

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 02 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UPPER SOUTH EAST COMMUNITIES
COALITION,

Plaintiff - Appellant,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS; THOMAS P. BOSTICK,
Lt General, in his official capacity, Chief
of Engineers and Commanding General,
U.S. Army Corps of Engineers;
MICHAEL J. FARRELL, in his official
capacity, District Commander, Sacramento
District, U.S. Army Corps of Engineers;
MICHAEL S. JEWELL, Chief, Regulatory
Division, Sacramento District, U.S. Army
Corps of Engineers,

Defendants - Appellees,

And

REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY,

Intervenor-Defendant -
Appellee.

No. 15-16205

D.C. No. 2:15-cv-00930-JAM-DAD

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Argued and Submitted October 19, 2015
San Francisco, California

Before: WALLACE, D.W. NELSON, and CLIFTON, Circuit Judges.

Plaintiff Upper South East Communities Coalition appeals from the district court's denial of its motion for a preliminary injunction to halt construction on the South East Connector highway project, for violation of the National Environmental Policy Act, 42 U.S.C. § 4332, and the Clean Water Act, 33 U.S.C. § 1251. We have jurisdiction under 28 U.S.C. § 1292(a)(1), and we affirm.

“The grant or denial of a preliminary injunction lies within the discretion of the district court and we may reverse a district court only where it relied on an erroneous legal premise or abused its discretion.” *DISH Network Corp. v. F.C.C.*, 653 F.3d 771, 776 (9th Cir. 2011) (citing *Sports Form, Inc. v. United Press Int'l, Inc.*, 686 F.2d 750, 752 (9th Cir. 1982)). Review at the preliminary injunction stage is “much more limited than review of an order involving a permanent injunction where all conclusions of law are freely reviewable.” *Sports Form*, 686 F.2d at 752. “Because of the limited scope of our review of the law applied by the district court and because the fully developed factual record may be materially different from

that initially before the district court, our disposition of appeals from most preliminary injunctions may provide little guidance as to the appropriate disposition on the merits.” *Id.* at 753.

The record before us does not suggest that the district court here relied on an erroneous legal premise, made clearly erroneous factual findings, or abused its discretion in concluding that appellant failed to show a probability of success on the merits.

AFFIRMED.