

**THE TODAY FILE**

Your guide to the latest news from around the Northwest

August 20, 2013 at 3:39 PM

**Longshoremen's union pickets at Highway 99 tunneling site**

Posted by Alexa Vaughn



Longshoremen upset about their contract with Highway 99 project managers block an entrance to Port of Seattle's Terminal 46. (Alexa Vaughn/The Seattle Times)

The longshoremen's union began what may be the first of many days of picketing outside the Highway 99 tunneling site near Port of Seattle's Terminal 46 today.

The group of about 30 International Longshore and Warehouse Union members who showed up at 6 a.m. says they'll keep coming back to picket all day until the Seattle Tunnel Partners contracting team negotiates with them again over four tunnel-work positions they want back. Picketers with signs reading "STP lied to the ILWU" say a contract with the tunneling project managers initially seemed to dedicate those jobs to its union workers.

"We've been negotiating with them since 2011 and now we've got this contract," said Chuck Cepeda, a labor relations spokesman for the union. "We'll stop when they finally honor the contract."

Back in April, the union and the tunneling project managers signed a contract saying that longshoremen would be employed to help load dirt excavated from the tunnel onto barges. But in July, an arbitrator ruled that the jobs are covered by the tunnel's broader project labor agreement.

That means the work has gone to building-trade workers instead, a move tunnel project managers say will save them millions during boring machine Bertha's 14-month dig beneath downtown Seattle.

The union picketing zone, marked with its own stop signs, prompted a few trucks to use another entrance to the terminal, but members aren't doing anything else to obstruct tunnel work and don't plan to, Cepeda said. He also said that right now, there's no talk of suing the tunneling project management team either.

"We plan to stay here until they come back to the table to negotiate," Cepeda said.

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**PRESS RELEASE FOR IMMEDIATE RELEASE  
AUGUST 26, 2013**

**TUNNEL PROJECT MISMANAGEMENT BEHIND LABOR DISPUTE,  
UNION FINDS; STP IS IN DENIAL**

(Seattle, WA)--Mismanagement of Seattle's "Big Bertha" Tunnel Project is responsible for the current labor problems with the Seattle Tunnel Partners (STP), contends representatives from the International Longshore and Warehouse Union (ILWU) Local 19. The union cites problems at the top management levels of **STP relating to the Deep Bore Tunnel "Project Labor Agreement" (PLA)**, and problems with the Port of Seattle and WSDOT, relating to a \$4 million lease agreement for part of a marine terminal that will be used to load barges.

Projects of this complexity and size typically employ a third party to manage a PLA. However, STP and WSDOT have not engaged a firm to do this, and this has contributed to a total breakdown in the management of labor relations. **"The type of mismanagement that we are witnessing at STP has not only created turmoil within the TBM operation itself and between them and the utilities, it has also undermined the area standards that all unionized workers in marine operations have relied upon,"** says Cameron Williams, Local 19 President. **"STP is using a moot arbitration and a fictitious story about unions fighting unions to cover up their own misdeeds."**

In addition, according to the lease agreement between the Port and WSDOT, both parties are authorized and required to *"use [their] best efforts in avoiding labor unrest...[and] in the event of labor difficulty...to use its good offices in negotiating and bringing to a swift and satisfactory conclusion to any kind of labor dispute that may affect the interests of the Port."* The Port and WSDOT remain on the sidelines of the dispute, even though it has been brewing for months, and has resulted in a well publicized picket line and the filing of complaints with the National Labor Relations Board. Because of this, WSDOT also appears to be in material violation of the lease's "general standards" agreement with the Port, which could lead to its termination. That would be a problem for keeping the Tunnel Project on track.

STP also failed to arrange an agreement to unload the TBM "Big Bertha" in advance of it being shipped, which led to it sitting unloaded for five days in Elliot Bay last April. An arrangement to offload was agreed to with a subcontractor, after which the TBM was unloaded by longshore union workers without delay. In spite of ILWU workers already performing some of the marine terminal jobs related to the Tunnel Project under the same contract, STP Project Manager Chris Dixon claimed that an arbitration effectively leaves all maritime labor out of the barge operations for the Tunnel. Dan McKisson, a union liaison to the Port, says Dixon can't have it both ways. **"We have documentation that Chris Dixon of the Tunnel Partners has participated in negotiations with us since 2011 over the barge operation, and he and STP agreed with a contract for ILWU workers to do the job,"** says McKisson. **"Now he 'throws the game' with an arbitration that doesn't apply to marine barge operations, where we were not allowed to participate, with Dixon acting as prosecutor and defense simultaneously, to throw out the existing contract to which he voluntarily agreed."**

The Tunnel PLA covers construction work on “temporary facilities such as fabrication yards and/or assembly plants located at or adjacent” to the Tunnel project. It does not mention port, maritime, or ship terminal operations. The lease agreement, signed over a year later, defines the barge operation but is not covered by the PLA or its dispute mechanisms.

“The motive behind STPs actions seem to be the circumventing of area standards for a marine terminal loading facility, and the Tunnel Project as a whole is suffering for it,” adds Williams.

Contact: Cameron Williams, (206) 375-6537 for statements/ interviews; John Persak (206) 291-5411, for documentation, and non-interview questions

Source:

<http://www.scribd.com/doc/163156081/Ilwu-Press-8-26-13-Regarding-Tunnel-Project-Mismanagement>

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## Tunnel project mismanagement behind Seattle labor dispute

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The union cites problems at the top management levels of STP relating to the Deep Bore Tunnel "Project Labor Agreement" (PLA), and problems with the Port of Seattle and WSDOT, relating to a \$4 million lease agreement for part of a marine terminal that will be used to load barges. Projects of this complexity and size typically employ a third party to manage a PLA. However, STP and WSDOT have not engaged a firm to do this, and this has contributed to a total breakdown in the management of labor relations.

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"The motive behind STPs actions seem to be the circumventing of area standards for a marine terminal loading facility, and the Tunnel Project as a whole is suffering for it," adds Williams.

– *ILWU Local 19 news release*



August 26th, 2013 | Tags: [Cameron Williams](#), [Chris Dixon](#), [Dan McKisson](#), [ILWU Local 19](#), [International Longshore and Warehouse Union](#), [Longshore Jurisdiction](#), [National Labor Relations Board \(NLRB\)](#), [Port of Seattle](#), [Seattle Tunnel Partners \(STP\)](#) | Category: [Longshore News](#), [Ports](#), [Shipping News](#), [Unions](#)

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Originally published September 6, 2013 at 8:24 PM | Page modified September 7, 2013 at 2:14 PM

## Hwy. 99 tunnel: Bertha hasn't budged while labor dispute continues

The tunnel machine remains stalled because of a stalemate over which union will remove the excavated dirt.

By Mike Lindblom

Seattle Times transportation reporter



**The massive Highway 99 tunnel project has now lost three weeks to delays, as the dispute continues over which union will load the excavated muck onto barges.**

It's unclear how or how soon this stalemate over eight jobs will be resolved so the machine can resume its 1.7-mile trek from Sodo to South Lake Union.

Construction firms intend to use building-trades union members to operate a conveyor belt, scoop dirt with a front-end loader, and position the barges off Terminal 46 along the Seattle waterfront. They say these tasks support the overall \$1.4 billion tunnel contract, and a **project labor agreement.**

But the International Longshore and Warehouse Union says those jobs — two daily shifts of four workers — are in ILWU territory, because they entail moving materials offshore.

So far, the Seattle Tunnel Partners construction team hasn't tried to send workers past an ILWU picket line, which could provoke a confrontation.

**Tunnel-boring machine Bertha has been marooned by the labor dispute for the last two weeks, officials say.** Before that, the machine advanced a mere 24 feet since drilling began July 30, slowed by fiberglass rods that clogged a screw-type conveyor.

The machine is supposed to reach South Lake Union in about 14 months.

The machine's rotary cutting head has broken through the concrete launch pit into Sodo soil, yet the rear of the cylinder remains in the pit.

When drilling resumes, the mixture of excavated dirt and rock will be barged to the Mats Mats quarry near Port Townsend.

**Hearings are under way at the National Labor Relations Board office in downtown Seattle, where the building trades have formally accused the longshore union of "economic coercion and threats" to undermine the project labor agreement.**

**The ILWU signed a contract in April with tunneling firms that included the four waterfront jobs, but an arbitrator said in July the building-trades pact takes precedence.**

Testimony at the NLRB resumes Tuesday. The record will be forwarded to Washington, D.C., where the five-member board would issue a ruling within weeks, said regional director Ronald Hooks.

The board will be urged to act promptly, because of the stoppage, he said.

Between 20 and 30 longshoremen a day have walked the picket line at T-46, said Cam Williams, president of ILWU Local 19 in Seattle.

Williams wouldn't predict what happens next on the waterfront if the NLRB rules against the longshoremen.

"We'll picket as long as we have to, until a resolution is met," he said.

**The Seattle Tunnel Partners (STP) team is led by Dragados USA and Tutor-Perini, employing about 250 construction workers.**

Last month, project director Chris Dixon said his team previously offered to split the jobs, so the ILWU would handle the barge mooring, while operating engineers and carpenters run the conveyor and a front-end loader.

Dixon's spokesman referred questions Friday to the state Department of Transportation, which commented: "STP has a contractual obligation to open the tunnel by the end of 2015 and that is what we are holding them responsible to meet."

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## Inslee weighs in on labor dispute holding up Hwy. 99 tunnel project

The ILWU is picketing at Terminal 46 on the Seattle waterfront, where excavated muck is supposed to be loaded onto barges. The Seattle Tunnel Partners group intends to use building-trades members instead of longshoremen at the terminal.

By Mike Lindblom

Seattle Times transportation reporter

Gov. Jay Inslee spent an hour in Bellevue talking with management and union officials Monday in an effort to resolve the labor dispute that's caused a nearly four-week delay in the Highway 99 tunnel project.

The International Longshore and Warehouse Union (ILWU) is picketing at Terminal 46 on the Seattle waterfront, where excavated muck is supposed to be loaded onto barges and shipped to a quarry near Port Townsend. The Seattle Tunnel Partners group intends to use building-trades members instead of longshoremen to work a conveyor belt, drive a front-end loader and position the barge at the terminal.

The conveyor belt now isn't moving and tunnel-boring machine Bertha isn't drilling. The back half of the machine has yet to escape the launch pit in Sodo.

Inslee's staff was gaining confidence in the labor talks a few days ago, but as of noon Monday, "we haven't heard anything about an agreement being close," said his communications director, David Postman.

Another session was planned for 6 p.m., Postman said. "You have to get Bertha going. That was the strong position of the governor."

The governor is likely to make a public statement Tuesday.

"This has proven to be a difficult issue," Postman said. "We're dealing with multiple unions, the Seattle Tunnel Partners and Washington State DOT (Department of Transportation). Union versus union is a difficult place to be."

ILWU argues that the muck loading is longshore work, since it entails moving materials offshore. The building trades and employers say the work is part of the Highway 99 construction labor agreement. In August, the governor intervened through a conference call and by having staff meet with the unions, Postman said.

Drilling began July 30, but the machine has advanced only 24 feet. Fiberglass rods used to strengthen a concrete wall in the launch pit got stuck in a conveyor screw, and then the labor dispute halted Bertha's progress.

*Mike Lindblom: 206-515-5631 or mlindblom@seattletimes.com. On Twitter @mikelindblom*



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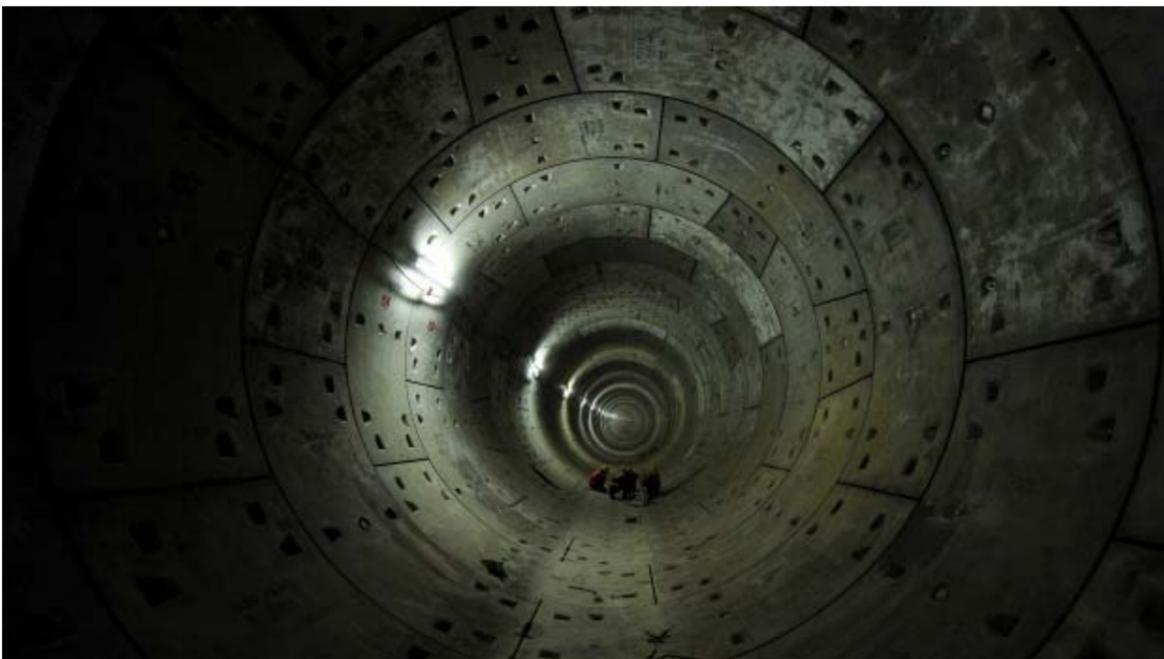
## News

# Drilling At Seattle Tunnel Project To Resume

Rachel La Corte, Associated Press

September 17, 2013 12:15 PM

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(Photo credit MANAN VATSYAYANA/AFP/Getty Images)

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OLYMPIA (AP) — Longshoremen picketing the site of Seattle's \$2 billion tunnel project have agreed to allow work at the site to proceed while they continue to seek a resolution to a dispute over a handful of jobs at the waterfront site, Gov. Jay Inslee announced Tuesday.

Inslee said that the president of International Longshore and Warehouse Union Local 19 agreed in a phone call Monday night to dismantle the picket line that has been up since Aug. 20 while talks continue with the contractor, Seattle Tunnel Partners. Inslee said that the boring machine, known as "Bertha," could be running within the next few days.

The tunnel project is part of the state's overall \$3.1 billion plan replacing the Alaskan Way Viaduct, the double deck highway along the downtown Seattle waterfront.

"I have been increasingly frustrated by this situation," Inslee told reporters during a news conference. "I could not allow this dispute to continue to put stresses and reduced progress on this key link to our economic growth."

Inslee said he met with the union and contractor Monday, but that it was clear they were at an impasse and not yet able to reach agreement. Inslee said he later called union president Cameron Williams to ask him to take down the picket line while both sides continue to seek a permanent

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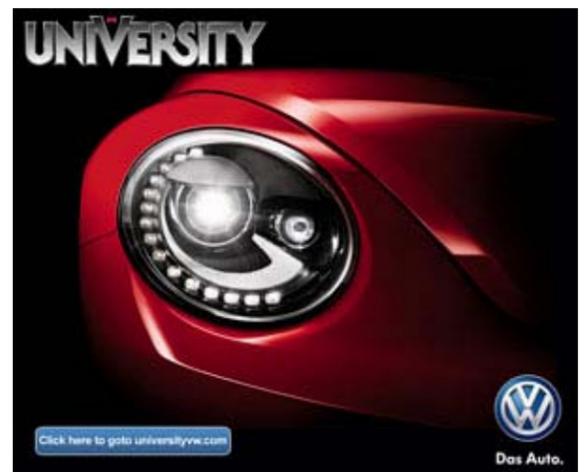
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Messages left Tuesday with the union and with Seattle Tunnel Partners were not immediately returned.

Boring at the tunnel started digging a

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who view the water excavated dirt onto a barge. They believe a contract signed earlier this year gives them the barge-loading jobs.

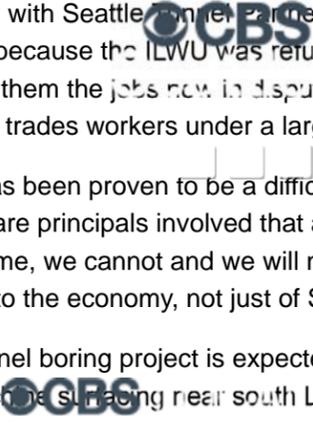
Officials with Seattle Tunnel Partners have said that the contract signed in April was done under duress because the ILWU was refusing to offload the boring machine unless officials agreed to provide them the jobs now in dispute. An arbitrator ultimately ruled that the jobs should go to building trades workers under a larger project agreement.

“This has been proven to be a difficult issue, despite the small number of jobs involved,” Inslee said. “There are principals involved that are important to all sides that need to be respected. But at the same time, we cannot and we will not lose sight of the importance of the viaduct replacement project to the economy, not just of Seattle but to the entire state of Washington.”

The tunnel boring project is expected to take about 14 months to make a nearly 2-mile journey, with the machine starting near south Lake Union. Vehicles are expected to begin using the tunnel by late 2015.

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### Tunnel-digger Bertha heading back to work

The stranded Highway 99 tunnel machine should restart within a few days, but longshore workers vow to continue the fight for a handful of tunnel-related jobs.

By Mike Lindblom

Seattle Times transportation reporter



The stranded Highway 99 tunnel machine should restart within a few days, Gov. Jay Inslee announced Tuesday, now that longshore workers have agreed to halt picketing on the waterfront.

But while protest signs have been removed, and the massive drill Bertha can resume its 14-month dig from Sodo to South Lake Union, the longshore workers vow to continue the fight for a handful of tunnel-related jobs.

A struggle between unions — longshore versus building trades, for four jobs per shift moving muck — has delayed the project for about a month.

And it also has put the Democratic governor in a tight spot as he works to push the \$2 billion state project forward.

Chris Dixon, project manager for the Seattle Tunnel Partners construction team, said late Tuesday the companies will seek reimbursement from the state Department of Transportation (DOT) for millions of dollars lost to delays.

This sets up a possible argument with Inslee, who earlier Tuesday insisted taxpayers won't be liable, and that the construction team is required under contract with the state to open the four-lane tunnel by the end of 2015.

"We, six and a half million Washingtonians, are owed something by a business here. There is a private business that owes us the fulfillment of that contract. And we intend to be rigorous in insisting that that private business fulfill its end of the bargain, and that includes being able to have some labor relationship that does not end up with this kind of a slowdown," he said.

Inslee emphasized during a news conference Tuesday that he doesn't have the power to dictate a labor agreement — these aren't state workers, but private companies making their own contracts with unions.

The governor met Monday morning in Bellevue with union officials, then held an evening conference call. Inslee previously tried to mediate on Aug. 29.

"I have been increasingly frustrated by this situation, and I know that Washingtonians feel this same frustration to the nth degree," he said Tuesday. "I could not allow this dispute to continue to put stresses and reduce progress on this key link to our economic growth of our state. ... I told them this had gone on long enough and I wanted Bertha digging again, and soon."

For the time being, the jobs at issue will be performed by building-trades workers.

The International Longshore and Warehouse Union (ILWU) could resume picketing if a solution isn't reached during talks expected to resume in a few days. Inslee thanked the ILWU for a show of "good faith."

Cam Williams, president of ILWU Local 19 in Seattle, said union members were willing to stop picketing because of optimism that the governor's involvement would lead to a favorable solution.

Unions are grappling over who will operate a conveyor belt, drive a front-end loader and perform the two-person job of adjusting the position of a barge, which will ferry the muck to a quarry near Port Townsend.

The tunnel-boring machine, the largest in the world at 57 feet, 4 inches diameter, has moved only 24 feet since drilling started July 30, slowed at first by a clog in the conveyor screw, and then by the dispute.

Seattle Tunnel Partners and the construction-trades unions say the jobs belong to the building trades, because of a labor agreement on the overall tunnel project. They argue muck removal is part of the tunnel effort, which employs 250 tradesmen.

The longshore union, feeling pressure at several West Coast ports, says the muck loading is ILWU territory because it entails moving materials offshore, historically a longshore job. In April, Seattle Tunnel Partners signed a contract with an ILWU employer that included the muck-handling jobs. But Dixon says it was signed "under duress" while a giant cargo vessel containing Bertha's 41 segments was anchored off Elliott Bay, with no other way to get the ship unloaded than to sign.

This summer, an arbitrator ruled the jobs belong to the building trades.

Testimony continued Tuesday in a National Labor Relations Board hearing in Seattle to weigh an accusation by the building trades that the longshore union is engaging in "economic coercion and threats." But by the time the board rules, in a few weeks, the project would have fallen further behind — and it's not clear the ILWU would capitulate if the feds rule against it.

Seattle Tunnel Partners did not try to send workers across the picket line.

The ILWU recently left the AFL-CIO, in part because of what it considers a pattern of incursions by other unions.

In Longview in 2011, grain exporter EGT tried to employ operating engineers, but longshore workers and their supporters blocked a grain train, and some were arrested. The ILWU members were eventually hired, after Gov. Chris Gregoire mediated.

ILWU International President Robert McEllrath cites that episode in the rift with the AFL-CIO, and in his letter explaining the separation, he goes on to mention the Seattle tunnel: "Some of the Building Trades affiliates have displaced ILWU workers in the loading of barges at Terminal 46 in Seattle where longshoremen have done this work for generations. They also had the gall to file several ULP [unfair labor practice] charges against us for picketing at our own marine terminal."

Along the West Coast, a labor contract affecting 20,000 dockworkers is up for renegotiation next year.

"Going into these, ILWU needs to maintain its militancy and diligence in these types of matters," said Williams, local ILWU president.

Josh Swanson, representing the International Union of Operating Engineers in Seattle, said his union has no comment because the talks between the unions have not concluded.

Lee Newgent, executive secretary of the Seattle Building & Construction Trades Council, said the building trades made a compromise offer Monday that the ILWU rejected.

One idea suggested earlier this year would have split the jobs between the unions. The longshore workers rejected that, but Williams said on Tuesday the ILWU is willing to discuss scenarios and has "an open mind."

Contractors have started building an alternative muck-holding bin onshore near Alaskan Way South, so if the talks fail, the conveyor system could be curtailed there and material could be trucked away instead of being poured onto barges.

On Tuesday, the state DOT directed Seattle Tunnel Partners to stop building that facility, said Dixon. Nonetheless, design work will continue, in case matters go sour again and builders resort to the trucking option, he said.

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## Local News

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### Pickets gone, but Bertha isn't moving yet

Workers need a couple days to finish adjustments to the tunnel-boring machine that had been under way before the shutdown, the contractor says.

By Mike Lindblom

Seattle Times transportation reporter

Despite a halt to the longshore union's picketing Tuesday, tunnel-boring machine Bertha needs a few days before it can restart.

One might expect drilling to begin immediately, given that Seattle Tunnel Partners (STP) had four weeks of delay to prepare. But it's not that simple, contractor and state officials say:

Workers need a couple days to finish adjustments that were under way on large mixing arms that stir the excavated muck, right after it passes through Bertha's rotary cutting face, said Chris Dixon, project manager for STP. This work was going to happen later anyway, when Bertha stops in a so-called refuge area between Sodo and the Alaskan Way Viaduct this fall. Dixon now hopes to skip the refuge and keep drilling northward.

Conveyor parts need to be fixed, where muck will be sometimes lifted from a temporary stockpile on Terminal 46, and moved to barges, said KaDeena Yerkan, spokeswoman for the state Department of Transportation (DOT). The work couldn't be done earlier without crossing an International Longshore and Warehouse Union (ILWU) picket line, so it's happening this week, she said.

Workers have to be rescheduled from other jobs on-site, said Yerkan.

Complicating matters, STP began the week hunkering down for another delay of two or three weeks, and sent some workers to build an alternate muck-handling bin that would let trucks remove soil via Alaskan Way South, bypassing the docks.

The green light to drill caught managers by surprise, Dixon said Tuesday. "The whole landscape changed," he said. "We're very happy with the news. It's very positive. It's uplifting the spirits of the people on the project."

Rumors and tips abound regarding the supposed real reason Bertha is idle — anything from electrical flaws, to an inability to chew through concrete grout in the soil. All of these, the project officials vehemently deny. But if Bertha does have mechanical flaws, those will be manifested, before too long.

When restart is imminent, Yerkan said, the DOT will announce it online, through email, or through Bertha's Twitter feed.

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## More delays before 'Bertha' can resume digging waterfront tunnel

By Associated Press | Published: Sep 20, 2013 at 4:32 PM PST (2013-09-21T0:32:9Z)



SEATTLE (AP) - Boring at Seattle's \$2 billion tunnel project has been delayed again until next week.

Officials with contractor Seattle Tunnel Partners said Friday that the boring machine is going through more tests before it can be restarted. They say some of the early material that the machine was tunneling through apparently had a chance to solidify while the machine had been shut down.

The boring came to a halt in recent weeks as longshoremen were picketing at the site due to a dispute over a handful of waterfront jobs. Gov. Jay Inslee announced Tuesday that the longshoremen had agreed to allow work to proceed as officials worked toward a larger resolution on

"Bertha," the massive tunnel boring machine, is expected to spend the next 14 months drilling a two-mile tunnel to replace the 60-year-old Alaskan Way Viaduct.

that dispute.

Officials had hoped to restart boring work Friday. They are now looking at some point early next week.

From the Puget Sound Business Journal

:<http://www.bizjournals.com/seattle/news/2013/09/27/labor-dispute-over-seattles-tunneling.html>

Sep 27, 2013, 12:00pm PDT

## Guest opinion

# In Seattle, a dispute over "Bertha" shows what's wrong with project agreements

Kathleen Garrity, Contributing writer

The whole Big Bertha labor dispute on the downtown Seattle waterfront is wrong on so many levels, I don't know where to start.

First, the government mandated a project labor agreement (PLA) to ensure that there would be no labor strife for the duration of the project. Unfortunately, the parties — the state Department of Transportation, the Seattle Tunnel Partners construction team (STP) and the building trades' unions — drafting the PLA evidently missed a big piece of labor relations by not having the longshoremen's union signatory to the PLA.

The longshoremen aren't a building trades union, but having them claim what they consider "their" work (only four jobs) and raising a stink isn't a surprise, especially considering similar disputes along the West Coast. The longshoremen's union signed a separate agreement with the tunneling firms, but then the work was given to the building trades' union members, the pickets went up, and work stopped. No work stoppages is one of the things the unions promise in return for being given the work on these large public works projects. But for a month there was no work on Bertha.

That has cost a month of delays in a 15-month project, while the **International Longshore and Warehouse Union (ILWU)** picketed over four jobs. Seattle Tunnel Partners and their signatory construction unions wouldn't cross the ILWU picket line, so nothing got done — except more money being spent and STP building an alternate bin to hold the muck being removed from the tunnel so it could be trucked (by union teamsters) instead of being barged to a quarry near Port Townsend.

Now, the longshoremen have agreed to quit picketing, but they may begin again if the governor can't negotiate a "creative" solution. But, so far, no solution has been reached.

Second, the building trades have filed unfair labor practice charges against the longshoremen for blocking them from working. In an ironic twist, in their complaint to the **National Labor Relations Board**, the building trades formally accused the longshoremen's union of "economic coercion and threats" to undermine the PLA.

Ironically, the building trades use economic coercion and threats when they send letters to owners of construction projects implying that, unless the work being done by open-shop contractors is instead given to union contractors, they will banner and picket not only the active work site, but also other locations owned by the same company, company headquarters — and sometimes, the company owner's home. This tactic is known as a "corporate campaign." So what's good for the goose isn't always good for the gander?

Third, union-friendly Gov. [Jay Inslee](#), who waited weeks before even getting the two unions into the same room, now says that Seattle Tunnel Partners is to blame for the delay and must complete the project on time. **STP didn't decide to impose a PLA on this project; it was government agencies and the unions who wanted it.** So holding STP accountable seems a little extreme.

Construction projects, especially those paid for with tax dollars, should be awarded to the most qualified contractor with the lowest price, irrespective if they are a union or open-shop employer. By favoring unions, PLAs limit competition, drive up costs and obviously don't guarantee labor harmony with no work stoppages.

Associated Builders and Contractors opposes government required PLAs as being anti-competitive and discriminatory against the majority of construction workers who chose not to belong to a union — but who do pay taxes that support public projects. Excluding this large block of taxpayers is unfair. Increasing the costs on large public projects by mandating PLAs is an insult to all taxpayers.

**KATHLEEN GARRITY** is president of Associated Builders & Contractors of Western Washington, which is based in Bellevue.

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## Small firms cut out of \$1.3 billion Seattle tunnel project

by SUSANNAH FRAME / KING 5 News

[Bio](#) | [Email](#) | Follow: @SFrameK5

KING5.com

Posted on October 2, 2013 at 9:45 PM

Updated Wednesday, Oct 2 at 10:35 PM

**Small businesses have received just a fraction of the \$90 million Washington state hopes to steer their way from the \$1.36 billion Seattle deep-bore tunnel project.**

With the project more than half-way complete, small and minority-owned construction companies have signed contracts potentially worth \$25 million to complete tunnel-related work. But to date, **just \$7 million** has been paid out to these small firms.

**The Washington State Department of Transportation awarded the huge contract to Seattle Tunnel Partners in 2010 with a federally mandated condition: sub-contract a certain percentage of the work to small and minority-owned construction companies. If that condition isn't met -- or at a minimum, if the prime contractor can't show a good faith effort was made to meet the condition -- federal dollars for the project can be withdrawn. For the bored tunnel contract, the U.S. Department of Transportation is kicking in nearly \$500 million.**

**WSDOT set the goal at 8 percent** of the total contract value, or \$91 million. Records obtained by KING show that currently \$25 million in contracts have been signed with women and minority owned businesses, but to date, only \$7 million has been paid to the small contractors. It's unclear if STP will be able to make good on fully executing the contracts signed.

One small firm that does have a subcontract with STP is still waiting for work assignments. STP signed a \$630,000 contract for street sweeping near the tunnel project with Seattle-based company DHD Trucking.

DHD owner Shawn Vinson said he was thrilled to get the security of work with a signed contract.

"This is history, we thought we were going to be part of history," he said.

Vinson signed the paperwork in June, but since that time he said he hasn't been called once to do any street sweeping. Instead, STP bought its own street sweepers.

Prior to signing the contract, DHD Trucking had received full-time sweeping work from STP, but once the prime contractor acquired its own equipment -- the same time the contract was signed -- all the work dried up for the small company. Vinson said he believes STP cut him out of the process in order to keep more of the lucrative project money.

"We had six full-time, 40-plus-hour workers and now we're down to no employees. I'm the only one working. Because there's no work for the employees I had to lay everybody off," said Vinson. "They're taking food off our table."

Bob Armstead, president of the Washington state chapter of the **National Association of Minority Contractors**, said his organization has worked diligently to get its members work on the mega-project without success.

"(I would give this project) an F-minus," said Armstead. "It's totally bad for the local economy. It's mean, spiteful, hateful, it's damaging to the community."

Todd Trepanier, **Alaskan Way Viaduct project** administrator, said WSDOT is increasing its efforts to include small, local businesses.

"We are putting a lot of emphasis on this," said Trepanier.

"To be at 7 million [in payments] at this time, we would like to see that number higher. There's some things that probably could have been done differently, but at this point we're very pleased with how much attention DOT is putting forth on this and that STP is putting forth."

Ultimately, WSDOT is responsible to follow federal highway regulations and make sure the prime contractor, STP, makes a good faith effort to attain the goal of including small businesses on this project.

Members of the minority contracting community told KING 5 that WSDOT isn't providing the leadership needed to make that happen.

"They're trying to get all of the money and WSDOT is not policing them (STP) so they're just letting them do what they want to do," said Vinson.

"There are businesses available to do the work, that are ready, willing and able to the work but they're not getting the opportunity," said Armstead. "The huge problem is that WSDOT is not enforcing the (minority contracting) regulations."

WSDOT said one of the ways the agency is showing its renewed commitment to small local businesses is by hiring Bruce Watts, a Portland-based consultant who has a track record of helping government agencies meet goals of giving a fair portion of mega project work to small, struggling construction firms.

"We are turning over every stone possible to try to find opportunities at this point. I can't tell you how much ground they can make up but I can tell you they are becoming, they are extremely attentive to trying to make up as much ground as humanly possible," said Watts.

Watts was hired in August, more than three years into the project. His contract is worth \$73,000 for six months of work.

KING 5 asked Watts if he was brought in too late to fix the problem.

"I can't say too little too late. Ideally I've always been at the beginning of a process. That's where you have the most bang for your buck. That didn't happen this time. But I can tell you that when I'm done here WSDOT will be a lot more attentive to this piece in the very beginning (of projects)," said Watts.

Seattle Tunnel Partners is actually a joint venture of two out-of-state powerhouse contractors -- Tutor Perini of California and the New York based Dragados USA.

**The federal government has charged both companies with breaking minority contracting regulations on other projects. In 2009 Tutor Perini paid \$9.7 million to the federal government for allegedly cheating minority contractors out of work in New York. Last spring, Dragados USA paid \$7.5 million for the same sorts of allegations.**

The Association of Minority Contractors said WSDOT shouldn't have hired companies with that kind of track record.

"It's horrible, worse than horrible," said Armstead. "To me it's a criminal act. If someone has a history of not performing, why would they believe that they would perform here.?"

DHD's Vinson said he still hopes he'll get a phone call from STP to begin sweeping streets on the tunnel project again, but at this point he thinks the six-figure contract he signed is a meaningless pile of paper.

"It's really worth about 15 cents. It's not worth nothing but ink and blank paper. That's all it is. It's \$630,000 worth of hope and false dreams," said Vinson.

From the Puget Sound Business Journal

:<http://www.bizjournals.com/seattle/news/2013/11/25/two-week-viaduct-closure-planned-for.html>

Nov 25, 2013, 6:14pm PST

## Two-week viaduct closure planned for 2014 as Bertha barges ahead



[Marc Stiles](#)

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Work can speed up on the \$2 billion highway tunnel under downtown Seattle now that a labor agreement has been reached, Washington state transportation officials said Monday.

Instead of hauling up to 5,000 tons of the tunneling muck away each day in a fleet of trucks, the deal allows the contractor to move up to twice that amount in big barges.

This increased capacity will allow crews to dig faster, and Washington state Department of Transportation officials think workers will be ready to burrow under the Alaskan Way Viaduct early next year. This will necessitate temporarily closing the viaduct, an elevated highway that carries around 110,000 vehicles a day.

[Dave Sowers](#) of WSDOT said the earthquake-damaged viaduct, which the tunnel will replace, will be closed for one to two weeks, perhaps in February.

Work on the [1.7-mile tunnel](#) had been slowed by the dispute between the project contractor, Seattle Tunnel Partners (STP), and the **International Longshore and Warehouse Union Local 19**. Union members said the original contract promised them the work of transferring dirt discharged by Bertha – the name of the tunnel-boring machine — to barges, but an arbitrator awarded the job to other unions.

The longshore union responded [by shutting down the project](#) for about a month with pickets until [a temporary truce was called](#) in September. [Work resumed but dirt was hauled away only in trucks as the longshore union and STP subcontractor Foss Maritime ironed out their differences.](#) That happened Friday, said [Chris Dixon](#) of STP.

By Saturday, workers were loading the first two barges, which are hauling the spoils to Mats Mats, a quarry near Port Ludlow in Jefferson County.

Longshoremen are manning the lines that tie the barges up on Seattle's waterfront. "It's a way to involve the longshoremen in the project," Dixon said.

Even with the barges sailing, the tunneling team probably will continue to rely on trucks to haul some of the spoils, Dixon added. Trucks take the muck to a site near Maple Valley.

Officials of the longshore union were not immediately available Monday.

Sowers, of WSDOT, said that because of "all the start-up issues" and other factors, the tunnel project is "a little behind." Tunnel boring is scheduled to be done in late 2014 with the tunnel opening to traffic in late 2015.

Tunneling started in late July, and since then Bertha, [a record sized machine](#), has burrowed about 660 feet. The machine is currently about 100 feet south of South Jackson Street. Progress has been slowed by the inability to haul spoils away, or as Dixon put it, the project has been "muck bound."

Now that a larger quantity of spoils can be hauled away, officials expect Bertha will drill another 900 feet in just four weeks. Drilling will stop as crews spend about a month doing scheduled maintenance on the machine. Bertha will then drill another approximately 250 feet to a point between South Washington Street and Yesler Way, where the machine will start drilling under the viaduct.

Marc Stiles covers commercial real estate and government for the Puget Sound Business Journal.

## When will 'Big Bertha' get back to work?

By Russ Bowen & news services | Published: Jan 6, 2014 at 10:00 PM PST (2014-01-7T6:00:41Z) | Last Updated: Jan 6, 2014 at 11:19 PM PST (2014-01-7T7:19:39Z)



A surveyor sets up his gear near the south end of the SR 99 tunnel on Friday, Dec. 6. Bertha, the SR 99 tunneling machine completed her first 1000 feet of tunneling a day earlier. (Photo Courtesy: WSDOT)

SEATTLE -- First it was a labor dispute that contributed to slowing down Bertha's progress, and now it's a steel pipe.

The \$80 million, five-story-tall machine is digging a new path for State Route 99, one of the region's primary north-south arterials. But it became stuck Dec. 6, 60 feet below Seattle streets. In the ensuing weeks crews have probed, sifted and speculated in an effort to figure out what was causing the delay.

"We know that the steel is a contributing factor to her needing to stop, but we don't know the full story," said Washington Transportation Secretary Lynn Peterson.

After hitting the pipe, Bertha continued drilling another 90 feet and installed 15 more concrete rings before she stopped. The mammoth machine hasn't moved in month.

The steel pipe was put in place in 2002 as part of a well to monitor water flow after the Nisqually earthquake. Peterson says the contractor, STP, was given a map of where obstacles are and it's up to the contractor to remove the obstacles.

"It is referenced in documents that WSDOT provided to everybody who bid on the project in May of 2010" she said. "So we do know the information was there and that in the contract it does specify that things such as these would have to be removed by the contractor."

So how much is it costing and can the project get back on schedule? There's no definitive answer at this point, but the pressure is on for both parties as taxpayers watch.

"The contractor does have incentives to be on time and stay on budget, so we're going to be in constant negotiation through the entire length of this project," Peterson said.

Bertha is another woe added to a growing list for WSDOT. The ferry system faces budget cuts and staffing shortages, which have led to cancelled trips. The 520 bridge is another issue as new construction has dealt with huge overages, design flaws and delays.

"When there is an issue we are very up front with it whether it's the design error on the pontoons or whether Bertha stops. We are going to be extremely upfront with the public about what's going on and what we're going to do next," Peterson said.

There is a \$40 million contingency fund set aside in case the boring machine is stalled by obstacles that are in the way. There's an additional \$200 million contingency fund for other issues that may arise during the project.

Originally published January 13, 2014 at 8:47 PM | Page modified January 14, 2014 at 11:32 AM

## State: Too few minorities, women on tunnel project

Seattle Tunnel Partners violated its contract by creating barriers to minority- and women-owned small businesses, the state Department of Transportation said Monday.

By Mike Lindblom

Seattle Times transportation reporter

The big companies building the Highway 99 tunnel violated their contract by creating barriers to minority- and women-owned small businesses, a state review says.

Payments to Seattle Tunnel Partners could be reduced or withheld unless the firms demonstrate progress toward an 8 percent hiring goal for what are called disadvantaged business enterprises (DBEs).

“If there are not honest and open transactions with the DBE contracting community and with WSDOT (Washington State Department of Transportation), WSDOT reserves the right to proceed with sanctions,” state Transportation Secretary Lynn Peterson said in a letter released Monday.

She struck a more conciliatory tone in a phone interview, saying the contractors are cooperative, and they’ve found upcoming jobs that can bring minority-owned contractor participation to within \$5 million to \$6 million of the \$91 million target.

That includes an increase in trucking work, for which small companies can be recruited fast.

So far, Bertha’s progress has been delayed three months: by extra testing work in Japan last winter, by a waterfront labor dispute in August, and by a blockage in December.

However, DOT engineers say they can still meet the overall schedule, to open the four-lane tunnel to traffic between Sodo and South Lake Union in December 2015. On its best day, the drill advanced 58 feet, giving the team cause for optimism.

The pace must accelerate once a buried steel pipe or whatever else is blocking the machine’s path is removed. Seattle Tunnel Partners (STP) initially planned to remove excavated soil by barge, but trucking opportunities could increase if the team works extra shifts, or if drilling moves quickly.

“STP has indicated that as mining gets under way in earnest, it is likely that they will need to truck and barge spoils concurrently to keep up with output,” said state spokesman Lars Erickson.

**Last fall, a federal civil-rights report put minority-contractor hiring at less than 2 percent, missing the 8 percent goal.**

Initiative 200 forbids race and gender preferences by state and local governments, but the tunnel is one-third funded by federal grants, and therefore subject to federal affirmative-action rules.

STP is a consortium headed by the U.S. branch of Spain-based Dragados and California-based Tutor-Perini. Its project director, Chris Dixon, has declined to comment on the DBE investigations.

Peterson said that while Monday’s letter is serious, she thinks it won’t send relations between the state and the tunnel contractors spiraling toward impasse.

The tunnel consortium has already collected more than \$700 million in payments, and owns the giant drill in the ground. The state has the power to withhold progress payments, or even end the contract — but such an extreme move would add delays and costs.

**The federal civil-rights investigation was prompted by a complaint from minority contractor Elton Mason, owner of Washington State Trucking in Kirkland, who sought a contract to transport dirt.**

Mason said Monday’s letter looks to him like another round of process.

“That’s the way WashDOT operates. This is how they sneak by millions of taxpayer dollars, then ask for more,” he said. “It’s like the (big) contractors are running WashDOT.”

Mason said he met tunnel managers twice this winter without a job offer. Mason said he’s moving some loads at a Highway 99 bridge project in Sodo, but that work ends next week.

The federal investigation found local minority contractors faced unnecessary barriers in bidding. For example, small truckers were told to obtain a performance bond, which federal investigators said isn’t normally required, and to file bids using a complicated software system.

The federal report said minority contractors must be used, even if that causes a modest cost increase.

Seattle tunnel executives had awarded a major trucking contract to a larger firm, Grady Excavation, which was later stripped of its DBE certification.

Recently, STP awarded a trucking contract to Hos Brothers Construction of Woodinville, which is retaining a minority subcontractor.

Nationally, the contractor programs have been under scrutiny for errors or fraud. The federal Transportation Department criticized itself in an internal audit that said \$124 million in federal funds for women and minority contractors were misspent in 2009 by weak state and local programs.

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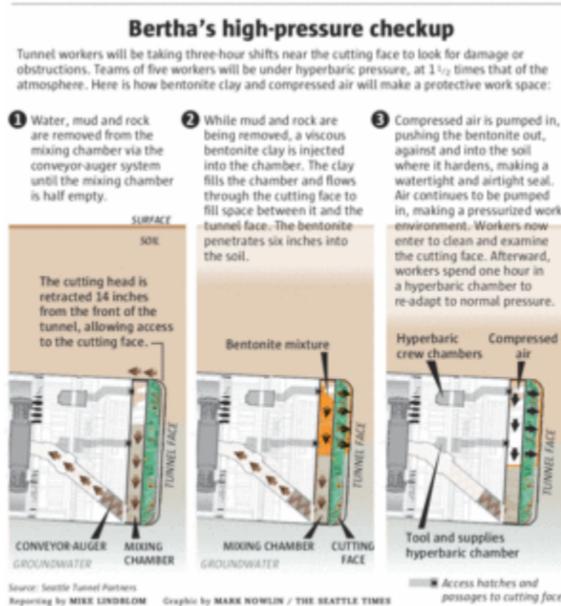
Originally published Wednesday, January 15, 2014 at 9:42 PM

## Bertha woes frustrate the state; investigators head underground

State Transportation Secretary Lynn Peterson said her agency has been concerned for months about how contractors have been operating Bertha, the Highway 99 tunnel machine, which remains stalled with no clear plan to resume digging.

By Mike Lindblom

Seattle Times transportation reporter



State Transportation Secretary Lynn Peterson says the agency “has had concerns” about how contractors have been operating tunnel-boring machine Bertha since July 30, when drilling began.

The admission came via an email Wednesday to state lawmakers, while the world’s largest drill spends its sixth week stranded in the soil near Pioneer Square.

Meanwhile, Seattle Tunnel Partners (STP) planned to send teams of five or six workers to the buried cutting face Wednesday night, and for the next couple of days, to search for any objects that might be blocking Bertha or any damage to the front of the machine.

But the state Department of Transportation questions whether STP has been using the right strategies during this tricky, initial stage of the Highway 99 tunnel project.

Peterson’s message says, in part:

“WSDOT has had concerns about the machine’s operations and critical systems since its launch on July 30, 2013. We have discussed these concerns with STP frequently over the past five months and this week sent a formal letter stating our concerns and asking STP how they will address them prior to tunneling under the viaduct and downtown. We are providing you [elected officials] with this information in lieu of a copy of the letter because it could be the subject of a potential future litigation between WSDOT and the contractor.”

On Monday, she requested several pieces of information, including a strategy from STP to regain lost time.

Peterson also sought an explanation as to why Bertha’s operators ran the machine at unusually high temperatures before shutting it down Dec. 6, when the rotary cutter stopped grabbing soil.

The tunnel drill had struck an 8-inch-diameter pipe Dec. 3, but contractors kept drilling for three more days — and in fact progressed 58 feet in a day, its best-ever pace.

Bertha is 60 feet deep, near South Main Street.

Solutions are critical right now, before the machine dives under the old Alaskan Way Viaduct and passes historic brick buildings in Pioneer Square.

Excess vibrations could damage the elevated highway, while mistakes in the soil-excitation rate could cause downtown buildings to sink.

Chris Dixon, project director for STP, didn’t comment Wednesday on Peterson’s message.

But earlier Wednesday, he said the contractors think something in the soil, as opposed to mechanical trouble, is to blame for the stall. The conveyor screw, for instance, is moving muck just fine, he said.

**The \$80 million drill, made by Hitachi, is still in a break-in period before the sale to STP is final, once Bertha completes 1,250 feet of mining.**

At a news conference Wednesday just before Peterson’s email went to lawmakers, Todd Trepanier, WSDOT’s program manager, said, “We’re confident in STP’s ability to move this project forward.”

Trepanier later called Peterson’s letter a form of due diligence that any strong owner would exert over such a huge project.

He said he believes the machine itself is free of problems and is up to the task of reaching South Lake Union.

In recent weeks, the state has portrayed the steel pipe as only a partial reason for the stoppage.

As for WSDOT’s concerns in earlier weeks, fiberglass became stuck in the conveyor screw, and “there have been cutting tools that have shown damage; there have been issues with heat, and there have been issues with muck flowing,” Trepanier said.

Peterson wrote Wednesday that WSDOT plans to call on tunnel experts for suggestions.

**However, she warned lawmakers that she can’t “direct how STP does their work” or else the state will bear increased risks and responsibility, under the \$1.44 billion contract.**

STP provided some information to WSDOT on Tuesday and planned to forward more details Wednesday night, Trepanier said.

The drilling from Sodo to South Lake Union has been delayed by extra testing last winter in Japan, by a labor dispute in August — and since Dec. 6 by a blockage that officials say they don’t yet know how to resolve.

Meanwhile, Dixon said 20 workers on his team have been trained to inspect the cutting head, under about 1½ times atmospheric pressure, after compressed air is pumped in.

Workers will use flashlights and cleaning tools to get a look around the 57-foot diameter rotary cutter — after four deep, vertical shafts failed to hit a big object, and a worker who was lowered down a shaft didn’t find an obstruction.

High pressure exists here because groundwater permeates the soil.

Pressures around the cutter were forecast at perhaps double the surface pressure, but STP will significantly reduce pressure — and improve worker safety — by using 10 temporary wells to pump away groundwater.

Worldwide, builders have conducted “hyperbaric interventions” beneath the Elbe River in Hamburg, Germany, under the Yangtze River in Nanjing, China, and at the Brightwater sewer tunnel north of Seattle, and elsewhere.

At extreme depths, workers or tunnel-trained divers breathe mixed gases while pressurized.

More days or weeks could be needed to fix any problems and resume digging. It’s entirely possible Bertha might need to be modified, said Trepanier.

Big tunnel projects usually run into “some unique issue,” he said, but the job nearly always gets done.

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