August 1, 2018

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Via electronic mail

RE: Lake County Route 53 Tollway Extension (a.k.a. Tri-County Access Project)

Dear Mr. Kovacs, Mr. Quigley, and Ms. Batey,

The Environmental Law & Policy Center, Active Transportation Alliance, Lake County Audubon Society, League of Women Voters of Lake County, Liberty Prairie FoundationMetropolitan Planning Council, Midwest Sustainability Group, Openlands and Sierra Club are all members of the Stakeholder Participation Group ("SPG") for the proposed Lake County Route 53 Tollway Extension project, sometimes referred to as the Tri-County Access project. As active participants in the SPG, we are disappointed to belatedly learn that a notice regarding the commencement of the Environmental Impact Statement ("EIS") scoping process was published in the Federal Register on July 16, 2018, without any notice provided to the SPG organizations. This notice announced the start of the EIS process, that an open house just nine days later would be part of the scoping analysis, and that public comments on scoping were due by August 24, 2018. These attempts to both "hide the ball" and rush the environmental review process are unfortunate and should be changed.

The undersigned organizations request an extension of the public comment period for the EIS scoping to no earlier than September 30, 2018, with notice to all potentially interested organizations and individuals, including all SPG members and impacted communities. This will provide a fairer and more reasonable opportunity for public participation in the scoping process. There is no emergency present in this case that warrants the accelerated and constricted time for the scoping comments.

The Council on Environmental Quality's ("CEQ") regulations require that "[a]s part of the scoping process the lead agency shall . . . [i]nvite the participation of affected federal, state, and local agencies, any affected Indian tribe, the proponent of the action, *and other interested persons*." 40 C.F.R. § 1501.7. The SPG organizations are clearly "interested persons," and their inclusion in the SPG indicates the project sponsors' acknowledgement of this fact, as well as the importance of participation and input by these groups. The SPG members should be notified of all significant steps taken to advance the project, and they must be provided reasonable notice of all opportunities to provide public comments with reasonable deadlines of which they are clearly

informed. The sponsors apparently also did not notify individuals who signed up on the project website to be on the "mailing list" for the Lake County Route 53 Tollway Extension.

The Federal Register publication gave notice of: (1) the beginning of the EIS scoping process, (2) an open house to be held on July 25, 2018 that was intended to be part of the scoping process, and (3) a deadline for scoping comments of August 24, 2018:

- The notice of the open house was inadequate. For those that actually received advance notice, the email announcing the open house was sent less than 2 weeks before the event. This email notice *did not state that the open house was intended to be part of the scoping process*. The only "notice" provided that the open house would be part of the EIS scoping process was the Federal Register publication only nine days before the open house.
- The open house was scheduled at the same time as the Chicago Metropolitan Agency for Planning's ("CMAP") public hearing on the new draft regional long-term plan, ON TO 2050, which includes the Route 53 Tollway Extension as a fiscally unconstrained project. Many representatives of the undersigned groups were unable to attend the open house due to their attendance and delivery of public comments at the CMAP event. Scheduling the open house on the same day and at the same time as another public meeting that also involved the Route 53 Extension necessarily ensured that some interested persons could only attend one of the meetings.
- Moreover, the Federal Register notice does not once include either the term "Route 53" or "Tri-County Access." This means that even if an interested person searches the Federal Register website for the name of the project, the published notice does not appear in the results. This lack of transparency is just plain wrong.

NEPA regulations require that agencies "[m]ake diligent efforts to involve the public in preparing and implementing their NEPA procedures" and "[p]rovide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected." 40 C.F.R. § 1506.6(a) & (b). Failure to comply with these requirements or any attempt to inhibit participation by the public and stakeholders is illegal.

The rushed and non-transparent approach constrains meaningful public participation and undermines the open process that it promised for the Stakeholders Participation Group. It is contrary to the letter and spirit of the National Environmental Policy Act. The FHWA, Tollway and IDOT should address these issues and facilitate full participation by stakeholders and the public. At the very least, in particular, the FHWA, Tollway and IDOT should extend the comment period on the EIS scoping to September 30, 2018 or later. Please contact us with any questions regarding these concerns and actions that you plan to take in these respects.

Sincerely,

Howard A. Learner, Executive Director Rachel Granneman, Staff Attorney

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