

Group claims project violates federal laws

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SANDPOINT -- The battle to stop the proposed Sand Creek Byway is far from over.

An organization that has been challenging the \$70 million Highway 95 realignment project from the outset yesterday filed a lawsuit in U.S. District Court against the Federal Highway Administration and the Idaho Transportation Department, claiming the bypass breaches several federal statutes.

The North Idaho Community Action Network's suit alleges that the decision to proceed with the bypass not only violates the national Environmental Protection Act, the Department of Transportation Act and the Endangered Species Act. The group maintains information in the 1999 Final Environmental Impact Statement has been either inaccurate or incomplete.

"We had no other choice," said Liz Sedler, NICAN executive director. "The federal and state agencies have failed to comply with both the intent and the legal requirements of these laws. The project's overall impacts on the area's economic future and on environmental, historic and aesthetic resources have not been considered or disclosed to the public."

Sen. Shawn Keough, R-Sandpoint, said she was not surprised by NICAN's suit.

"They're very committed in trying to prevent it," said Keough.

Sedler contends the two agencies have improperly broken the overall project into separate segments instead of looking at its impacts as a whole.

"We're hoping ITD will reconsider a different location for the project," she said.

NICAN's suit comes three months after the FHWA said improvements to the bypass will have no significant adverse effects on the environment. The decision was one of the few remaining bureaucratic hurdles the project needed to clear before construction could begin.

"At this point, we have not received a copy of the complaint so we're unable to comment on NICAN's suit," said ITD spokesman Barbara Babic.

Sedler maintains the project has changed dramatically since the EIS was issued six years ago, including huge amounts of fill that has been added to Sand Creek the agencies claim will have no significant impact.

"Sand Creek's soils are highly unstable and prone to erosion and mass failure," she said. "ITD has refused to acknowledge the risk of slope failure when they place huge embankments on the east bank of Sand Creek and dredge and fill the creek. We are doubly concerned due to the past environmental disasters that have resulted from ITD's highway projects in North Idaho."

NICAN is seeking an injunction barring ITD and its contractors from proceeding with any component of the bypass project as authorized by the May 23, 2000 Record of Decision and April 18, 2005 finding of no significant impact.

It is also seeking an order requiring the federal highway administration to withdraw both the record of decision and FONSI until they are in compliance with the federal statutes NIKAN claims it has violated.

"They did not prepare a supplemental EIS even though there were significant changes to the byway project," contends Sedler.

What happens now, according to Sedler, is a lengthy and exhaustive process.

She said ITD must prepare an entire administrative record for the project, including every piece of document on public involvement and related technical data since the process began. NIKAN will then have a chance to review it before a briefing schedule is set.

"It's a huge undertaking," she said.

Other NIKAN members claim ITD has actively obscured impacts of the project.

"ITD knows that the bypass will be obsolete and unable to handle increasing traffic within a few years, especially since it will be two lanes and ITD's plans call for four-lane expansions ...all the way to Garwood," said NIKAN board member, Teree Taylor.

"What is the point of spending \$70 million and ruining the waterfront when the Sand Creek segment will have to be widened or moved elsewhere in a few years?"