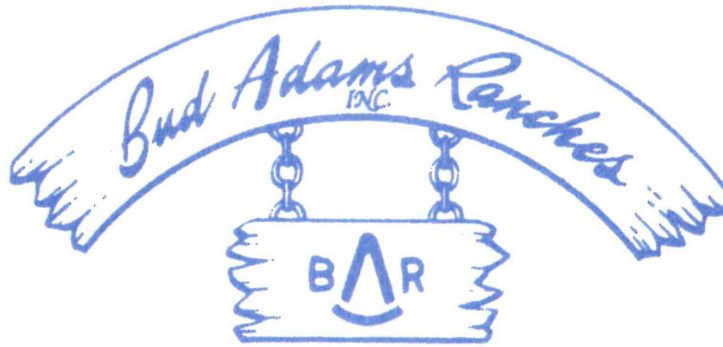


BAR I RANCH
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302481

June 8, 2021

North Central Texas Council of Governments
Centerpoint III
600 Six Flags Drive
Arlington, TX 76011

ENTERED
Office of Proceedings
June 8, 2021
Part of
Public Record

Dear Members of the North Central Texas Council of Governments,

I support the project to evaluate high-speed transportation alternatives to connect the Dallas-Fort Worth Region. I also think it is productive to take into consideration to connect DFW to other high-speed rail (HSR) passenger systems in the state. However, it is critical that the council carefully consider the hazards of other proposed systems.

I believe the following question that was asked during the public meetings last week was important and completely relevant and should have been answered: (See attachment 1)

Houston appears to be an important part of planners' goals for making a "Texas Triangle" work well. Why were "two modes" (Shinkansen and Hyperloop) not also considered for getting to Houston? Why is Houston only being considered for the 1960s-era Shinkansen HSR system?

It seems as if Houston will be getting a slower, more expensive "Betamax"-type system that few use around the world, and that would not be interoperable anywhere in Texas or the entire United States with Hyperloop or higher-speed trains, or with Amtrak trains. It seems as if the Houston leg would be the slowest part of the triangle if Hyperloop is chosen in this study.

Also, since Shinkansen cannot use freight rail tracks or Amtrak tracks, and since the promoters cannot pay extra to extend tracks to Downtown Houston, the proposed Shinkansen Houston terminus won't go anywhere near the Houston Central Business District. Shouldn't there be some better planning for the "Texas Triangle?"

It seems the council is misguidedly supporting Texas Central Railways' (TCR) proposed HSR connection between Dallas and Houston. TCR widely advertised and promoted that their HSR would be privately funded. Even TCR realizes they will need massive federal funding and

subsidies for this \$30 billion project. In fact, TCR is lobbying Congress for enough money just to keep the nearly insolvent project stay “afloat” and to obtain federal taxpayer-backed funds to complete and submit a complete and detailed full application to the Surface Transportation Board, without whose approval no construction can even begin.

Is the council aware that a federal lawsuit was filed in the U.S. District Court for the Western District of Texas on April 14, 2021 against the U.S. Department of Transportation and the Federal Railroad Administration (FRA) concerning the agency’s non-compliance with numerous federal regulatory and administrative requirements in its environmental and safety review of TCR’s proposed HSR project? (See attachment 2)

What efforts are under way to ensure your DFW high-speed transportation project will not also be subject to federal court challenges? One of the most troubling aspects highlighted in the federal lawsuit is the repeated neglect of Social Justice protections in the FRA review process. The facts detailed below indicate FRA and TCR showed a callous disregard toward addressing significant Social Justice concerns, especially those pertaining to majority-minority neighborhoods that will be adversely impacted by the HSR.

Fact: The location for the Dallas terminal and segment #1 of the proposed HSR route chosen was selected early by TCR and FRA. No alternatives to segment #1, which has material adverse impacts on both the Le May and Le Forge neighborhoods, were ever considered. Segment #5 of the route will also materially impact minorities. Segments #1 and #5 are the only two segments included in every route alternative considered by FRA (See attachment 3 from the final EIS). Interestingly, a significant TCR investor owns the property selected for the Dallas terminus and stands to personally profit handsomely from that location’s development, even as the minority communities will suffer economic harm.

Fact: FRA never held any listening sessions or any meetings in any of the rural minority communities prior to the preparation of the draft EIS. FRA meetings were restricted to the urban areas of Dallas, Harris, and Ellis counties, which also happen to have the highest per capita incomes of the ten counties impacted by the proposed HSR project. The FRA recognizes but ignores that minority communities in Waller County could be significantly impacted by the proposed HSR project. The final EIS is silent as to why meetings were never hosted by FRA in Waller County, and omits any analysis of the adverse impacts on minority residents in Waller County (See attachment 4 from the final EIS).

Fact: Only after the preparation of the draft EIS and announcement of the final HSR route did FRA host some additional meetings for minority residents of Dallas (3), Harris (1), and Waller County (1). FRA seems to have willfully discouraged attendance at these “community meetings,” as three of the five meetings occurred near the Thanksgiving holiday period in 2018 and 2019, when citizens obviously give priority to family functions and travel. In fact, the final EIS discloses that two meetings were held during Thanksgiving week in November 2019, and that the only meeting ever held in Waller County was the Tuesday before Thanksgiving 2019! The final EIS mentions the Waller County meeting had only eleven people sign in of a total county population of over 55,000 citizens. Note these meetings were held after the filing of the draft EIS and were

convened too late to have any impact on the final EIS originally scheduled for release in March 2020. (See attachment 5 from the FEIS).

Fact: The FRA's final EIS claims to have considered Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." However, a close reading of the final EIS indicates that FRA failed to devote the required attention and serious studies required by E.O. 12898. The final EIS contains dismissive or insulting references such as "It may be possible to relocate residents of Le May and Le Forge neighborhood," or "Although ample replacement housing is available within 3 miles of the neighborhood, it may not be accessible to all residents of Le May and Le Forge." These types of statements are completely unacceptable in a final EIS and indicate how egregiously FRA may have shirked its federal responsibility to provide for Social Justice protections under E.O. 12898, rather than to ignore them and hope no one notices. (See Attachment 6 from final EIS).

There are numerous other problems with the way the FRA failed to abide by its Social Justice obligations and requirements. The ones listed above are but a small sample of the omissions that will be raised in open federal court, when a federal judge will decide if the final EIS meets required Social Justice standards. Legislative oversight as provided by HB 3633 could have ensured the FRA's proper handling of Social Justice issues in preparing and issuing the final EIS.

The March 11, 2012 Houston Chronicle report by Doug Begley (See attachment number 7) is a clear indication of what will transpire in the future if TCR's proposed HSR project ever moves forward.

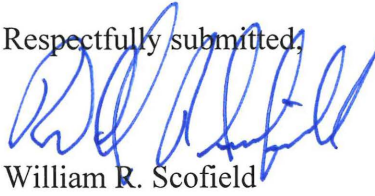
FRA made no significant effort to engage with minority populations severely impacted by TCR's proposed and massively intrusive HSR project. FRA failed to engage with governments in eight of the ten counties through which the proposed HSR project is designed to pass. Eight Texas counties are a party to the Federal lawsuit, filed on April 14 in the United States District Court. The approach to social justice issues raised by this proposed HSR project have changed dramatically since 2016, prior to which the majority of work was completed on TCR's draft EIS.

Regrettably, neither TCR nor the FRA ever thought it useful to update these critical socio-economic concerns in the five years since. The consequences for the majority-minority communities in the neighborhoods of south Dallas, and those in Waller County that would be cut off from NW Houston's projected economic growth, are serious, potentially grave, and utterly in opposition to the values and goals of the North Central Texas Council of Governments.

I understand the council's approach of assessing all feasible alternatives for a HSR system linking Dallas and Fort Worth. However, the council is making a critical error by not opposing any high-speed transportation system (HSTS) connecting Dallas and Ft. Worth that will be inoperable with any other HSTS between other Texas cities. Recall that when the construction of U.S. railroads began in the 19th century, the country learned the hard way after the first decades of construction that maximum efficiency absolutely required that all U.S. railroads needed to be interoperable. Any HSTS system built in the State of Texas must be interoperable and conveniently connected if Texans are going to use the HSR instead of automobiles or airplanes.

The North Central Texas Council of Governments is the only entity in Texas that is taking a logical, sensible, and 'best practices' approach to selecting a HSTS to serve Dallas and Fort Worth. However, it is critical that - once selected - the council not oppose any other type of HSTS system.

Respectfully submitted,



William R. Scofield
President

Enclosures

cc: Martin J. Oberman, Chairman, Surface Transportation Board
Robert E. Primus, Vice Chairman, Surface Transportation Board
Patrick J. Fuchs, Member, Surface Transportation Board
Ann D. Begeman, Member, Surface Transportation Board
Michelle A. Schultz, Member, Surface Transportation Board
All Parties of Record

ATTACHMENT 1

Via Cisco Webex

Objective of this Study

Evaluate high-speed transportation alternatives (both alignments and technology) to:

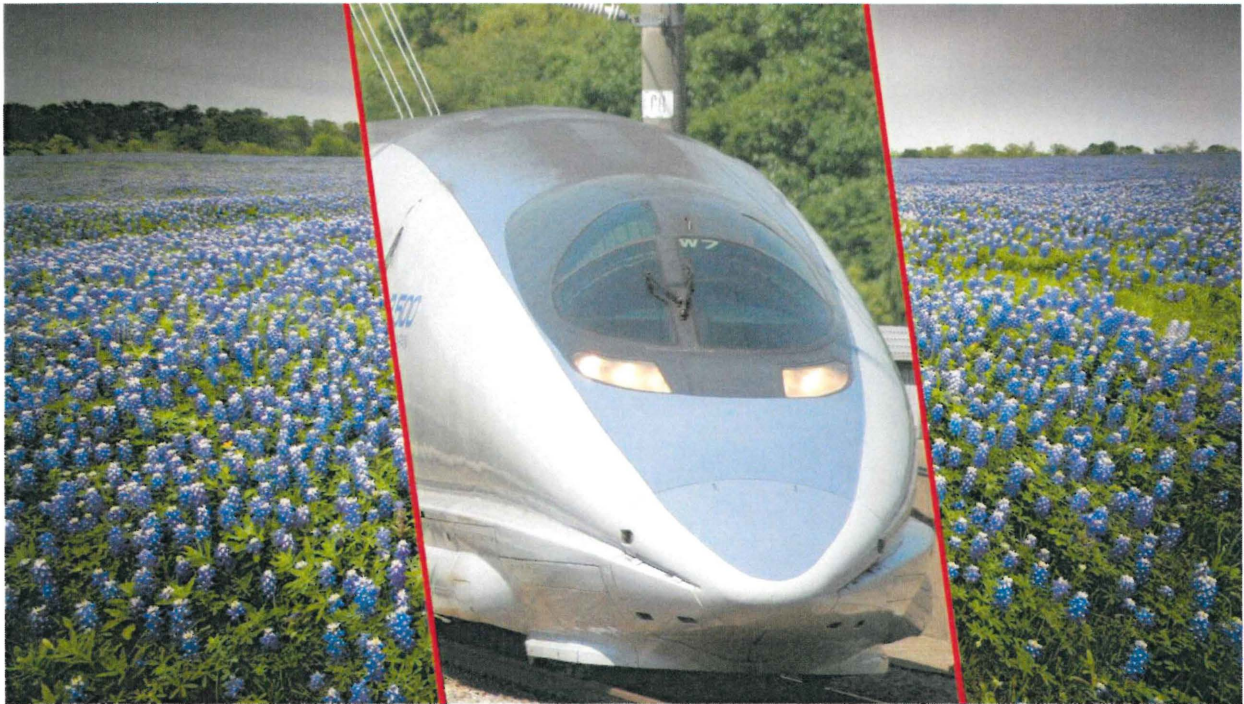
- Connect Dallas-Fort Worth to other proposed high-performance passenger systems in the state
- Enhance and connect the Dallas-Fort Worth regional transportation system



Lawsuit Challenging Federal Environmental Decision About Texas High-Speed Rail Filed

Landowners, counties, and an advocacy group have filed suit against the federal government claiming that it violated federal law in conducting a review of the Texas Central high-speed rail project.

KIM ROBERTS APRIL 15, 2021



Field of Texas bluebonnets (photo by Jeff Pang) and bullet train (photo by Mitsuki-2368 / Wikimedia Commons)

Texans Against High-Speed Rail, six Texas counties, and 10 interested landowners have filed suit against the U.S. Department of Transportation and the Federal Railroad Administration (FRA) challenging the rule of particular applicability and environmental impact statement (EIS) issued last year for the Texas Central high-speed rail project.

The suit was filed on April 14 in the United States District Court for the Western Division of Texas in Waco.

The suit claims that the FRA failed to follow required procedures and processes found in federal law as part of its review of the project, resulting in an outcome that doesn't account for all potential environmental impacts and violates the private property rights of the plaintiffs.

"Armed with a \$300 million loan from the Japanese government, Texas Central and its legion of consultants were chosen to carry Central Japan Railway's water. FRA was chosen as the willing federal agency conduit. And thousands of impacted rural landowners who have been told lie after lie about the Project for years were chosen to be the sacrificial lambs," the suit alleges. The plaintiffs are asking for the FRA's decision to be declared void and enjoined from use for Texas Central's project or any other use.

According to allegations in the lawsuit, the FRA began its review process in 2014 to study the impacts of constructing and operating the Texas Central route from Dallas to Houston. However, the lawsuit claims that the scope of that review "suddenly changed course" in 2020 to study the impact of a particular set of safety standards applicable to the Japanese Shinkansen technology planned to be used by Texas Central.

"This is a situation I've never encountered before," attorney Jim Blackburn, who teaches environmental law at Rice University in Houston, told *The Texan*. When the review process changed direction, a new scoping notice should have been sent out and the review began again, Blackburn asserted. He added that the litigants are concerned about a federal agency, the FRA, conducting a review where it doesn't appear to have any authority.

The lawsuit further alleges that the final environmental impact statement issued by FRA is based on false assumptions, including a statement that the Texas Central project would be privately financed and cost between \$16 and 19 billion. In April 2020, Texas Central's chairman, Drayton McLane Jr., admitted in a letter the cost is now estimated at \$30 billion and that the project was planning to seek federal funding.

Because the high-speed rail project will likely require 20-foot earthen berms in at least some portions of the track, the suit claims that the FRA did not adequately consider the ramifications of the diversion of rainwater, drainage, and possible flooding issues along the route.

"We are also concerned about bigger rainfall events due to climate change," Blackburn explained, and he doesn't believe the EIS accounts for that.

"The Final EIS is riddled with errors and issues that were never addressed, including adverse environmental impacts and social disparities," Kyle Workman, president of Texans Against High-Speed Rail, said in a press statement. "FRA neglected to properly study the impacts on Texas and now it is attempting to use its deficient study to allow a foreign government to bypass [National Environmental Policy Act's] requirements and deploy its incompatible technology anywhere in the U.S. FRA's actions should concern the entire nation."

Blackburn pointed to systemic problems he believes plagued the process. "Alternative systems and routes were eliminated from evaluation early in the process. The evaluation was deficient in terms of cost and the environment," he said.

Another case is currently pending in the Supreme Court of Texas regarding the eminent domain authority of Texas Central. Landowners who filed that suit are waiting to hear if the court will set it for oral argument. Texas Central Railroad prevailed on the issue at the 13th Texas Court of Appeals, which ruled last May that the project can exercise the power of eminent domain because it qualifies as a railroad under Texas law.

Additionally, Texas legislators have filed several bills related to the project. House Bill 3633 by Rep. Ben Leman (R-Brenham) would create a legislative committee to review the feasibility of high-speed rail projects in the state.

<https://thetexan.news/lawsuit-challenging-federal-environmental-decision-about-texas-high-speed-rail-filed/>

visual and traffic impacts from lighting and screening. Temporary aesthetic impacts due to construction would be common to all communities throughout the Project and would not represent a disproportionately high and adverse visual impact to minority and/or low-income block groups.

Five neighborhoods or communities identified in minority and/or low-income block groups would be potentially impacted by the Project: Downtown Dallas, Le May and Le Forge Neighborhood, Hash Road and Nail Drive, Plantation Forest and the Houston Terminal Station Option area (including Spring Branch Super Neighborhood). Two other communities not identified in minority and/or low-income block groups are discussed in Section 3.14, **Affected Environment and Environmental Consequences, Socioeconomics and Community Facilities**. All identified locations would be on Segment 1 and Segment 5, common to all Build Alternatives. After implementation of the mitigation measures discussed in Section 3.18.6, **Environmental Justice, Avoidance, Minimization and Mitigation**, there would be no notable disproportionately high and adverse impacts to minority and/or low-income populations as a result of the Build Alternatives and Houston Terminal Station Options.

ES.9.18 Cultural Resources

Discussed in Section 3.19, **Affected Environment and Environmental Consequences, Cultural Resources**, as defined by NEPA, cultural resources is an inclusive term that encompasses a broad range of resources consisting of physical evidence of past human activity. The term includes any prehistoric or historic structures, buildings, objects, sites, districts (a collection of related structures, buildings, objects and/or sites), landscapes, natural features, traditional cultural properties (TCPs) and cemeteries.

Not all resources that are cultural are considered significant under applicable cultural resources laws. Cultural resources must meet specific criteria and possess sufficient historic integrity to qualify the resource as a *historic property*, as defined by the National Historic Preservation Act (NHPA). NHPA is the cornerstone of federal historic preservation law. Section 106 of NHPA and its implementing regulations,³⁴ require that prior to issuing federal funding, partial funding, permitting, licensing, approval or taking other action, federal agencies must take into account the effects of their undertakings on historic properties and provide the Advisory Council of Historic Preservation (ACHP) an opportunity to comment on the undertaking.³⁵ In the State of Texas, cultural resources may also merit designation as a Recorded Texas Historic Landmark and may also be designated as a State Antiquities Landmark.

In addition to historic properties considered under Section 106, the Project has the potential to affect cemeteries. Cemeteries, which are not usually considered for listing in the NRHP, are protected under provisions of the Texas Health and Safety Code in Chapters 711-715 (Title 13, Section 2, Chapter 22 of the TAC) and in Section 28.03(f) of the Penal Code of Texas. The Health and Safety Code prohibits use of cemetery property for non-cemetery purposes. As determined in consultation between FRA and the Texas Historical Commission (THC), the State Historic Preservation Office for the State of Texas, cemeteries considered to be exposed to potential adverse impacts under NEPA, regardless of any designation or NRHP eligibility determination under Section 106, are those wholly or partially within the LOD or those with boundaries within 150 feet of the LOD.

Potential impacts to cultural resources include multiple Study Areas and would be coordinated with the THC, the preservation agency for the State of Texas and FRA. The Study Area, or Area of Potential Effect (APE), for historic resources evaluated through this Project varies from 350 feet beyond the LOD, or Project footprint, of the Build Alternatives within an urban setting, to 700 feet beyond the LOD of the

³⁴ Protection of Historic Properties [36 C.F.R. 800].

³⁵ 54 U.S.C. 306108.

3.18.3.6 Outreach

The purpose of outreach is to bring awareness of the Project to communities or individuals, gather additional feedback on the potential impacts of the Project and identify appropriate mitigation.

FRA developed an outreach plan to connect with potentially impacted minority and low-income communities in Dallas, Harris, and Waller Counties.¹² FRA scheduled and hosted listening sessions in coordination with pre-existing community meetings where possible in order to better engage individuals potentially impacted by the Project.

FRA held an initial round of listening sessions prior to the release of the Draft EIS, including:

- July 28, 2016, at St. Philip's School and Community Center in Dallas County. FRA attended the July session of a monthly meeting with parents and other community leaders. Approximately half of the attendees were familiar with the Project.
- August 3, 2016, at First Metropolitan Church in Harris County. This was a specially arranged meeting through a local pastor. The majority of the attendees were familiar with the Project.
- August 4, 2016, at the Ennis Housing Authority in Ellis County. This was a specially arranged meeting through the Housing Authority. The majority of the attendees were from outside of the community and were familiar with the Project.
- August 17, 2016, at the Northwest Houston Police Department Substation in Harris County. This was a recurring monthly meeting, hosted in Spanish, for community members. A very small portion of the attendees were familiar with the Project. Translation services were provided for this meeting.

The above listening sessions were held in the communities at familiar locations and at convenient times for local residents. FRA worked with local community leaders in Dallas, Ellis and Harris Counties to identify appropriate venues and then subsequently invite the minority and/or low-income populations served by and/or living near those venues. Meeting displays featured a timeline, a list of the subjects covered in the EIS, maps and other boards to describe the Project and Build Alternatives. Information materials were available in Spanish and English, the identified languages of the minority and/or low-income populations. FRA made translation services available upon request or if needed, as determined by the meeting attendees. At each listening session, a short presentation was given and participants were invited to ask questions.

FRA did not host listening sessions in Freestone, Leon or Grimes Counties due to the rural nature of these counties, which includes large minority and/or low-income block groups, but less defined communities. In lieu of listening sessions, FRA developed a fact sheet, found in **Appendix C, Public and Agency Involvement Correspondence**, with frequently asked questions about the Project. **Table 9-7 in Chapter 9.0, Public and Agency Involvement Correspondence**, lists the service agencies, including food banks, in Freestone and Leon Counties, FRA sent the fact sheet to, with a request to make it available to the populations they serve. FRA did not identify any service agencies in Grimes County, and therefore, mailed the fact sheet to property owners within minority and/or low-income block groups.

FRA did not host listening sessions or conduct specific outreach in Navarro, Limestone or Madison Counties during development of the Draft EIS because at this stage of the Project FRA did not identify minority and/or low-income block groups or communities that were intersected by the Study Area in

¹² No minority and/or low-income communities were identified within the Study Area of other counties.

those counties. Therefore, in lieu of hosting listening sessions FRA posted the meeting materials from the first round of listening session to the Project website.¹³

Following the release of the Draft EIS, FRA conducted a second round of listening sessions for minority and/or low-income communities identified in the Study Area. The primary purpose of the second round of listening sessions was to inform and discuss direct impacts to specific communities and explore potential mitigation measures. FRA sent mailers and surveys, printed in English, to the Hash Road and Nail Drive community in southern Dallas County and to a group of homes near Joseph and Hegar Roads in Waller County where residential homes would be impacted. FRA also conducted additional outreach at the following locations. A brief description of the additional meetings is provided.

- **October 23, 2018, at St. Philip's Center in Dallas County for 'National Night Out.'** AECOM as representatives of FRA had a table featuring information and providing surveys on the Project and EIS process. Attendees ranged from residents who lived in nearby neighborhoods to residents that lived 5 to 10 miles away.
- **November 8, 2018, at Cummings Recreation Center** for the Le May and Le Forge Neighborhood in Dallas County. Residents and property owners in the Le May and Le Forge neighborhood were notified of a listening session for their neighborhood via letter through direct mail from FRA. This was a standalone event for affected residents (including renters) and owners. AECOM, as representatives of FRA, gave an approximately 15-minute presentation describing the Project, and responded to and asked questions of the attendees. Spanish translation assistance was provided.
- **November 29, 2018, at Trini Mendenhall Community Center** during the scheduled Spring Branch East Neighborhood Meeting in Harris County. Most attendees lived or worked in nearby neighborhoods and a couple owned businesses in the area.
- **November 21, 2019, listening session at Ferris ISD Administration's Training Center** for residents of the Hash Road and Nail Drive community. Property owners were notified of the listening session via direct mail. Approximately 14 people registered their attendance.
- **November 19, 2019, at the Field Store Community Center** in Waller County for residents of the Plantation Forest community. Property owners were notified of the listening session via direct mail. Approximately 11 people registered their attendance.

Additional information for listening sessions can be found in **Appendix C, Public and Agency Involvement Correspondence**.

3.18.4 Affected Environment

This section describes minority and/or low-income and non-minority and/or low-income block groups intersected by the Study Area of the Project. Block groups identified as minority and/or low-income have been identified to meet thresholds outlined in **Section 3.18.3.3, Criteria for Identifying Minority and/or Low-Income Block Groups and Communities**.

Tables within this section summarize each county's total population and the percentage of the population that is minority and/or low-income. Minority populations are further distinguished between minority (all races other than white) and those of Hispanic origin, therefore. Initially introduced in **Section 3.14, Socioeconomics and Community Facilities**, **Table 3.18-1** shows demographic characteristics by county.

¹³ Originally posted to the Project website: <http://www.fra.dot.gov/Page/P0700>, which has since been redirected to <https://railroads.fra.dot.gov/current-environmental-reviews/dallas-houston-high-speed-rail/documents-maps-images>.

comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act for all real property acquired for the Project; additional information can be found in **Section 3.13, Land Use**.

Segment 1

Downtown Dallas

The area around the station site is currently transitioning from mostly older or abandoned industrial structures to new and/or redeveloped recreational, commercial and mixed-use development. New restaurants and movie theatres have recently opened. This area also includes the Jack Evans Police Headquarters. Residential uses would be a quarter-mile from the station location and separated by the UPRR ROW. Residential uses include multi-family apartment complexes, low-density townhomes and single-family homes. The introduction of a newly constructed station in an area currently undergoing a transition would not impact community character as adjacent uses are already commercial and mixed-use. The Dallas Terminal Station would not bisect any neighborhoods or impact community cohesion. The addition of the station and the overall transportation amenities would be compatible with the existing roadway and highway network, large artistic bridges and overall development within the downtown area.

Le May and Le Forge Neighborhood

Within Dallas County, one neighborhood of 34 homes on 40 lots located between Illinois Avenue and Loop 12 would be directly affected by the Project. This neighborhood is also discussed in **Section 3.18.5.3.6, Environmental Justice, Aesthetics and Scenic Resources**. Two streets, Le May and Le Forge Avenues, create a horseshoe-shaped neighborhood that is completely isolated from the rest of the Cedar Crest community and is bounded by two transportation corridors – IH-45 on the east and UPRR on the west. Located to the west of UPRR, the Cedar Crest community is a City of Dallas neighborhood that consists of more than 500 homes primarily located between IH-35E and IH-45. Segment 1 of the Build Alternatives would parallel UPRR and pass on viaduct to the east of the greater Cedar Crest community and cut through the western edge of the Le May and Le Forge neighborhood, permanently displacing a minimum of 14 homes in this low-income, minority area. Due to this neighborhood's isolation, the character of the larger Cedar Crest community would not be adversely impacted by this displacement; however, the cohesive character of the Le May and Le Forge neighborhood would be impacted. Only 20 homes would remain, and a portion of Le May and Le Forge Avenues would be adjacent to the viaduct infrastructure. In order to mitigate community cohesion impacts to the Le May and Le Forge neighborhood, TCRR is required to relocate the entire neighborhood as described in **Section 3.18.6.1, Environmental Justice, Mitigation Measures, EJ-MM#1: Le May and Le Forge Neighborhood Mitigation**. It may be possible to relocate residents of the Le May and Le Forge neighborhood within the Cedar Crest community. If the Le May and Le Forge residents were relocated to Cedar Crest they would represent less than 10 percent of the Cedar Crest community.

In 2018 the average total value for the single-family homes in the Le May and Le Forge neighborhood per Dallas Appraisal District was \$21,292.¹⁵ A search of available real estate in the 75216 zip-code, where the Le May and Le Forge neighborhood is located, showed 97 homes for sale, ranging from \$61,000 to \$269,000.¹⁶ Additionally, there are 16 vacant lots available from \$25,000 to \$52,000. Although ample replacement housing is available within 3 miles of the neighborhood, it may not be accessible to all residents of Le May and Le Forge. In addition, the available housing may not replicate

¹⁵ AECOM calculation based on 2018 Dallas County Appraisal District data.

¹⁶ Zillow, "Homes for Sale, Homes for Rent and Apartments for Rent Search," accessed February 2020, <http://www.zillow.com/>.

cohesion of this development as the lots to be acquired are undeveloped parcels, already separated from the neighborhood by overhead transmission lines.

Plantation Forest Development [Magnolia Place and Magnolia Plantation Subdivision]

The Plantation Forest Development is located along Plantation Drive, a north-south oriented street located in Waller County adjacent to the Saddle Creek Forest Development. The development is located within a low income or minority block group, and this community is also discussed in **Section 3.18, Environmental Justice**. The character in this area is a semi-rural single-family residential development with lots typically 1 acre in size. Plantation Forest runs parallel to the existing CenterPoint high-voltage transmission line and has 26 homes that range in value from \$46,000 to \$320,000. The same houses and lots noted for sale within the vicinity of the Saddle Creek Forest Development are also within a 3-mile radius of the Plantation Forest neighborhood. There are no homes listed for sale in the Plantation Forest Development and there are four undeveloped lots.¹⁹ Segment 5 would be constructed on embankment through the Plantation Forest Development. The Project would directly impact and displace 12 of the homes on the west side of Plantation Drive. The remaining 14 homes on the east side would not be directly impacted, but the community character and cohesion would be altered with the addition of the HSR system. Landowners who previously had views of other homes in this development would now see the HSR system. Approaching Riley Road, which intersects Plantation Drive, the Project would transition from embankment to viaduct. Appropriate screening would be necessary to mitigate visual impacts of the HSR system crossing on embankment through the neighborhood and on viaduct at the approach of Riley Road. TCRR shall mitigate potential aesthetic and visual impacts due to the rail's proximity to the neighborhood as outlined in **AS-MM#1: Visual Screening** and **AS-MM#2: Design Stations to Adapt to Local Context**. Visual and aesthetic mitigation measures can be found in **Section 3.10, Aesthetics and Scenic Resources**, and **Section 3.18 Environmental Justice**. According to the **Section 3.4, Noise and Vibration** analysis, moderate noise impacts would occur at homes that are not displaced by the LOD.

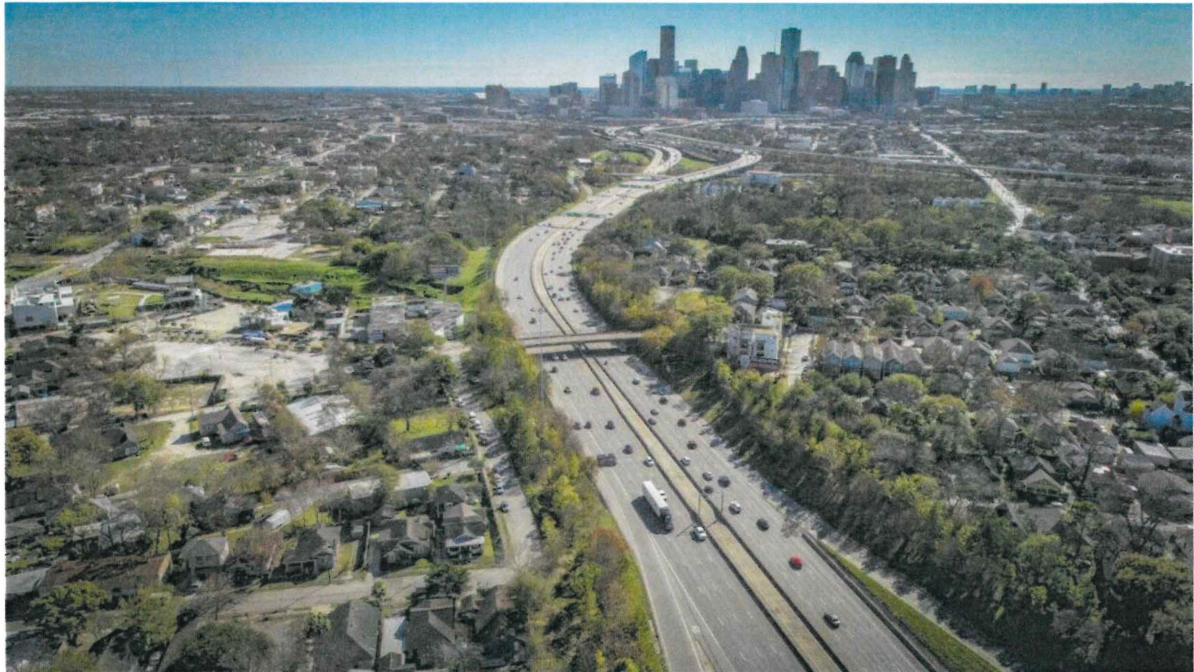
White Oak Falls Neighborhood

White Oak Falls is a neighborhood development located in Cypress, Texas, adjacent to Cy-Falls Senior High School. The community contains more than 700 homes. Approximately 66 homes, adjacent to the existing UPRR ROW, would be displaced by Segment 5. According to Harris County Appraisal District 2018 information, homes adjacent to the UPRR ROW range from approximately \$160,000 to \$220,000. The neighborhood is not located within a low income or minority identified block group. There are 284 homes for sale in a 3-mile radius of the neighborhood. These homes range in value from \$100,000 to \$700,000. Due to the location of these homes (along the perimeter) within the neighborhood, the displacement of these homes would not result in an adverse impact to the cohesion of the entire neighborhood. The remaining homes in the neighborhood would not be bisected by Segment 5. Homes that would remain on Kirkland Woods Drive, Twila Springs Drive and May Showers Circle, nearest to Segment 5, would experience moderate noise impacts as shown in **Section 3.4.5.2.4, Noise and Vibration, HSR Operational Noise Impacts**, and would not require noise mitigation measures. Visual and aesthetic impacts as a result of the Project would affect homes on the perimeter of the White Oak Falls neighborhood. The adjacent HSR system infrastructure would be elevated approximately 45 feet from ground level and highly visible. Currently, a vegetation barrier (i.e., row of dense shrubbery) screens and separates the homes from the existing UPRR ROW. TCRR shall mitigate visual impacts as outlined in **AS-MM#1: Visual Screening** and **AS-MM#2: Design Stations to Adapt to Local Context**. Additional

¹⁹ Ibid.

Harris County sues to stop I-45 rebuild plans by TxDOT

Dug Begley, Staff writer March 11, 2021 Updated: March 11, 2021 6:17 p.m.



Interstate 45 traffic travels to and from downtown Houston through the Near Northside on Jan. 7, 2020. A planned widening of the freeway will sever a large portion of properties in the neighborhood.
Mark Mulligan, Houston Chronicle / Staff photographer

Plans to rebuild Interstate 45 in Houston, which state officials say need to move forward as they work through community concerns, took what could be a lengthy detour into federal court Thursday.

In a lawsuit filed in downtown Houston, Harris County Attorney Christian Menefee asked a judge to require the Texas Department of Transportation to halt any further development of the \$7 billion rebuild and redo much of the environmental review of the project.

County officials said TxDOT, even when it did recognize the hundreds of families they will displace and thousands more affected by the wider freeway, did nothing to respond to the county's aim of staying within the current freeway footprint

and developing a solution more in line with improving transit and reconnecting local streets.

“We cannot allow TxDOT to cut corners and fail to live up to their duty,” Menefee said. “Very early in the process they ruled out opportunities for no land expansion.”

He said the lawsuit, filed in the U.S. District Court for the Southern District of Texas, was the county’s only recourse to make sure highway officials “go back to the drawing board and make sure they are considering these issues.”

TxDOT officials said they could not comment directly on the lawsuit, but fretted that the decision to go to court stymies efforts to solve the issues that remain.

“We were looking forward to continuing our work with stakeholders on refining the plans for the project, but these plans may now be in jeopardy due to the lawsuit,” TxDOT Executive Director James Bass said.

The lawsuit was the second setback this week that could delay or derail the project. In a March 8 letter, the Federal Highway Administration told TxDOT to “pause before initiating further contract solicitation,” essentially putting the project’s engineering design on hold as it investigates whether the project properly followed civil rights-era rules for displacing residents.

The highway administration initiated the pause after receiving letters from U.S. Rep. Sheila Jackson Lee and the advocacy groups Air Alliance Houston and Texas Housers.

If the project is severely delayed from starting construction, TxDOT officials in Austin and Houston have implied that would leave hundreds of millions in state funds in limbo, and officials could choose to spend the money elsewhere in Texas.

Frustrated advocates

Advocates in the past five years have grown increasingly frustrated with what they have called TxDOT's lack of interest in solving some of the problems in favor of moving closer to construction. They applauded the county's lawsuit.

"TxDOT has brought this upon themselves," said Michael Skelly, an organizer of the Make I-45 Better Coalition. "For many years, organizations and individuals from across the city have been making suggestions to TxDOT that would improve the project, reduce flooding, save taxpayers money, minimize displacement and enhance safety. TxDOT has ignored everyone.

"When TxDOT looks for who to blame, the mirror would be a good place to start," he said.

The lawsuit, a challenge to TxDOT's approval of the final environmental review last month, asks that all development of the project halt until the state can better analyze and resolve critics' concerns. TxDOT officials, under an agreement with the Federal Highway Administration, can self-approve their environmental reviews if they show they properly followed national rules.

Federal officials meanwhile will determine whether TxDOT properly followed Title VI of the 1964 Civil Rights Act. While it ceded environmental review of the project to TxDOT, federal highway officials said only the Federal Highway Administration can ascertain if Title VI was properly followed.

The lawsuit and the federal review involve two separate processes, so it is unclear how either may affect the other.

That pause was cheered by Harris County Judge Lina Hidalgo, who said efforts to review the project have fallen on deaf ears for months.

"We cannot continue to support transportation policy that prioritizes cars over people," Hidalgo said, citing the region's congestion, lack of transit and high number of roadway fatalities. "The way we build should not focus on what is easiest for cars."

Often, after environmental approvals, the outlet for opponents and critics of projects is federal court, leaving it to courts to decide whether planners properly considered all the impacts and adequately addressed issues ranging from flood control to displacing homes and businesses, wildlife, historic properties and trees.

DIVIDED ON DESIGN: Officials hoped agreement would bring them together. It may push them further apart.

Challenges typically take months to make it through federal courts, if they are resolved at the district level. Recent cases in 2015 in Illinois and 2016 in Arizona related to highways and the National Environmental Policy Act each took 14 months from filing to a decision. A 2018 challenge in Arkansas took 22 months before a circuit court review.

Long planned

Highway officials spent more than 15 years planning the rebuild of I-45 from downtown Houston north to Beltway 8, only to face increasing opposition since a draft environmental report was released in 2017. The \$7 billion project includes a near-total redesign of the downtown freeway system so I-45 can be rerouted around the east side of the central business district and the elevated freeway portion along Pierce is eliminated.

The freeway will follow Interstate 10 along the north end of the central business district, then Interstate 69 between downtown and Eado. North of downtown, the project will rebuild the freeway and the key interchange with Loop 610 in Independence Heights and the Northside.

No additional general use lanes will be added to the freeway, though some frontage roads will be widened. All of the added space is the result of changes to the design of the aging freeway or room needed to add two managed lanes in each direction to I-45. The lanes, similar to the Katy Managed Lanes, would allow for transit and carpools to operate in both directions.

Highway officials have said the managed lanes would help relieve traffic and congestion and encourage transit use, something critics have said obscures that

any freeway widening inherently encourages more cars to idle in heavy traffic. Opponents said high demand from suburban drivers who wish to commute quickly to downtown jobs should not come at the expense of neighborhoods that historically have borne the brunt of freeway work.

“The (project) is based on antiquated ideas, continuing the systemic racism and environmental injustice of past freeway projects,” said Susan Graham, an organizer of Stop TxDOT I-45. “Moving forward would further cement the car-centric paradigm in Houston.”

Plans call for displacing some or all of the property along the freeway where 1,100 homes — most of them apartments and public housing — and more than 340 businesses, five churches and two schools are located.

To eliminate or reduce those displacements, Houston Mayor Sylvester Turner and Hidalgo have said the managed lanes could be converted to a more transit-focused option and the freeway can stay in its own boundaries. Those proposals, which are not directly addressed by the final environmental report TxDOT issued, have gained support among advocacy groups.

“We want to see a revision of the project’s plans that updates the highway in a way that prioritizes the people who live along the highway, avoids assumptions that wider or faster is better, and works towards a transportation paradigm supported by the Mayor Turner and Judge Hidalgo,” said Oni Blair, executive director of LINKHouston, which has opposed the TxDOT design.

<https://www.houstonchronicle.com/news/houston-texas/transportation/article/Harris-County-sues-to-stop-I-45-rebuild-plans-by-16018449.php>