



U.S. Department
of Transportation
**Federal Highway
Administration**

JUN 13 2018

1200 New Jersey Avenue, SE.
Washington, DC 20590

In Reply Refer To: HCR-20
DOT# 2018-0133

(b) (6)

Subject: Dismissal of Complaint DOT# 2018-0133

Dear (b) (6)

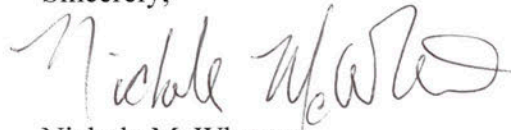
This letter is to inform you that the Federal Highway Administration's (FHWA) Office of Civil Rights has determined that it will dismiss the above complaint, which alleged violations that may be related to Title VI of the Civil Rights Act of 1964 (Title VI) and USDOT's implementation regulations at 49 C.F.R. Part 21 and/or 23 C.F.R. Part 200. To be accepted for investigation, a complaint must meet the jurisdictional requirements described in FHWA's Investigations Manual, which conforms to the U.S. Department of Justice's procedures and standards for investigating complaints of discrimination. First, the complaint must be in writing. Second, it must describe an alleged discriminatory act that, if true, would fall under FHWA's jurisdiction and potentially violate FHWA's nondiscrimination regulations. Finally, it must be filed within 180 calendar days of the alleged discriminatory act.

After careful consideration, the FHWA has concluded that it must dismiss this complaint. Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance.

You alleged that the Nevada Department of Transportation (NDOT) discriminated against you and other residents in Carson City, NV, because NDOT did not follow proper noise abatement procedures regarding the development and final construction of the Carson City Freeway extension project in Carson City, NV. However, the allegations and facts in your complaint do not meet the minimum criteria from which FHWA could establish a case of disparate treatment under Title VI. For these reasons, this complaint will be dismissed by FHWA and closed with no further action.

If you have any questions, please contact Nichole McWhorter at (202) 366-1396.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole McWhorter". The signature is fluid and cursive, with the first name being the most prominent.

Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

Cc: Susan Klekar, Division Administrator, FHWA Nevada Division Office
Greg Novak, Acting Assistant Division Administrator, FHWA Nevada Division Office
Daniel Hawk, Right-of-Way and Civil Rights Program Manager, FHWA Nevada Division Office
James Esselman, Senior Attorney-Advisor, FHWA Office of the Chief Counsel
Kevin Resler, National Title VI Program Manager, FHWA Office of Civil Rights
Yvette Rivera, Director, Equal Employment Opportunity Programs Division, Departmental Office of Civil Rights

Resler, Kevin (FHWA)

From: Mcwhorter, Nichole (FHWA)
Sent: Friday, February 23, 2018 2:25 PM
To: Resler, Kevin (FHWA)
Subject: FW: Freeway Noise and Discrimination
Attachments: sound wall.jpg; Supporting info.pdf; VEGETATION PLANNINGGUIDE2072016.PDF

Did we do anything with this? I am cleaning out old to do items, not that anyone has asked.

From: FHWA, Civil Rights (FHWA)
Sent: Tuesday, January 30, 2018 4:37 PM
To: Mcwhorter, Nichole (FHWA) <nichole.mcwhorter@dot.gov>; Resler, Kevin (FHWA) <kevin.resler@dot.gov>; Hines, Erich (FHWA) <erich.hines@dot.gov>
Subject: FW: Freeway Noise and Discrimination

And another one....

From: (b) (6)
Sent: Tuesday, January 30, 2018 3:40 PM
To: FHWA, Civil Rights (FHWA) <CivilRights.FHWA@dot.gov>
Subject: Fwd: Freeway Noise and Discrimination

(b) (6)



January 30, 2018

Nevada Department of Transportation
1263 S. Stewart St
Carson City, NV 89712

Dear Respective Representatives,

On August 25, 2017, Stephanie wrote to NDOT, Governor Sandoval's office, Ron Knecht and Joe Hart News Channel 4 regarding the final phase of the Carson City Freeway extension noise impact. Since that day the NDOT conducted a noise analysis on 09/07/2017 and informed us, "these studies fall well below the NDOT Noise Abatement Criteria of 66 decibels". Meanwhile, we deal with peaks at

82.6 dBA per written letter from NDOT Jessica Goza-Tyner dated September 15, 2017, and per Meg Ragonese NDOT in her interview by Joe Hart News 4 aired December 19, 2017, the peaks were as much as 91 dBA.

We questioned Joe Hart of News 4 could he find out why the sound walls on the south-side of the freeway were higher. He was informed via email from Meg Ragonese NDOT January 5, 2018 “the sound wall plans were long-standing. This particular document is from 2005.” Our homes were all built prior to 2005 so we don’t understand the lack of noise abatement and pollution protection for us. Joe Hart mentioned that Meg Ragonese informed him the protection provided to the south-side of Snyder was under Environmental Justice. After reviewing environmental justice, the very definition: Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

EPA has this goal for all communities and persons across this nation. It will be achieved when everyone enjoys:

the same degree of protection from environmental and health hazards, and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

We can't find where fair treatment and meaningful involvement of all people was applied in our case. It seems a single sided from our position who was provided noise abatement. If the environmental justice goal is to promote fair treatment, then why don't we have a matching sound wall on our side? Regarding so called full and fair participation by all potentially affected communities in the transportation decision-making process seems to fail miserably there is nothing fair about protecting one area and ignoring the impact on the exact adjacent area or providing lesser protection. We are outraged with the poor planning and the completion. The freeway planning has fallen short from our position, it's cosmetically unattractive, loud and has changed this neighborhood adversely. Why bother having Nevada Department of Transportation go through the effort of studying and development of an Aesthetic Alternatives to NDOT Design Standards plan, and completely go against their own recommendation.

As exhibited on page 52 2.7 Height Steps (2) Not Recommended: Abrupt Termination of the sound wall looks awkward and appears unplanned and does not coordinate with surrounding development. The abrupt sound wall looks aesthetically awful. Studies show how an opposing sound wall of a greater height increases the noise on the opposing side and not recommended.

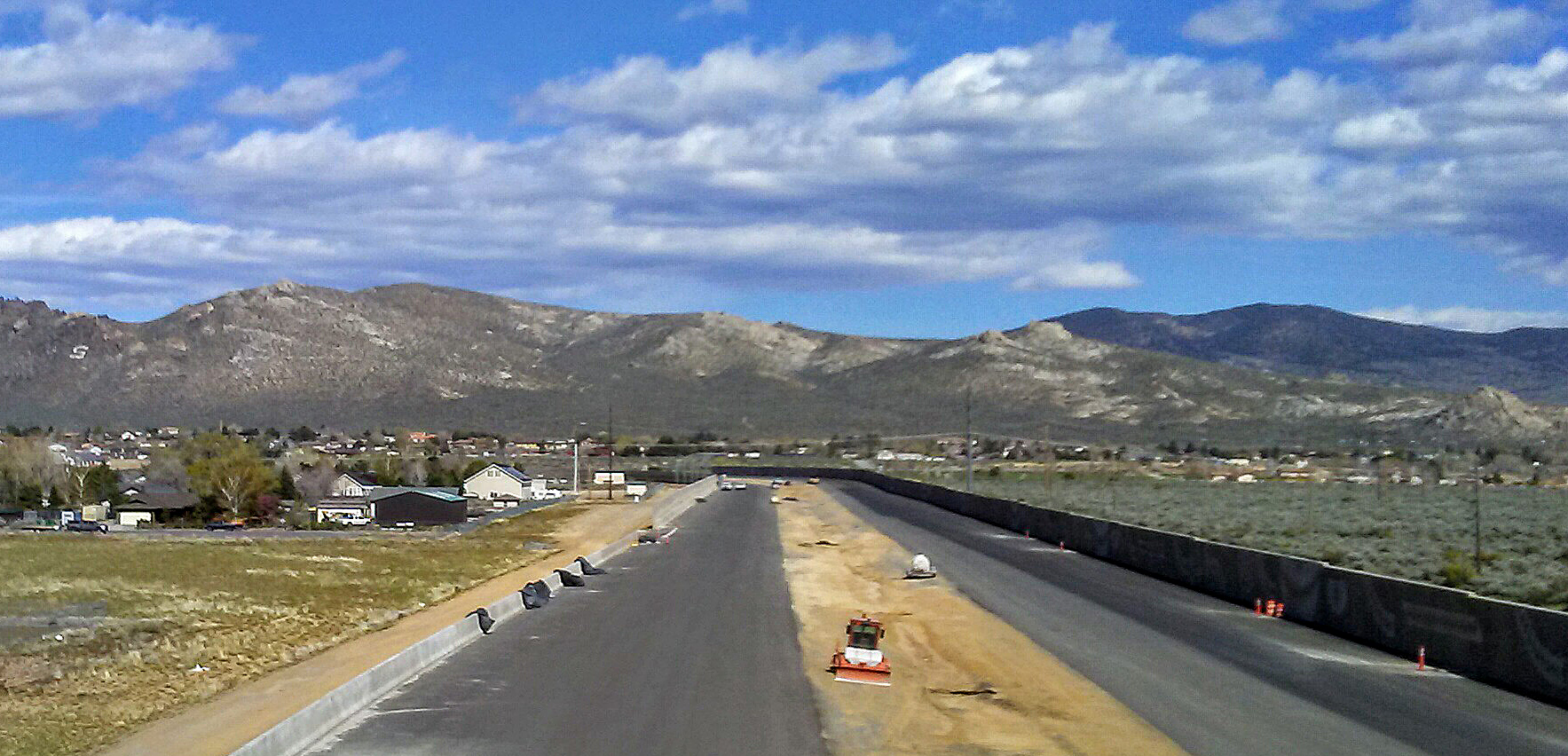
The EPA has also made recommendations to protect human health near freeways from pollution. It indicates the long-term effects health effects from noise and air pollutants can dramatically increase chronic pulmonary and stress related illnesses. Was our health factored into the planning? (b) (6) and (b) (6) raise poultry for consumption (b) (6) also raises milking goats that affects our exposure as well. The EPA publication **Recommendations for Constructing Roadside Vegetation Barriers to Improve Near-Road Air Quality** has some great ideas that could perhaps be implemented to fill the gap where no barrier has been placed, I've attached it.

In summary we'd like to say the freeway has altered or lives physically and emotionally, it's been placed to close in proximity to our homes and the areas of enjoyment and gathering we use to appreciate and savor especially during spring and summer. You have taken a neighborhood that was quiet, rural and serene and changed it for the worse. We as a small group on the North have been unfairly protected, unrepresented and adversely impacted by the freeway. As a result, we suffer unjustifiable disturbance at all times from noise, pollution and constant commotion of sirens and lights (especially disturbing when trying to sleep).

We are requesting resolution and protection thru vegetation, sound walls, better windows or things that can be done to lessen the vibration, noise and disturbance both interior and exterior of our homes. We thank you in advance for your prompt response.

Respectfully,

(b) (6)



1. Introduction

X The purpose of a state highway soundwall is to provide protection from traffic noise for sensitive land uses on nearby public and private lands. Along the state highways, soundwalls are constructed where residential or other noise-sensitive properties are adjacent to the highways. Therefore, the primary goal when selecting soundwall materials and designs is to comply with the noise abatement criteria. However, there are many other factors, which also must be evaluated.

As technology advances, the number of products being presented to the Nevada Department of Transportation (NDOT) for approval continues to increase. Because there are currently few approved systems and no procedure to evaluate soundwall systems and products, the Soundwall System Evaluation Study was conducted to research methods and criteria of soundwall evaluation developed by various state and federal highway agencies, customize these criteria for the State of Nevada, establish evaluation factors, and develop an evaluation procedure to be used by NDOT personnel. A separate publication, the *Soundwall System Evaluation Manual*, was issued to provide guidelines on the procedures, acceptance criteria, forms and flowcharts necessary to perform an effective evaluation of soundwall systems.

This report focuses primarily on the objectives and approach of the Soundwall System Evaluation Study in developing the soundwall evaluation process, which is necessary for evaluating and qualifying soundwall systems and products to be added to NDOT's Qualified Products List (QPL). Included with this report is Appendix A, the Basics of Noise Attenuation.

EXISTING PRACTICE

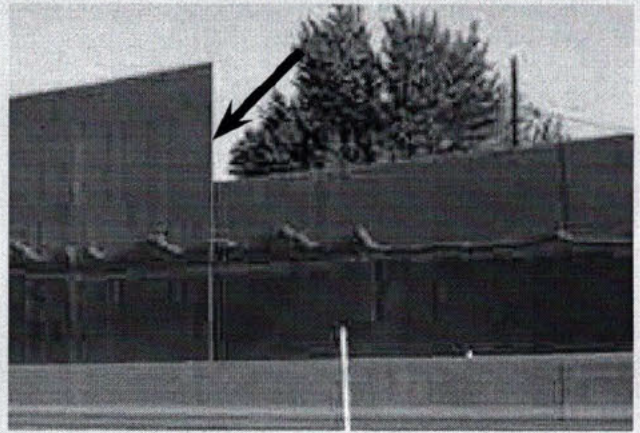
2.7 HEIGHT STEPS AND TRANSITIONS

Existing Practice

The transition between walls of differing heights is out of proportion.

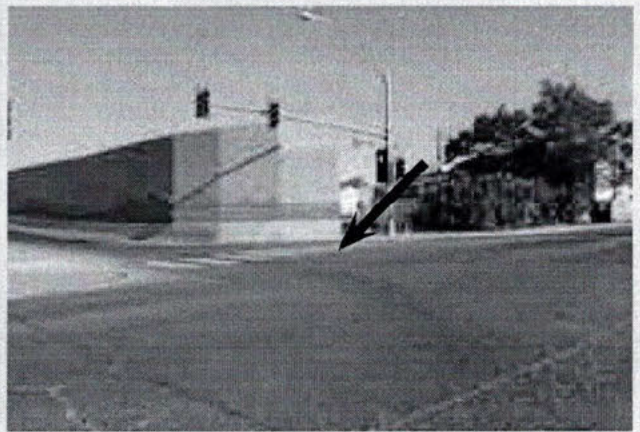
Aesthetic Issues

- Disproportionate, stepped transitions greater than 2' make the wall appear unnecessarily high.



(1) Not Recommended: Disproportionate Wall Height Transition.

- Makes higher wall appear taller than necessary.
- Looks awkward and distracts viewer.



(2) Not Recommended: Abrupt Termination of Sound Wall.

- Looks awkward.
- Appears unplanned and does not coordinate with surrounding development.

Both the NDOT and Federal standards have abatement requirements when the future noise levels will substantially increase the existing ambient noise levels of adjacent areas. NDOT has defined the term "substantially exceed" as 15 dBA.

The design of noise abatement measures normally is provided for the first row of houses usually adjacent to the right-of-way. The traffic noise impacts could extend to the next tier of structures, but the noise abatement measures designed for the first row of houses will usually reduce the noise impacts at housing further away.

3. Noise Reduction of Concrete and Asphalt

Studies have indicated that newly laid open graded asphalt would probably reduce noise levels by 2 to 3 dBA. However, there is great controversy about the longevity of the acoustic benefits of open graded asphalt. Most data suggest degradation within a few years. Differences between open graded asphalt and concrete or regular asphalt would probably be noticed at first, but it is questionable whether this would be true after some years.

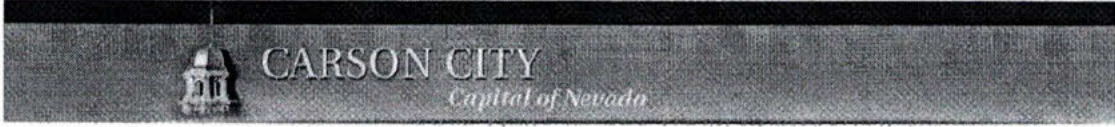
The noise reduction effect of the open graded asphalt would become less pronounced as the percentage of heavy truck increases. This is due to the wider variety of noise sources in trucks. Automobiles traveling at highway speeds emit mostly tire noise and comparatively little engine or drive train noise. Heavy truck noise is dominated by three distinct sources: tires, engine, and exhaust stack. Reducing tire noise by itself does not significantly affect the total noise from heavy trucks.

4. Reflective Noise

On the issue of reflective noise, both FHWA and Caltrans have done several detailed studies. These studies dealt with the acoustical performances of parallel noise barriers and the possibility of noise reflection problems.

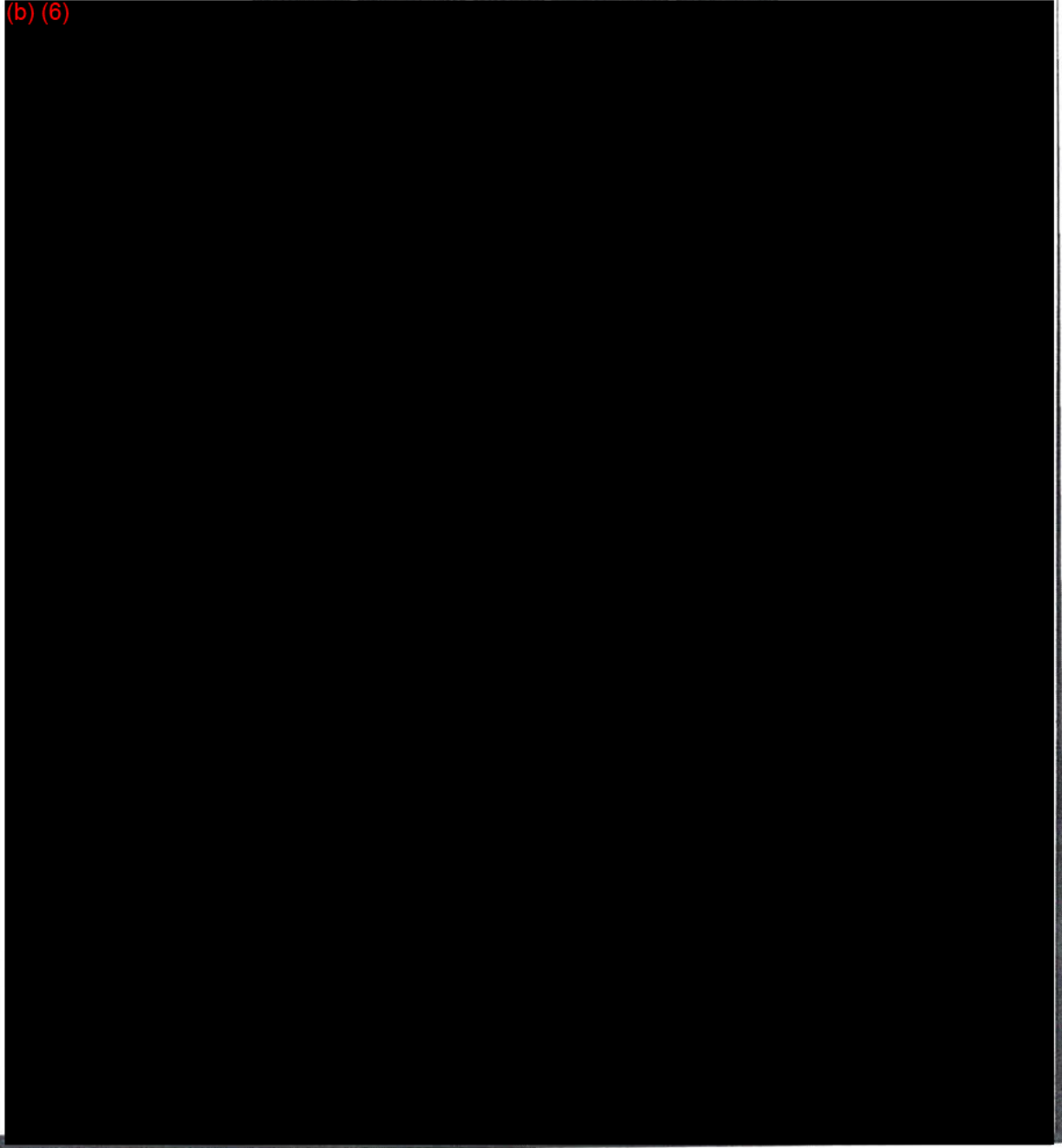
The following points summarize the finding of these studies:

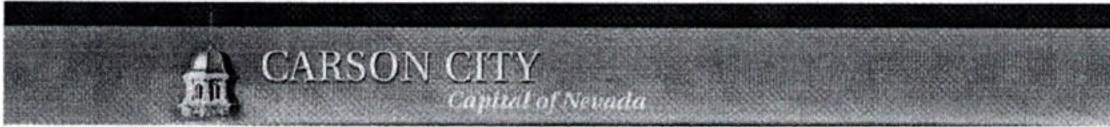
- Installation of acoustic material reduced the noise by an average of 2 dBA, well below the generally recognized 3-dBA human perception threshold of changes in noise level.
- The soundwall did not appear to significantly (in the sense of human perceptibility) change the noise levels either up or down at the distant receivers behind the barrier.
- The presence of the single reflecting soundwall did appear to result in a small but measurable noise level increase at receptors located at the opposite side of the soundwall. There was a consistent noise level increase, regardless of meteorological class, that ranged from 0.5 to 2.5 dBA and an average increase of 1.5 dBA. This increase is consistent with sound reflection theory that predicts an increase of 0 to 3 dBA.
- The studies did demonstrate the profound effect of meteorological conditions on traffic noise level. Wind was the single most important factor in changing noise levels at distances beyond 61 meters from the barrier, even greater than differences in traffic volumes. For example, fluctuations in noise levels at 0.32 kilometers and greater were as high as 8 dBA



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(b) (6)

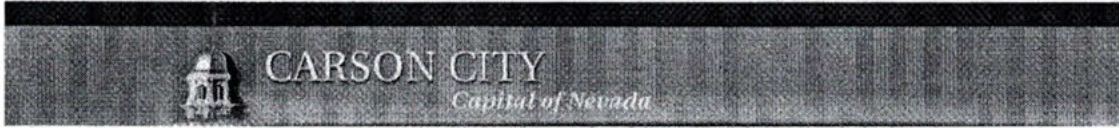




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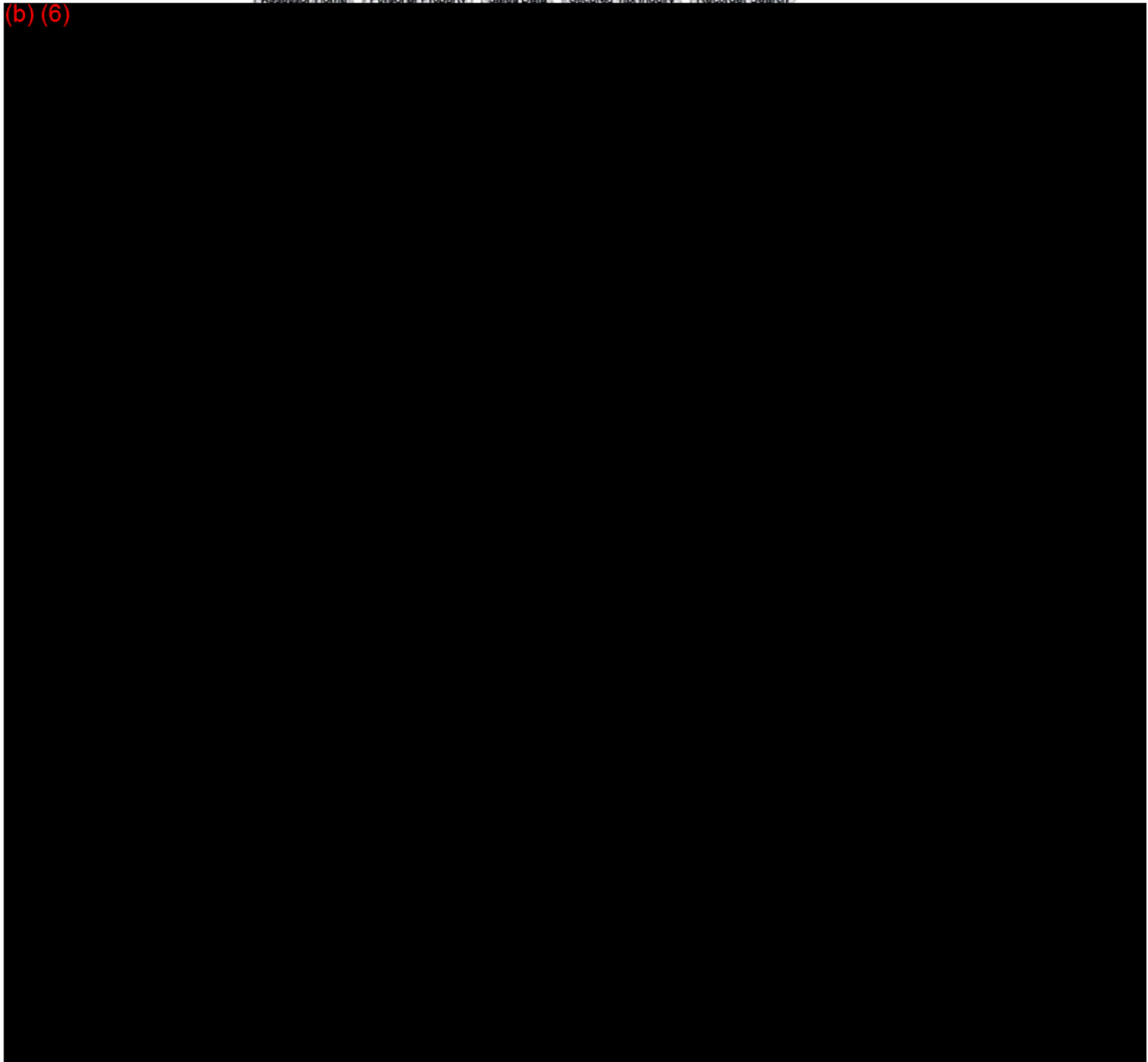
(b) (6)

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(b) (6)



From: (b) (6)

To: (b) (6)

Subject: Fwd: Freeway noise

Date: Thu, Aug 24, 2017 9:41 pm

Attachments: 2.jpg (50K), C0FB61C0-16AE-43EF-9BBF-7C0A74BB68F8.JPG (79K)

-----Original Message-----

From: (b) (6)

To: jgoza-tyner <jgoza-tyner@dot.state.nv.us>

Sent: Thu, Aug 24, 2017 9:07 pm

Subject: Freeway noise

Hello Jessica,

My name is (b) (6) a resident at (b) (6) near the freeway extension. The purpose of my e-mail is to see if anything could be accomplished to lessen the derogatory impact the freeway has made on our way of life and residential environment.

The freeway opened August 2, 2017 and it immediately impacted the serenity of a rural neighborhood. I waited to write you to see if the impact would lessen, after all it was new highly publicized and may have just been a novelty to our area. I've discovered it's not it is a thoroughfare of commuters, truckers and residence bypassing Carson St. and it will never have less traffic.

I want to attempt to explain how much this has impacted my family, my neighborhood and my general health. I always slept with our windows opened we'd sleep better with the mountain air, sounds of nature, coyote howls, trees swaying outside our bedroom window, all the serenity Northern Nevada offers. Additionally, the reduced cost of utilities turning off our air conditioner at night. Since the extension has opened, everything we loved about where we lived ended. We own a 2 acre parcel with dogs, chickens, turkeys and a peahen. We spend a great deal of time outside. That enjoyable time has been destroyed by noise, vibration, dust, debris not just from the freeway but from (tumbleweeds, garbage on an adjacent property not properly maintained and groomed). On September 3rd, 2016 our home hosted a wedding for approximately 125 people the celebration began at 5pm the neighbors heard music and celebration and occasional rooster crow, no traffic or background noise (now at that time we can't hear normal voices we elevate our voices completing with freeway noise and traffic).

The physical effects have been my blood pressure since the opening of the freeway has increased, I sleep less and not as comfortable or deep, my mental health is constantly agitated and depressed. Our homes values, views and enjoy ability have obviously been adversely affected as well as our quality of life. I use, to open my blinds and see Job's Peak, now I see (FREEWAY ENDS) and cars rushing by. I'm attaching photos taken recently when I walked to my car to leave to work and found my car covered in tumbleweeds from the storm retention lot that is not maintained. I regretfully, did not take photo's prior to my husband clearing the driver side with his Bobcat so I could leave to work.

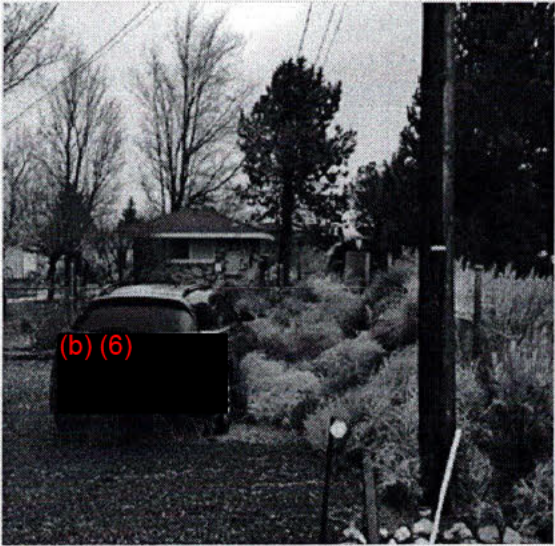
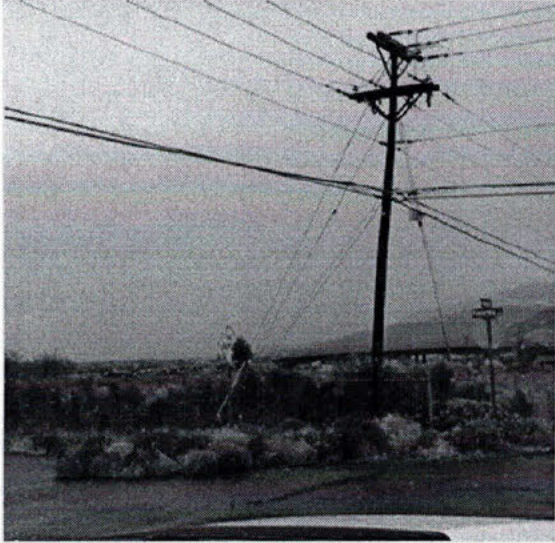
I have been told that a meter was placed near our location, not exactly where the noise affecting my husband and I as well as (b) (6) live without a sound barrier, trees, berms or anything to lessen the noise. I'm curious of the methodology of the meter as well as it's accuracy. Is the meter guaranteed to be type 1 or 2 ?

I could literally go on and on about the disruption to the lives of myself and the people around me but what I'm looking for is resolution. I would deeply appreciate your help abating the noise , debris, dust and views of the freeway. I thank you in advance for efforts put forth to help.

Cordially,

(b) (6)

2 Attached Images



(b) (6)



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

1263 S. Stewart Street
Carson City, Nevada 89712

September 18, 2017

RUDY MALFABON, P.E., Director

In Reply, Refer to:

(b) (6)

Dear (b) (6):

The Governor forwarded your email to me asking that your noise concerns be addressed.

I appreciate your concern regarding traffic noise and what appears to have been issues encountered during construction of the Carson Bypass. I understand that you also communicated your concerns to Ms. Jessica Goza-Tyner from the Nevada Department of Transportation's (NDOT) Environmental Division, who in turn provided you with preliminary information that explains the processes that were followed to address traffic noise.

The Carson City Bypass has been planned in its existing location since 1986. During that time and more recently in 2001 and 2014, all environmental aspects, especially highway traffic noise, were reviewed making sure that our mitigation efforts were compliant with federal criteria, processes and regulations. Specifically regarding traffic noise, the latest traffic numbers, changes in land use and adjustments to the roadway geometry were examined and modeled to determine noise wall locations. Although these walls do obscure views, they are the most effective means to reduce noise impacts.

If you desire, Jessica can meet with you at your convenience to discuss in greater detail your concerns as well as arrange for detailed noise measurements to be taken at your residence. To initiate this meeting please contact her at 775-888-7686 or JGoza-Tyner@dot.nv.gov. She will be sending you noise level information taken at other properties near your residence.

With regards to your dust and debris concerns, we hope those matters diminish with the completion of the Bypass construction. NDOT will be hiring a new maintenance crew for the new highways that recently opened in this region. We hope this situation improves after this crew is in place.

Sincerely,

Rudy Malfabon, P.E.
Director

Cc: Governor Sandoval's Office
Steve Cooke, Chief, Environmental Division
Thor Dyson, District II Engineer
Jessica Goza-Tyner, Environmental Division





STATE OF NEVADA
 DEPARTMENT OF TRANSPORTATION
 1263 S. Stewart Street
 Carson City, Nevada 89712

BRIAN SANDOVAL
 Governor

RUDY MALFABON, P.E., Director

In Reply, Refer to:

September 15, 2017

(b) (6),

Thank you for contacting me about your traffic noise concern. Below is the information from 24-hour noise studies conducted last week at your neighbor (b) (6) as well as the NDOT retention basin where there is no wall (b) (6)

The microphone captures all noise sources in the area of the meter, which could include local traffic, planes, and other natural, mechanical, human and animal activity. Variances in readings can be attributed to a local source, whether chronic or acute. Examples include the wind gusting over 20-mph between 3-6 pm, a localized short term noise in your yard during the 11 am hour, and when your sprinklers were running. These sources contribute to the total noise measured.

The measurements are decibels (dB) defined as A-weighted sound level equivalent of one hour [LAeq(h)]. A-frequency weighting is defined as the spectrum of normal human hearing.

Even with these localized sources, both of these studies fall well below the NDOT Noise Abatement Criteria (NAC) of 66 decibels, A-frequency weighted, (dBA), as derived per Federal regulations. To achieve a perceptible increase of 3 dBA due to traffic noise emanating from I-580, would require doubling the traffic volume on I-580 or reducing the distance by half from I-580 to a receiving location. Completed traffic studies do not indicate such an increase in traffic volumes will occur in the freeway design-year of 2035.

The highlights include:

(b) (6) front yard reading: (approximately 270' from edge of nearest travel lane):

Date Started: 09/07/2017 07:48:42 am
 Elapsed Time: 24:15:00
 Percentiles: L10 60.0 dBA (10% of readings were at or above this value)
 L50 54.8 dBA (50% of readings were at or above this value)
 L90 42.9 dBA (90% of readings were at or above this value)
 24-hour average: 57.2 dBA
 LAS max: 91.0 dBA 11:46:06 am on 09/07/2017
 LAS min: 29.0 dBA 01:31:53 am on 09/08/2017

(b) (6) retention basin reading (approximately 240' from edge of nearest travel lane):

Date Started: 09/07/2017 7:35:05 am

Elapsed Time: 25:09:54

Percentiles:	L10	59.7	dB	(10% of readings were at or above this value)
	L50	54.5	dB	(50% of readings were at or above this value)
	L90	42.6	dB	(90% of readings were at or above this value)

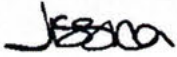
24-hour average: **56.2** **dB**

LAS max: 82.6 dB 03:12:21 pm on 09/07/2017

LAS min: 28.0 dB 01:31:44 am on 09/08/2017

Thank you again for contacting us about your concern and letting me take the reading. Please let me know if I can answer any additional questions you may have

Sincerely,



Jessica

Jessica Goza-Tyner
NDOT Environmental Services
Traffic Noise & Air Quality Analysis
jgoza-tyner@dot.nv.gov
(775) 888-7693

enclosed: Google Image and Assessor Information, typical sound chart