



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

AUG 04 2011

1200 New Jersey Ave., SE
Washington, D.C. 20590

In Reply Refer To: HCR-40
DOT #2010-0066

(b) (6)

Dear (b) (6)

The Federal Highway Administration (FHWA) has completed the investigation of the complaint of discrimination filed by the (b) (6) (complainant) against the California Department of Transportation (Caltrans) alleging violations of Title VI of the Civil Rights Act of 1964. Specifically, the complainant alleges that the Kings Beach Commercial Core Improvement Project will have a negative impact on the Hispanic community.

BACKGROUND:

The complaint involves the Kings Beach Commercial Core Improvement Project which is designed to improve pedestrian and bicyclist mobility, improve water quality, and improve the aesthetics of the commercial core through Kings Beach. The project will provide improvements where needed between State Route (SR)-28 and the SR-267 intersection and the SR-28 and Chipmunk Street intersection to better serve the needs of pedestrian and bicycle traffic.

A four-lane facility with two lanes of travel in each direction, SR-28 is the major roadway serving Lake Tahoe's North Shore, linking Kings Beach with Incline Village, Nevada, to the east and Tahoe Vista and Tahoe City, California, to the west. The SR-267 is a two-lane highway which generally runs north and south between Interstate 80 in Truckee and SR-28 in Kings Beach.

Sidewalks in the commercial core area are very limited and discontinuous. Although some individual property owners have installed sections of sidewalk along portions of SR-28 and the local streets near SR-28, most pedestrian travel in the area requires walking along roadway shoulders or around parked cars. The poor conditions are exacerbated in winter, when snow forces pedestrians to walk in travel lanes. The only protected crossing locations along SR-28 are provided by traffic signals at SR-267 and Coon Street. While these intersections include

crosswalks and pedestrian signal indicators, crossing SR-28 at other locations requires negotiating four lanes of moving traffic. The posted speed limit is 35 miles per hour. There are currently no dedicated bicycle paths or lanes in the area. As a result, most cycling occurs along the outer edge of the travel lanes on SR-28.

SUMMARY OF ALLEGATIONS:

The complainant alleges the reduction of SR-28 from four lanes to two lanes will create congestion and diversion of highway traffic through the low-income residential neighborhoods comprised of Hispanic residents. The complainant also alleges the Project's Environmental Impact Report (EIR) pertains to the commercial core while excluding the environmental impacts to the 40 blocks of residential neighborhoods, and that the evaluation of alternatives was not conducted in an equitable and adequate manner.

DISCUSSION OF THE ISSUES:

Issue #1: Whether the reduction of SR-28 from four lanes to two lanes will create congestion and diversion of highway traffic through the low-income residential neighborhoods comprised of Hispanic residents.

The complainant states that the alternative approved by the Placer County Board of Supervisors to reduce SR-28 from its current four-lane configuration to two through lanes, a middle turn lane, and two single-lane roundabouts in the center of town would cause serious congestion and diversion of highway traffic through low-income residential neighborhoods comprised overwhelmingly of Hispanic/Latino residents.

The complainant asserts SR-28 is the only through roadway along the north shore of Lake Tahoe. There is no bypass or alternate route. Kings Beach traffic counts average 24,000 vehicles per day (VPD) all summer. During winter holiday periods, traffic counts far exceed the typical count of fewer than 10,000 VPD. Serious congestion on SR-28 will force drivers to seek alternate routes through adjacent low-income residential neighborhoods comprised overwhelmingly of Hispanic residents. Drivers diverting from SR-28 through narrow residential streets will degrade community cohesion, endanger children and families and unnecessarily disrupt the safe walking conditions that currently exist. The streets are designed only for residential use and are clearly unsuitable for highway traffic. The complainant contends the Environmental Study confirmed the impact of cut-through traffic as a significant impact that could not be mitigated.

The complainant also states that the census data used misrepresents the demographics of the affected neighborhood. The 48.4 percent Hispanic population reported to the Regional Planning Association by the Caltrans represents the general population of Kings Beach, not the affected area. The complainant states that the data is misleading given that more localized data from individual census block groups is available. The complainant asserts Hispanic/Latino persons represent 58.7 percent of the population of the affected area. The complainant further states that the affected neighborhood has a disproportionate number of low-income, Hispanic/Latino persons.

Caltrans' Response -

The Caltrans stated the purpose of the project is to address bicycle and pedestrian circulation, preservation of scenery, and water quality needs within the Kings Beach Commercial Core area consistent with the Kings Beach Commercial Plan. The Caltrans' staff extensively reviewed documents, reports, and studies related to the project and determined that the project complies with applicable State and Federal policies and standards. The Caltrans asserts the project will not have a disproportionately high and/or adverse effect on any minority or low-income populations.

Findings (Disproportionate Number of Minority/Low Income Residents) -

Kings Beach is located in Placer County California. The population was 4,037 at the 2000 Census. Hispanic/Latino persons were 48.4 percent of the total population. The population declined slightly to 3,796 persons at the 2010 Census, with Hispanic/Latino persons representing 55.7 percent of the total population.

The complainant alleges that the Caltrans misrepresented the demographics of the affected area by utilizing incorrect census data. The complainant asserts that while the general population of Kings Beach is 48 percent, Hispanic/Latino, Hispanic/Latino persons represent 72 percent of the population in the affected area.

The Caltrans asserts the project will not have a disproportionately high and/or adverse effect on any minority or low-income populations.

According to the Environmental Assessment (EA), racial characteristics of the study area generally reflect a population that is largely Caucasian and Hispanic. Caucasians and Hispanics nearly equally distributed in the study area, 49.0 percent and 48.4 percent respectively. No other racial groups make up a significant portion of the area's population. The affected area has a slightly higher percentage of minorities than the Kings Beach community; however, the difference is not significant.

The investigation included an analysis of the demographics of the residential area. The residential area or grid is located in Placer County, Census Tract 201.07. There are 44 block groups in the subject area. The total population is 3,166. Hispanic/Latino persons represent 57 percent of the total population. Caucasians represent 40.8 percent of the population. While Caucasians are the minority representing only 40.8 percent of the population, they are the majority in 24 of the 44 (54.5 percent) block groups analyzed. Hispanic/Latino persons are the majority in 14 block groups (31.8 percent). Six block groups (13.6 percent) have zero residents or an equal quantity of Caucasian and Hispanic/Latino residents.

Conclusion -

The EA and block group analysis reflect that while the affected area has a slightly higher percentage of Hispanic/Latino residents, the area is not comprised of an overwhelming or disproportionate number of Hispanic/Latino persons.

The findings support the Caltrans' assertion that the project will not have a disproportionately high and/or adverse impact on any minority or low-income populations.

Findings (Cut-Through Traffic) -

The complainant asserts the traffic report states there is relatively no cut-through traffic in the current four-lane configuration because the roadway capacity is not exceeded. The residential areas of the grid are currently safe and pedestrian friendly. Drivers diverting from SR-28 through narrow residential streets will degrade community cohesion, endanger children and families, and unnecessarily disrupt the safe walking conditions that currently exist.

The Caltrans acknowledges that it and Placer County were aware of the concerns expressed by King Beach residents regarding cut-through traffic in the community. The Neighborhood Traffic Calming Plan was prepared in response to the concerns.

Conclusion -

Since the EA and block group analysis reflect that there is not an overwhelming or disproportionate number of Hispanic/Latino persons living in the project area, the impacts associated with cut-through traffic would not result in disproportionately high and adverse human health and environmental effects on minorities. Also, the overall benefits of the project would be shared equally by the affected neighborhood grid area. The EA, EIR, and the Environmental Impact Statement (EIS) addressed the issue of environmental justice and found no significant impact. The EA/EIR/EIS can be found at:
<http://www.placer.ca.gov/Departments/Works/Projects/KingsBeach/KingsBeachCurrentUpdate.aspx>.

The investigative findings support the Caltrans' assertion that the project represents an overall improvement to safety for SR-28, the residential area, and Kings Beach. The evidence supports the Caltrans' assertion that impacts within the grid would be borne by an array of community groups and will not have a disproportionately high and/or adverse impact on any minority or low-income populations.

Issue #2: Whether the EIR pertains to the commercial core and excludes the environmental impacts to the residential neighborhoods.

The complainant states that the EIR pertains to the commercial core while, excluding the environmental impacts to the 40 block residential neighborhood. The complainant further states that the project's Purpose and Need Statement is too narrow to address the full range of community concerns which include congestion, delay, and traffic cutting through the residential neighborhood as significant factors.

Caltrans' Response -

The Caltrans asserts multiple investigative studies and environmental technical reports were completed and made available to interested parties. The Caltrans' staff extensively reviewed project related documents, reports, and studies and determined that the project complies with all

applicable Federal and State laws, rules and regulations. The project also complies with State and Federal policies and standards for traffic operations and design engineering. The Caltrans asserts the complainant's concerns have been addressed in the environmental documentation.

Findings -

Documents provided by the Caltrans include the joint final EA/EIR/EIS as required by the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The intent of the joint environmental assessment is to provide a clear description of the environmental analysis conducted for the project.

The EA/EIR/EIS serves as an informational document to be used in the local planning and decision-making process and does not recommend approval or denial of the proposed action.

According to the EA, the commercial area is generally defined as extending from the SR-267 intersection at the western boundary to the intersections of SR-28 and Chipmunk Street at the eastern boundary. Chapter 3 (Affected Environment) of the assessment summarizes the "Social Environment" which includes the neighborhood, demographics, public services, and circulation characteristics of the study area. Section 3.3.3 (Environmental Consequences) discusses the effects each alternative will have on the social characteristics of the study area including residential and commercial displacements and economic activity.

Chapter 5 (5.3.3 Social Environment) summarizes the significant impacts identified. Based on State CEQA Guidelines (*14 CCR 15000 et seq.*), a project would have a significant land use impact if it would result in degraded roadway level of service below applicable standards, increased average daily traffic on residential streets in excess of applicable standards, degraded intersection levels of service below applicable standards, or degraded bicycle and pedestrian conditions along SR-28.

Significant and unavoidable impact is defined as an impact that would cause a substantial adverse effect on the environment and for which no mitigation is available to reduce the impact to a less-than-significant level. The significant and unavoidable impacts of the proposed alternatives are all traffic related. Based on the alternatives presented, several significant and unavoidable traffic impacts would occur.

For each significant impact identified, the County is required to change or alter the project to avoid or substantially lessen the significant environmental effect. Findings must include an explanation of the rationale for the finding. Significant and unavoidable impacts must include a statement of overriding considerations explaining the specific project benefits that outweigh the unavoidable impacts.

The mitigation measures identified in the EA/EIR/EIS require the preparation of a Neighborhood Traffic Management Plan (NTMP) to minimize the impacts associated with the anticipated cut-through traffic. Documents provided by the Caltrans include the Neighborhood Traffic Calming Plan. The NTMP includes educational and enforcement strategies and potential roadway modifications.

Initially, four alternatives were studied. Alternatives two and four proposed changing the existing four-lane roadway to a three-lane roadway. Alternative three would maintain the four-lane configuration. In the Final EA/EIR/EIS, the County identified a “Hybrid Alternative” as the preferred alternative. The Hybrid Alternative includes three travel lanes, bike lanes, seasonal on-street parking, and sidewalks. Roundabouts are included at the intersections of SR-28/Bear Street and SR-28/Coon Street. The Hybrid Alternative includes a NTMP that incorporates traffic calming and noise-reducing improvements in the adjacent neighborhood to minimize some effects of anticipated cut-through traffic identified in the Final EA/EIR/EIS.

Conclusion -

The joint EA provides a clear description of the environmental analysis conducted for the project. The EA defines the commercial area as extending from the SR-267 intersection at the western boundary to the intersections of SR-28 and Chipmunk Street at the eastern boundary.

The assessment of the affected environment summarizes the social environment, which includes the neighborhood. The environmental consequences section includes a summary of the effects each alternative will have on the social characteristics of the study area including residential and commercial displacements and economic activity. Mitigation measures are provided for each significant impact identified. The mitigation measures identified in the EA/EIR/EIS resulted in the preparation of a NTMP to minimize the impacts associated with the anticipated cut-through traffic.

Based on the information obtained and reviewed during the investigation, no feasible mitigation strategy was identified that would sufficiently increase roadway capacity and enhance pedestrian and bicycle safety while preventing cut-through traffic. The overriding considerations presented by the Caltrans, including mitigation measures like the NTMP which provides an assortment of safety measures including sidewalks in the residential area, support the Caltrans’ assertion that the array of investigative studies and environmental technical reports completed regarding the project encompassed the residential area and addressed the significant traffic related impacts identified. The findings also support the Caltrans’ assertion that overall, the project would benefit all users of the roadway, including pedestrians, bicyclists, and persons residing in the residential neighborhood.

Issue #3: Whether the alternatives were evaluated in an equitable and adequate manner.

The complainant states that the evaluation of alternatives was not conducted in an equitable and adequate manner. Specifically, the complainant alleges that the lack of participation by many community elements in developing the project vision resulted in the objections regarding the public safety hazards being imposed on the Hispanic/Latino community not being captured.

The complainant also states that the alternatives, especially the existing four-lane configuration, were not evaluated in an equitable and adequately broad framework. The complainant alleges the “preferred alternative” was presented in an artificially positive manner.

The complainant further states that the County negotiated “behind closed doors” with the local district to gain support and cite cronyism between the County, Caltrans’ Local District Office,

and a Developer receiving funding from the project as the basis for selection of the three-lane alternative.

Caltrans' Response -

Regarding the alleged lack of participation by a "substantial portion of the community" in developing the project, the Caltrans asserts several public workshops were held during the circulation of the environmental document as required by the CEQA and NEPA. Spanish interpreters were present at the workshops, and one workshop was conducted in Spanish. A discussion of the bilingual public outreach efforts is available on the County's website.

Findings -

The investigation disclosed that the Draft EA/EIR/EIS was distributed to various public agencies, the State Clearinghouse, residents of the Kings Beach community, and other interested individuals for public review and comment from March 24, 2007 through May 26, 2007, to fulfill CEQA and NEPA requirements, and again from April 19, 2007 through June 18, 2007, to fulfill the Tahoe Regional Planning Agency (TRPA) requirements. The EA/EIR/EIS was available for public review during normal business hours at several public facilities including the Kings Beach and Tahoe City Libraries and the County's website.

The EA/EIR/EIS includes a large number of comment letters including 58 letters from individuals, 67 from Kings Beach Commercial Core and neighboring business owners, and a petition signed by 450 property owners and residents in support of Alternative 3. Feedback was also provided by the TRPA, local agencies, non-government or private organizations, State agencies, and the general public.

Appendix U of the EA/EIR/EIS provided by the Caltrans includes copies of the letters, e-mails, comment cards from public workshops, and transcripts of verbal comments received during the public comment period. Master responses to the comments received are also provided in Appendix U. In accordance with State CEQA and TRPA Guidelines, comments that raised environmental issues were provided with responses.

In addition to the information provided in the final EA/EIR/EIS, an array of event fliers, sign-in sheets, newspaper articles and meeting minutes were also provided by the complainant and the Caltrans during the on-site phase of the investigation.

Conclusion -

The investigation disclosed that comments regarding environmental issues received during the public circulation period were responded to in the Final EA/EIR/EIS and distributed to State and local agencies and the general public for consideration. The County and TRPA utilized the environmental assessments and feedback from interested parties to facilitate making a final decision regarding the project alternatives. The findings do not support the complainant's allegation that a substantial portion of the community was not afforded an opportunity to participate in the decision making process.

DECISION:

Based on the information obtained and reviewed during the investigation, the FHWA concludes that the evidence does not support the complainant's allegations that Title VI of the Civil Rights Act of 1964 was violated by the Caltrans in the development of the Kings Beach Commercial Core Improvement Project.

This concludes processing of this complaint and no further action will be taken by the FHWA.

Sincerely yours,

A handwritten signature in black ink that reads "Brenda F. Armstead". The signature is written in a cursive, flowing style.

Brenda F. Armstead
Director, Investigations and Adjudications

cc:

(b) (6)