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## National Environmental Policy Act/Transportation Project: U.S. District Court Addresses Alternatives Analysis Utilizing Prior State Studies

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A 9th Circuit Court of Appeals in an April 21st opinion addressed an appeal by Our Money Our Transit of the United States District Court (Western District of Washington) of a judgment in favor of the Federal Transit Administration and Lane Transit District (collectively "Appellants"). See *Our Money Our Transit et al. v. Federal Transit Administration*, 2017 WL 1420268.

The Appellants alleged that the West Eugene EmX Extension ("WEEE") failed to comply with the requirements of the National Environmental Policy Act ("NEPA").

Appellants argued that the approval of the NEPA Environmental Assessment ("EA"):

- Failed to consider a reasonable alternative
- Ignored the WEEE's environmental impacts on traffic, local trees, utilities, and Charnelton Street

A NEPA EA reviews the potential impact of a federal action on the environment which may include natural and historical resources, as well as human impacts such as visual and noise. The EA is a public document that provides sufficient evidence and analysis for determining whether a finding of no significant impact or an environmental impact statement should be prepared.

An EA will typically describe the proposed action and the reasonable alternatives that meet the purpose and need. In general, if an alternative does not satisfy the purpose and need for the action, it is not included in the analysis as a reasonable alternative.

The 9th Circuit Court of Appeals held that:

[A]n agency does not violate NEPA by refusing to discuss alternatives already rejected in prior state studies.

*Honolulutraffic.com v. Fed. Transit Admin.*, 742 F.3d 1222, 1231 (9th Cir. 2014) was cited as relevant precedent.

The Court further noted that:

The FTA and LTD engaged in an Alternative Analysis (AA) that assessed over fifty alternatives prior to the EA. "[A] state-prepared [AA] may be used as part of the NEPA process as long as it meets certain requirements. . . ." *Id.* This AA met those requirements and resulted in several proposals being advanced

to local stakeholders. As a result of consultation with those local stakeholders, the EA examined only the West 6th route as the Locally Preferred Alternative, as well as a NO-Build alternative.

Therefore, the Court held that it was not unreasonable to exclude what is referred to as the “West 13th route from the EA.”

[A copy of the opinion can be downloaded here.](#)