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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal by
THE BALLARD BUSINESS
APPELLANTS

from a Determination of Non-
Significance, issued by the Director of the
Seattle Department of Transportation,
regarding the Burke-Gilman Trail
Extension

Hearing Examiner File:
W-08-007

MOTION BY CASCADE BICYCLE
CLUB TO INTERVENE

The Cascade Bicycle Club moves to intervene in this proceeding. Under Hearing Examiner Rule (HER) 3.09 a motion to intervene must identify the interests of the intervener, how it is affected by the proceeding and why its interests are not otherwise adequately represented. Also, the Examiner is to consider whether intervention would unduly delay the proceedings, expand the issues beyond those in the appeal or prejudice the rights of the parties to the action. Under these criteria, Cascade Bicycle's motion to intervene should be granted.

Founded in 1970, the Cascade Bicycle Club is a statewide organization formed to promote bicycling, for transportation, recreation and for health. Cascade

1 Bicycle seeks to accomplish this objective through education, such as classes on
2 bicycle safety, through special events, such as ride to work month (the month of
3 May), through involvement in public affairs, such as its work on Seattle's Master
4 Bicycle Plan, and through public information, such as through its newsletter.

5 Cascade Bicycle is the largest organization in the state that promotes
6 bicycling and bicycle safety. It presently has over 7200 active members. An even
7 larger number participate in its many activities. For example, the organization's
8 signature event, the Seattle to Portland bicycle ride annually attracts its maximum
9 participation of 9,000 riders.

10 Many of Cascade Bicycle Club's members use the Burke-Gilman trail on a daily and
11 weekend basis, including the portions of the trail broken by the "missing link" whose
12 completion is the subject of this action. Completing the Burke-Gilman trail through
13 Ballard has long been a high priority for the Club. The Club would intervene in
14 defense of the Determination of Non-Significance.

15 The Club seeks to intervene because it does not believe that its interests would be
16 adequately represented by the parties to this proceeding. While the Club believes
17 that the Department of Transportation will offer a vigorous defense of the DNS, its
18 interests are not the same as those of the Club. By representing bicycling users of
19 the existing streets and the prospective users of the completed trail, the Club brings
20 the perspective of those directly impacted by the present unsafe conditions of the
21 existing circulation system and those who would be benefitted by the completed
22 trail. In granting intervention in environmental cases, our courts have recognized
23 that interventions by private parties are appropriate where their interests are more
24 sharply focused than the government agency rendering the decision, *Loveless v.*
25 *Yantis*, 82 Wn. 2d 754, 759, 513 P.2d 1023 (1973), as is the case here.

26 The Club's intervention would not unduly delay the hearing process, expand the
27 issues, or prejudice the rights of the parties. The Club seeks to intervene in defense
28

1 of the DNS and raises no new issues. Other than adding another party to this
2 proceeding, which is inherent in intervention, the involvement of the Cascade
3 Bicycle Club would not prejudice the interests of the other parties or cause undue
4 delay. Given that the Club's involvement will not expand the issues, the nature and
5 scope of the Club's intervention need not be limited.

6

7 DATED: _____

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10 Respectfully submitted,

11 ARAMBURU & EUSTIS, LLP

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14 Jeffrey M. Eustis
WSBA 9262

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DECLARATION OF SERVICE

The undersigned declares as follows:

I am an employee in the law office of Jeffrey M. Eustis, over the age of 18 years and competent to be a witness herein. On the date below written copies of the foregoing document were served on the parties of record and on the Seattle Hearing Examiner as follows:

by fax and messenger:

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I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true to the best of my knowledge and belief.

Dated at Seattle Washington this ____ day of _____ 2009.

Kathleen McLemore