

**Sound Transit/WSDOT Re-Alignment
ISSUE PAPER NO. 22**

TOPIC:	Format and Approval for a FONSI (Finding of No Significant Impact)
ACTION SPONSOR TEAM:	Environmental Action Team
PRIMARY AUTHOR(S):	Sound Transit, Environmental Compliance Division, Steve Kennedy; Federal Transit Administration, Carrie Deichl
APPLICABLE PROJECTS:	Sound Transit co-lead federal agency (FTA and FHWA) and FTA sole-lead projects. For Sound Transit FHWA-only lead projects, this issue paper will be followed with the approval of FHWA and WSDOT on a project-by-project basis.
DATE OF FIRST DRAFT:	December 1, 2000
ISSUE:	What is the appropriate format to follow and key approval requirements for a FONSI in relation to Sound Transit projects with co-lead (FTA/FHWA) status?
CURRENT STATUS:	Final Draft
DATE APPROVED:	January 4, 2001

BACKGROUND:

The guidelines in this issue paper will supplement existing regulations and guidance contained in 23 CFR Part 771; FHWA Technical Advisory Memo 6640.8A (Guidance for Preparing and Processing Environmental and Section 4(f) Documents); and applicable FTA regulations.

DECISION:

For FTA/FHWA co-lead projects, as well as FTA sole lead projects, the FONSI (Finding of No Significant Impact) format will typically follow that of the Regional Express Lynnwood Project FONSI (Attachment A). For FHWA sole lead projects, as determined by Sound Transit and FHWA/WSDOT on



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**United States
Department of Transportation**

Federal Highway Administration
711 S. Capital Way, Suite 501
Olympia, WA 98501

Federal Transit Administration
915 2nd Avenue, Suite 310
Seattle, WA 98174

case-by-case basis, either the Lynnwood format may be used or another format upon which both FHWA and WSDOT agree. As per applicable Issue Paper No. 21 federal regulations, the FONSI cannot be issued any earlier than 30 days after the EA is issued and made available to the public, or the end of the EA comment period if a hearing is held whichever is later. If a design hearing is combined into the EA hearing, refer to WSDOT Design Manual. If a design hearing is required, Sound Transit will determine whether the design hearing will be combined with the EA hearing. (reference Hearing Issue Paper - #30)

? ? The FONSI will include the following:

- ⚡ Description of the Proposed Project
- ⚡ Summary of Agency Coordination and Public Opportunity to Comment
- ⚡ Summary of Comments on the EA
- ⚡ Reference to Appendix where Mitigation Measures are addressed
- ⚡ Determinations and Findings discussion for all applicable Regulations (e.g. NEPA, Section 106, 4(f), ESA, Conformity with Air Quality, Environmental Justice, Floodplains, and Wetlands)

? ? In addition to the required content format above, the following attachments would also be typically required:

- ⚡ EA and Errata and Revision Sheet (as necessary, to reflect changes since the EA was issued)
- ⚡ Responses to Written and Oral Comments (with comments generally numbered in each letter and responded to according to number)
- ⚡ Summary or Transcript of Public Hearing (if held)
- ⚡ List of Project Mitigation Commitments

Key Points of Agreement Related to FONSI Approval Requirements:

? ? Review and Approval Process for FONSI with FTA/FHWA/WSDOT: If the issuance of a FONSI is desired by Sound Transit at the close of the EA comment period, a draft FONSI should be submitted to the lead agencies (including WSDOT) as soon after the EA is issued as is possible. This submittal will have to exclude Responses to EA comments and a final EA Errata and Revision Sheet which takes into account EA comments. Those items will need to be completed after the close of the EA comment period when EA comments are known and have been addressed. On co-lead agency projects, FTA, FHWA, and WSDOT will review the draft FONSI concurrently and submit their comments to Sound Transit as well as the other co-lead agencies. If there are conflicting comments the Federal agencies will resolve them prior to signing the FONSI.

Following the close of the EA comment period, Sound Transit will prepare the Response to EA comments and the EA Errata and Revision Sheet (as necessary), and submit a revised FONSI package concurrently to the appropriate lead agencies for their second review and comment. After comments are received and addressed by Sound Transit, a second draft of the FONSI package will be provided to the lead agencies and WSDOT for concurrent review. Following receipt of comments, and the comments being addressed by Sound Transit, a final camera-ready FONSI package will be prepared for approval and signature by the federal lead agencies.

- ? ? Added Access: Approval from WSDOT Design Office and forwarding of the interstate, added access report to FHWA with recommendation for approval will be sufficient for FTA and FHWA to approve the FONSI. The FONSI may be approved prior to FHWA's required independent analysis of the interstate added access report (See Added Access Issue Paper #31 for complete discussion.)
- ? ? ESA and BA Approval: FTA will take the federal lead on co-lead agency projects in regard to ESA compliance and consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service (Services) under Section 7 of the ESA. Prior to FONSI approval, concurrence has been received from the Services, or there is reasonable assurance that the requirements of ESA will be met, as determined by FTA through its review of a biological assessment. In such case, the FONSI shall be subject to compliance with any concurrence letters and/or biological opinions issued by the Services and/or reasonable and prudent measures or alternatives contained in the concurrence letters and/or biological opinion(s) and/or a re-evaluation of the environmental impacts under ESA. (See ESA/BA Clearance Issue Paper #23 for complete discussion.)
- ? ? Section 106 Compliance: Unless exempt under a Programmatic Agreement, it is assumed that the SHPO will need to concur by letter prior to the FONSI with a finding of "no effect" for projects, whether or not they have identified historical/cultural resources in the APE (Area of Potential Effect). This concurrence should be confirmed in the FONSI as part of the "Findings" section. The letter from SHPO does not need to be included with the FONSI. (See Section 106 Compliance Issue Paper #18 for complete discussion.)
- ? ? Section 4(f) and 6(f) Compliance: If appropriate, the Findings section of the FONSI needs to document that the proposed project will not use or significantly impact any resource protected by Section 4(f) of the DOT Act of 1966, or Section 6(f) of the Land and Water Conservation Fund Act of 1965. This will support the conclusion that a Section 4(f) Evaluation is not required.

If the proposed project will use or significantly impact any resource protected by Section 4(f) or Section 6(f), and a 4(f) evaluation was prepared and a letter received from the US Department of Interior, the FONSI should include the findings of the evaluation and reference the letter from Department of Interior.

If specific mitigation is proposed related to any Section 4(f) or 6(f) resources, this should be summarized in the List of Project Mitigation Commitments. As necessary, a letter from the agency with jurisdiction over the Section 4(f) or 6(f) resource indicating agreement with the project and mitigation as proposed will be obtained. This letter and agreement should be referenced in the FONSI but the letter does not need to be part of the FONSI. (See Section 4(f) and 6(f) Compliance Issue Paper #41 for a complete discussion.)

**ENVIRONMENTAL ACTION TEAM DECISION ON ISSUE PAPER NO.22:
FORMAT AND APPROVAL FOR A FONSI**

AGREED TO ON JANUARY 4, 20001 BY:

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