



In Reply Refer to: HCR-20  
DOT# 2018-0339

August 18, 2020



**Subject:** Dismissal of Complaint DOT# 2018-0339

Dear [REDACTED],

This letter is to inform you that the Federal Highway Administration (FHWA) Office of Civil Rights has determined that it will dismiss the above complaint, which alleges violations that may be related to Title VI of the Civil Rights Act of 1964, the U.S. Department of Transportation (USDOT) Title VI implementation regulations at 49 C.F.R. Part 21 and/or FHWA's Title VI regulations at 23 C.F.R. Part 200 (hereinafter Title VI). Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance.

You allege that CALTRANS violated Title VI of the Civil Rights Act of 1964 by failing to account for or mitigate impacts on the Hispanic community as a result of the SR-132 Project. The impacts you cite include those on air quality, noise, soil pollution, relocation and on community cohesion. You further allege that the public involvement process used by CALTRANS was insufficient and failed to adequately consult with the predominantly Hispanic Community of Elm Tract.

The SR-132 Project is a proposal to build a four-lane, divided, controlled access freeway along Kansas Avenue to the North of the current alignment along Maze Boulevard. The Project described in the environmental documents is being constructed in two phases. The Project goes from SR-99 in the East to North Dakota Ave in the West and is approximately three miles in length. Two alternatives were considered in addition to no-build that featured similar alignment along Kansas Ave and differed near the eastern terminus in how they reconnect with SR-99. Alternatives along the current alignment were ruled out early in the process and did not make it to the final environmental study. Alternative #2 was the selected alternative and includes the relocation of 7 businesses and 28 residences.

FHWA accepted the complaint for investigation in December 2018. During the course of its investigation, FHWA conducted a site visit in August 2019 and reviewed pertinent Project documentation. FHWA's investigation focused on the following issues:

1. Whether CALTRANS violated Title VI due to potential disparate, adverse impacts to the predominantly Hispanic community of Elm Tract as result of the proposed State Route 132 West Freeway/Expressway Project.
2. Whether CALTRANS properly accounted for and mitigated impacts to the community as a result of the project during the environmental review process. Such impacts include air quality, noise, soil pollution, relocations and effects on community cohesion.
3. Whether the public involvement process used by CALTRANS during the environmental review for the State Route 132 West project lacked adequate consultation with the predominantly Hispanic community of Elm Tract.

After careful consideration, FHWA has determined the allegations and facts in your complaint do not meet the minimum criteria under which FHWA could establish a case of disparate impact under Title VI. The available information is insufficient to show that populations in the Project vicinity, distinguishable by race, color, or national origin, will be—or have been—disparately impacted by the Project. FHWA also finds that even if the Project would result in adverse, disparate impacts, CALTRANS has provided a substantial legitimate justification for its actions and shown that a less discriminatory alternative has not been identified.

Specifically, FHWA did not find sufficient evidence that the Project would create disparate impacts in regards to air quality, noise, soil pollution, relocations and effects on community cohesion:

- Air Quality: CALTRANS estimated in its May 2016 Air Quality Study Report that the Project would result in lower emissions as compared to the no-build alternative.
- Soil Pollution: Hazardous materials in soil stockpiles will be monitored and maintained according to a remedial action plan approved by the California Department of Toxic Substances Control.
- Noise: Noise impacts to Elm Tract and surrounding residential areas will be mitigated by a noise barrier on the south side of the new alignment.
- Relocations: The selected alternative had less residential relocations than the other build alternatives. Most of the new alignment is being built on land already within the CALTRANS right-of-way.
- Community Cohesion: The selected alternative provides several improvements to pedestrian and bicycle mobility. The improvements include new bicycle lanes and ADA-compliant sidewalks.

For these reasons, the 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,

*Nichole McWhorter*

Nichole McWhorter  
Title VI Team Leader  
Office of Civil Rights

cc: Vincent Mammano, Division Administrator, FHWA CA Division Office  
Paul Schneider, Chief Operating Officer, FHWA CA Division Office  
Will McClure, Civil Rights Program Manager, FHWA CA Division Office  
Scott Carson, Civil Rights Specialist, FHWA CA Division Office  
Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel  
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division  
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights