



THE PEOPLE OF AUSTIN V. TXDOT

TWO LEGAL ACTIONS TO RESET I-35 & HEAL AUSTIN



SAVE OUR SPRINGS

General Presentation.

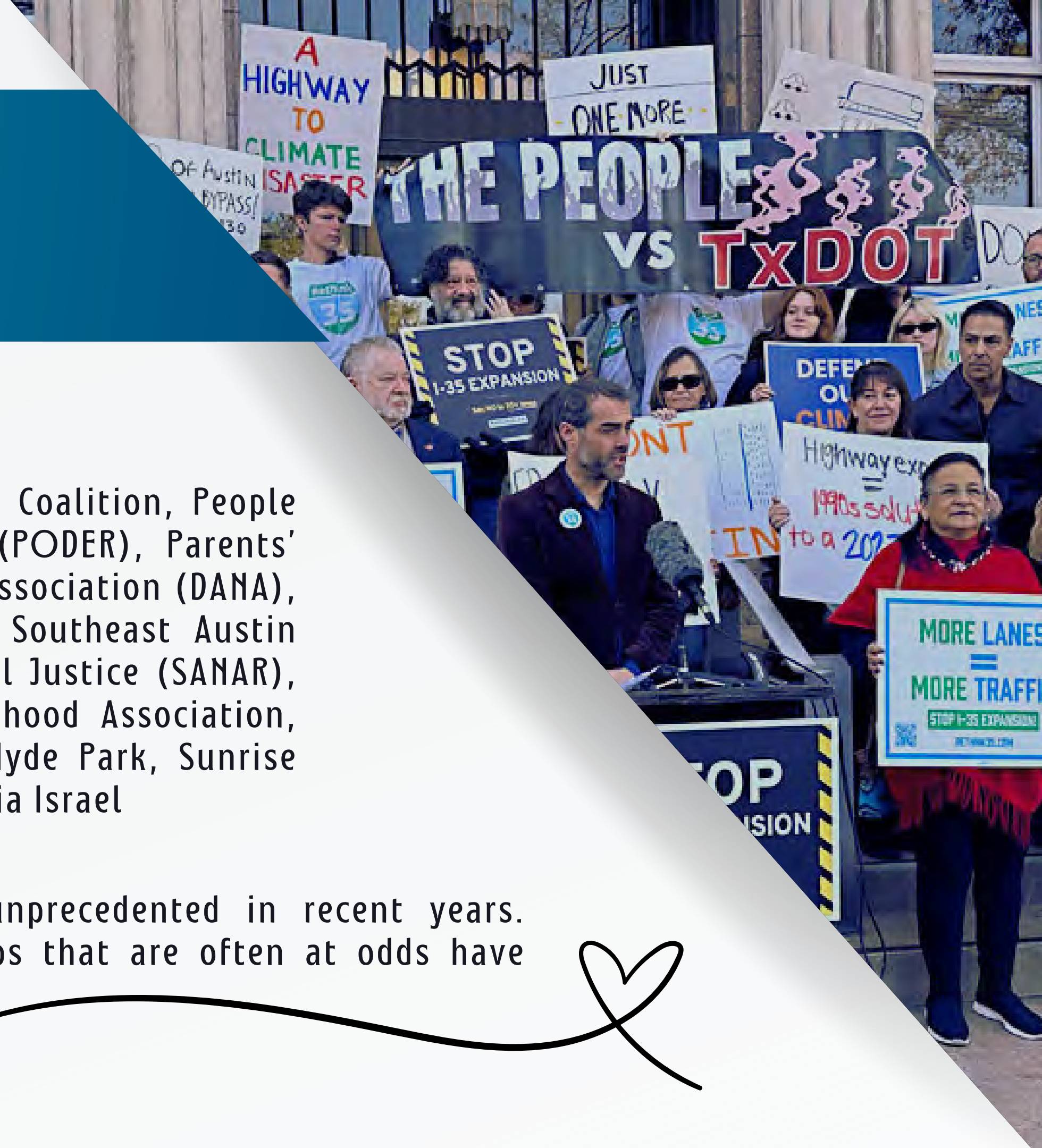
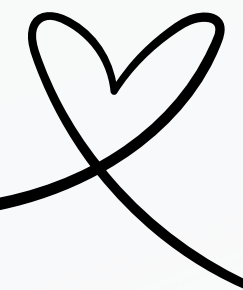
NEPA SUIT

Plaintiffs.

Rethink35, Save Our Springs Alliance, Austin Justice Coalition, People Organized in Defense of Earth and Her Resources (PODER), Parents' Climate Community, Downtown Austin Neighborhood Association (DANA), East Town Lake Citizens Neighborhood Association, Southeast Austin Neighbors and Residents Organized for Environmental Justice (SANAR), Hancock Neighborhood Association, Mueller Neighborhood Association, Friends of Austin Neighborhoods (FAN), Friends of Hyde Park, Sunrise Movement Austin, Environment Texas, TexPIRG, and Celia Israel

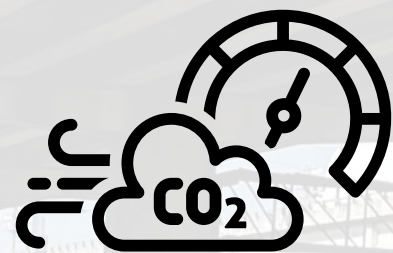
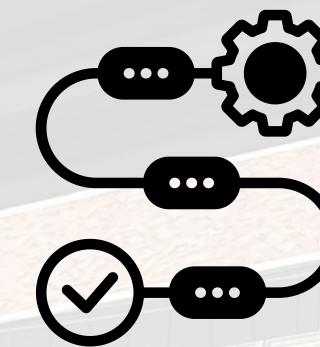


Austin is united in a way that is unprecedented in recent years. Environmental and neighborhood groups that are often at odds have rallied together to inspire change.



NEPA

HARD LOOK, FORESEEABLE CONSEQUENCES



Air Quality

Failure to address nitrogen dioxide (NO₂), ozone (O₃), particulate matter (PM), or sulfur dioxide (SO₂)

PM 2.5, Projected Nonattainment



Water Quality

Benefited Waller Creek (DT), at expense of Colorado River and Boggy Creek

Unaddressed highway contaminants and lack of treatment



Parkland

Section 6(f) of the Land and Water Conservation Fund Act; Mitigation must be identified

Constructive impact of Colorado River Park Wildlife Sanctuary;



Alternatives

Failure to properly consider alternatives that would improve mobility and heal environmental justice issues (e.g., Rethink35, Reconnect Austin)

AIR QUALITY

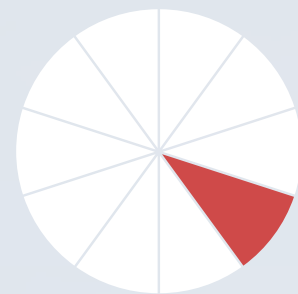
LACK OF QUANTITATIVE ANALYSIS



Air Toxins

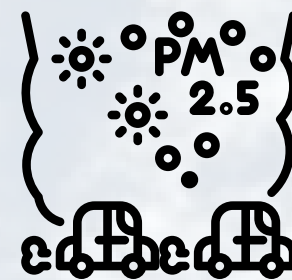
93 compounds linked to highway-related emissions

Known to be cause or likely to cause cancer and other serious health issues



Health Risks

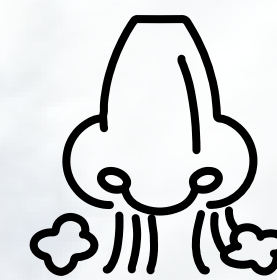
Approx. 1 in 10 Residents within I-35 corridor experience asthma (neighs, like Rosewood, are in the 70-95th percentiles, nationwide)



PM 2.5

Longterm exposure to PM 2.5 can cause asthma attacks, heart attacks, and death in vulnerable populations

Projected nonattainment



Concentration

Failed to address accumulation and dispersion of air toxins. With expansion, impacted residents are closer, more vulnerable to higher, sustained concentrations.

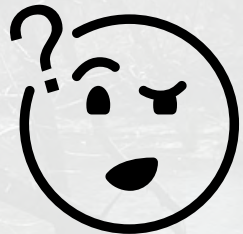
WATER QUALITY

COLORADO RIVER POLLUTION



Highway Runoff

The stormwater tunnel redirects flows from Downtown to the Colorado River. There is no analysis of highway-related pollutants and TxDOT only commits to filtering (some) trash.



Project Change

The location was modified 1.2 miles further east, after the Draft EIS, without additional public notice and comment. Published Aug. 2023.



Species

TxDOT did not conduct mussel surveys in the area and relied upon the arbitrary county boundary line in its review of impacted species (e.g., fish).



No Field Study

The Surface Water Analysis was completed in Dec. 2022, prior to the change in project. The last field studies for the project occurred in July 2021.

PARKLAND IMPACTS

SECTION 6F NON-COMPLIANCE & PARK IMPACTS



Waller Beach

Section 6(f) of the Land and Water Conservation Fund Act requires that land purchased under the act be mitigated and that potential replacement be identified. It wasn't.



Wildlife Sanctuary

After the DEIS, TxDOT moved the stormwater outflow adjacent to the Colorado River Park Wildlife Sanctuary. TxDOT determined no "constructive use," without consultation of USDOJ.



Recreation Area

The trailhead underneath US183 was also not mentioned at all by the EIS. The EIS omits it completely, likely because they didn't do field studies.

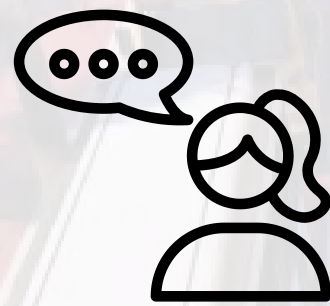


Lead Dust

TxDOT fails to take into account lead dust contamination from remnant dust kicked up in the expansion. This affects soils in nearby food gardens within City parks.

ALTERNATIVES

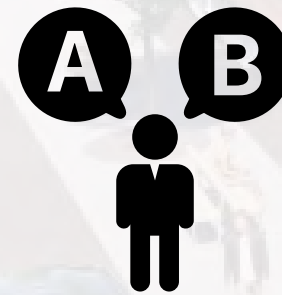
COMMUNITY ALTERNATIVES AND COMMENTS DISMISSED



Public Comments

Less than 1% of public comments received a unique response.

75% of comments at Feb. public hearing opposed or expressed concerns.



No Alternatives

The only two studied alternatives were different degrees of the same highway expansion.

The no build scenario projected unrealistic numbers for a road at capacity.



Community Alts.

Rethink35, Reconnect Austin, and ULI submitted alternatives not carried forward for consideration. TxDOT dismissed them categorically.



Now or Never

Austin has already suffered for 62 years from the impacts of this highway. If TxDOT proceeds, we're locked in for another half century.

To learn about the Rethink35 proposal, visit rethink35.org.

CIVIL RIGHTS ACT COMPLAINT

Over 30 Groups and 400 Individuals.

In 1928, the City of Austin approved a comprehensive plan, creating the “Negro District.”

East Ave (now, I-35) was used as the official line for segregation, through redlining and other discriminatory practices.

During the Civil Rights Era, when these racist practices came under constitutional scrutiny, the physical barrier of I-35 was erected.

I-35 was completed in 1962, a few years before the enactment of the Civil Rights Act and the National Environmental Policy Act.

The construction destroyed homes and businesses of Black, Latino, and Indigenous residents.



Healing. Equity. Env. Justice.

CIVIL RIGHTS ACT COMPLAINT

The Civil Rights Act prohibits recipients of federal funds and federal agencies from intentionally discriminating against communities on the basis of race, color, or national origin.

TxDOT is acting as a federal agency, and is thus subject to the Civil Rights Act.

Often times, with discrimination cases, there is no “smoking gun,” and the discrimination can be shown through evidence of a substantial disparate impact, a history of discriminatory official actions, procedural inequities, and the legislative and administrative history.

The original construction of I-35 represented intentional discrimination. This is indisputable.



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CIVIL RIGHTS ACT COMPLAINT

Where there is a pattern of discrimination, the agency must take affirmative actions to remove or overcome the effects of the prior practice; and must avoid expanding upon those prior actions.

Actions that have foreseeable and anticipated disparate impact are relevant to prove the ultimate fact or forbidden purpose.

Adherence to a particular policy or practice, with full knowledge of the predictable effects of such adherence is one factor which may be considered by a court in determining whether an interference of segregative intent should be drawn.

The expansion of I-35 reinforces a pattern of discrimination.



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CIVIL RIGHTS ACT COMPLAINT

Summary

1. The original replacement of East Avenue with I-35 was made with discriminatory intent.
2. The resulting isolation and segregation of communities of colors and prolonged exposure to air toxins resulted in documented and substantial disparate impacts.
3. The expansion of I-35 will exacerbate these foreseeable disparate impacts on communities of color.
4. TxDOT has actual knowledge of substantial, increased disparate impacts.
5. TxDOT refused to mitigate or consider alternatives.
6. TxDOT and State of Texas (TxDOT boss) have a history of discrimination against communities of color.
7. TxDOT cannot claim ignorance; expanding known impact is intentional discrimination.



Healing. Equity. Env. Justice.

HOW CAN YOU HELP?

Political Pressure. Gather Support



From US Secretary Buttigieg to your local council member, we need every one speaking out. Please tell us who you are willing to contact.

Donate Rethink35 or SOS



Please make a donation to support these efforts and the ongoing educational campaigns by making a donation to either Rethink35 or the Save Our Springs Alliance.

Believe Now or Never



This is a once in a generation opportunity to correct historic wrongs and protect future generations from the expansion of harm for another 62 years. Action takes courage. Be brave.