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Enviros Reinforce Bid To Halt \$50M Calif. Highway Project

By **Linda Chiem**

Law360, New York (June 24, 2016, 5:32 PM ET) -- Environmental groups doubled down on their bid to halt a \$50 million California highway project Thursday, arguing the [California Department of Transportation](#) used bad data to mislead residents and federal regulators about the project's impact on wildlife and endangered species' habitats.

The Pacificans for a Scenic Coast, Pacificans for Highway 1 Alternatives and the [Center for Biological Diversity](#) continued to **push for summary judgment**, urging U.S. District Judge Vince Chhabria to invalidate all approvals, biological opinions and environmental assessments that cleared the way for the widening of Highway 1 in the city of Pacifica.

The environmental groups fired back at Caltrans' cross-motion for summary judgment, insisting that the department's environmental assessment didn't use the best scientific data on conservation measures and didn't properly address pedestrian safety, construction traffic or take a hard enough look at mitigation, in violation of the Endangered Species Act and the National Environmental Policy Act.

“Caltrans attempts to justify its failure to use the best scientific data available in the consultation with [the

U.S. [Fish and Wildlife Service](#)] by implying the duty only lies with the consulting agency,” they said in a brief. “However, Caltrans may not dodge this duty.”

The project would widen Highway 1 to three lanes in each direction. Proponents have said the project would have no significant environmental impact, and that regulators have met their obligations to study the effect it would have on the environment. But environmental groups have raised concerns that the project would destroy 10 acres of habitat for the endangered San Francisco garter snake and the threatened red-legged frog, according to court documents.

“Caltrans’ claim that information about project dimensions and number of habitat acres lost has ‘nothing to do with scientific data’ also fails,” the environmental groups said. “Information about the project size, habitat acreage lost, mitigation measures for lost habitat and design features for avoiding listed species harm was exactly the scientific data that FWS needed, and the BiOp used, in analyzing whether the project would jeopardize frogs and snakes.”

Caltrans originally promised 5.1 preserved acres of land in Pacifica to help compensate for the loss of acreage near the project, but the agency didn't disclose during a public comment period that the land was already preserved. The project also threatens pedestrian safety, coastal views, traffic circulation, greenhouse gas emissions and two recorded archaeological sites, the environmental groups' complaint alleges. Caltrans not only hid information from the public, but also did not tell FWS about some risks, the environmental groups have claimed.

Meanwhile, Caltrans has blasted the groups' "kitchen-sink challenge" to the Calera Parkway Highway 1 Widening Project, saying they are advancing dozens of baseless claims under a wide range of federal statutes.

"In this lawsuit, plaintiffs mostly present a litany of inaccurate factual allegations untethered to any legal arguments or standards," Caltrans said in its June 2 cross-motion for summary judgment.

It's insisted that it has complied with all the relevant laws to thoroughly vet the environmental impacts before advancing the project.

The environmental groups filed suit in May 2015 against a number of state and federal agencies, accusing them of violating the Endangered Species Act, the National Environmental Policy Act, the Coastal Zone Management Act and the Department of Transportation Act. Even as Caltrans kept it in the dark, FWS didn't do enough to ensure that the project met federal environmental laws, the groups allege.

Representatives for Caltrans were not immediately available for comment Friday

The plaintiffs are represented by Christopher A. Sproul and Jodene Isaacs of Environmental Advocates, Brian Gaffney of the Law Offices of Brian Gaffney, and Patricia Weisselberg of the Law Office of Patricia Weisselberg.

Caltrans is represented in-house by Jeanne Scherer, David Gossage, Lucille Y. Baca, Derek S. Van Hoften and Stacy J.

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The federal defendants are represented by John C. Cruden, Seth M. Barsky, S. Jay Govindan and Alison C. Finnegan of the [U.S. Department of Justice](#)'s Environment and Natural Resources Division.

The case is Pacificans for a Scenic Coast et al. v. [Federal Highway Administration](#) et al., case number [3:15-cv-02090](#), in the U.S. District Court for the Northern District of California