

Appendix A

Gaps/inadequacies in Madison Metro's CATEX checklist form

Hazardous Materials

SUMMARY

The CATEX checklist document requires Metro to answer questions about hazardous materials at the site and steps that will be taken to protect human and environmental health.

Metro did not adequately answer the questions about “hazardous materials” and ignored or dismissed significant contamination problems at the site.

1. Metro did not mention known significant toxic contamination at the site, including extremely high levels of trichloroethylene (TCE). It briefly and generally mentioned past spills, but implied (incorrectly) that they have been fully investigated and cleaned up and are no longer a problem.
2. Significant new information related to “hazardous materials” at the site has come to light since the CATEX was approved on Nov. 18, 2019. This new information, from a [May 2020 Phase I](#) ESA for the northern end of the property, was not released to two city Alders until June 23, is [summarized here](#).
3. The horizontal and vertical extents of toxic contamination in soils, groundwater, and vapors at the site have not been delineated. No Phase II has been completed on the parcel; consequently, there are huge gaps in what is known about toxic contamination there and abundant reasons, especially given the information in the May 2020 ESA, to believe that the contamination is far more extensive and serious than what is currently known.
4. Metro stated that minimal/no disruption of soils or building materials would occur at the site, implying that no contaminants would be disturbed and/or released. However, this is contradicted by statements elsewhere in the document and by evidence from the site.

Accurately and completely assessing the above issues is critical to assessing environmental justice impacts, as well as stormwater, construction, and water quality impacts, since all of these will be affected by toxic contamination at the site.

In sum, because of the above gaps, **Madison Metro did not (and could not) adequately address the CATEX question “What steps will be taken to ensure that human and ecological receptors in the project area are protected from contamination encountered during construction and operation of the project.”**

See more details below.

Hazardous Materials

The CATEX checklist asks Madison Metro to address the below questions to address “hazardous materials” impacts. CATEX questions are in black, City Metro responses in blue (pasted verbatim from the form), and MEJO responses are in black following them. All bolding and highlighting are MEJO’s.

“M. HAZARDOUS MATERIALS: If real property has been acquired, has a Phase I site assessment for contaminated soil and groundwater been performed? If a Phase II site assessment is recommended, has it been completed? What steps will be taken to ensure that human and ecological receptors in the project area are protected from contamination encountered during construction and operation of the project? State the results of consultation with the State agency with jurisdiction over proposed remediation of soil and/or groundwater contamination. Include anticipated effects of the project on asbestos-containing building materials and lead-based paints.”

Madison Metro’s response:

The plant property has undergone subsurface investigation and remediation work from 1994 to present. Activities include multiple remediation actions through the Wisconsin Department of Natural Resources (WDNR) to address historic releases and subsequent contamination of groundwater and soil, and associated investigation and reporting including Phase 1 and Phase 2 site investigations. Releases are primarily associated with above ground storage tanks and underground storage tanks previously located on the site.

A Phase 1 ESA (Environmental Site Assessment) was conducted in October 2017 of the entire former Oscar Mayer plant. Recognized environmental concerns for the entire plant included chemical use and storage, historic spills, chlorinated VOCs in the groundwater, chemical and waste storage area, and historic fills.

Property records provided by the owner indicate there **may be Chlorinated Volatile Organic Compounds by Building 43**, the former spice room. Other buildings not being considered for purchase have known Petroleum VOC and polycyclic aromatic hydrocarbons (PAHs) in the soil. There was also a release of ethylene dichloride (a CVOC), PAHs, arsenic, and lead in the unpaved grassy area south of Building 59 (not being considered for purchase).

The owner, Reich Brothers and Rabin, are currently performing additional Phase 2 environmental investigations for the entire Oscar Mayer site.

MEJO responses:

Metro did not mention known significant toxic contamination at the site, including extremely high levels of trichloroethylene (TCE) and implied that past spills have been fully investigated and cleaned up and therefore are no longer a problem. This is incorrect.

In fact, the Oscar Mayer site and surrounding areas include a large number of toxic chemical spills, including many that have not been formally “closed” under DNR—meaning that they have not been fully cleaned up or remediated according to DNR regulations. This report by the

[Midwest Environmental Advocates](#) lists and maps out many of the spills at Oscar Mayer and surrounding areas. Previous site investigations, such as these [2016](#) and [2017](#) Phase I Environmental Site Assessments (ESAs), describe and map numerous chemical spills on the Oscar Mayer site, including many that were never fully investigated or cleaned up.

As a result of the incomplete investigations/remediations in the past, the horizontal and vertical extents of the contamination in soils, groundwater, and vapors at the Oscar Mayer site (including the northern parcel Metro wants to purchase for the bus barns) have not been delineated.

Metro states that “The owner, Reich Brothers and Rabin, are currently performing additional Phase 2 environmental investigations for the entire Oscar Mayer site. It is not clear what Metro is referring to here; we have not been able to locate any Phase 2 documents other than the [2019 Reich Brothers and Rabin Phase 2 Environmental Site Assessment](#), which only assessed three particular areas of the Oscar Mayer site (not assess the entire site). One of these areas was only a small part of the northern parcel (just Building 43) that the city wants to purchase for the bus barns (the focus of this CATEX). In other words, this Phase II ESA does not reflect a full investigation of the northern parcel the city wants to use for the bus barns.

Metro’s statement that there “may be Chlorinated Volatile Organic Compounds by Building 43” is at best disingenuous and at worst outright dishonest. **In June 2019, well before this CATEX checklist was written, Reich Brothers and Rabin’s consultants (ERM) found extremely elevated levels of TCE (66,800 µg/m³ in subslab vapors under Bldg. 43). These levels indicate that there is a plume of TCE and other chlorinated organic compounds beneath this building and likely well beyond it.**

The City of Madison realized this indicated significant contamination. On [June 26, 2019](#), the City issued a Request for Proposals for further investigation of the Oscar Mayer site that asked consultants to address these questions for “three parcels” (one of which is the northern parcel):

- “Former Spice Room – Is the ERM investigation of this site adequate to characterize solvent contamination of the soil, shallow groundwater, and deep groundwater?
- General fill and storm water ponds – Aerial photos from the 1950s shows filling of all three properties as well as several historic storm water ponds. Is there shallow soil contamination associated with the fill and ponds that would require management if excavated? Was there any solid waste materials deposited on the properties?
- Per and polyfluoroalkyl substances (PFAS) – PFAS contamination has recently been identified at the former Burke Wastewater Treatment Plant located at 1401 Packers Avenue. From 1950 to 1978, Oscar Mayer leased this property for pretreatment of wastewater from their meatpacking plant. To what degree should the City conduct PFAS testing of groundwater and soils on the Oscar Mayer properties?
- Solvent plumes in groundwater – When the production wells were in operation, the Oscar Mayer facility had a strong downward hydraulic gradient. It is also documented that these production wells were impacted by solvent contamination, potentially from onsite use. Has deeper groundwater on these three parcels been adequately characterized?

Are offsite impacts sufficiently understood to be able to limit the City's future liabilities?"

Again, clearly by this time, the city knew about the TCE under Building 43 and knew that there were significant unanswered questions about this and other contamination on the site, including possibly per and polyfluoroalkyl substances (PFAS).

The city is also aware that many of the critical migration pathways for TCE and other contaminants to travel on and offsite have not been investigated. Last month, Madison's hydrogeologist admitted to community members that there is "significant contamination" at the Oscar Mayer site, and encouraged them push DNR to require that contaminant migration pathways on and offsite be investigated, which hasn't been done to date but is required by the agency's laws (NR700).

Yet Metro doesn't mention TCE, or any of these other important unknowns about contaminants, in the CATEX checklist form submitted on November 8, 2019.

New information since CATEX was approved

Consultant reports released in [December 2019](#) and [April 2020](#) revealed far higher trichloroethylene (TCE) levels in gas beneath Building 43 than was previously known--up to 99,700 $\mu\text{g}/\text{m}^3$ (see [map here](#)). May 2020 [SVE pilot tests](#) found vapor levels beneath Building 43 of up to 180,000 $\mu\text{g}/\text{m}^3$ TCE and 110,000 $\mu\text{g}/\text{m}^3$ cis 1, 2 dichloroethylene.

Also, the [May 2020 ESA Phase I](#) by the city, done in response to the June 2019 RFP (only first released to two city alders on June 23, 2020) mentioned several activities that raise new concerns about hazardous materials at the site, including: plastics and insecticide manufacturing onsite (possibly including PFAS), injection/landfilling of hazardous wastes onsite, at least three different sources of chlorinated solvents onsite, and more. This ESA was only focused on the north end of the site, the two lots that the city is planning to purchase for Metro and other employment uses, and not the entire site.

Here's [a summary](#) of some of the most critical new information in this ESA. It has significant implications for types and levels of contamination that could be on the northern parcel.

Plastics were manufactured in Building 43 and Building 50, which is also part of the planned purchase for the bus barn. No investigations of chlorinated solvents and/or vapor intrusion have been done in or under this building—nor has any testing been done in the groundwater beneath the building.

This new information raises obvious concerns about environmental contamination on the site that have not yet been investigated. It also raises serious concerns about health risks to workers in Metro buildings on the site and to residents in neighborhoods adjacent to the site.

Moreover, any disturbance of soils and shallow groundwater at the site—and some disturbance will occur for this project (see Attachment B)—will disrupt this contamination and send it down

storm drains during runoff and into nearby Starkweather Creek, Yahara River, and Lake Monona.

In summary, Madison Metro did not address, as the CATEX checklist asked, “*What steps will be taken to ensure that human and ecological receptors in the project area are protected from contamination encountered during construction and operation of the project.*” Instead it simply ignored or dismissed significant contamination at the site and/or the potential for it to be released during construction and/or operations.

Madison Metro

They are working with the Wisconsin Department of Natural Resources to resolve their findings related to their current environmental investigations. Metro Transit intends to perform additional Phase 2 investigations for the specific Metro property purchase area to supplement the owner’s investigations when the property purchase agreement moves forward and prior to acquiring the property. These supplemental Metro Transit Phase 2 investigations are planned to occur during the first half of year 2020.

MEJO response:

The community has been told that Kraft-Heinz made an agreement with Reich Brothers and Rabin that prevents the city from doing a Phase II ESA until after they purchase the property. So, no Phase II has been done yet. It is contradictory for Metro to say in the CATEX Checklist quoted here that Metro will do Phase 2 investigations “prior to acquiring the property,” yet is telling the alders and the public in Madison now that Kraft is not permitting any investigation until after there is a commitment to purchase the property. Clearly, if true, this is a change from what Metro previously represented in its CATEX checklist

Consequently, despite the fact that the May 2020 ESA lists numerous past activities at the site that are likely to have involved spills and other releases, possibly including PFAS--and purposeful injections and/or landfilling of toxic chemicals on the parcel—the city is planning to purchase this land without having needed data to assess the human health and environmental impacts of this contamination.

Madison Metro:

Planned future uses of the site include using the existing buildings 43 and 50 and 50A as-is. Limited to no excavation on site is anticipated.

MEJO response:

What does “limited to no excavation on site” mean? On pg. 19 of the document it says “For the current scope of work for this project and the reuse of existing buildings 43, 50, and 50A, the existing storm water system is adequate and will not require modifications.” Similarly, in Section W, “Impacts on water quality” the CATEX says: For the current scope of work for this project and the reuse of existing buildings 43, 50, and 50A, the existing storm water system is adequate and will not require modifications.”

However, according to an email from a city staff person on June 18, 2020, Reich Brothers and Rabin’s consultants have been “actively re-configuring” storm drains. From late 2019 to the

present, community members have observed piles of dirt and concrete, as well as holes in the concrete (along likely storm/sanitary drain lines), at the site. Roll-off boxes for hazardous materials have been observed at the site on many occasions.

Reich Rabin may be doing this work in anticipation of selling the property, or even just *planning* to reconfigure the utility lines (as the city suggested when we followed up on the June 18 email). Even if that is the case, the CATEX statement that “the existing storm water system is adequate and will not require modifications” is incorrect based on the June 18 email from city staff. Also, it is indisputable that some excavation work has been occurring on the northern parcel.

Also contradicting the claim of no/minimal disruption, in the construction impact section of the CATEX, Metro wrote: “The existing site will require modest adjustments during renovation and remodeling of buildings 43, 50, and 50A which will be primarily interior construction. Some ramps to the existing parking lot may be constructed to provide access to Buildings 43, 50 and 50A.” These ramps will require disruption of soils beneath the parking lot. (Oddly, recently Metro has stated that they are no longer planning to use Building 43 after all, yet they still claim they want to purchase it.)

In addition, preparing Buildings 43 and 50 for bus barn maintenance will involve digging into the concrete inside the building to construct maintenance bays. TCE and other contaminants in soils and groundwater under Building 50 have never been investigated. Fully investigating contamination under both Building 43 and 50 (and remediation if necessary) are essential to protect construction workers and Metro workers, and to prevent contamination from going down storm and sanitary sewers that exist beneath and adjacent both buildings. These storm drains connect to city storm drains that flow into the Yahara River and Starkweather Creek.

Madison Metro:

If hazardous materials are encountered and will be disturbed by construction activities, construction activities will halt and a plan will be developed for disposing of the materials.

MEJO response:

Firstly, this seems to contradict Metro’s assurance right before it that “limited to no excavation on site is anticipated.” Secondly, assuring that if any hazardous materials are encountered during construction a waste disposal plan will be developed does not say how exposures to Metro workers and/or releases into the storm drains and lakes/streams will be prevented.

Madison Metro:

The plan for disposal of materials includes an on-site evaluation by City Engineering staff. A waste manifest is prepared for transport and disposal of contaminated materials to the landfill. Hazardous materials removal and disposal are overseen by City Engineering and by the Wisconsin Department of Natural Resources.

MEJO response:

For the last several months, community members have asked questions about excavation work, piles of soils and debris they have observed at the site in recent months, and requested waste manifests and permits. Neither the city nor the DNR have answered these questions. This lack of

responsiveness on the part of the city does not reassure us that when the city owns the parcel, it will assure that appropriate disposal plans are developed and that these plans and waste manifests will be made publicly available somewhere or even at the request of interested residents. It also doesn't bode well for the overriding concerns of the public for their health and safety as this site is redeveloped.

Attachment B

Gaps/inadequacies in Madison Metro's CATEX checklist form

Impacts on Water Quality, ecologically-sensitive areas, and construction impacts

SUMMARY

The CATEX checklist asks Metro to address any potential environmental impacts at the proposed bus barn site, including impacts to water quality, ecologically-sensitive areas, and impacts caused by construction.

Metro inappropriately dismisses the potential for any environmental impacts in each of these areas with little/no evidence and by ignoring known toxic contamination at the site, as described in Attachment A, and claiming (contrary to evidence) that construction disruption will be minimal. It ignores the potential impacts of this contamination, which will be discharged via stormwater, on Starkweather Creek, the Yahara River, and Lake Monona and its fish and wildlife.

In dismissing these impacts, Metro in turn dismisses key environmental justice impacts, such as impacts from toxic pollution discharged from the site on low income and minority subsistence anglers who consume fish from Starkweather Creek, the Yahara River, and Lake Monona.

Below we discuss some of Metro's inappropriate responses in more detail.

Water quality impacts

The CATEX checklist asks Madison Metro to address the below questions to address water quality impacts. CATEX questions are in black, City Metro responses in blue (pasted verbatim from the form), and MEJO responses are in black following them. All bolding and highlighting are MEJO's.

“S. IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES: If any of these resources are implicated, describe the project's potential impacts. Determine if National Pollutant Discharge Elimination System (NPDES) permits are applicable as a result of ground disturbance or point sources that will discharge pollutants into waters of the United States. Refer to BMPs at the U.S. EPA website. How will storm water be treated during and after construction? How will wastewater from bus washing facilities be treated? Determine if project area is in a sole-source aquifer, if not document in narrative (refer to the U.S. EPA website).”

Madison Metro's response:

The storm water on the existing site is collected on-site to an underground storm sewer piping system. For the current scope of work for this project and the reuse of existing buildings 43, 50, and 50A, **the existing storm water system is adequate and will not require modifications.** If additional buildings are constructed in the future that are beyond the scope of this project or parking lot modifications occur beyond the existing parking lot footprint, **they will require improvements that include storm water detention basins to collect storm water on-site with biofiltration** and provide slow discharge to the existing adjoining storm water system. During construction, water quality will be protected through state and local erosion control plans and permits. Post construction, this site will require a category 8 NPDES permit which regulates transportation facilities that have vehicle maintenance and vehicle cleaning.

The project area is not included in a sole source aquifer area.

Refer to Exhibit 'P' – Sole Source Aquifer Map.

MEJO's response:

The statement “The storm water on the existing site is collected on-site to an underground storm sewer piping system” is notably incomplete; it doesn't say where this piping system discharges offsite. The underground storm sewer piping system discharges most of the stormwater drainage from the Oscar Mayer site, including some of the northern parcel, south **directly into the Yahara River (which then drains into Lake Monona)**. Stormwater from the northeast corner of the northern parcel goes north/northeast, under the HW30/Packers interchange, and discharges into a ditch at the former Burke sewage treatment site (now owned by MGE). **This ditch drains directly into Starkweather Creek**, about 3,500 feet to the east of the former Oscar Mayer site.

As discussed in Attachment A, the northern parcel of the site is highly contaminated with trichloroethylene (TCE) and very likely a plethora of other contaminants (see links in Attachment A) that have not been assessed yet. The highly contaminated former Burke sewage plant site (listed on the Hazard Ranking System list for Superfund) overlapped with the northeastern corner of the northern parcel. Stormwater that drains over and through contaminated

soils and shallow groundwater on the site carries contaminated water and sediments into storm drains and then into the Yahara River, Starkweather Creek and Lake Monona.

Metro did not describe “the project’s potential impacts” on these “resources” (Starkweather Creek, the Yahara River, and/or Lake Monona), as the CATEX checklist asks, but simply says there won’t be any. It doesn’t refer to BMPs (best management practices) at the U.S. EPA website or address the question “how will storm water be treated during and after construction” beyond saying that during construction, “water quality will be protected through state and local erosion control plans and permits.”

As for stormwater impacts from bus maintenance and cleaning, Metro doesn’t address “how wastewater from bus washing facilities will be treated” but again simply points to a permit (“Post construction, this site will require a category 8 NPDES permit which regulates transportation facilities that have vehicle maintenance and vehicle cleaning.”).

Further, relatedly, Metro’s statement that “the existing storm water system is adequate and will not require modifications” is incorrect. On June 18, 2020, City of Madison hydrogeologist Brynn Bemis stated in an email to us that “stormwater system on the site “is being actively redesigned right now.” Community members have observed that the current owners of the site have been removing pavement at the site in areas where storm and/or sanitary lines are likely to be, presumably related to this work.

Photo below taken on July 14, 2020 by community member, showing pile of soils and broken concrete and cuts out of pavement:



The CATEX checklists asks Metro to address:

“T. IMPACTS ON ECOLOGICALLY SENSITIVE AREAS AND ENDANGERED SPECIES: Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with the state department of natural resources and, if appropriate, the U.S. Fish and Wildlife Service on the impacts to critical habitats and on threatened and endangered fauna and flora that may be affected. Refer to the U.S. Fish and Wildlife Service website.”

Madison Metro’s response:

No wildlife or natural areas are on the site or are anticipated to be affected by the purchase of the north 15 acres of the Oscar Mayer site. If Metro pursues purchasing the North Transfer Site and associated parking, there is a vacant field south of the existing park n ride. At some point in the future this field could be converted to additional parking. Exhibit E shows an aerial photograph of the area.

Starkweather Creek is the nearest stream. It is located to the east of the project site at a distance of approximately 3,500 feet away. Refer to Exhibit ‘O’ for a visual of the proximity of Starkweather Creek to the project site. This project will not impact any wetlands or flood zones. The Starkweather Creek watershed covers around 15,300 acres and includes parts of the Towns of Madison, Burke, and Blooming Grove. It runs through urbanized portions of the City of Madison and drains into Lake Monona. **This project will not have an impact on Starkweather Creek.**

Refer to Exhibit ‘K’ – Surrounding Land Uses.

An endangered resources preliminary assessment was conducted by the Wisconsin Department of Natural Resources within a 1-mile buffer for terrestrial and wetland species and a 2-mile buffer for aquatic species. Based on these search results no further action is required. This project is covered by the Broad Incidental Take Permit/Authorization (BITP/A) for No/Low impact activities. The DNR has determined that this project will have no impact or a minimal impact to endangered and threatened species in the state, and that there are no actions that need to be taken to comply with state and/or federal endangered species laws. Refer to Exhibit ‘U’ Endangered Resources Assessment Report.

MEJO response:

If the field south of the park-n-ride is used for Metro bus barn parking, this will certainly impact the Hartmeyer wetland just to the south of that because it will mean more impervious surface, increasing runoff into the wetland. (However, this proposal is odd, since this area is slated for medium or high-density housing in the Oscar Mayer Special Area Plan.)

Stating that “this project will not have any impact on Starkweather Creek” does not suffice as evidence that it will not, especially since stormwater from the northern part of the parcel discharges into the creek via underground storm drains that connect to the Bridges golf ditch. There is no mention whatsoever of impacts on the Yahara River, which also receives the majority of the stormwater discharge from the site also via the stormwater system.

Because there has not been a thorough site hydrogeologic environmental investigation completed, it is impossible to fully understand the groundwater flow towards Starkweather Creek, nor the range of migration of subsurface contaminants. Per Brynn Bemis, city engineering department hydrogeologist, there is “significant contamination” at the Oscar Mayer site. Subsurface contamination has been documented and the downgradient flow is to the south/southeast towards Starkweather Creek. This creek is open and accessible to both area residents as well as wild life and birds. There is public access to this creek along its banks in the city of Madison. The subsurface strata contains layers of sand and gravel which are a conduit for groundwater travel in a down gradient direction. High levels of TCE are indicated in preliminary studies and it is likely that there is a deep plume of TCE, which could eventually also impact deep municipal wells.

The CATEX asks Madison Metro to address:

“V. IMPACTS CAUSED BY CONSTRUCTION: Describe the construction plan and identify construction impacts with respect to noise, dust, utility disruption, debris and spoil disposal, air quality, water quality, erosion, safety and security, and disruptions of traffic and access to businesses or residential property. Identify steps that will be taken to provide alternatives or mitigate the impacts of construction impacts. Cite applicable local, state, and federal regulations, and any standards or BMPs that will be followed. If applicable, please include any NPDES best practice measures (refer to the U.S. EPA website).”

Madison Metro’s response:

The existing site will require modest adjustments during renovation and remodeling of buildings 43, 50, and 50A which will be primarily interior construction. Some ramps to the existing parking lot may be constructed to provide access to Buildings 43, 50 and 50A.

Existing utilities including gas, electric, water, and storm sewer improvements already exist at the site. Disruption of utility service to the surrounding businesses is not anticipated during remodeling of the existing buildings.

Since most of the modifications will be interior, impacts due to construction noise, debris, air or water impacts, or safety and security issues are anticipated to be modest. Disruption to traffic or access to property will not occur during construction periods.

All State and local ordinances for construction will be followed.

MEJO’s response:

As pointed out in Attachment A, the claim that existing utilities do not need to be changed or improved has already been proven incorrect. In fact, modifications have already occurred outside, and building ramps for bus access will further disrupt soils and possibly groundwater, sending contamination down storm drains and other utilities into nearby waterways.

Apparently by claiming there will be minimal/no disruptions, Metro decided it did not need to “Describe the construction plan and identify construction impacts with respect to noise, dust, utility disruption, debris and spoil disposal, air quality, water quality, erosion, safety and security, and disruptions of traffic and access to businesses or residential property.”

Metro also does not “Identify steps that will be taken to provide alternatives or mitigate the impacts of construction impacts.” As for “applicable local, state, and federal regulations and any standards or BMPs that will be followed” and “any NPDES best practice measures” that will be implemented, it simply says “all local and state ordinances for construction will be followed.”

These are non-answers. Whether or not local and state construction ordinances are followed (and in practice they often aren’t followed) these ordinances do little to nothing to prevent the release of toxic chemicals from contaminated sites during construction and excavations, especially when it rains. Also, before any steps can be taken to prevent these discharges, the contamination needs to be fully investigated and delineated, which has not happened at this site to date.

Attachment C

Gaps/inadequacies in Madison Metro's CATEX checklist form

Air Quality Impacts

SUMMARY:

Madison Metro inappropriately dismissed any significant air pollution impacts from the operations of the bus barns at the proposed site using non-scientific, inadequate arguments--primarily by saying that Dane county and the "Madison urbanized area" are not in "non-attainment" areas. These claims do not show that the proposed bus barn projects will not create localized air pollution hotspots, as Metro is asked to demonstrate in the CATEX checklist.

Further, neighborhoods just north of the project area, which have higher proportions of people of color, low income people, and very young children than other parts of Madison, score in the high percentiles on EPA environmental justice indices for (among other things): several air pollutants, air toxics cancer risk, respiratory hazards, and proximity to traffic. This indicates that the area around the proposed bus barn site already has higher levels of air pollutants than other areas in the state and region—and likely in other parts of the Madison urbanized area and Dane County that are not located next to large roads, an airport, and a military base.

Metro's air quality analyses also do not consider the new multi-unit affordable, elderly, and/or assisted living housing that will be built soon in neighborhoods near the site, nor **the fact that the City of Madison is planning to build high density affordable housing directly adjacent to the site. Both will increase the number of cars, traffic overall, and air pollution in the area—and expose low income residents and other vulnerable groups to even more pollution.**

Metro also doesn't consider the fact that F-35 fighter jets have just been approved for the Truax Air National Guard military base about a mile away from the site, with landing and takeoff paths just a few hundred feet from the site. Madison Gas and Electric is building a facility just to the northeast of the bus barn site that will increase traffic and diesel fumes from their maintenance vehicles and staff traveling in and out of the site. These are [cumulative](#) air quality impacts that should be considered in assessing overall air quality near the project site, the project's potential to create local hotspots, and environmental justice impacts.

In sum, Metro's analysis does not demonstrate that the bus barn project will not create pollution hotspots, does not consider cumulative impacts, and does not consider disparate impacts to low income people, people of color, elderly, children, and other vulnerable people in the area (environmental justice).

More details below.

Air Quality

Several sections in the CATEX checklist (sections C, F, G) ask Metro to address potential air pollution impacts. Below, CATEX questions are in black (in quotes), City Metro responses in blue (pasted verbatim from the form), and MEJO responses are in black following them. All bolding and other highlighting are MEJO's.

“C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project included in the current adopted MPO plan, either exclusively or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or appropriate phases of the project, included in the TIP? What is the conformity status of the TIP? **Is the project located in an air quality non-attainment area? Is the project exempt from a conformity review per Table 2 of 40 CFR 93.126? Refer to the non-attainment/maintenance area maps at the U.S. EPA website to determine if the project is located in an area that meets all National Ambient Air Quality Standards.”**

Madison METRO:

The Project is not located in a county designated “Nonattainment” area per EPA Green Book Clean Air Act’s National Ambient Air Quality Standards.

<https://www3.epa.gov/airquality/greenbook/mapnpoll.html>

“F. CO HOT SPOTS: If there are serious traffic impacts at any affected intersection or area where buses congregate, and if the area is in an air quality non-attainment area for CO, demonstrate that CO hot spots will not be created as a result of the project.”

Madison METRO:

According to the EPA Green Book

(<https://www3.epa.gov/airquality/greenbook/ancl.html>), the Madison urbanized area and specifically our project location is in a full attainment area for all critical pollutants, including CO and any particulate matter (PM2.5 and PM10). Based on our analysis in Section E, Traffic Impacts, we have determined that this project will not create serious traffic impacts at the site entrance, at Aberg Ave’s intersection with Sherman Ave or Packers Ave, or areas where buses congregate.

“G. PM2.5 AND PM10 HOT SPOTS: If there are serious traffic impacts at any affected intersection or area where buses congregate, and if the area is a nonattainment or maintenance area for any particulate matter (PM2.5 or PM10), then demonstrate that PM2.5 or PM10 “hot spots” will not result. In nonattainment areas, interagency concurrence and documentation must be attached. If the proposed project is not in a non-attainment or maintenance area for PM2.5 and PM10, then state this in the discussion. Refer to the non-attainment/maintenance area maps at the U.S. EPA website to determine if the project is located in an area that meets all National Ambient Air Quality Standards.”

Madison METRO:

This Project is not in a non-attainment or maintenance area for PM2.5 and PM10.

According to the EPA Green Book

(<https://www3.epa.gov/airquality/greenbook/ancl.html>), the Madison urbanized area and specifically our Project location is in a full attainment area for all critical pollutants, including CO and any particulate matter (PM2.5 and PM10). Based on our analysis in Section E, Traffic Impacts, we have determined that this Project will not

create serious traffic impacts at the site entrance, at Aberg Ave's intersection with Sherman Ave or Packers Ave, or areas where buses congregate.

For further evidence that the Madison urbanized area is not in any particulate matter nonattainment zones please see the following EPA maps:

1) Map of PM2.5 Nonattainment Areas:

https://www3.epa.gov/airquality/greenbook/mappm25_2012.html

2) Map of PM10 Nonattainment Areas:

<https://www3.epa.gov/airquality/greenbook/mappm10.html>

MEJO response:

Metro's air quality analysis is not a scientific or adequate assessment of whether the bus barn project and bus operations will create air pollution "hotspots" in the areas adjacent to the site. It is conjecture stated as if it is fact.

Metro uses inappropriate comparisons, pointing to air quality assessments in the "Madison urbanized area" and Dane County, which do not necessarily reflect air quality in the immediate neighborhoods around the proposed bus barn site. Air quality assessments in these larger areas also do not demonstrate that "hotspots" of CO and PM 2.5 will not occur near the project area from several hundred diesel buses travelling to and from the site every day, increase in cars from Metro staff, etc.

Also problematically, to support their arguments, as "further evidence that the Madison urbanized area is not in any particulate matter nonattainment zones," it points to a **1987** PM10 map and a **2012** PM2.5 map for U.S. counties in non-attainment for particulate matter (see links directly above). Obviously, these old maps probably have no bearing on the air quality status in Dane County in 2020 and beyond, nor do they show that the Metro bus barn operations will not create air pollution hotspots.

According to the EPA EJSCREEN, the [neighborhoods adjacent to the site and those to the north \(combined\)](#), with higher percentages of low income (40%) and minority populations (36%) than Metro's service area (most of the city), currently score in high percentile's on EPA's EJ Screen for the following environmental justice indices: particulate matter (PM 2.5) (86th percentile), ozone (86th percentile), diesel particulate matter (85th percentile), toxics cancer risk (86th percentile), respiratory hazard index (86th percentile), and traffic proximity and volume (85th percentile) (Carbon monoxide, CO, is not assessed in these indices). These reflect existing cumulative risks to people in these affected neighborhoods; adverse air quality impacts from the bus barn operations will only add to these existing impacts.

Future housing and bus developments, and their cumulative impacts, will exacerbate air pollution and race/class disparities

Metro was aware when it submitted the CATEX application that dense multi-unit housing units, including "affordable" housing are planned for the project area, with over a thousand residents to be located immediately adjacent to the site. The city is planning to create a new residential zoning district designation for the area that will allow for intense high-density housing, the most dense in Madison's history. This will dramatically increase the number of residents, increasing car traffic and related air pollution in the area. Many new housing complexes are currently well underway for the north side not far from the proposed bus barn site, which will also add to traffic in the neighborhood. With

the gap in public transit improvements via the bus rapid transit system not occurring any time soon for the north side, the need for a car will remain an imperative for north side residents, current and in the future, for years to come.

Moreover, since the submittal of the application to the FTA, there have been significant changes that will continue to increase traffic and air pollution.

The site is about a mile southwest of the Dane Co Regional Airport and the Truax Air National Guard base. Truax ANG was recently awarded the F-35 jet program by the Department of Defense. The takeoff and landing paths of these jets, as well as commercial aircraft, are just a few thousand feet from the site. The F-35 jets will greatly increase noise and air pollution including volatile organic compounds, carbon monoxide, nitrous oxide, sulfur dioxide, and large and small particulates.

In addition, Madison Gas and Electric will be moving their offices and a large fleet of diesel vehicles to an area adjacent to the site to the northeast. This will increase air pollution, particulates and noise pollution as well as increasing overall traffic on Aberg Avenue and in the general area.

In time, over 300 largely diesel buses will be moved to the site, adding to the noise and air pollution. Car traffic will increase from the employees that will eventually be working at the site, as all of Metro operations move to the north location.

While the eventual goal is to have an all-electric Metro bus fleet, the north bus route will likely be the final leg to get electric buses as the bus rapid transit system is not slated to arrive to the north side for many years to come. No planning for bus rapid transit on the north side has taken place. The electric bus fleet is planned for the East/West main portion of the bus rapid transit system.

Aberg Avenue already poses difficulty to area residents in terms of access and safe crossing, this will only become worse with all of the added traffic. Aberg Avenue will quickly reach capacity as a result; as it is, traffic often backs up along Aberg Avenue due to a railroad crossing for the Canadian Pacific railroad. A traffic study needs to be completed for Aberg Avenue as it is a main through road that gives area access to Highway 30 as well as to Packers Highway.

Traffic on Packers Highway will increase as it links to Highway M, currently being redesigned by WisDoT to widen it from Packers Highway to State Highway 12. This will provide a north route around Lake Mendota for commuters and travelers into the city from the north and west.

In sum, the upcoming arrival of buses, a large fleet of diesel trucks, F-35 jets and the anticipated 2800+ new housing units and related autos, will cumulatively increase the air pollution and likely create significant air pollution hotspots near the bus barn site, whether or not the Madison area and county remain attainment areas. **People living near the site, including vulnerable low income, people of color, children and elderly who will live in dense multi-unit housing built next to it, will be disproportionately exposed to this air pollution.**

Attachment D

Gaps/inadequacies in Madison Metro's CATEX checklist form

Social Impacts/Community Disruption & Environmental Justice

SUMMARY

Madison Metro's [CATEX checklist form](#) includes answers to questions about "social impacts and community disruption" (N) and "environmental justice" (O) (Outreach, which is part of addressing environmental justice, is discussed in Attachment E)

The [FTA Circular 4703.1](#) which Madison Metro's CATEX checklist says it followed, lists "Guiding Environmental Justice Principles" DOT funding recipients should follow in regards to public engagement, including: "To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations."

Unfortunately, Metro uses inappropriate statistics for describing the socio-economics of potentially affected low-income and minority people near the site and dismisses any disproportionately high and adverse human health and environmental effects without sufficient (or any) analysis and little to no supporting evidence. Metro also does not consider [cumulative adverse impacts](#) to adjacent neighborhoods or environmental justice populations.

Further, Metro's CATEX checklist document contradicts itself. Most notably, when highlighting the potential benefits of the bus barns, Metro says there *are* in fact low income, minority, and "environmental justice communities" near the site, but when discussing potential adverse impacts on low income people, minorities, and/or other affected groups, it concludes that there *are not* higher proportions of these groups near the site. Based on this, it concludes (without evidence) that "The selection of the Oscar Mayer facility also does not represent a disparate allocation of impacts because the impacts are relatively modest and they affect all populations proportionately."

Metro ignores the fact that the city's Oscar Mayer Special Area Plan (OMSAP) locates low income/affordable housing *directly adjacent* to the proposed bus barns, which will make low income people (and likely also minorities) much more vulnerable to adverse impacts from bus barn operations and unaddressed contamination at the site (and also discharging from it offsite into air, water, soils, and fish). **This will create a new environmental injustice situation in Madison.**

There is no evidence that Metro used the [City of Madison's Racial Equity and Social Justice \(RESJI\) tool](#) for this project. According to the City of Madison website: "The RESJI tool is used as part of the development of City policies, plans, programs and budgets. We use this tool to facilitate conscious consideration of equity and examine how communities of color and low-income populations will be affected by a proposed action/decision of the City." The Madison Metro bus barn project is not listed on the "[City Projects Using RESJI Tools](#)" webpage.

Though the Oscar Mayer Special Area Plan is listed on the city's RESJI page, the community engaged in the OMSAP process was told repeatedly that the proposed bus barn projects are not part of the OMSAP. Also, RESJI is not mentioned anywhere in the CATEX or related bus barn documents.

In sum, Metro's dismissal of environmental justice impacts is totally unsupported, and clearly does not fulfill the DOT environmental justice requirements in [DOT Order 5610.2\(a\)](#) and related [Executive Order 12898](#), and/or [Title VI of the Civil Rights Act](#) on which this order was based.

It also makes a sham of the City of Madison's stated commitment to racial equity and social justice.

More details are articulated below.

SOCIAL IMPACTS AND COMMUNITY DISRUPTION

The CATEX checklist asks Metro to address “social impacts and community disruption.” Below, the original CATEX questions are in black (in quotes), Madison Metro’s responses are in blue (pasted verbatim), and MEJO’s responses follow them in black. All bolding and other highlighting are MEJO’s.

“N. SOCIAL IMPACTS AND COMMUNITY DISRUPTION: Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature and extent of the effect.”

MADISON METRO’s answer:

Exhibit ‘I’ shows minority populations and Exhibit ‘J’ shows low income populations in vicinity of the Oscar Mayer site. There are high proportions of minority populations north of the site. The purchase and reuse of the Oscar Mayer site represents an investment, commitment, and opportunity to expand and add more metro transit bus service routes in the future. Some service expansion is likely to occur for underserved communities.

The proposed action would inhabit and update a property that currently is a vacant. The action would also bring up to 60 jobs to the area to support Metro operations. Improvements associated with this action include the purchase of a vacant buildings and minor exterior alterations to adapt the buildings for bus storage.

No community disruption is anticipated.

The project property is located in Census Block Group 1 of Tract 21 (US550250021001). **According to the 2010 Census, this community has a minority population of 1-2 times the system average of 24.6 % within our service area and has a low-income population of 0-1/2 times the system average of 15.4% with our service area.** [statistics cited by Metro on percentages of minorities in the community adjacent to parcel for proposed bus barns—see pg. 14 of CATEX checklist]

This proposed satellite bus facility **will revitalize the surrounding area** by utilizing a currently vacant property.

MEJO’s response:

Questionable race and income statistics and comparisons

Firstly, the statistics Metro uses to describe the “socio-economic profile of the affected community” and to draw comparisons between it and their broader “service area” are inappropriate, unclear, and underestimate the proportions of low income and minority populations in the potentially affected communities.

For the demographics of the “affected community,” Metro looked at only one Block Group (Block Group 1 of Tract 21, US550250021001) that includes the “project site” (Oscar Mayer site) and the Eken Park neighborhood to the east/southeast, across a state highway. Statistics

Metro cites show that the minority population is higher in the Eken Park neighborhood than the rest of the service area, but that its low income population is lower than the rest of the service area. It's not clear where Metro's statistics on poverty came from, but [this EPA EJSCREEN report](#) shows the Eken Park Block Group as 20% low income—higher than Metro's reported service area average of 15.3%.

These inconsistencies notwithstanding, using only this one block group does not describe the “affected community” and thereby underestimates race and class disparities between potentially affected communities and the broader service area. In fact, Metro states that there are “there are high proportions of minority populations north of the site,” and describes benefits to these populations, but doesn't include any demographics from the areas north of the site or compare them to the broader service area. (Curiously, they did not use the Sherman Park block group directly north of the site, where many Oscar Mayer employees used to live.)

Again, this narrow, inappropriate scale of analysis serves to underestimate the numbers of low income and/or minority populations potentially affected by the project. According to the EPA EJSCREEN, [the Sherman neighborhood area](#) immediately to the north of the site is 33% minority and 36% low income—both significantly higher than the block group Metro used and than Metro's reported “system average” of 24.6% minority and 15.3% low income (again, it's not clear where Metro's poverty statistic came from).

Moreover, if you look at socio-economic statistics from a larger area to the north potentially affected by increased traffic, air and water pollution, and other aspects of the bus barn operations, race and class disparities between widen. The [neighborhoods further north, northeast and northwest of project site](#) include many low income housing units and are 36% minority and 43% low income.

Metro only considers beneficial impacts, tried to quash community opposition

Oddly, the only “social impact and community disruptions” Metro considers are the *beneficial* impacts in potentially providing more bus service to underserved people in the area—even though this project (providing a storage site for buses, and bus maintenance/fueling, etc.) doesn't in itself provide more bus service to the area.

Metro also claims that this project will “revitalize the community.” How will storage and maintenance of buses on the site “revitalize” the community? Storing buses in large former industrial buildings will do nothing to revitalize the community. Loud buses emitting toxic air pollution going in and out of the site repeatedly every day will not revitalize the community.

Notably, METRO doesn't consider any of the significant potential *negative* impacts to minority, low income, and other people in affected communities, including increased traffic, noise and air pollution impacts, toxic chemical impacts to water quality, and/or toxic vapor migration off site from the plume of TCE and other volatile organic compounds that could migrate via groundwater plumes and storm, sanitary, and other utility lines. The areas adjacent to and north of the site, with high proportions of low income and minority people compared to other parts of the city, also score high on [EPA's EJ Indices](#), indicating that they are already exposed to significant air and other pollution. See more discussion in the “environmental justice” section.

Metro’s claims that “no community disruption is anticipated” are blatantly incorrect. The adjacent communities anticipate considerable disruption. This July 14, 2020 photo of two signs across the street from the site where the bus barns are proposed shows that neighbors are considering the cumulative air, water, and noise pollution impacts--and they anticipate that it will be a “nightmare:”



Reflecting the sentiments on this sign, the Sherman Neighborhood Association and individual residents living near the proposed bus barn parcel have sent numerous [emails](#) to city officials and public comments at city meetings raising their concerns about the bus barns being located at this site and/or opposing them outright.

Shockingly, and likely illegally, as described in [this email](#) from a Sherman neighborhood resident, on March 4, 2020 a Madison Metro worker drove up and removed the “no bus barn” sign from private property. It is hard not to see this as an attempt by Metro to remove any indications of public controversy about the site, which is one of the factors that would disqualify Metro from receiving a categorical exclusion.

ENVIRONMENTAL JUSTICE

The CATEX checklist asks Madison Metro to address “environmental justice” as follows:

“O. ENVIRONMENTAL JUSTICE: Identify the concentrations of minority and low-income populations in the area. Following FTA guidelines on environmental justice (FTA Circular 4703.1), define “minority” and “low-income” populations, and describe whether or not the project would result in disproportionately high and adverse impacts on minority or low-income populations.”

MADISON METRO’s answer:

Per the US Census, and American Community Survey, and FTA Circular 4703.1 - Minority is defined as... Low-income means a person whose median household income is at or below the Department of Health and Human Services (HHS) poverty guidelines.
[removed definitions here—see pg. 15 of CATEX checklist]

Oscar Mayer Site

Potential Environmental Justice impacts were identified by **locating minority and low-income populations within proximity of the project area, calculating their percentage, and determining whether there will be adverse impacts to them.** Exhibits 'I' and 'J' show the Oscar Mayer site in relation to minority and low-income populations. The exhibits also show 2010 census block groups with minority and low-income population delineated by multiples of Metro's service area. **The Oscar Mayer satellite facility is located in an area of 0-1/2 times the system average of low income population and 1-2 times the system average of minority population.** Based on analysis in this document, **no direct impacts or indirect/cumulative adverse impacts are anticipated from the Project. Therefore, this Project would not have a disproportionately high or adverse impact on EJ communities.** The project would ultimately result in transportation **benefits to all populations** within the service area, including environmental justice populations by increasing storage capacity, a vital component to future service expansion.

MEJO's response:

Madison Metro's environmental justice analysis, the extent of which is described above, is incomplete, inadequate, and contradictory.

The EPA has published [an extensive guidance](#) with best practices on addressing environmental justice in NEPA reviews. The [FTA Circular 4703.1](#) which Metro's CATEX document says it followed, cites the below as one of the "Guiding Environmental Justice Principles:"

- "To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations."

In order to assess this, the first step is to identify minority and low income populations. Metro's September 2019 Equity analysis, based on the FTA Circular (but not cited in the CATEX checklist), defines "A minority population" as "any readily identifiable group of minority persons, and FHWA's policy is to include the elderly or disabled, who live in geographic proximity to the project area." It defines "low-income population" as "any readily identifiable group of low-income persons (having a household income at or below the United States Department of Health and Human Services poverty guidelines) who live in geographic proximity to the project area."

Metro's socio-economic and race statistics flawed

Metro states that "Potential Environmental Justice impacts were identified by locating minority and low-income populations within proximity of the project area, calculating their percentage, and determining whether there will be adverse impacts to them." It points to maps of the entire

city (“Exhibits ‘I’ and ‘J’”) which “show the Oscar Mayer site in relation to minority and low-income populations.” Metro then repeats the statistics reported earlier: “the Oscar Mayer satellite facility is located in an area of 0-1/2 times the system average of low income population and 1-2 times the system average of minority population.”

Metro does not specify what they mean by “within the proximity of the project area” but the statistics they quote, as noted above, come from one block group that includes one neighborhood to the east of the site (Eken Park). As described above, these statistics only reflect a small proportion of the potentially affected community and underestimate the numbers of low income and minority people potentially affected by the proposed project.

EJ analysis inadequate, incomplete, and contradictory

The CATEX checklist does not say anything about how they determined whether there will be adverse impacts to the minority and low-income populations, elderly and/or disabled people within proximity of the project area (it doesn’t mention elderly and/or disabled at all in the environmental justice analyses).

The FTA Circular outlines in considerable detail how to assess “disproportionately high and adverse human health and environmental effects on minority and populations and low-income populations.” It says that under the DOT order (U.S. DOT Order 5610.2(a) Actions to Address Environmental Justice in Minority Populations and Low-income populations, 77 FR 27534, May 10, 2012), adverse effects include:

“the totality of significant **individual or cumulative human health or environmental effects**, including **interrelated social and economic effects**, which may include, but are not limited to: **bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources**; destruction or **diminution of aesthetic values**; destruction or disruption of community cohesion or a community’s economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or non-profit organizations; **increased traffic congestion**, isolation, exclusion or separation of individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.”

Again, as described above, though Metro underestimates the numbers of low income and minority populations near the site and potentially affected by it, the checklist admits that “there are high proportions of minority populations north of the site” and when promoting the benefits of the bus barn, it mentions “environmental justice communities around Oscar Mayer.”

However, in a separate document only recently obtained by the community, and not referred to in the CATEX checklist—but that seems to have informed it—the September 10, 2019 Oscar Mayer Equity Analysis, Metro **completely contradicts these statements and based on that discounts any environmental justice impacts, as follows.**

On page 13 of the above linked OM Equity Analysis, it says:

“The selection of the Oscar Mayer as a satellite facility does not cause disproportionate and adverse effects on minority and low income populations because:

- *The area surrounding Oscar Mayer does not have a higher concentration of minority or low income populations.* (highlights added)
- The selection of another satellite location, particularly the south location, would require both relocations and would have greater impact on adjacent neighborhoods.
- The continued use of Buildings 43 and 50 at Oscar Mayer for warehousing does not represent a disproportionate and adverse impact.”

Based on the above three points, the equity analysis then concludes that **“The selection of the Oscar Mayer facility also does not represent a disparate allocation of impacts because the impacts are relatively modest and they affect all populations proportionately.”**

The above conclusions from the “Equity Analysis,” and the paragraph in the CATEX checklist document (pasted above), are the extent of Metro’s environmental justice analysis.

Dismissal of environmental justice impacts does not fulfill DOT requirements

Metro’s dismissal of environmental justice impacts is totally inadequate, indicates a significant misunderstanding of what environmental justice means, and clearly does not fulfill the DOT environmental justice requirements in DOT Order 5610.2(a) and related Executive Order 12898, and/or Title VI of the Civil Rights Act.

Firstly, as noted above, Metro’s claim that “the *area surrounding Oscar Mayer does not have a higher concentration of minority or low income populations*” is contradicted in its own documents and by EJSCREEN analyses.

Further, and just as importantly, the City of Madison is planning to locate high-density low-income and/or affordable housing directly adjacent to this site as part of the Oscar Mayer Special Area Plan (OMSAP). Housing projects currently being planned just to the east of this are projected to serve significant numbers of seniors.

It is highly unlikely that Metro was not aware of these plans when they submitted the CATEX checklist to the FTA. However, in the Exhibits submitted with the checklist, Metro included a “Future Land Use” map that shows the area near the proposed bus barns **as industrial and/or employment.** See map on following page.

Exhibit F on page 6 of [“Exhibits” submitted to FTA on November 8, 2019:](#)



Just a couple months after submitting this map with the CATEX checklist, the February 25, 2020 Draft Oscar Mayer Special Area Plan shows the area directly west of the proposed bus barn location as medium and high density housing. These plans have now gone through all the city approval processes and it is our understanding that these housing plans have not changed and this is the final plan. It is hard to imagine that Metro was unaware of these plans, which were well underway when they submitted the CATEX checklist to FTA.

See map on following page.

Page 25 of the [Feb. 2020 Oscar Mayer Special Area Plan](#) (dark brown areas are high density housing and lighter brown are medium density housing, including senior housing)



No evidence or analysis to support dismissal of environmental justice impacts

Perhaps most importantly, the claim that low income people and people of color will not be disproportionately affected by bus barn operations is unsupported by any evidence, and disregards significant evidence to the contrary.

The City of Madison has a [Racial Equity & Social Justice Initiative analysis tool](#) it uses for projects such as the Oscar Mayer Special Area Plan, which it explicitly and repeatedly told community members did not include the proposed bus barn properties. Our only conclusion as to why a RESJI analysis was NOT done for the bus barn proposal is because Madison Metro would then have to acknowledge that the bus barn would impact thousands of new low-income residents that the City would like to see move into a redeveloped Oscar Mayer site, which would have preempted its ability to even make the case for a categorical exclusion.

Also, the currently existing [neighborhoods adjacent to the site and those to the north \(combined\)](#), with higher percentages of low income and minority populations than Metro's service area, score in high percentile's on EPA's EJ Screen for the following environmental justice indices: particulate matter (PM 2.5) (86th percentile), ozone (86th percentile), diesel particulate matter (85th percentile), toxics cancer risk (86th percentile), respiratory hazard index (86th percentile), traffic proximity and volume (85th percentile), lead paint indicator (70th percentile), Superfund proximity (86th percentile), and hazardous waste proximity (86th percentile). These reflect cumulative risks to people in this neighborhood. Adverse impacts from the bus barn project will only add to these existing impacts.

Neither the CATEX checklist document (nor the separate equity analysis document) say anything about how "direct and/or indirect/cumulative adverse impacts" to minority or low income populations living near the proposed bus barn site were considered, what minority and/or low income populations were considered, or any other related considerations.

Though no analysis and/or evidence are presented, it seems Metro concluded that there wouldn't be any adverse impacts to low income and people of color from environmental contamination at or living near the site, in part, by downplaying or ignoring significant traffic, air and noise pollution generated by bus storage and maintenance operations, along with toxic contamination at the site. These omissions are highly problematic, given that all of these will affect Metro the health and safety of workers, adjacent neighbors, and nearby waters and fish.

For example, per Attachment A, soil vapors on the bus barn parcel are known to be contaminated with highly toxic trichloroethylene (TCE) and other volatile compounds—emanating from a plume of TCE and other volatile chemicals beneath it in the groundwater. This plume has not been delineated. Given what was shared in the May 2020 ESA (linked in Attachment A), there is likely a plethora of other toxic chemicals in soils, groundwater, and vapors at the site.

Potential adverse health impacts of the high levels of TCE were not mentioned (and therefore not considered) by Madison Metro, nor were impacts from other toxic chemicals on the bus barn parcel. The TCE beneath Building 43 and likely 50 (though it hasn't been assessed) pose clear threats to the Metro workers in these buildings, as well as to people who will live in low income/affordable housing adjacent to it. As for adjacent neighborhoods, it is well documented

that volatile organic vapors such as TCE gas can travel significant distances down storm, sanitary, and other utility lines and enter homes and businesses in adjacent neighborhoods, which have higher percentages of low-income people and people of color. A recent email from DNR admits that these pathways haven't yet been investigated at the site or offsite.

As described in Attachment C, air pollution impacts to adjacent neighborhoods—and dense low-income/affordable housing that will be built next to the bus barn site in the future— from a high number of diesel buses traveling in and out of the site daily, were also inappropriately dismissed with incomplete, inadequate analyses.

Potential impacts to adjacent surface waters and fish, and subsistence anglers who rely on them for food, were ignored as well. Changes to buildings, and ongoing operations there that disrupt soils and/or groundwater will send contaminated sediments and water down storm and sanitary drains and into Starkweather Creek, the Yahara River, and eventually Lake Monona—where they will build up in fish eaten by many local low income and minority anglers, including many from Madison's north side in neighborhoods near the site that were considered in the EJSCREEN analyses we cited above. See [here](#) and [here](#).

Moreover, the equity document inappropriately refers to the bus barn operations as “the continued use of Buildings 43 and 50 at Oscar Mayer for warehousing.” Bus maintenance and washing go far beyond just “warehousing”—they require oils, solvents, fuels, detergents, and many other toxic compounds. Though most wastewaters from these processes will likely be sent to sanitary sewers, contaminated wastewaters from these activities will also inevitably spill and leak at times to paved surfaces and soils, and into stormwater drains that lead to Starkweather Creek, the Yahara River, and Lake Monona. These potential environmental effects, which will contribute to health effects falling disproportionately on low income and minority neighbors and especially anglers, are not mentioned in the CATEX.

While claiming no environmental justice impacts, Madison Metro highlights benefits to “environmental justice communities”

Following its dismissal of environmental justice impacts from the project, Metro then highlights the benefits to “environmental justice communities” as follows:

Existing Routes and Future Service Expansion to Environmental Justice Communities

Existing Metro routes provide service to five specific minority/low income neighborhoods, employment centers, and retail. These include Routes 2, 4, 5, 16, 31, and 40. Bus routes 2 and 4 serve **the Environmental Justice Communities around the Oscar Mayer facility.**

Currently, service or frequency cannot be improved because of Metro's bus storage limitations. Purchasing the Oscar Mayer site would provide additional bus storage, allowing Metro to expand and purchase buses needed for service improvements. **It is anticipated that much of the service improvements will benefit underserved neighborhoods and connect disadvantaged communities to job centers.** For example, Metro Transit has identified our primary underserved neighborhoods and developed a solution to increase accessibility to those locations. Increasing peak frequency can help to connect disadvantaged communities to job centers. Between eight (8) to twelve (12) additional buses are needed to fill potential new and

additional services that is needed to serve these communities. There is support from the administration and the council to address service to underserved populations, yet there are three needs: 1. additional operating budget, 2. additional buses, and 3. a facility to store additional buses. The proposed purchase of the Oscar Mayer Site addresses the second and third need that will provide additional buses and a facility for bus storage.

Three buses have been added in 2019. Other additional buses will be incrementally added in the coming years as the operating budget allows. Any additional buses added to Metro's fleet will be stored at the Oscar Mayer facility because the main storage facility at 1101 East Washington Avenue is at capacity. Access for underserved populations will likely be a focus of transit expansion in future operating budgets.

MEJO's response:

Though improved bus service will benefit underserved and disadvantaged people who rely on buses for transportation, the storage of buses at this site per se will not benefit the low-income people, people of color, elderly and/or disabled people in neighborhoods around the site. In fact, it will expose them—and future low income and minority people who might live in the affordable housing planned next to the bus barn site—to more noise, air pollution, water pollution, and other disruptions, putting them at higher risk for health problems and stress, and lowering their quality of life.

Attachment E

Gaps/inadequacies in Madison Metro's CATEX checklist form

Community outreach (part of Environmental Justice)

SUMMARY

Madison Metro's CATEX checklist form includes answers to questions about "environmental justice" (O), which includes "outreach."

The FTA Circular 4703.1 cited in the Madison Metro CATEX checklist document includes the following as one of the "Guiding Environmental Justice Principles" (as a companion to "Avoid, minimize, or mitigate disproportionately high and adverse effects on minority and low-income populations"):

- "To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process."

This guiding principle is also repeated in the Metro's September 2019 Equity Analysis. Again, based on the FTA Circular, it defines "A minority population" as "any readily identifiable group of minority persons, and FHWA's policy is to include the elderly or disabled, who live in geographic proximity to the project area." It defines "low-income population" as "any readily identifiable group of low-income persons (having a household income at or below the United States Department of Health and Human Services poverty guidelines) who live in geographic proximity to the project area."

The FTA Circular outlines at length what "full and fair participation by all potentially affected communities" should entail and how to go about ensuring it.

The Metro CATEX checklist and its 2019 Oscar Mayer Equity Analysis do not provide evidence that they met environmental justice engagement principles regarding community outreach (beyond token efforts). Also, there is no evidence whatsoever that any environmental impacts of the bus barn project were discussed during this token engagement.

In sum, Metro's public engagement process regarding the bus barn was a sham and should not have allowed Metro to receive a categorical exclusion from NEPA requirements for an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

Community Outreach (part of addressing environmental justice)

The FTA Circular 4703.1 cited in the Madison Metro CATEX checklist document includes the following as one of the “Guiding Environmental Justice Principles”-- “To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.” Metro’s September 2019 Equity Analysis repeats this principle.

Below in blue are Metro’s answers in the CATEX checklist to address this (copied verbatim), and beneath that in black are MEJO’s responses. All bolding and highlighting are MEJO’s.

MADISON METRO’s answer:

Outreach Efforts

City staff presented the potential of the City purchasing the north portion of Oscar Mayer and using it for satellite bus facility at the Sherman Neighborhood Associations annual meeting on March 4, 2019. Between 40 and 50 residents were at the meeting, with attendees generally reflecting the demographics of the neighborhood. Concerns raised by the neighborhood included the possible increase in traffic and noise associated with using the site as a satellite bus facility. They also raised the desire to have Oscar Mayer Way (a partial local roadway) fully extend through the site. The attendees supported the possibility of using the rail corridor for a shared use path. **Also, if Metro purchased the property, those attending wanted Metro to participate in the special area plan for the Oscar Mayer site.** Metro met again with the neighborhood on September 24, 2019 to discuss impacts associated with a satellite facility. About 40 people attended the meeting. Comments included concern about traffic, as well as the opportunity costs associated with Metro Transit occupancy of the buildings verses other potential uses.

The comments/concerns raised at the meetings will be addressed based on general zoning land use criteria under Industrial General District and under Traditional Employment District. The City of Madison’s Planning Division is also currently working on the Oscar Mayer Special Area Plan that will provide a new neighborhood plan to reuse and redevelop Oscar Mayer site and surrounding sites that may change in the future. It will build off the vision and redevelopment planning objectives that will focus on economic development, equity, leveraging transit, sustainability and redevelopment character. The special area plan will establish detailed, site specific guidance for future development addressing land use, building scale and design, new streets and paths, and public open spaces. Metro’s use of the north half of the site is consistent with the current zoning and future planned land use for the site as part of Madison’s comprehensive plan. **Metro will continue to work with the neighborhood.**

MEJO’s response:

Firstly, there is no evidence that Metro engaged low income and/or people of color who might be disproportionately affected by the bus barn project. Given that Metro inappropriately concluded in its equity analysis that “the selection of the Oscar Mayer as a satellite facility does not cause disproportionate and adverse effects on minority and low income populations because”.... “the area surrounding Oscar Mayer does not have a higher concentration of minority or low income

populations” (directly contradicting statements it made elsewhere in the document), presumably they decided there was no need to assure that these groups were engaged.

Secondly, community members who were involved with Metro’s minimal outreach regarding the bus barn project strongly disagreed with Metro’s claims in the CATEX checklist about the nature and extent of the outreach they did do.

According to a long-time member of the Sherman Neighborhood Association (SNA), as the CATEX checklist stated, a meeting was held on March 4, 2019. The meeting minutes indicate that City of Madison employees Tom Lynch and Matt Mikolajewski appeared as guests to talk about plans for Madison Metro and its relocation to the Oscar Mayer area. The minutes show that 22 people attended this meeting, not 40-50 as claimed in the checklist.

This neighbor noted that during SNA’s one and a half hour meetings, guests typically do not have more than 20-30 minutes to speak, and if city employees’ presentation covered all the points summarized in the minutes, there would have remained at most only a few minutes for input and questions from neighbors--very brief and limited community engagement, not a full discussion of the concerns listed in the CATEX checklist. Meeting minutes do not mention anything about the contamination at the site.

Just as problematically, the CATEX says the March 4 meeting attendees generally “reflected the demographics of the neighborhood,” but does not say how they delineated the extent of “the neighborhood,” what its demographics are, and how the March 4 attendees reflected these demographics. Approximately eight of the 22 listed attendees for the March 4 meeting are not members of the Sherman Neighborhood Association and do not reside in that neighborhood. There is no indication that city staff surveyed attendees on their race, color, national origin, age, economic characteristics, and so forth. So the claim that the attendees represented “demographics of the neighborhood,” under these circumstances, appears specious.

The CATEX checklist also states that Metro or city staff did some outreach to “the neighborhood” on September 24, 2019 about their plans for Metro. Neighbors cannot find any record of such a meeting. The Sherman Neighborhood Association met on September 9, 2019, not on the 24th. The minutes list thirteen people in attendance at this meeting, not “40 people” as stated in the CATEX. A city planner named Dave Trowbridge gave a short presentation on some general transit issues. The minutes don’t reflect any input from attendees at the meeting, as claimed in the CATEX.

So Metro did not meet with the Sherman Neighborhood Association on September 24, 2019 and if any meeting occurred at all, it is not clear who Metro met with and what was discussed. The vagueness of this claimed outreach makes it highly questionable. It clearly doesn’t have any weight or meaning and should be disregarded.

Finally, the CATEX notes that “Metro will continue to work with the neighborhood” and then suggests that the bus barn project would be discussed during the OMSAP process. However, according to people in adjacent neighborhoods, Metro did not continue to engage them about bus barn issues. In fact, despite a request made at the March 4, 2019 meeting that the bus barn be

included in OMSAP public meetings (noted above), when residents asked to discuss the bus barn during OMSAP meetings, they were told that it was a separate issue, not part of the OMSAP and therefore it would not be discussed. It was not presented during the public Open Houses related to the OMSAP nor allowed at smaller board, commission or committee meetings during the special are planning process.

MADISON METRO's answer:

Metro performed an equity analysis that addressed both the site selection of Oscar Mayer, and the impacts of using the Oscar Mayer facility as a Metro facility to the adjacent area. The analysis is available upon request. The equity analysis included interviews with four community organizations that are proximate to the Oscar Mayer facility:

- 1) Dane County Health Services Neighborhood Intervention Team
- 2) North Side Planning Council
- 3) Dane County Job Center
- 4) Forward Services Corp & Employment and Training Association.

The interview contained questions on the possible impacts to these populations. The results and findings of the equity analysis are that the selection of the Oscar Mayer site as a satellite bus storage facility does not cause disproportionate and adverse effects on the minority or low income populations. The area surrounding Oscar Mayer does not have a higher concentration of minority or low-income populations. The selection of other satellite locations would have had a greater impact on adjacent neighborhoods. The continued use of buildings 43, 50, and 50A for warehousing does not represent a disproportionate and adverse impact. Key concerns include improving transit service to the North Transfer Point, minimizing traffic impacts, and extending Mayer Ave. through to the north portion of the site with a connection to Aberg Ave.

MEJO's response

According to Metro's Equity Analysis document (see pg. 10-11), this "equity analysis" was actually "service provider interviews." The analysis states that "as mentioned, while the block groups by Oscar Mayer do not have a higher percentage of minority or low income populations and communities, there are several service providers in the area that help these communities. The staff team interviewed several service providers with a standard set of questions."

The questions city staff they asked these "service providers" were:

1. What percentage of your constituents would you estimate use transit?
2. How many of them do you think use the North Transfer Point?
3. How do you feel using a portion of the Oscar Mayer site as a satellite facility could affect the area?
 - a. Who would be most affected?
 - b. What do you think the "positives" or benefits could be?
 - c. What do you think the "negatives" or impacts could be?
4. How would the City operating a bus garage compare with another warehousing user?

5. Are there any measures that the City could take that could meet the transportation needs of the area?

These questions do not in any way qualify as an “equity analysis” nor do they “ensure the full and fair participation by all potentially affected communities in the transportation decision-making process” as required by the FTA Circular Metro claimed to follow.

Metro again contradicts its claims elsewhere in documents, saying that “block groups by Oscar Mayer do not have a higher percentage of minority or low income populations and communities.” What block groups “by Oscar Mayer” is Metro referring to here?

It is also not clear when these service provider interviews happened, how they were done (by phone, or email?), what city staff did the interviews and exactly who was interviewed from each organization. According a July 13, 2020 email from Abha Thakkar, Director of the Northside Planning Council, one of the organizations interviewed for this equity analysis, “there was no equity-based conversation about the bus barn. The only equity interview that we participated in was for OMSAP, in general.” She said she had never seen the Metro’s equity analysis.

Environmental impacts were not considered or discussed

As discussed in Attachment C, Metro did not consider any public health and/or environmental impacts in its environmental justice assessment. There is also no evidence that city staff, at any of these meetings or interviews, mentioned serious environmental contamination at the bus barn site and potential health and environmental impacts—increased air pollution, groundwater/soil contamination, toxic vapors, surface water contamination, etc. on people working at or living near the site, especially low income people and minorities. It was also stated publicly during the OMSAP plan adoption process that the city hosted forum groups to discuss the plan and related issues but never shared any Oscar Mayer contamination information with the “under-represented” residents who participated in those focus groups. When asked by a Sustainable Madison Committee member “Did you share contamination information with the participants?” the city’s consultant responded a clear and undeniable, “No.”

People cannot engage in discussions, raise questions, and/or provide input about issues they know nothing about because city staff did not provide information to them.

In sum, clearly Metro’s outreach and engagement did not meet the requirements in FTA Circular 4703.1

Attachment F

Gaps/inadequacies in Madison Metro's CATEX checklist form

Historic Resources

SUMMARY

To address the FTA requirements on Section 106 of the National Historic Preservation Act (NHPA), Metro was asked to: "Describe any cultural, historic, or archaeological resources located in the immediate vicinity of the proposed project and the impact of the project on the resources. Show these resources on a map. FTA initiates all consultations per Section 106 of the National Historic Preservation Act (NHPA)."

According to our analysis, Metro overlooked a documented Native burial site that must be considered.

See details and map below.

Historic Resources

The CATEX checklist asks Madison Metro to address the below questions to address “historic resources” impacts. Below, CATEX questions are in black, City Metro responses in blue (pasted verbatim from the form), and MEJO responses are in black following them.

“H. HISTORIC RESOURCES: Describe any cultural, historic, or archaeological resources located in the immediate vicinity of the proposed project and the impact of the project on the resources. Show these resources on a map. FTA initiates all consultations per Section 106 of the National Historic Preservation Act (NHPA). FTA also makes a determination of “No Effect/No Historic Properties” or “No Historic Properties Affected,” if no historic resources or potential to affect resources exists. FTA requests concurrence for this determination from the appropriate State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO). SHPO/THPO concurrence must be included as an attachment before NEPA approval. If an “Adverse Effect” determination is made as a result of the proposed project, rather than a “No Effect/No Historic Properties” or “No Historic Properties Affected” determination, then FTA may determine a new NEPA class of action to evaluate alternatives or mitigation measures to deter these adverse effects. If the project has potential effects to NRHP-eligible or listed projects, the Section 106 process must be followed. Refer to the ACHP website for more information. Projects involving modifications to historic buildings or structures should comply with the *Secretary of the Interior Standards for the Rehabilitation of Historic Structures*, which is available from the SHPO/THPO and the National Park Service.”

Madison METRO’s response:

On June 26, 2019, the FTA initiated the Section 106 process by submitting the attached letter indicating a potential undertaking and the Area of Potential Effect to the Wisconsin Historical Society (SHPO). Further investigations indicated the site is eligible for the National Register of Historic Places based on Criterion A; History. The property is important within the local context with associations to Madison’s industrial history and growth and development of the east side. A subsequent Determination of Effect and Archeological Review and Recommendations was submitted to SHPO on August 16, 2019. On September 12, 2019 SHPO concurred with the No Adverse Effect finding. Refer to Exhibit ‘R’ –FTA submittal letters to SHPO and SHPO concurrence.

MEJO response:

According to various letters contained in the CATEX document Exhibit R, it appears that the area of potential effects (APE) was determined and a SHPO concurrence was received. A letter from the FTA to the State Historic Preservation Office indicates that the “APE for archeology was defined to include areas of potential ground disturbance, and therefore encompasses all of the land under consideration for purchase. The APE is within the boundaries of the uncatalogued burial site 47DA0526/BDA0326, which is protected under Wisconsin Statue 157.70 and Wisconsin Administrative Code HS.2.”

However, not listed in the CATEX document is any mention of **site DA-1220**, which is located on Lot #1, to the north of buildings 50/50A (see below map). This burial site will also need to be assessed by the SHPO when considering this site for any future redevelopment on Lot #1. In a letter from Heather Bailey, a preservation planner with the city of Madison, she stated, that “portions of Lot 1 and 2 are identified as human burial site (DA-0564) and protected under Wis. Stats 157.70. And ground disturbing activities must first secure a Request to Disturb from the Wisconsin Historical Society before a permit is issued.” In addition, the FTA has indicated that “any ground disturbing activities within the APE be monitored by a qualified archeologist.” Burial site DA-1220 should have been included in the determination as it is located on the site designated for future redevelopment for employment.



Map of archeological sites at OM Station

