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Lawsuit Against Highway Agencies Targets Deaths of Migratory Swallows

Deadly Netting in Petaluma Has Killed, Injured More than 100 Swallows

SAN FRANCISCO – Conservation and animal protection groups filed a lawsuit Friday against the California Department of Transportation, U.S. Department of Transportation and Federal Highway Administration for causing and allowing the deaths of migratory cliff swallows nesting under bridges at a highway widening project in Petaluma, Calif. The agencies refuse to remove deadly netting installed at bridge overpasses as part of a Caltrans highway widening project along Highway 101 in the Marin-Sonoma Narrows. The netting has killed and injured more than 100 swallows in a one-month period.

“Incompetence and indifference by Caltrans is killing swallows that have just travelled 6,000 miles to return to a traditional nesting site, which the agency should have known about,” said Jeff Miller, a conservation advocate with the Center for Biological Diversity. “Caltrans continues to say the problem is fixed, but the netting is ineffective and deadly. There are better ways to discourage birds from nesting at a construction site.”

The entrapment and killing of swallows violates the Migratory Bird Treaty Act and National Environmental Policy Act. The Animal Legal Defense Fund filed the lawsuit on behalf of the Center for Biological Diversity, **Golden Gate Audubon Society**, Madrone Audubon Society, Marin Audubon Society and Native Songbird Care and Conservation. The Washington, D.C. law firm Meyer, Glitzenstein & Crystal is assisting in the lawsuit, which was filed in federal court in the Northern District of California.

“Cliff swallows are protected by a nearly century-old federal law, and the Animal Legal Defense Fund is outraged by this cruelty to animals in our own backyard,” said Stephen Wells, executive director of the Cotati-based Animal Legal Defense Fund. “These agencies must find ways to build roads without resorting to deadly netting.”

“The netting is the wrong material in the wrong environment,” said Veronica Bowers, director of Native Songbird Care and Conservation. “Caltrans’ neglect has caused the senseless death of scores of swallows. Their refusal to remove the netting is shameful.”

“The point of an environmental review process under the National Environmental Policy Act is to identify potential impacts of a project, so how did Caltrans and federal agencies fail to identify the bridge locations as significant cliff swallow nesting sites and why did they install inadequate exclusion measures,” asked Susan Kirks, President of Madrone

Audubon Society. "Caltrans blundering forward with attempted repairs and construction is encroaching on established swallow nests during their brief nesting season."

Background

Every spring the highly social, wide-roaming cliff swallows travel thousands of miles from South America to return to their nesting sites in the Petaluma area. These swallows nest on bridges and other human infrastructure as well as rocky cliffs and foothills. A contractor for Caltrans installed exclusionary netting in February, and the agencies knew by late March that the netting was trapping, maiming and killing swallows returning to nest. Although exclusion of nesting birds is permitted by regulatory agencies and is often standard procedure for such construction projects, the netting is ineffective at this location, was sloppily installed and is loosened by high winds. The netting has not prevented swallows from attempting to nest on the bridges. Under the Migratory Bird Treaty Act it is "unlawful at any time, by any means or in any manner" to capture or kill any migratory bird.

A coalition of more than two-dozen conservation and community organizations around California have joined together to take on fiscally irresponsible and environmentally damaging highway-widening projects throughout the state by Caltrans. The coalition cites wasteful spending, institutionalized disregard of environmental regulations designed to protect natural resources, and a pattern of refusal to address local community concerns. Groups in the Caltrans Watch coalition have filed litigation challenging the controversial \$210 million Willits Bypass project along Highway 101 in Mendocino County, the \$10 million project to widen and realign Highway 101 through ancient redwood trees in Richardson Grove State Park in Humboldt County, the \$19 million Highway 197/199 widening projects in Del Norte County along the "wild and scenic" Smith River to accommodate oversized commercial trucks, and the \$76 million Niles Canyon highway-widening project in Alameda County.

Copies of today's lawsuit are available upon request.

[Animal Legal Defense Fund](#) was founded in 1979 with the unique mission of protecting the lives and advancing the interests of animals through the legal system.

[Center for Biological Diversity](#) is a national, nonprofit conservation organization with more than 500,000 members and online activists dedicated to the protection of endangered species and wild places.

[Golden Gate Audubon Society](#) is the San Francisco/East Bay chapter of National Audubon, dedicated since 1917 to protecting Bay Area birds, other wildlife, and their natural habitats.

[Madrone Audubon Society](#) is a nonprofit organization and the Sonoma County chapter of National Audubon, dedicated to education, enjoyment and protection of the natural world, especially birds.

[Native Songbird Care & Conservation](#) is a nonprofit organization in Sebastopol, California dedicated to the conservation of native songbirds through rehabilitation, release back to the wild and public education.

[Marin Audubon Society](#) is a chapter of National Audubon dedicated to conserving and restoring natural ecosystems, focusing on birds, other wildlife, and their habitats, for the benefit of humanity and the Earth's biological diversity.