



In Reply Refer to: HCR-20
DOT# 2019-0167

September 2, 2020

(b) (6)

Subject: Resolution of Complaint #2019-0167

Dear (b) (6),

The Federal Highway Administration (FHWA) has resolved your complaint against the Nevada Department of Transportation (NDOT) and Elko County. Your complaint, which was received by this office on March 4, 2019, alleged that NDOT and Elko County violated Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by the United States Department of Transportation (49 C.F.R. Part 21) and FHWA (23 C.F.R. Part 200). The FHWA Office of Civil Rights accepted your complaint for investigation on July 9, 2019 and conducted a site visit on January 14, 2020.

FHWA reached a voluntary resolution agreement with NDOT on August 27, 2020 (enclosed). The agreement pertains to the repair and maintenance of Lee Road. This letter closes FHWA's investigation of your complaint.

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. Any individual alleging such harassment or intimidation may file a complaint with the FHWA.

Sincerely,

Nichole McWhorter

Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

cc: Susan Klekar, Division Administrator, FHWA NV Division Office
Greg Novak, Assistant Division Administrator, FHWA NV Division Office
Rhonda Motley, Civil Rights Program Manager, FHWA NV Division Office

Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,
Departmental Office of Civil Rights
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights

Voluntary Resolution Agreement

I. Purpose

The Federal Highway Administration (FHWA) and the Nevada Department of Transportation (NDOT) hereby enter into this Voluntary Resolution Agreement (Agreement) regarding the maintenance of Elko County Road 713, known as Lee Road, to resolve allegations against NDOT of noncompliance with Title VI of the Civil Rights Act of 1964 (Title VI). In entering into this Agreement, FHWA is not making a noncompliance finding against NDOT, and NDOT is not admitting a violation of Title VI.

II. Background

- A. On March 4, 2019, FHWA received a Title VI complaint against NDOT and Elko County. The complaint alleges that the state and county discriminates against the Native Americans living on the South Fork Band Reservation by not adequately maintaining roads near the reservation, including Lee Road. On January 14, 2020, the FHWA Office of Civil Rights conducted a site visit and interviewed NDOT staff, Elko County staff, and members of the South Fork Bank Council.
- B. The South Fork Reservation is about 25 miles southeast of the City of Elko. State Route 228 connects the South Fork Reservation area to Elko via State Route 227. Two county roads – Lee Road and Woods Lane – connect the reservation to State Route 228. Lee Road connects State Route 228 to the main entrance of the reservation, while Woods Lane connects to State Route 228 on the southern end of the reservation.
- C. In the early 1990s, a dispute between Elko County and the South Fork Band Council led the band council to restrict public access to roads going through the South Fork Reservation. In response, the Elko County Board of Commissioners voted on November 5, 1992 to relinquish any property rights they might have to roads within the boundaries of the South Fork Band Reservation and to discontinue road service within the boundaries of the reservation.
- D. Lee Road starts at State Route 228 and runs about one mile to the entrance of the South Fork Band Reservation. This portion of Lee Road has not been maintained by Elko County for at least 21 years.
- E. On July 10, 2020, NDOT entered into an agreement with Elko County for the repair and maintenance of Lee Road. This agreement titled “Agreement for Road Repair and Maintenance” is incorporated into this Agreement as Appendix A.

III. Applicability

Title VI provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C.

2000d. Title 49 of the Code of Federal Regulations (CFR), Part 21, implements Title VI for the U.S. Department of Transportation (DOT) and provides that DOT Recipients may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin. 49 CFR § 21.5(b)(2). NDOT is a Recipient of Federal financial assistance from the FHWA.

IV. NDOT Actions

As a primary recipient of Federal-Aid Highway funding from FHWA, NDOT is responsible for implementing FHWA Title VI Program requirements. See 23 CFR § 200.3. NDOT is solely responsible for effectuating the actions described in this Agreement by taking the following actions:

- A. Ensure Lee Road is repaired by September 1, 2020 pursuant to the terms of NDOT's agreement with Elko County (Appendix A). NDOT shall notify the FHWA-Nevada Division of repair completion by submitting a written summary of the completed repair work along with photographs of the repairs no later than October 1, 2020.
- B. Ensure Lee Road is regularly maintained pursuant to the terms of NDOT's agreement with Elko County (Appendix A).
- C. NDOT shall send written progress reports to the FHWA-Nevada Division annually for three years beginning October 1, 2021. The reports will include a summary of all activities related to the maintenance of Lee Road between State Route 228 and the boundary of the South Fork Reservation. Further, NDOT will cooperate with FHWA regarding all additional requests for documentation, pursuant to 49 C.F.R. § 21.9, et seq.
- D. If the agreement between NDOT and Elko County (Appendix A) is ever terminated, NDOT shall notify the FHWA-Nevada Division promptly in writing. This written notification shall contain proposed alternative remedies for ensuring Title VI compliance. Any proposed alternative remedies are subject to final approval by FHWA.

V. Modification of Agreement

This Agreement may be modified by mutual agreement of both FHWA and NDOT after negotiating in good faith and writing.

VI. Third-Party Agreement

FHWA acknowledges that NDOT has entered into a separate agreement with Elko County (Appendix A) for purposes of implementing this Agreement, and that Elko County under the separate agreement will carry out actions for the repair and maintenance of Lee Road. No provision in such agreement will (1) affect NDOT's obligations to FHWA, generally, or (2)

supersede any provision described herein to the extent NDOT's third-party agreement conflicts with any provision contained herein or Federal law or regulation.

VII. Intimidation or Retaliatory Acts Prohibited

Neither NDOT nor any entity or business party to an agreement to carry out the actions herein shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 601 of Title VI or 49 C.F.R. Part 21, or because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing pursuant to 49 C.F.R. Part 21.

VIII. Compliance

FHWA may review NDOT's compliance with this Agreement at any time. If FHWA believes NDOT has failed to comply in a timely manner with any requirement of this Agreement, FHWA will so notify NDOT in writing and will attempt to resolve the issue or issues in good faith.

IX. Abeyance

The FHWA will hold in abeyance the Letter of Finding regarding the complaint filed in the matter (described above) during the performance of this Agreement. At any time, should NDOT not perform, or ensure performance, under this Agreement, FHWA will notify NDOT as stated in section VIII above. Should NDOT fail to remedy the noncompliance issue within 30 days of notification, FHWA will issue the Letter of Finding and take such other actions as necessary to ensure NDOT's compliance with Title VI.

FEDERAL HIGHWAY ADMINISTRATION

Susan Klekar

Susan Klekar
Nevada Division Administrator

July 29, 2020

Date

NEVADA DEPARTMENT OF TRANSPORTATION

DocuSigned by:
Kristina Swallow

749542FC26157EB
Kristina Swallow
Director

08/27/2020

Date

Appendix A:

AGREEMENT FOR ROAD REPAIR AND MAINTENANCE

AGREEMENT FOR ROAD REPAIR AND MAINTENANCE

This Agreement for road repair and maintenance (Agreement) is entered between the Nevada Department of Transportation (NDOT) and Elko County, a political subdivision of the State of Nevada, (County).

I. Recitals

1. NDOT receives federal financing assistance through the United State Department of Transportation for road projects within the state of Nevada.
2. NDOT provide a portion of those funds to County for local road projects. NDOT is responsible to assure that all entities receiving federal financing assistance funds are in compliance with all federal statutes and regulations.
3. As such, the parties agree to the following terms and conditions for the maintenance and repair of lower Lee Road:

II. Terms of Agreement

4. Description of Road.
Lower Lee Road starting at S.R. 228 to the border of Lee Reservation (road).
5. Repair.
County agrees to complete all repairs on the road on or before September 1, 2020. All repairs will be photographed and sent to NDOT and FHWA within 10 days of completing all repairs to the road.
6. Maintenance.
County agrees to maintain the road in the same manner as similarly situated roads within the county, including the following:
 - a. County will log all maintenance to the site, and retain all maintenance records for NDOT and FHWA review upon request.
 - b. Maintenance for the road includes, but is not limited to, snow removal, pavement preservation, debris removal and repairs equal to similarly situated roads within Elko County.
7. No Admissions.
This Agreement is not an admission, concession, or evidence that County is not in compliance with any applicable statute, regulation, or other requirement, or otherwise liable for violating any applicable federal statute or regulation.
8. Binding on Successors.
This Agreement is binding on County and its successors, heirs, transferees, and assigns.
9. Costs.
Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

10. No Additional Releases.

This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against or by any other person or entity.

11. Effect of Agreement.

This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in this Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties.

12. Execution of Agreement and Effective Date.


The Agreement shall become effective upon the date of signing of this Agreement.

13. Disclosure.

NDOT places no restriction on the publication of the Agreement. In addition, NDOT may be required to disclose material related to this Agreement to any person upon request consistent with the applicable provisions of the Freedom of Information Act.

14. Authorizations.

The individual(s) signing this Agreement on behalf of County represent and warrant that they are authorized by County to execute this Agreement. The individual(s) signing this Agreement on behalf of NDOT represent and warrant that they are signing this agreement in their official capacities and that they are authorized to execute this Agreement.



Signature



Date



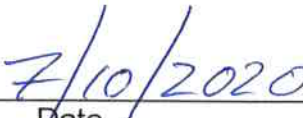
Title

Elko County

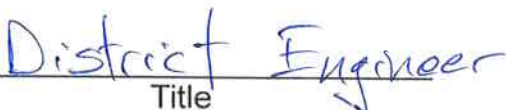
Agency



Signature



Date



Title

Nevada Department of Transportation

Agency

Resler, Kevin (FHWA)

From: (b) (6)
Sent: Tuesday, April 2, 2019 9:11 PM
To: Resler, Kevin (FHWA)
Subject: Fw: Title VI
Attachments: 20190211_143746.jpg

Mr. Resler:

Attached please find a copy of the first email message/complaint that I sent to the responsible official at NDOT, Mr. Braih, and the photograph in support. If you have any issues opening the attachment please let me know at your convenience.

Thank you

(b) (6)

----- Forwarded Message -----

From: (b) (6)
To: sbraih@dot.nv.gov <sbraih@dot.nv.gov>
Sent: Wednesday, February 20, 2019, 11:18:27 AM PST
Subject: Title VI

Sir/Ma'am:

This message is notice of potential TITLE VI violations and claim against the State involving the the Elko County area, specifically along Highway 228; Lower Lee Road; and Woods Lane based on the following:

In or around 1977 the NDOT paved the section of Lower Lee Road (SFIR) from Highway 228 to the boundary line of the South Fork Indian Reservation of the Shoshone Nation. This is approximately a 2 miles stretch.

In the past 2 years there has been no, NO, maintenance, repair or construction by NDOT on this stretch of road. The Shoshone Nation has been trying to patch the road each year to allow usage. The Shoshone Nation is not responsible for this stretch of the road. Nobody has saw one plow from NDOT on this road in the past 2 years. This road primarily benefits Native Americans and it is now my contention that NDOT and Elko County have intentionally discriminated against Shoshone Native American people in an insidious manner, evidenced by the historical record. Alternatively, NDOT and Elko County have allow, fostered or administered the distribution of federal and state funds in a manner that is disproportionately impacting a protected class.

Attached please find a photograph that I took on February 11, 2019. It is a photograph of my vehicle on Woods Lane, another NDOT/County Road. Since February 11, 2019 there have been no plows on Woods Lane. The one lane plowed path you see in the photograph was done by a resident out here so that the elderly and disabled could get their visiting medical staff to make it. In the past 2

years the only maintenance I've seen on this road has been in the Spring of 2018 when a crew of four or five men from NDOT spread gravel on the surface. In fact, the Shoshone Nation attempted to use its heavy equipment, a grader, several times to clear that way and now it has a blown engine.

While watching the crew work in 2018 I noticed it was a bandaid job, a quick fix to show money spent. They never properly set the grade (shown now by the height of the road and the steepness), they merely set the angle of the grader, poured gravel and brine/oil soaked it. In other words they wasted 2 days of taxpayer money because the first heavy rain last year, and yes remember we had heavy rain several times, their work washed right into the ditch, exposing the old road base as it was prior to the inept gravel work in 2018.

Lastly is Highway 228 or the Jiggs Highway. Until the expansion of the mine and South Fork Reservoir and its community, this road was primarily used by the Shoshone People and a few ranchers. The current traffic on this road is immensely harmful to the ancient pavement that is present. For a twenty mile stretch of this road you can visibly see the results of decades long negligent engineering, installation or maintenance of Highway 228 from Ten Mile Creek to Zunino Reservoir.

At various intervals the under road culverts are collapsed or collapsing to the point of highly noticeable depressions, cracks and caving pavement. Along the edges on several corners the heavy equipment from the mines and heavy traffic have seriously eroded the pavement edges to the point where it is nonexistent through the white striping. What's more frustrating is a team of NDOT representatives installed new signage and hardware shortly before the South Fork Reservoir turn off from Highway 228. Just 300 yards before they parked is a huge defect in the pavement where the excessive and unregulated weight limits on Highway 228 have caused the culvert to partially collapse, again cracking and caving in the pavement.

If NDOT fails or refuses to timely correct these defects I will require a federal judge to address injunctive and declaratory relief based on the Title VI violations that we have cataloged.

Dated this the 20th day of February 2019

RESPECTFULLY SUBMITTED,

/s/

(b) (6)

The information contained in this e-mail message and its attachment are privileged, protected and confidential, intended only for the use of the individual or entity named above.

If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by replying via e-mail and delete or discard the message. Thank you.

Unless expressly stated otherwise, this correspondence, including any attachments, is not intended or written to be used, and it cannot be used, by any person for the purpose of avoiding penalties that may be imposed under United States tax laws. (The foregoing statement is made in accordance with Circular 230, 31 C.F.R. Part 10.)

Although this e-mail and any attachments are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted for any loss or damage arising in any way from its use.



U.S. Department
of Transportation
Federal Highway
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

APR 30 2019

In Reply Refer to: HCR-20
DOT# 2019-0167

(b) (6)

Subject: Acknowledgment of Complaint #2019-0167

Dear (b) (6)

This letter acknowledges the Federal Highway Administration (FHWA) Office of Civil Rights received your client's complaint against the Nevada Department of Transportation (NDOT), which alleged the NDOT violated Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by the United States Department of Transportation (49 C.F.R. Part 21) and the Federal Highway Administration (23 C.F.R. Part 200). Your complaint was received by this office by email on March 4th, 2019.

This complaint has been assigned to Kevin Resler, FHWA National Title VI Coordinator – Office of Civil Rights. Mr. Resler will keep you informed regarding the status of your complaint. You may contact him at 202-366-2925 or via e-mail at kevin.resler@dot.gov.

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. Any individual alleging such harassment or intimidation may file a complaint with the FHWA. Any questions or concerns that you have regarding the complaint process and your rights can be discussed with Mr. Resler.

Sincerely,

Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

cc: Susan Klekar, Division Administrator, FHWA NV Division Office
Greg Novak, Assistant Division Administrator, FHWA NV Division Office

Lisa Neie, Civil Rights Program Manager, FHWA NV Division Office
Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel
**Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,
Departmental Office of Civil Rights**
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights



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

1200 New Jersey Avenue, SE.

Washington, DC 20590

JUL 09 2019

In Reply Refer to: HCR-20
DOT# 2019-0167

(b) (6)

Subject: Acknowledgment of Complaint #2019-0167

Dear (b) (6)

This letter acknowledges that the Federal Highway Administration's (FHWA) Office of Civil Rights has accepted the complaint of discrimination that you have filed alleging a violation of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by the United States Department of Transportation (49 C.F.R. Part 21) and the Federal Highway Administration (23 C.F.R. Part 200). Your complaint was received in this office on August 23, 2018.

We have reviewed your complaint and determined that the investigation will focus on the following allegation(s):

1. Whether the Nevada Department of Transportation (NDOT) violated Title VI due to potential disparate, adverse impacts to the predominantly American Indian community of South Fork Indian Reservation by failing to properly maintain State Route 228.
2. Whether the Elko County Highway Department violated Title VI due to potential disparate, adverse impacts to the predominantly American Indian community of South Fork Indian Reservation by failing to properly maintain Woods Lane.

The complaint has been assigned to Erich Hines, FHWA Title VI Program Analyst – Office of Civil Rights, for investigation. Mr. Hines will keep you informed regarding the investigation of your complaint. You may contact him at 202-366-5991 or via e-mail at erich.hines@dot.gov.

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. Any individual alleging such harassment or intimidation may file a complaint with the FHWA. Any questions or concerns that you have regarding the investigative process and your rights can be discussed with the investigator.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. Therefore, enclosed for your information are the "Complainant Consent/Release Form" and the "Notice of Investigatory Uses of Personal

Information” fact sheet. Please sign and date the “Complainant Consent/Release Form” and return to this office either by postal mail or electronically to:

Erich Hines
Title VI Program Analyst
Office of Civil Rights, HCR-20, Room E81-111
1200 New Jersey Avenue, SE
Washington, DC 20590
Office: 202-366-5991
Erich.Hines@dot.gov

In the event that we receive such a request, we will seek to protect, to the extent provided by law, personal information, which, if released, could constitute an unwarranted invasion of privacy.

Sincerely,



Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

cc: Susan Klekar, Division Administrator, FHWA NV Division Office
Greg Novak, Assistant Division Administrator, FHWA NV Division Office
Lisa Neie, Civil Rights Program Manager, FHWA NV Division Office
Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,
Departmental Office of Civil Rights
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights

Resler, Kevin (FHWA)

From: Neie, Lisa (FHWA)
Sent: Monday, March 04, 2019 1:47 PM
To: Mcwhorter, Nichole (FHWA); Resler, Kevin (FHWA)
Subject: FW: Title VI
Attachments: Elko County Zones__Road_System.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

I just received the attached complaint. It is at the end of the email string. I'm going to let the complainant know I've received it and what the process is. The attachment, which I couldn't figure out, supposedly shows these roads are the responsibility of Elko County.

lisa

From: Marshall, Wilson [mailto:WMarshall2@dot.nv.gov]
Sent: Monday, March 4, 2019 11:39 AM
To: Neie, Lisa (FHWA) <Lisa.Neie@dot.gov>
Cc: Larkin-Thomason, Tracy <tlarkin@dot.nv.gov>; Braih, Sonnie <SBraih@dot.nv.gov>
Subject: FW: Title VI

Good Morning Lisa,

Pursuant to our conversation of a few minutes ago, I am forwarding you the e-mail string below for your review and disposition. Also, please find attached, an e-mail from our District 3 Engineer, Boyd Ratliff, who has responded to some of what is in (b) (6) e-mail. In a telephone conversation with Mr. Ratliff earlier this morning, we discussed him providing us a record of recent maintenance of SR 228 (mentioned in (b) (6) e-mail).

I will respond to (b) (6) complaint by e-mail regarding his difficulty in reaching us and that we have forwarded his complaint to FHWA for disposition.

Please contact me should you think I should do anything further or if you have questions.

Thank you.

Ray
Ray Marshall
Title VI/DBE Manager
External Civil Rights Division
Nevada Department of Transportation
3014 W. Charleston Blvd., Ste. 150
Las Vegas, NV 89102
Tele: (702) 730-3317
FAX: (702) 486-0487
wmarshall2@dot.state.nv.us

"This communication, including any attachments, may contain confidential information and is intended only for the individual or entity to whom it is addressed. Any review, dissemination or copying of this communication by anyone other

than the intended recipient is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and delete all copies of the original message."

From: Larkin-Thomason, Tracy <tlarkin@dot.nv.gov>
Sent: Saturday, March 02, 2019 4:24 AM
To: Braih, Sonnie <SBraih@dot.nv.gov>; Marshall, Wilson <WMarshall2@dot.nv.gov>; Ratliff, Boyd <BRatliff@dot.nv.gov>
Cc: Dixon, Karlette <kdixon@dot.nv.gov>
Subject: Fwd: Title VI

Karlette,
Please insure that Ray and Sonnie see this.
Boyd,
Please advise on these highways.
Thank you.
Tracy

Sent from my iPad

Begin forwarded message:

From: (b) (6)
Date: March 1, 2019 at 6:56:04 PM EST
To: "tlarkin@dot.nv.gov" <tlarkin@dot.nv.gov>
Subject: Fw: Title VI
Reply-To: (b) (6)

Ms. Larkin-Thomason:

Attached please find a copy of the email I sent to Mr. Braih on February 20, 2019 of which I have received no response or reply. The AG office also called your office this week and asked if Mr. Braih or someone in your office would respond with an acknowledgement of receipt, case number etc. So today I was a little frustrated that there was still no reply and that result prompted another round of telephone calls.

Then I was disheartened to learn that the number I was provided and as listed in DOT's computer system for Mr. Braih, (702) 730-3316, is not his number. But, no worries that only took 5 hours and just as many employees to figure out. Of course, there were no, repeat NO employees in the Civil Rights Office the entire time everyone at DOT was trying to reach someone today. In fact, at one point an employee stated that Mr. Braih's calendar was empty in the computer system and that the Civil Rights Office recently moved to the RTC building without updating the information in the computer.

At any rate, those are the administrative and logistical issues. The main issue remains unanswered and the problems here are growing exponentially each day, but don't worry

my mobility challenged brother and I were only stranded for 3 days while your division relaxed on multiple days off, or at least unreachable via telephone or email by the public or DOT staff. That conclusion is what prompted a DOT employee to give me your email with a caution that the Deputy Director of Civil Rights does not come into the office, you telecommute.

If you or someone at your office manages to make it into the office sometime in the future to actually earn your salaries, do you think maybe they could generate a case number, establish the preferential procedure or at minimum acknowledge receipt of the complaint. Thank you, and sorry for the snotty tone but it's warranted in lieu of the circumstances.

(b) (6)

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----- Forwarded Message -----

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County have intentionally discriminated against Shoshone Native American people in an insidious manner, evidenced by the historical record. Alternatively, NDOT and Elko County have allow, fostered or administered the distribution of federal and state funds in a manner that is disproportionately impacting a protected class.

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Dated this the 20th day of February 2019
RESPECTFULLY SUBMITTED,

/s/

(b) (6)

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If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by replying via e-mail and delete or discard the message. Thank you.

Unless expressly stated otherwise, this correspondence, including any attachments, is not intended or written to be used, and it cannot be used, by any person for the purpose of avoiding penalties that may be imposed under United States tax laws. (The foregoing statement is made in accordance with Circular 230, 31 C.F.R. Part 10.)

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From: (b) (6)
To: [Resler, Kevin \(FHWA\)](#)
Subject: Re: Title VI Complaint regarding the Nevada Department of Transportation
Date: Tuesday, March 26, 2019 9:38:43 AM
Attachments: [20190326_062449-1.jpg](#)
[20190326_062504-1.jpg](#)
[20190326_062516-1.jpg](#)
[image001.jpg](#)

Mr. Resler:

Thank you for the information and your time addressing this matter. Attached please find signed copies of the document you sent me that includes my mailing address of: POB 212; Monroe, WA 98272.

RESPECTFULLY

(b) (6)

On Monday, March 25, 2019, 5:53:45 AM PDT, Resler, Kevin (FHWA) <kevin.resler@dot.gov> wrote:

Good morning:

The Federal Highway Administration (FHWA) is in receipt of your complaint, originally sent via email to the Nevada Department of Transportation. My office will process the complaint for jurisdiction, and you can find additional information about FHWA's Title VI complaint process [here](#).

In the meantime, I will need a few things from you. First, please send me your mailing address for correspondence, which you can send via email. Second, please find attached a consent form regarding your complaint, which—if you consent—you may sign and either email to me or send via postal mail at the address below.

Thank you, and if you have any questions please let me know.

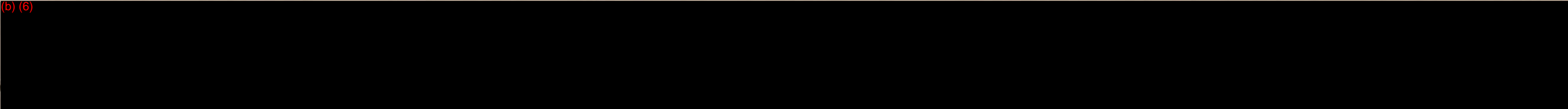
Regards,
Kevin

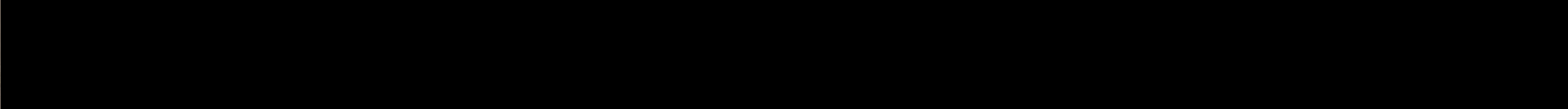
Kevin L. Resler
National Title VI Program Coordinator

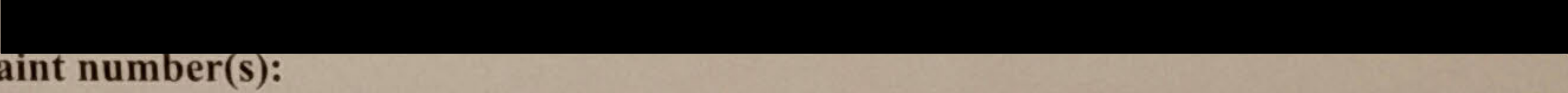


Office of Civil Rights, HCR-20, Room E81-
320
1200 New Jersey Avenue, SE
202-366-2925
Kevin.Resler@dot.gov

COMPLAINANT CONSENT/RELEASE FORM

Name: 

Address: 

Complaint number(s): 

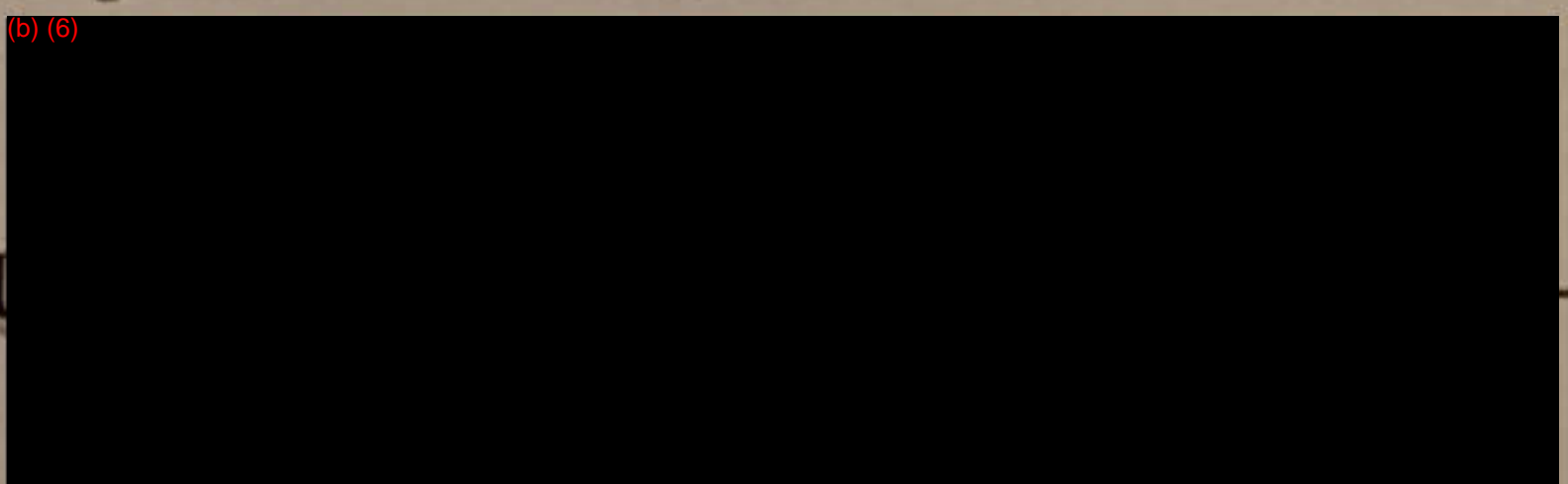
Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Uses of Personal Information by the Federal Highway Administration (FHWA). As a complainant, I understand that in the course of an investigation it may become necessary for FHWA to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of FHWA to honor requests under the Freedom of Information Act. I understand that it may be necessary for FHWA to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by FHWA's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by FHWA.

CONSENT/RELEASE

CONSENT - I have read and understand the above information and authorize FHWA to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the FHWA to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

CONSENT DENIED - I have read and understand the above information and do not want FHWA to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE 

DATE

3/26/19

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by FHWA are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A recipient may not force its employees to be represented by the recipient's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview with FHWA. The representative may be the recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.

- The laws and regulations which govern FHWA's compliance and enforcement authority provide that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted under DOJ's jurisdiction, or has asserted rights protected by statutes DOJ enforces.

- Information obtained from the complainant or other individual which is maintained in FHWA's investigative files may be exempt from disclosure under the Privacy Act or under the Freedom of Information Act if release of such information would constitute an unwarranted invasion of personal privacy.

There are two laws governing personal information submitted to any Federal agency, including the Federal Highway Administration (FHWA): The Privacy Act of 1974 (5 U.S.C. ' 552a), and the Freedom of Information Act (5 U.S.C. ' 552).

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and that can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the government should know that:

- FHWA is required to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and, in some instances, religion against recipients of Federal financial assistance. FHWA also is authorized to conduct reviews of federally funded recipients to assess their compliance with civil rights laws.

- Information that FHWA collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. FHWA staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. FHWA also may be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act. (See below)

- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances

defined in FHWA's regulation at 28 C.F.R. Part 16, FHWA will not release the information to any other agency or individual unless the person who supplied the information submits a written consent. One of these exceptions is when release is required under the Freedom of Information Act. (See below)

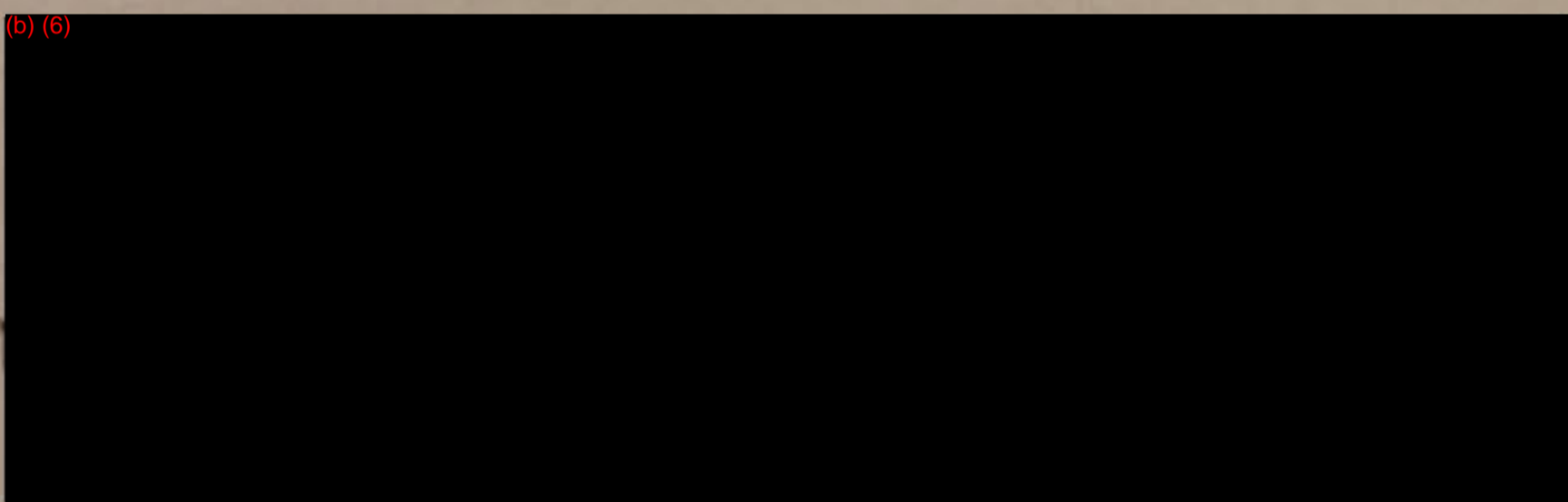
- No law requires a complainant to give personal information to FHWA, and no sanctions will be imposed on complainants or other individuals who deny FHWA's request. However, if FHWA fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.

- The Privacy Act permits certain types of systems of records to be exempt from some of its requirements, including the access provisions. It is the policy of FHWA to exercise authority to exempt systems of records only in compelling cases. FHWA may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a recipient of Federal financial assistance. Complaint files are exempt in order to aid negotiations between recipients and FHWA in resolving civil rights issues and to encourage recipients to furnish information essential to the investigation.

- FHWA does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a recipient that violates the laws, or unless such information is required to be disclosed under FOIA or the Privacy Act. FHWA will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under FOIA, the Privacy Act, or otherwise required by law.

THE FREEDOM OF INFORMATION ACT gives the public access to certain files and records of the Federal Government. Individuals can obtain items from many categories of records of the Government —not just materials that apply to them personally. FHWA must honor requests under the Freedom of Information Act, with some exceptions. FHWA generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job. Also, any Federal agency may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

SIGNATURE

A large black rectangular redaction box covers the signature area. A small red circle with a copyright symbol is visible in the top left corner of the redaction.

DATE

3/26/19

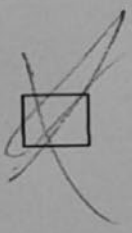
COMPLAINANT CONSENT/RELEASE FORM

Name: (b) (6)
Address: (b) (6)
Complaint number(s):

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Uses of Personal Information by the Federal Highway Administration (FHWA). As a complainant, I understand that in the course of an investigation it may become necessary for FHWA to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of FHWA to honor requests under the Freedom of Information Act. I understand that it may be necessary for FHWA to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by FHWA's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by FHWA.

CONSENT/RELEASE



CONSENT - I have read and understand the above information and authorize FHWA to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the FHWA to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.



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SIGNATURE: (b) (6)

DATE: 3/26/19