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SUBJECT: Cease and Desist Monday, April 1 Commencement of SH288 Drainage Project

Dear Administrator Bhatt, Director Williams, and County Attorney Menefee:

The purpose of this letter is to urge you to immediately halt the planned Monday, April 1 commencement of the State Highway 288 drainage project ("SH288 DP" or "0598-01-105," which is the control-section-job number).¹ (See **Exhibit 1** p. 24-26). SH288 DP is clearly a part of the North Houston Highway Improvement Project ("NHHIP"), Segment 3A, designed to divert and control water and drainage that will come from burying a significant portion of the US59/IH69 highway. TxDOT has not complied with federal environmental law requiring review of environmental impacts of this component of the NHHIP. Additionally, since the SH288 DP is part of the NHHIP, commencement on that component of the NHHIP is in violation of TxDOT's Voluntary Resolution Agreement ("VRA") with Federal Highway Administration ("FHWA"),

¹ Pages 24-26 of Exhibit 1 shows that stormwater that will be managed by SH288 DP originates at NHHIP.

which prohibits construction activities on any component of the NHHIP from starting prior to August 2024. Finally, the April 1 commencement ignores TxDOT's obligation to collaborate in good faith with Harris County.

The 288 Drainage Project is Part of the NHHIP Which Must Be Evaluated For Environmental Impacts

The SH288 DP is part of the NHHIP. TxDOT's 2022 and 2023 Unified Transportation Programs identify the SH288 DP as a component of the NHHIP. (**Exhibit 2** at p. 96, Map ID 33 (last line of page), and **Exhibit 3**, at p. 95, Map ID 29b, respectively). Because the SH288 DP is part of the NHHIP, its environmental impacts should have been, but were not, considered in the NHHIP's Final Environmental Impact Statement (FEIS).² The SH288 DP project feeds into a sewer network that drains into Brays Bayou, a waterway under the jurisdiction of the Army Corps of Engineers. In 2022, The Harris County Flood Control District and the Army Corps of Engineers completed Project Brays, a multi project program that reduced the impact of future floods on neighborhoods around Brays Bayou. The FEIS for the NHHIP must be supplemented in collaboration with the Army Corp of Engineers and the Harris County Flood Control District to consider the impacts of stormwater from the NHHIP flowing and draining through neighborhoods adjacent to SH 288 and Brays Bayou.. This analysis must occur prior to commencement of the work on the SH288 DP.³

The practical impact of the failure to consider the SH288 DP under the National Environmental Policy Act (NEPA) is that since there has been no significant environmental impact study, the environmental impacts of SH288 DP are unknown.

Commencement of the SH288 DP on Monday Would Violate Various TxDOT Agreements.

Pursuant to the VRA, no work can commence on any segment of the NHHIP, until air monitors have been operating for one year in that segment. (*See Exhibit 4*, VRA, p. 13, section 4.a). Air monitors will not have been operating for one year in segment 3 (or any other segment) as of April, 2024.

The Harris County MOU ("MOU"), **Exhibit 5**, requires TxDOT to collaborate in "good faith" with Harris County Flood Control (HCFCD), and to "review and evaluate requests by Harris County for the application of components from its practices". (Exhibit 5, p. 4, sections 5 and 13). HCFCD received the details for this project on March 14, 2024. As a result, HCFCD has had insufficient time to seriously review and consider the possible flooding impacts of this project, or to provide comments. The MOU contemplates HCFCD responding to transmittals within 30 days, and then TxDOT making a good faith effort to respond to concerns raised by HCFCD. (Exhibit 5, p. 4, section 5.a). Two weeks is insufficient time to allow for the procedure outlined in the MOU.

The MOU also obligates TxDOT to keep the public informed:

"Prior to beginning construction of any portions of Segment 3, TXDOT will develop a project-specific website (the "Multilingual Website"). The Multilingual Website will provide information about construction updates, road closures, and public transit disruptions during the

² The EIR can be found here: <https://www.txdot.gov/nhhip/updates.html>. It does not include SH288 DP's control-section-job number: 0598-01-105.

³ 23 C.F.R. § 771.130.

construction phase. The website will be translated into Spanish and will include an additional tool to provide translation of the information into other languages. Additionally, this site will be ADA-compliant, providing accessibility features.”

(Exhibit 5, p. 3, section 2.a) The website is up, but it conspicuously omits reference to the work scheduled for April 1.⁴

Conclusion

In conclusion, we ask that you take any steps available to you to ensure that the planned commencement of the 288 Drainage Project is delayed until such time as TxDOT is able to comply with NEPA, VRA, and the MOU with Harris County.

Sincerely,

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⁴ See <https://www.txdot.gov/nhhip/project-segments/segment3.html>

List of Exhibits

Exhibit Number	Description
1	Storm Sewer 0598-01-105 - Overall Drainage Area Map (pages 24-26)
2	TxDOT's 2022 Unified Transportation Program
3	TxDOT's 2023 Unified Transportation Program
4	Voluntary Resolution Agreement
5	Memorandum of Understanding Between TxDOT and Harris County, TX Concerning the NHHIP (Dec. 19, 2022)

Each item in the list above is also available at [SH288 DP Letter Exhibits](#)