

SAVE OUR CANYONS

Tuesday, December 3, 2019

To whom it may concern:

Save Our Canyons welcomes this opportunity to provide comments on the Draft Statement of Purpose and Need for Little Cottonwood Canyon EIS, as well as on the Draft Alternatives Development and Screening Methodology and Preliminary Concept Report. As an almost 50-year-old organization dedicated to the preservation of the natural environment of the Wasatch Mountains, we have been an active participant on the programs this proposal suggests it is building upon, including, but not limited to Mountain Accord, and 2012 Mountain Transportation Study. Save Our Canyons (SOC) views Little Cottonwood Canyon (LCC) as an area of unsurpassed importance to our mission, and we therefore see it as critical that any development occurring in it be driven by careful planning designed to minimize environmental harm. The comments we provide here are designed to help in the development of such planning.

Because the present draft documents indicate that the direction UDOT is taking with the LCC project continues to raise the same concerns described in our comments on scoping, we incorporate those comments here by reference and attach a copy hereto.

About us

Save Our Canyons is a 501(c)3 organization dedicated to protecting the beauty and wildness of the Wasatch Mountains. The geography in which this EIS is taking place is not only the watershed for our members, but also a place that has innumerable values from public health to recreation. Reverence of the natural world and wildlife is a core value held by our community.

Our overarching concerns about this project is that it is not looking at issues in a year-round context, and that outcomes could fundamentally alter our canyon environments, our watersheds, impacting wildlife and plants that inhabit the area, disrupting natural processes which this community has invested in protecting for over a century. Numerous management plans cite the single greatest threat to the environmental quality is increased visitation.

We, on behalf of our members, are invested and interested in realizing long-term solutions that benefit the stated need of protecting our watersheds, hence our concern in short-term projects influencing by way of investment, the long-term outcomes. There are so many different concepts for transportation in this region, most suited toward aiding access for certain uses, few, if any, considering environmental and watershed impacts. We don't see how this process helps us get toward that end as proposed. We hope these comments might aid UDOT in realizing that end.

Last, financial resources are finite and should be used to support the to-be-determined long-term vision. If we don't know where we are going, we don't know how to get there; this appears to be a project for the sake of doing a project, not a project that leads us to an end. Our natural

environments and watersheds should be treated much differently than our urban environments, else we risk converting nature and natural systems into urbanized and engineered systems. Simply accommodating the variable that has been identified as the greatest threat to our watershed and ecosystem health, might jeopardize public health and place more costs on society.

Background

On March 9, 2018, the Federal Highway Administration on behalf of the Utah Department of Transportation (UDOT) published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) “in and near Little Cottonwood Canyon”. Save Our Canyons and partners responded to this initial comment, within the comment deadline (see Save Our Canyons and partners 2018 comments, which are incorporated herein by reference). For a period of nearly one year, it was not entirely clear what the status of this project was, other than communications from UDOT that there was an intent to revise the NOI, and there by the scope of the project.

During this downtime, UDOT in coordination with the Central Wasatch Commission, met with stakeholders and developed a sister project to the LCC EIS called the Cottonwood Canyon Transportation Action Plan (CCTAP). Initial comment periods were published together, recognizing the necessity to comprehend connected actions across the region. At that point, UDOT seemed to acknowledge the importance of doing the LCC project in the context of planning for this resource.

On March 5, 2019, FHWA on behalf of UDOT, published notice in the Federal Register that, “UDOT intends to revise the scope of the analysis of the Little Cottonwood Canyon project, based on new information collected during the scoping process and development of a project need.” Then again, on May 15, 2019, UDOT revised the NOI, in anticipation of a draft 2019-2050 Regional Transportation Plan done by Wasatch Front Regional Council. We provided comment at this stage in the process as well, on both the CCTAP and the connected LCC EIS (see Save Our Canyons 2019 comments, which are incorporated herein by reference).

What is notable about the final revision of the NOI due to the anticipation of the WFRC 2050 RTP is that it ignores one of its more primary, and important actions as it pertains to SR-210. Phase 1 (2019-2030) recommends operational improvements on SR-210.¹ Our understanding in discussions with WFRC staff is that the operational improvements, which are of higher priority and may preclude the need for road-widening forecasted for Phase 3 (2040-2050). However, the NOI failed to note the prioritization of transit, only focusing on road widening, which the plan identified as a lesser priority, the more pressing priority being improving transit service, operationally. This process continually appears to diminish the planned roles of transit service, in deference to damaging development projects, increasing of impervious surfaces, within protected watersheds.

¹ Wasatch Choice Map. Transportation tab, Phase 1 on SR 210, Project ID: R-S-52. <https://wfr.org/wasatch-choice-map/#currentTabIndex=1&scale=144448&sideBarClosed=false&x=-12430228&y=4950925> (Dec. 5, 2019)

On October 4, 2019, UDOT sent an email² which stated:

“...UDOT initiated the Cottonwood Canyons Transportation Action Plan (TAP) in Spring 2019 to conduct additional planning and decision-making efforts by studying transit, tolling, congestion, pedestrian and bike facilities, and parking facilities. The intended outcome of the plan was to develop a prioritized list of actions and improvements to the Canyons, and to integrate short- and long-term solutions for both canyons. The TAP was initially very broad to address mobility and Big Cottonwood needs due to the refocusing of the Little Cottonwood Canyon EIS to address the immediate challenges of traffic congestion at key intersections, trailhead parking and canyon closures in Little Cottonwood Canyon.”

It then goes on to say, “The EIS has since been revised to include those mobility solutions, thus the current TAP study area and process overlaps the EIS...”. While UDOT states it has incorporated these items into the LCC EIS, its own *FAQ* document and *Draft Alternatives Development and Screening Methodology and Preliminary Concept Report* state they won’t be analyzing the things they say the EIS has been revised to consider. Further, both these documents (the *FAQ* and *Draft Alternatives*...) state that the EIS won’t be looking at “operational safety issues” and eliminate from consideration in Table A-1, many operational actions would aid in improving safety (one of the purposes of the EIS), prejudicing analysis toward building something in a watershed over better utilizations of policies, or better policy innovation to address the problems along the corridor.

This process has been a shell game at best. The foundation from which they have engaged the public has continually shifted. The scope they say has been revised has not been revised to reflect what they say it has been revised to do. UDOT would be well-served by planning and comprehensive analysis afforded by a programmatic EIS. Continual revisions to NOIs and cancellations of related projects, show we are searching for solutions before being able to articulate a problems.

Authority

UDOT’s authority to carry out this EIS process comes from a January 17, 2017 Memorandum of Understanding (MOU) between FWA and UDOT pursuant to 23 U.S.C. 327. A closer read of this section at 23 U.S.C. 327(a)(2)(B)(iv), yields several limitations. “... the Secretary may not assign— I) any responsibility imposed on the Secretary by section 134 or 135 or section 5303 or 5304 of title 49; or (II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C 7506).”

Save Our Canyons is concerned that these limitations may prohibit UDOT from considering any options available for the Little Cottonwood Canyon EIS other than those that are eligible for funding under the Federal Aid Highway Program. Put another way, NEPA authority may not be

² UDOT Email, “Transportation Plan Update” <https://publ.campaign-view.com/ua/viewinbrowser?od=27218d28c96aa859ef1031efc627bb02a1185630859ca1fd0&rd=18598208e8571e79&sd=18598208e8571bfd&n=11699e4bffe1b31&mrd=18598208e8571bef&m=1> (October 4, 2019)

assigned to § 5303 or § 5304, which are the sections of federal law that deal with transit solutions. It appears this process is unnecessarily limited to Highway improvements, and that it may lack authority or ability to expend funds or implement projects for transit solutions. Transit solutions of course, are the overwhelming desire of local communities as identified in numerous plans.

Moreover, this project is also complicated by the fact that the area is contained within a non-attainment area. Road-widening projects are well known for contributing to more driving (you wouldn't widen a road if you weren't trying to accommodate more cars). More driving, hence more emissions only further challenges conformity with the non-attainment determinations, so we question UDOT's ability to undertake a project that is in direct conflict with cleaning up our putrid air.³ As I write this the 10-minute US EPA pm2.5 AQI at the Cottonwood Heights sensor (situated on SR 210) is 159.

Due to the complexity of the problems, the many jurisdictions (and conflicts with their existing plans) and the aforementioned issues, we question the appropriateness/legality of looking solely at a road corridor in context of the drafted purpose and need. A programmatic EIS with joint lead agency's being the US Forest Service and Salt Lake City, both of whom have federal jurisdiction over the areas on which UDOT's highways rest, would yield the best results for the affected environments. Should Little Cottonwood Canyon be the State's priority, tiered implementation to focus on Little Cottonwood would be available under a programmatic EIS.

Existing plans

As we hope you are aware, there are several plans that discuss the Wasatch Canyons, and the desired future conditions for the study area. In our Nov. 13, 2019 meeting with the project team, a question came up about how UDOT is going to coordinate with local governments and support plans and initiatives they are working toward. The response from John Thomas was two-fold. First, he mentioned how some jurisdictions were coordinating agencies on the EIS. Second, he stated that UDOT and team would review plans to screen for consistency and coordination. This appears to be consistent with the requirements of 40 CFR § 1506.2, particularly subpart (d).

Although there is a clear consensus, reflected in conclusions of multiple planning processes occurring over decades, that the transportation problems in the Central Wasatch canyons are similar and interrelated, and that they therefore need to be addressed with comprehensive and integrated planning, UDOT is pursuing transportation improvements in LCC as a one-off project, with no analysis of how transportation decisions in LCC will integrate with the comprehensive, multi-canyon transportation system that earlier planning documents have concluded are needed. Integration with such a comprehensive transportation system should be a clearly stated purpose of the project.

³ Federal Register. <https://www.federalregister.gov/d/E9-25711>

Please consider some of the following provisions from local plans for consistency. It would be horribly inefficient to do something that conflicts with the trajectory of local jurisdictions have been working toward.

Some of the statements from these plans include the following (excerpts from attached document):

“THE HIGHWAY TRANSPORTATION GOAL OF THE PLAN IS TO REDUCE PRIVATE VEHICULAR TRAFFIC IN THE COTTONWOOD CANYONS DURING PEAK PERIODS. TO ACHIEVE THIS GOAL, MEASURES SHOULD BE IMPLEMENTED TO DISCOURAGE PRIVATE AUTOMOBILE USE AND TO ENCOURAGE USE OF MASS TRANSIT IN THE SHORT TERM.”

“The highway transportation goal of the plan is to reduce private vehicular traffic in the Cottonwood Canyons during peak periods. The County should implement measures to achieve this goal, and discourage private automobile use and encourage mass transit.”

“In the meantime, there are two additional recommendations. First, continue to promote the use of alternatives to the private vehicle. Increased bus service and transit amenities should be encouraged. The added amenities at Snowbird’s Creekside Lodge are excellent examples of how the resorts can support transit use.
Second, continue to support the “human element” of canyon operations.”

“Strategy: Create a year-round transit system as an alternative to driving and parking in the Cottonwood Canyons.”

“Study feasibility of extending UTA Trax to a transit hub at the mouth of Big Cottonwood Canyon or Little Cottonwood Canyon to serve shuttles and buses to Millcreek, Big and Little Cottonwood Canyons.”

“Increase transit use and decrease impacts associated with automobile use in the canyons.”

“Support management objective to reduce future fragmentation of intact habitats. Provide connectivity in fragmented habitats and between habitats to promote genetic diversity in wildlife populations.”

“Salt Lake County desires to maintain healthy native wildlife populations through the protection and enhancement of habitat, natural landscapes, and ecosystems in the county.”

We strongly encourage you to look at these documents and adhere to the adopted plan priorities and trajectory. These documents are very consistent over time.

General Concerns with UDOT's EIS process

As set forth more thoroughly in our scoping comments, we have two overarching concerns about UDOT's approach to the LLC project. First, although there is a clear consensus, reflected in conclusions of multiple planning processes occurring over decades, that the transportation problems in the Central Wasatch canyons are similar and interrelated, and that they therefore need to be addressed with comprehensive and integrated planning, UDOT is pursuing transportation improvements in LCC as a one-off project, with no analysis of how transportation decisions in LCC will integrate with the comprehensive, multi-canyon transportation system that earlier planning documents have concluded are needed. Integration with such a comprehensive transportation system should be a clearly stated purpose of the project.

Second, addressing the transportation-related needs of canyon visitors is not limited to ensuring time-efficient transportation up the canyons to however many people want it; transportation planning must also consider how transportation improvements themselves affect what the canyons offer that makes people want to visit them in the first place. This is not the first time transportation improvements have been considered in LCC, and, though not subject to precise quantification, there is a level of visitorship, and the direct, indirect, and cumulative impact it brings, that would substantially diminish what attracts people to the canyon. It makes no sense to blindly pursue successive transportation improvements until we find we have reached that point. SOC therefore believes it is essential, before moving forward with any transportation improvements, to develop a characterization of the experience visitors want from canyon and nearby mountains in order to ensure that self-defeating "improvements" that actually degrade this experience can be avoided.

Purpose and Need

SOC is concerned that the narrowness of UDOT's purpose and need statement may lead to the selection of a predetermined alternative. SOC is disappointed that the purpose and need document demonstrates that UDOT appears determined to define the challenge of improving transportation in LCC in a way that leads to, at best, minor variations of fundamentally a single action that just happens to be narrowly within what UDOT does—road construction and improvement. This conclusion arrived at after regular involvement in this EIS process leads us to remind the agency that NEPA requires more than a narrow alternative analysis.

It is boilerplate NEPA law that an agency must "rigorously explore and objectively evaluate all reasonable alternatives," [i]nclud[ing] reasonable alternatives not within [its] jurisdiction," 40 C.F.R. §1502(a), (c) (emphasis added), and it may not game and subvert the alternatives identification process by "defin[ing] the objectives of its action in terms so unreasonably narrow that only one alternative . . . would accomplish the goals of the agency's action, and the EIS would become a foreordained formality." *Citizens against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1990); see also *Citizens' Comm. To Save Our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1030 (10th Cir. 2002) ("Courts will not allow an agency to define the objectives so narrowly as to preclude a reasonable consideration of alternatives.")

The problem with LCC transportation identified in earlier planning efforts, and that is obvious to any regular visitor to the canyon—the need, in NEPA terms—is that people experience long delays getting up and down the canyon in peak travel times. Yet, the P&N document makes it clear that UDOT characterizes the problem differently—as vehicle congestion, as well as avalanche-related delays. Of course, it is true that vehicle congestion serves to lengthen travel times, but this congestion is a product of critical contributing factors— the present utilization of the public of the present mix of transportation modes. Yet, in defining the objectives of the project—the purpose, in NEPA terms— it becomes clear that UDOT sole measure of success is the reduction of vehicle congestion itself. It thereby ignores the critical factors contributing to this congestion and that should therefore serve as the basis for the development of alternative actions considered in the EIS. By defining the need only in terms of traffic congestion and the project’s purpose only as improving the flow of vehicles, UDOT ensures development of essentially a single solution—increasing the vehicle-carrying capacity of the asphalt infrastructure.

The conclusion that UDOT begins this project with the predetermination that the ultimate outcome will principally be highway construction is clear from several portions of the record thus far. First, the assignment of FHWA’s NEPA obligations to UDOT itself is legally predicated on LCC transportation improvements constituting a “highway project.” 23 USC §327(a)(2)(A). The very fact that UDOT is the lead agency in the present NEPA process appears to foreclose analysis of reasonable alternatives that look primarily toward different utilization of the current highway infrastructure and/or a substantially different mix of transportation modes.

Second, in a striking example of predetermining the outcome of the NEPA process, UDOT adopts the conclusion of a state planning process that LCC Highway capacity would be increased by widening it and adding a third lane. UDOT explained that the Wasatch Front Regional Council published its conclusion that this project should be built during the LCC scoping period. In a blatant example of a state priority predetermining the outcome of a federal decision-making process, UDOT appears to have concluded that this expansion of LCC Highway would be presumed in the LCC NEPA process.

Third, that UDOT has preselected a result is also clear from the metrics identified for measuring the success of the response to the purpose and need’s goal of improving “mobility.” These are UDOT’s standards for “Level of Service” (LOS), which are exclusively a function of vehicle congestion. See Draft Purpose and Need Chapter pp. 1-25 to 1-32. With these the exclusive measures, solutions involving different utilization of the highway and different vehicle mixes are never considered, leaving the EIS inevitably to conclude that the only way to improved “mobility” is through increasing the vehicle-carrying capacity of the highway, with little or no consideration of how this highway may be used differently and more efficiently. In other words, UDOT is beelining straight to a result narrowly within its jurisdiction and institutional comfort zone — laying down asphalt.

General Comments

The purpose and need chapter fails to consider many of the following issues of importance to the area where the project is being proposed.

One of the essential purposes and functions of the Central Wasatch Mountains, inclusive of Big and Little Cottonwood Canyons where alternatives are being evaluated, is supplying water to the communities in Salt Lake and Summit counties. Similarly, numerous plans of jurisdiction state that visitation is the greatest threat to our water quality, yet we see no attempt to understand the implications of inducing use and the connected impacts this will have on water quality.

Increased visitation to Wasatch is challenging the realization other agencies goals, objectives, and legal obligations (ie. SLC Watershed, Safe Drinking Water Act, USFS Plan). Does UDOT care that its actions might cause harm and massive expenses to protect water quality, like needing to build a new water treatment plant?

Increasing impervious surfaces are known to degrade water quality. Projects like expanding roadways and/or expanding parking lots, not only increase point sources pollutants to our waterways, but also contribute to non-point sources pollutants via visitation increases. Further, imperviousness creates hydrologic sheeting issues and alters the fluvial function and hydrography, threatening water quality (ie. turbidity, stream temperature, etc.) and aquatic habitat, among several other environmental qualities of importance to public health and public values. As climate change compounds some of these impacts, how do the alternatives further stress some of these variables, and make the goal providing of high quality water to people that much more difficult or costly?

Climate change is altering both recreational uses and runoff dates, quality/quantity issues, stressing the both the natural and human environments. How do the alternatives impact visitation trends, hence roadway usage and connected impacts on the environment? Is

UDOT cites the need to comply with the Clean Water Act, but neglects to look at legal obligations that bind cooperating agencies, like the Safe Drinking Water Act (SDWA). Looking at the SDWA is required as part of the authority granted by FHWA and as one of the most important values of the Wasatch, not to mention the purpose for which it was established as a National Forest, water quality must be part of the purpose and need of the project.

Salt Lake County is a non-attainment area and this project should not lead to an increase in air pollutants exacerbating noncompliance with the Clean Air Act. Please demonstrate how alternatives will decrease unhealthy emissions, and do not complicate conformance with the Utah SIP.

Screening Criteria

The screening criteria, both level 1 and level 2, fall short and need to be improved. Here are several ways the criteria can be improved:

In addition to metrics for the Clean Water Act, we recommend adding screening criteria for compliance with the Safe Drinking Water Act. Modeled turbidity, stream temperature, oxygen due to alterations in the hydrograph and both point and non-point source pollutants should be measured and forecasted for varying alternatives.

Air quality metrics – How do the varying alternatives affect compliance with the SIP for the following measures: Ozone, PM2.5, PM10, etc... It is well known that expanding roadway capacity just encourages more driving.

Shared Stewardship – trying to reduce WUI scores, do these actions conflict with the goals as articulated in the USDA-UTAH Shared Stewardship agreement? Further, the Shared Stewardship Priority Map cites “Headwaters Little Cottonwood Canyon” as a top priority and according to Utah DEQ - Division of Drinking Water has a score of 100 out of 100 as it pertains to the importance of this particular watershed. Over 90% of the project is within this HUC12 boundary. Point is, even the state has conflicting priorities for these areas. Is this project complicating the priorities not only with agencies outside of the state, but even amongst the State's own divisions.

Alternatives

The following concepts or alternatives some of which are missing others were unduly ruled out of scope should be incorporated or come back into the analysis.

It seems that looking at alternatives that better deliver people without vehicles to the entrances of the canyons, the start point of SR-210 and the “elbow” of SR-210 that turns into Little Cottonwood Canyon Rd, is not being adequately analyzed as an alternative. Exploring the use of mass transit (light rail, buses, BRT, etc) from the University area along Foothill Blvd then onto Wasatch Blvd to the gravel pit area that is being considered for a multi-use transit center could aid SR-210 through a huge reduction in vehicular traffic. An east side (north-south) transit service would bisect east-west arterials such as 3300 S., 3900 S., and 4500 S., for example, some of which already have economic nodes. Both these routes, Foothill and Wasatch Blvds could also benefit from transit service in non-ski seasons and numerous popular trailheads that are accessed off these routes could benefit from this service.

In its alternatives analysis, UDOT eliminates consideration of speed limit considerations, citing it is an operational issue, not required in EIS analysis. Not understanding the impacts of how variables interact in this sensitive environment is a symptomatic flaw of analysis in this project. UDOT says it won't analyze the impact of visitation on the watershed, only the roadway. Further it states that it won't analyze speed limits, however, speed limits affect throughput and they also impact safety. These are two key issues covered by the purpose and need and deserve more thorough analysis.

Free or discounted transit service is listed as outside the scope of the EIS (Table A-1. Pg. A-3. Preliminary Evaluation of Alternatives/Concepts during EIS Scoping Periods). We disagree — tolling needs to be part of the EIS. The ratio of toll cost relative to transit cost will affect travel behavior and therefore impact on the human and natural environments. If toll revenues, for

example, were used to offset/increase transit service, that too would affect travel behavior. If costs of transit/tolling and use of the revenues not factored in the screening criteria, realities will skew toward increasing roadway capacity.

Conclusion

The canyons of the Wasatch Range play an important role in our communities, economy and quality of life. This area is incredibly complex, as numerous plans and studies have acknowledged. It is because of that, that we believe everything should be analyzed at the right scope and scale, in a holistic manner where these tensions and issues that exist in these canyons, can not only help decision makers, but the community whom they serve. We believe that incorporation of our comments will aid the agency by:

1. Arriving at an outcome that will result in a net benefit for this complex ecosystem.
2. Helping our community understand this complexity of the environment and the tradeoffs for various options, and
3. how it supports other agency and community goals.

The Wasatch is confronted with a variety of challenges. This project may set the tone for generations and will affect what options might be afforded to connected environments and regions, it seems this was the intent of the source of funding from the legislature in 2016. Complex issues and environments need complex analysis and solutions. We still struggle to understand how this process as you have defined gets us to a point where we are actually resolving issues that confront us and looking at the big picture of what is confronting the region and what end we are striving toward. It is clear that the resignation of UDOT from the Central Wasatch Commission and cancellation of the Cottonwood Canyons Transportation Action Plan that UDOT doesn't believe Mountain Accord held the answers. With an ill-defined problems statement (purpose and need), that doesn't acknowledge the complexity of the environment in which the project takes place, one can only expect the outcomes will similarly miss the mark.

This is not to say that we do not want options to be analyzed. We do. We would have hoped for a process that looked at all the options for the entire region, not just as it pertains to Little Cottonwood Canyon.

Thank you,



Carl Fisher
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Save Our Canyons