

SC leg of I-73 escapes challenges

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COLUMBIA --Interstate 73's southern leg in South Carolina passed a major hurdle Tuesday when no one challenged an important federal finding known as the record of decision.

The record of decision is the Federal Highway Administration's approval of the draft plan for the 60-mile section of I-73 between Interstate 95 and S.C. 22.

Federal law gives people or groups who object to the record 60 days from the document's signing to challenge its findings in federal court. That period expired at midnight Tuesday.

A group called Virginians for Appropriate Roads filed a challenge to the record of decision for a 70-mile segment of I-73 in Virginia.

The most likely group to appeal the record of decision in South Carolina, the Coastal Conservation League, did not do so but says it is keeping its options open for other challenges as the state Department of Transportation seeks construction permits for the road.

"We think it is just too early and it isn't appropriate at this time," said Nancy Cave, director of the north coast office of the league.

Mitchell Metts, project manager for I-73 in South Carolina, said he was pleased that the documents escaped court challenge from the Coastal Conservation League.

"We've had a very open process that they have been plugged into from Day 1," he said.

Brad Dean, president of the Myrtle Beach Area Chamber of Commerce and of the National I-73 Corridor Association, said the lack of a challenge to the road plan is good news and "an important and noteworthy affirmation of I-73."

The Charleston-based Coastal Conservation League will examine the DOT's construction permit applications, and it is concerned about how the agency will compensate for destruction of wetland when the road is built.

The road so far has no definite funding stream, though it could impose a toll, and the DOT is looking for a public-private partnership to pay for part or all of the project.

Cave said if tolls are imposed or a partnership is adopted, the league may insist that a new Environmental Impact Statement be prepared because the existing document does not address toll booths and other facilities that would be needed.

In Virginia, the challengers claim that the record of decision did not properly consider the environmental effects of the road and whether using existing roads rather than cutting a new path would be less damaging.

The Coastal Conservation League has made similar comments about the project in South Carolina.

Record of decision appeals are decided by a judge based on federal law and whether the content complies with the law. Juries are not involved and there are no damages.

Instead, the government could be told to redo parts of the documents.

The Virginia group filed its challenge Oct. 15, the deadline day for such an action.

In the almost six months since, little has happened. The challengers asked that their case be delayed until the Virginia DOT applies for its Army Corps of Engineers wetland permits.

The group said the issue is not complete until the agency requests those, but on Jan. 29 the court denied the request, saying that under federal law the record of decision is a final document in itself.

Waiting longer for a decision could prevent the project from receiving the most advantageous bids, the judge also said.

But no further rulings have come from the court and no hearings have been scheduled.

In South Carolina, the state DOT is starting to buy rights of way for the road and is working on plans for how it will compensate for wetland loss, Metts said.

The compensation is a complicated issue that could involve preserving several smaller plots of land or setting aside a large parcel for preservation.

The unoccupied portion of Sandy Island in Georgetown County was set aside for conservation to compensate for wetland destruction when S.C. 22 and S.C. 31 were built in Horry County.

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