

Press Release from the Southern Environmental Law Center

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CONTACT: Kym Hunter, Southern Environmental Law Center, 919-967-1450

### **Federal Court Declares \$900M Garden Parkway Toll Highway Dead on Arrival**

CHAPEL HILL, N.C.—A ruling today by the Fourth Circuit Court of Appeals on a legal challenge to the Garden Parkway, a proposed toll highway project near Charlotte, N.C., found that it is not a viable project under current funding and planning realities. In ruling that the legal challenge to the Garden Parkway is moot and effectively dead, the court recognized the \$900 million project “faces multiple barriers to construction.” The court highlighted that before the Parkway could be built, it would need to “overcome the poor ranking it received under the new funding formula enacted by the General Assembly,” and that “the state legislature must reallocate about \$900 million to the project,” among other steps.

Conservation groups represented by the Southern Environmental Law Center long fought the controversial, unneeded Garden Parkway. Previously, a federal district court found that the environmental review of the toll highway had been performed illegally. Soon after that decision, the Federal Highway Administration dropped its appeal of that decision, leaving only the North Carolina Department of Transportation to defend the \$900 million highway.

“We’re pleased the Fourth Circuit recognized that the Garden Parkway project is dead and would face an uphill battle if it were to ever be resurrected,” said Kym Hunter, Staff Attorney with the Southern Environmental Law Center. “The court honed in on how poorly the project scored under North Carolina’s data-driven Strategic Transportation Investments law. It’s very unlikely this unneeded project could ever secure the nearly billion dollar funds to proceed.”

The Fourth Circuit’s decision today comes more than four years after the Southern Environmental Law Center first filed a challenge to the Garden Parkway toll road in federal court on behalf of the Catawba Riverkeeper and Clean Air Carolina. When the groups first brought the case, NCDOT was poised to begin construction of the unneeded \$900 million toll highway. The groups alerted permitting agencies that NCDOT’s analysis of the highway was fundamentally flawed and ensured that construction did not commence until questions of illegality had been resolved.

As NCDOT dragged out the legal fight, the conservation groups worked with state legislators to ensure that the toll highway project was not given preferential earmark funding over higher need projects in the state. Legislation passed in 2013 stripped the road of its earmarked funding and required it to be vetted through a new data-driven scoring process based on a criteria of need. Not surprisingly, the project received an abysmal score and in 2015 was removed from the state’s ten year transportation plan. Despite the poor score, NCDOT and FHWA continued to inexplicably defend the illegal analysis underlying the toll highway in court.

In today’s decision, the Fourth Circuit considered the likelihood of the Garden Parkway proceeding under current environmental documents as a “remote possibility,” and focused on the NCDOT’s own statements that the Garden Parkway is “no longer viable.”

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The Southern Environmental Law Center is a regional nonprofit using the power of the law to protect the health and environment of the Southeast (Virginia, Tennessee, North and South Carolina, Georgia, and Alabama). Founded in 1986, SELC's team of almost 60 legal and policy experts represent more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use.  
[www.SouthernEnvironment.org](http://www.SouthernEnvironment.org)

The Catawba Riverkeeper Foundation advocates for the health, protection and enjoyment of the Catawba-Wateree River watershed. The Catawba Riverkeeper Foundation provides education, processes and programs to protect drinking water and the many resources of the entire Catawba-Wateree River watershed. Catawba Riverkeeper's experienced network includes a diverse community of members, engaged volunteers and professional staff whose dedication of time, talent and resources protect and enhance our river today and for future generations. The vision of Catawba Riverkeeper is for the waters of the entire Catawba-Wateree River basin to always be of high quality and abundant quantity to sustain and enhance the lives of all the humans, the wildlife and the ecosystems that depend on it.  
[www.catawbariverkeeper.org](http://www.catawbariverkeeper.org)

Clean Air Carolina is a non-profit organization based in Charlotte, NC. Its mission is to ensure cleaner air quality by educating the community about how air quality affects our health, advocating for stronger clean air policies, and partnering with other organizations committed to cleaner air and sustainable practices.  
[www.cleanaircarolina.org](http://www.cleanaircarolina.org)