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Federal Judge Overturns OK of Illiana Toll Road.

CHICAGO – A federal judge has ruled that the federal government’s approval of the controversial Illiana toll road is invalid.

The decision could deliver a death blow to the bi-state project, which has already been on life support.

The June 16 ruling comes a week after Illinois Gov. Bruce Rauner, who has never publicly supported the project, halted all work on the Illiana to save money for the cash-strapped state, which is facing a budget crisis.

The project, estimated to cost \$1.5 billion, would build a 47-mile toll road between Indiana and Illinois. Both states planned to use public-private partnerships to finance their portions.

U.S. District Judge Jorge Alonso of the Northern District of Illinois Eastern Division ruled that federal approval was “arbitrary and capricious” and in violation of environmental law because state transportation officials used a “fatally flawed” analysis to justify the project.

“It’s a very big deal,” Howard Learner, executive director of the Environmental Law & Policy Center, which represented the environmental groups, including Openlands, Midewin Heritage Association and the Sierra Clubs, that brought the lawsuit.

The environmental law center describes Illiana as a waste of taxpayer money that conflicts with long-term regional development plans and threatens globally significant wildlife prairie habitat.

The center argues that rebuilding, modernizing and maintaining current roadways in high-density areas makes more sense than building a greenfield highway project it sees as encouraging sprawl.

The U.S. Department of Transportation and the Illinois and Indiana transportation departments were defendants.

“This ought to be the opportunity for the federal and state transportation departments and Gov. Rauner and [Indiana] Gov. [Mike] Pence to stop wasting money and bring the Illiana tollway to an end and move forward with high-priority projects,” Learner said.

The opinion overturns the federal highway administration’s tier one record of decision approving the project. A separate lawsuit targets the tier two record of decision, which the FHWA granted in December 2014, allowing the two states to move from planning to the implementation stage.

Learner said the new ruling will likely invalidate the tier two record of decision as well.

“As a practical matter the tier one record of decision was the foundation for the tier two record of decision,” said Learner. “The federal highway administration, the Indiana and Illinois departments of transportation need to go back to square one and redo the environmental review process in a way that complies with federal law and good policy sense, or not do it at all and simply bring the

proposed boondoggle to an end.”

Alonso ruled that state transportation officials used a “faulty” analysis that, among other things, relied on the research of “market-driven forecasts developed by consultants” instead of long-range forecasts crafted by professional planners Chicago Metropolitan Agency for Planning and Northwestern Indiana Regional Planning Commission.

The transportation agencies also relied on a faulty ‘no build’ review when deciding to move forward with the Illiana, the ruling said.

“In short, the purpose and need for the Illiana Corridor identified in the EIS are derived directly from the faulty ‘no build’ analysis,” Alonso wrote. “Because that analysis does not substantiate the purpose and need, the FHWA’s approval of the [record of decision] and final [environmental impact statement] is arbitrary and capricious and in violation of [the National Environmental Policy Act.]”

The Illinois transportation department said it was reviewing the ruling and “exploring our options.”

A spokesman for the Indiana department also said its attorneys were reviewing the ruling and that meanwhile, work “remains temporarily suspended.”

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