

WESTERN WATER

Court rejects Interior bid to advance Calif. desert project

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A federal court has ruled against the Trump administration in a lawsuit over the Cadiz groundwater project in California's Mojave Desert. Cadiz Inc.

A federal judge Friday said the Trump administration's position on a Southern California water project was "contrary to law" and sent it back to the Interior Department to reconsider.

Conservationists had challenged Cadiz Inc.'s plan to pump water from an aquifer in the Mojave Desert and pipe it 43 miles along a railroad right of way to Southern California.

The project had been effectively killed by the Obama administration. President Trump's Interior reversed course after taking office, updating legal opinions on how a railroad right of way may be used under an 1875 law and saying it did not require federal review ([Greenwire](#), Oct. 17, 2017).

California federal Judge George Wu sided in part with the Center for Biological Diversity, Center for Food Safety and National Parks Conservation Association on Friday.

He said the Bureau of Land Management did not adequately explain the 2017 decision that it did not need to authorize the project. He remanded that decision to BLM.

But in the dense, 47-page [ruling](#), the judge also chided the agency for much of its legal reasoning, including how it has justified applying an 1875 law on railroad easements to a water project.

At issue are "M-Opinions," legal analysis by Interior's solicitor's office. In 2017, the Trump administration issued a new opinion that reversed a previous one from the Obama administration and provided the legal basis for greenlighting the project.

Wu did not strike down the new legal opinion. But he criticized it sharply, saying he would "not afford" it "much deference."

His analysis concluded the 1875 railroad rights of way were intended for railways.

"[P]ersuasive to the Court, the 1875 Act only granted easements to rail companies that actually built railroads," he wrote.

Adding that BLM's analysis at times "lacks sense," he wrote that BLM "cannot get around the fact that the 1875 Act rights-of-way were granted for a purpose and that any use that does not further that purpose is outside the scope of the easement."

Los Angeles-based Cadiz owns about 34,000 acres along Route 66 in the Mojave Desert. It is seeking to pump about 16 billion gallons per year from the aquifer under its land and deliver it to Southern California.

Cadiz reached an agreement in 2008 with a railroad company to build a pipeline along its right of way.

In a statement, the company noted that Wu did not strike down the Trump administration's legal analysis — only its determination that the project did not require federal approval.

"Judge Wu did not find that the conclusions of the 2017 evaluation were in error and agreed that BLM applied the correct right-of-way legal standard in its review," the company said.

Further, it added that Cadiz "expects no delays to project implementation as a result of Friday's ruling."

The green groups who brought the case disagreed with that analysis of the ruling.

"The court saw right through the Trump administration's attempt to shoehorn the massive Cadiz pipeline into a railroad easement," said Earthjustice attorney Greg Loarie, who represented the Center for Biological Diversity and Center for Food Safety. "It has nothing to do with the railroad."

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