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Infrastructure

Civil Rights Probe Could Jeopardize \$1.7 Billion I-70 P3

By [Jim Watts](#)

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DALLAS – The Federal Highway Administration will open an investigation into a civil rights complaint that could derail Colorado's plan to finance a \$1.7 billion expansion of Interstate 70 in Denver as a public-private partnership.

The Transportation Department and the FHWA notified the Colorado Department of Transportation and attorneys for the plaintiffs on Tuesday that they planned to follow up on the complaint, which was filed by the environmental law firm Earthjustice on behalf of community groups in the mostly Latino neighborhood.

The widening project would add traffic to area streets, pollute some of the Denver's poorest neighborhoods, and force the relocation of 74 homes and businesses, the plaintiffs said.

The complaint, submitted in mid-November, urges the Colorado DOT to consider alternatives to its plan to add a tolled express lane in each direction between I-25 and I-225 and lower the entire highway below ground level through a portion of east Denver. A four-acre deck park would be built over a portion of the sunken section.

Another toll lane in each direction would be added later when and if more funding becomes available.

If the complaint is found to be valid, the FHWA could revoke federal funds designated for the project or stipulate that future funding depends on significant revisions to the current plan.

The FHWA probe should prompt state transportation officials to explore ways to mitigate the project's effect on neighbors, said Joel Minor, an attorney with Earthjustice.

"The fact that at the end of the investigation the U.S. Department of Transportation could make a formal finding of discrimination and cut off federal funds is obviously an incentive to bring the Colorado Department of Transportation to the bargaining table," he said.

The FHWA is required to investigate civil rights complaints related to federally funded highway projects that meet certain criteria.

Planning for the project will continue during the investigation, which is expected to take six months, said project spokeswoman Rebecca White.

"We'll be responsive to whatever needs or questions they have," she said. "There are very few highway projects anywhere in the nation that have been approached with the same level of sensitivity and thoroughness as the effort we've made to find a solution to I-70."

The state hopes to build the project as a public-private partnership and is dealing with four international construction and finance groups seeking a long-term concession to finance, build, operate, and maintain the expansion over an extended period. In return, the private partners would receive annual availability payments from the state if certain operational benchmarks are met.

The selection of the private partner is currently expected by next summer, with the financial close in late 2017 and construction beginning in early 2018.

Colorado DOT has identified \$1.17 million of public funding for the project, with the remainder of the estimated \$1.7 billion construction cost coming from the private partner.

Funding includes \$850 million from a state bridge fund, \$180 million of other state funds, \$50 million from the Denver Regional Council of Governments, and \$37 million from the city and county of Denver.

The complaint filed on Nov. 15 said the highway has been negatively affecting the mostly Hispanic neighborhoods since it was completed 50 years ago.

The plaintiffs contend that the proposed widening would violate Title VI of the 1967 Civil Rights Act by disproportionately damaging residents' health, quality of life, and economic conditions.

The complaint was filed on behalf of the Cross Community Coalition, the Elyria and Swansea Neighborhood Association, and Colorado Latino Forum.

The FHWA's acceptance of the complaint is an acknowledgment that urban highways harm poor, minority neighborhoods, said Candi CdeBaca, a spokeswoman for the Cross Community Coalition.

"We are pleased to see federal attention to a proposal that is nothing short of life-threatening to our community," she said. "For us, what this means is that there's somebody who's actually going to step in and come pay attention."



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