

## CONTINUED COMMUNITY CONCERNS CSX'S PROPOSED EXPANSION OF VIRGINIA AVENUE TUNNEL

### 1. CSX'S PROPOSAL IS TOO RISKY

- (a) *Preferred alternative still contains open trench.* Alt 3 is not a fully “closed trench” – CSX plans to run trains through an *open construction trench* between New Jersey Ave SE and 3<sup>rd</sup> Street SE (i.e., alongside Garfield Park, newly planned Whole Foods, 200 I Street, and homes).<sup>i</sup>
- (b) *Increased risk of hazardous materials.* Open trains in a construction trench increase the risk of derailment.<sup>ii</sup> The stakes are further raised with CSX trains carrying hazardous materials through the tunnel daily.<sup>iii</sup> CSX is also planning to vastly increase its Bakken crude oil shipments to our region.<sup>iv</sup> If the project is completed, then hazardous materials shipments through the District would increase exponentially. CSX continues to withhold information from the public about these risks.<sup>v</sup>
- (c) *Experts agree that risks are too great.* The Brotherhood of Locomotive Engineers and Trainmen and DC Firefighters Association (Local 36) have been raising serious concerns about the safety impacts of proposal.<sup>vi</sup>

### 2. CSX'S PROPOSAL IS BAD FOR THE DISTRICT

- (a) *Passenger/commuter rail.* The Committee of 100 on the Federal City (C100) has written an extensive analysis that shows CSX's proposal would frustrate any attempt to expand passenger and commuter rail for generations.<sup>vii</sup> Allowing the project to proceed as proposed would result in more cars on the road and more pollution and traffic for the District.
- (b) *Comprehensive Rail Plan.* Councilmember Mary Cheh put \$500,000 in the D.C. Council's FY2015 budget for a comprehensive Rail Plan to be conducted by a body of third party experts.<sup>viii</sup> The goal is to ensure that all modes of rail (passenger, commuter, and freight) can co-exist as they expand. Reasonable alternatives for the re-routing of freight, such as those proposed by C100,<sup>ix</sup> would also be explored. CSX is rushing to stake out its claim, irreversibly squeezing out commuter rail in favor of freight, before a meaningful analysis, with balanced priorities, can be conducted.
- (c) *Economic investment and affordable housing.* Billions of private and public dollars have been invested in this growing neighborhood, including a HOPE VI grant, but this project threatens to undercut past investments and stall, if not halt, future ones.<sup>x</sup> The city promised to preserve affordable housing in the area, but many such units would be under siege for years, as access is restricted, utilities impaired, and quality of life severely diminished. Residents, including seniors and others with medical conditions, will be trapped by affordable housing waitlists and workforce housing restrictions.

### 3. "OVERSIGHT" PROCESS WAS RUBBER-STAMPED FROM THE VERY BEGINNING

- (a) *Lack of objectivity.* District and federal law require an objective review of proposals like this before government permission is given. But the Washington Post uncovered documents buried in the back of the FEIS that show DDOT had planned to rubber stamp the approvals for this project as early as 2010<sup>xi</sup> – well before any plans had been drawn, studies conducted, or alternatives proposed. What did CSX promise DDOT in return?
- (b) *Lack of transparency and accountability.* Why were these pre-approval decisions made in secret without public input or oversight from the DC Council? Why was this decision made by Terry Bellamy – a lame duck DDOT Director in a lame duck administration? Bellamy ratified the secret agreement on April 21, 2014 – two weeks after he announced he would resign, and one week before he actually resigned.

### 4. CSX DOES NOT HAVE RIGHT OF WAY TO EXPAND

- (a) *CSX needs new right of way.* The selected alternative has the largest land grab by CSX. Even the FEIS acknowledges that CSX does not have clear right to expand. DDOT's response is to give CSX whatever land it needs, while trying to blur the line between construction permits and permanent grants. Public land should be valued, not given away.
- (b) *DDOT is not authorized to grant this right of way.* DDOT should explain why it believes it has the right to grant this right of way. Its legal analysis, like its analysis of the current CSX right of way, appears deeply flawed – as though adopted nearly wholesale from CSX attorneys.

### 5. CSX'S PROPOSED "COMPENSATION" PACKAGE DOES NOTHING TO MITIGATE RISKS

- (a) *\$16.44 per day.* CSX, which had over \$12 billion in revenue last year, offered a handful of households \$16.44 per day for putting their health, safety, and property at risk.<sup>xii</sup> This “offer” ignores other impacted residents and seeks to divide the community. CSX offered nothing to those who have to relocate during construction to protect their health.
- (b) *A comprehensive mitigation plan is required.* DDOT should not approve any proposed plans unless and until a comprehensive Rail Plan is conducted (that includes a wider range of reasonable alternatives) and concrete mitigation steps have been established. To date, no such meaningful mitigation has been offered by CSX.<sup>xiii</sup>

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<sup>i</sup> See, e.g., page S-5 of the FEIS.

<sup>ii</sup> CSX's only proposed mitigation is to put a single "railroad employee-in-charge" of preventing derailments, but it is unclear how a single employee can keep a train on the tracks if a construction accident occurred. See page S-34 of the FEIS.

<sup>iii</sup> In the opening footage of this NBC4 report (<http://bit.ly/1yOT0r8>), one can easily see the black tanker cars in the footage with "Hot Molten Sulfur" emblazoned across the side of the cars. Molten sulfur is transported at 140 degrees and is commonly used to make sulfuric acid (i.e., battery acid) and fertilizer. The Orange Book for First Responders recognizes this material as hazardous ([http://phmsa.dot.gov/pv\\_obj\\_cache/pv\\_obj\\_id\\_7410989F4294AE44A2EBF6A80ADB640BCA8E4200/filename/ERG2012.pdf](http://phmsa.dot.gov/pv_obj_cache/pv_obj_id_7410989F4294AE44A2EBF6A80ADB640BCA8E4200/filename/ERG2012.pdf)),

<sup>iv</sup> CSX's spokesperson recently claimed there is "no market" for Bakken crude around DC, but CSX transports crude oil to terminals in Baltimore, MD north of the District (<http://touch.baltimoresun.com/#section/-1/article/p2p-80488179/>) and in Yorktown, VA south of District (<http://www.reuters.com/article/2014/05/01/us-railways-accident-csx-idUSBREA400KO20140501>). CSX told investors that it plans to increase crude shipments to the East Coast by 50% year over year, which will flood CSX's rail lines (and most notably those in the District) with highly flammable and volatile crude oil cargo (<http://finance.yahoo.com/news/csx-corp-increase-crude-shipments-144712117.html>).

<sup>v</sup> See page S-34 of the FEIS. Take no comfort in CSX's self-described "voluntary" rerouting agreement, or in its alleged intentions to not increase the shipment of Bakken crude and other hazmats – even chlorine! – through D.C.'s monument core. This agreement is so secret that even Congresswoman Norton and the D.C. Council can't see it. It's unenforceable, and CSX can breach – or just terminate – it at any time. For example, after it receives approvals for the Virginia Avenue Tunnel expansion.

<sup>vi</sup> BLEET testified at a "Sense of the Council" hearing on April 30<sup>th</sup>; and DCFA has begun actively questioning the proposal on Twitter.

<sup>vii</sup> <http://www.committeef100.net/subcommittees/transportation/commuter-passenger-freight-rail/>

<sup>viii</sup> See page 32 here: [http://dccouncil.us/files/performance\\_oversight/Committee\\_on\\_Transportation\\_and\\_the\\_Environment.pdf](http://dccouncil.us/files/performance_oversight/Committee_on_Transportation_and_the_Environment.pdf)

<sup>ix</sup> <http://www.committeef100.net/home-page/c100-calls-rerouting-csx-freight-rail-lines/>

<sup>x</sup> For example, Results Gym wrote a letter to Mayor Gray in January asking him to direct DDOT to halt the proposal until better alternatives had been explored, explaining: "It seems hard to fathom how businesses, which rely on Virginia Avenue SE and the access points and exits of I-695, can continue to prosper under the conditions as proposed."

<sup>xi</sup> <http://www.washingtonpost.com/blogs/dr-gridlock/wp/2014/06/19/ddots-early-commitment-to-csx-tunnel-project-irks-residents/>

<sup>xii</sup> See page 5-14 of the FEIS, in which CSX offers "front row" properties "compensation of \$500 per residence from the project sponsor for 42 months." Does this mean a lump sum payment of \$500? Or \$500 per month? Assuming the latter, it equates to \$16.44 per day. Again, the suggestion that families could be so cheaply bought off is insulting.

<sup>xiii</sup> CSX's current "mitigation" proposal does nothing to actually mitigate harmful effects. For example,

- (i) establishing a website and "community office" does not reduce health or safety impacts;
- (ii) erecting a chain link fence does not "protect" anyone from passing trains or construction equipment;
- (iii) putting up "temporary wayfinding signs" does not mitigate traffic backups;
- (iv) "good housekeeping" does not mitigate harmful air pollutants; and
- (v) vibration "monitoring" does nothing to reduce vibrations.

CSX also laughably states that the Southeast Freeway will "shield" the families north of the highway from harmful effects such as pollutants, noise, vibrations, derailments, and traffic backups (FEIS, page 4-30) and that most senior residents "won't be subject to the construction effects" (FEIS, page 5-11). In sum, CSX has proposed the *bare minimum* that is required under the law (which is a low bar), and CSX has never taken resident concerns seriously. Furthermore, the financial "offer" from CSX does not come close to making impacted residents whole, based on the risk of property loss and market devaluation. And there is no offer to compensate anyone who has to move -- permanently or temporarily -- because of the relentless and dangerous construction, and no way to address the problems of the long waitlists for affordable rental housing and the legal and practical strings attached to workforce housing. See, e.g., page L-362, stating with false confidence that "there are no impacts identified in the FEIS that would indicate that residents could not remain in their homes during tunnel reconstruction." Not even seniors with COPD, asthma, or other respiratory problems; pregnant women; babies and young children; and simply those who can't sleep with relentless, major construction only steps from their doorsteps 12 hours per day and trains running through the night.