recommend that the Legislature request a report from the Governor and OFM on WSDOT and DAHP's implementation of the recommendations in this report and on remedial actions taken to improve WSDOT and DAHP communication by December 31, 2006 for discussion during the next legislative session.