

FINDINGS AND DECISION  
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

BEATRICE YARNEAU, et al.

FILE NO. W-77-019

from an environmental determination  
of the Department of Parks and  
Recreation

The appeal is DENIED and the determination  
of the Director of the Department of Parks  
and Recreation is affirmed.

Introduction

The appellants, Beatrice Yarneau, et al., filed an appeal challenging the adequacy of the Final Environmental Impact Statement (EIS) prepared by the Department of Parks and Recreation with regard to the reallocation of Forward Thrust bond funds for city park and recreation projects.

The appellants exercised their right to appeal pursuant to Section 20, Ordinance 105735.

This matter was heard before the Hearing Examiner on October 13, 1977.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Department of Parks and Recreation, hereinafter Department, prepared an EIS with regard to the proposed abandonment of certain projects or elements of certain projects that were specified for development under the 1968 Forward Thrust Bond Resolution (King County Resolution 34571) and the addition of a number of new projects. The Department proposes to abandon certain projects because they are considered impractical due to increased costs, revised attitudes or siting problems.

2. The EIS encompasses all projects or elements of projects to be abandoned as well as new projects not specified in the Forward Thrust Bond Resolution which are proposed to be funded with such monies. The EIS does not include all park and recreation capital improvement expenditures, but is directed solely at modification of the Forward Thrust Bond Resolution. In the Final EIS, pages 6 through 11, there is a description of the various projects that are proposed to be abandoned and those that are to be added. The projects include as follows: regional and major urban parks, local parks, small recreation areas, Puget Sound waterfront parks and beaches, playgrounds, playfields, community centers, recreation facilities, tennis courts, swimming pools, walking paths, trails, greenbelts, scenic drives, and special facilities.

3. The Department prepared a Final EIS which was filed with the SEPA Information Center. Timely appeals were filed challenging the adequacy of the EIS by the following parties: Beatrice Yarneau, Benella Caminiti, Peter Bement,

and Barbara Zepeda. A prehearing conference was held with regard to the subject appeal and due to the large number of issues and the complexity of the subject matter, the Department was requested to respond in writing prior to the hearing to many of the issues raised on appeal. The following paragraphs will consider specific issues raised by the appellants and the responses of the Department.

Appeal of Beatrice Yarneau

3. Ms. Yarneau alleges that 1960 park and recreation bond funds have been illegally expended on Forward Thrust projects. The Department contends that the expenditure of 1960 bond funds does not relate to Forward Thrust reprogramming. The record shows that the City does not place any restrictions on the use of its parks and recreational facilities by non-residents.

Appeal of Barbara Zepeda

4. Ms. Zepeda alleges that the Department failed to answer substantial questions raised with regard to a 1975 legislative audit by the City Council of Forward Thrust expenditures and an audit by the State Examiner. The Department contends that the audits are not relevant to the EIS. Portions of both the State Examiner's Report (43417) and the legislative audit of October 22, 1975, relating to Forward Thrust were entered in the record.

5. The appellant alleges that the Department provided inadequate data on maintenance and operation costs. The Final EIS at page 59 contains a list of such costs for projects proposed to be added. The Department stated that it was reluctant to develop estimates for projects proposed to be abandoned due to the many unknowns involved, but an estimate was provided prior to the hearing.

Appeal of Benella Caminiti

6. Ms. Caminiti questions the adequacy of information on the Red Barn Ranch. At page 48 of the Final EIS it states that the Forward Thrust project for a New Youth Camp in County had been provided for with Model City Funds at the Red Barn Ranch. The Department agreed that a clarification was necessary and stated that the Red Barn Ranch fulfilled the Forward Thrust requirement and that the funds allocated to that project could be reprogrammed. In other words, the Department claims it is not abandoning the project since it has been completed with other funds.

7. Ms. Caminiti questions the reprogramming proposal concerning greenbelt and scenic drive projects. The Department admits that the EIS is confusing on this point. A discussion at page 57 of the Final EIS states that the proposal is not to abandon the greenbelt projects but rather to modify the wording so that acquisition will be undertaken to the extent of the funding available rather than to strive for the acquisition of a specific 200 acres. This change is proposed so that priorities may be based upon acquisition of the most desirable greenbelt areas rather than the lowest acquisition price in order to obtain the full 200 acres.

8. Ms. Caminiti questions the financing for development of the West Seattle Golf Course expansion. At page 47 of the Final EIS it states that the funds for acquisition and development have been expended. The course has not been developed and is not proposed to be developed with Forward Thrust money but rather by means of a private development or other alternative funding source.

9. Ms. Caminiti challenged the adequacy of the discussion of "self-help" and its impact on park development.

10. The appellant also raised issues with regard to the expenditure of Model City funds, specific projects, supplemental funds, the role of the Park Board and Recreation Task Force, the Seattle 2000 Commission, playgrounds and tennis courts.

#### Appeal of Peter Bement

11. Mr. Bement alleges that there was inadequate public notice and input regarding the Draft and Final EIS. The provisions controlling public awareness and hearings are contained in WAC 197-10-450 through 495. Pursuant to WAC 197-10-480 a public hearing is not required on every EIS. The record shows that the Draft EIS was distributed to governmental agencies, public library branches and the media, including publication of the availability of the Draft EIS.

12. The appellant alleges that the responses of the Department to the comments submitted on the Draft EIS were inadequate. The Final EIS at pages 79 through 105 contains the responses of the Department. WAC 197-10-580 requires a general response to comments received with regard to the Draft EIS.

13. Mr. Bement alleges that the analysis of the Magnolia Tidelands project was inadequate. The Final EIS at pages 32, 67, 71, 104, A4, A5, and appendix P contains a discussion of this issue.

14. The appellant challenges the adequacy of the analysis of the Sandpoint (Magnuson) Park. This issue is discussed in the Final EIS at pages 31, 59, 62, 67, 69, 70, 71 and 72. The response to Mr. Bement's comments on the Draft EIS are contained in pages 104 and 105 of the Final EIS.

15. Mr. Bement alleges that there is not a full explanation of what happened to the mini-park funds and the transfer of funds to finance the Freeway Park and Westlake project. The Final EIS at pages 35-39 contains a discussion of the mini-parks.

#### Conclusions

1. The determination of the Department of Parks and Recreation, pursuant to Ordinance 105735, that the EIS is adequate is regarded as prima facie correct. The appellants have failed to meet their burden and establish the inadequacy of the EIS.

#### Appeal of Beatrice Yarneau

2. The appellant failed to demonstrate that information on the 1960 park and recreation bond funds is related to the proposed action in this case and is therefore not relevant. The 1960 park and recreation funds are separate from the Forward Thrust funds and although funds from both sources in some instances will fund the same project, the only actions under consideration are changes in the Forward Thrust allocations.

#### Appeal of Barbara Zepeda

3. Both the State Examiner's report and the legislative audit report are public documents that contain some criticisms

of the expenditure of Forward Thrust funds. However, both Ms. Zepeda and Mr. Bement failed to show why these reports should have been included in the EIS or why failure to include them would render the EIS inadequate. The audit reports relate to the overall issue of the expenditure of public funds and should be brought to the attention of the decision makers when the substantive decisions are made, but they do not relate in this instance to the issues to be evaluated in an EIS.

4. Both Ms. Zepeda and Mr. Bement have shown that additional information on maintenance and operating costs would have been helpful in an analysis of the proposed action. However, given the many unknowns in developing such estimates it is concluded that the discussion contained in the EIS is reasonably adequate to alert decision makers to potential impacts.

#### Appeal of Benella Caminiti

5. The EIS contains a reasonably thorough analysis of the issues raised by Ms. Caminiti. In some instances a clarification was in order such as on the acquisition of greenbelts. In some cases additional information would have been helpful such as on the alternative of "self-help" projects but the omission is not of such critical importance as to require a remand. Other issues raised by the appellant were not matters required to be considered in an EIS.

#### Appeal of Peter Bement

6. With regard to public awareness and notice, the record shows that requirements of WAC 197-10-450 through 495 were met. In addition the Department made a reasonable response to the comments critical of the Draft EIS. Neither the objections raised by Mr. Bement or Ms. Caminiti with regard to these issues have been substantiated to demonstrate any violation of the SEPA Guidelines.

7. With reference to the Magnolia Tidelands, Sandpoint Park, and mini-park funds, the record shows that there was a reasonably thorough discussion of these issues. The appellant has failed to substantiate any specific inadequate analysis.

8. Mr. Bement also raises issues with regard to the legality of the expenditures, supplemental funds, specific projects, unnamed projects, and user fees. With regard to these issues, the appellant has failed to show that the EIS did not contain a reasonably thorough analysis.

#### General Conclusions

9. The purpose of the Draft EIS, as stated in WAC 197-10-405, is to transmit information concerning a proposed governmental action and the alternatives to that action to public officials, project sponsors, and interested citizens. The main focus of the document is upon assessment of adverse impacts or alternatives and analysis of measures that may be taken to mitigate or eliminate adverse impacts. The contents of the Draft EIS are set forth in WAC 197-10-440. Every EIS must include a list of the elements of the environment and the lead agency must place a not applicable designation next to an item when the proposal, including its indirect impacts, will not significantly affect the area. Appendix G of the Final EIS contains a list of the elements of the environment and those considered not applicable.

10. Many of the issues raised by the appellants were not relevant and showed a misunderstanding as to the purpose of an EIS. In this case the purpose of the EIS was to evaluate potential adverse impacts

and alternatives to the deletion and addition of projects financed by Forward Thrust funds.

11. In addition many of the issues raised on appeal related to disagreement with past and proposed policy actions. The preparation of an EIS does not dictate a substantive decision on the merits of proposed projects. The purpose of the EIS is to insure that environmental matters will be considered by the decision makers. An EIS is not intended to contain a complete statement on all issues relating to a proposed action but is limited to environmental matters. For example, issues relating to audits of Forward Thrust fund expenditures are certainly of importance and should be considered by decision makers but they are not the type of matters required to be considered in this EIS.

12. The test for judging the adequacy of an environmental impact statement is the rule of reason. Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976). In essence, then, "the court's task is to determine whether the EIS was compiled with objective good faith and whether the resulting statement would permit a decision maker to fully consider and balance the environmental factors". Sierra Club v. Morton, 510 Fd.2d 813, 819 (1975). In this case there are many instances where the EIS could have provided more information and in a less technical format enabling an easier review of the numerous projects involved. However, a review of the record shows that the EIS contains a reasonably thorough discussion of the environmental impacts as required by SEPA.

#### Decision

The appeal is DENIED and the determination of the Director of the Department of Parks and Recreation is affirmed.

Entered this 1st day of November, 1977.

  
William N. Shell  
Hearing Examiner

#### Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.