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Judge Orders State and Federal Governments to Reduce Delta Pumping
 by Dan Bacher
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U.S. District Court Judge Oliver Wanger on Friday ruled to restrict water deliveries from the California Delta's massive export pumps to the Bay Area, Central Valley and Southern California to protect the threatened delta smelt, an indicator species.



deltasmelt.jpg

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Judge Orders State And Federal Governments to Reduce Pumping to Protect Delta Smelt

By Dan Bacher

(Fresno) In a landmark decision, a federal judge on August 31 ordered state and federal water project managers to reduce the amount of water pumped from the Sacramento-San Joaquin River Delta to protect the threatened delta smelt from extinction.

Environmentalists generally praised the ruling, even though the decision didn't go as far as they wanted, while Governor Arnold Schwarzenegger and water agency representatives claimed the decision would devastate California's water supplies and the economy.

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U.S. District Court Judge Oliver Wanger ruled to restrict water deliveries from the California Delta's massive export pumps to the Bay Area, Central Valley and Southern California to protect the fish. The Delta smelt is found only in the Bay-Delta estuary and is considered by scientists to be an indicator species demonstrating the health of the West Coast's largest estuary.

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Wanger, after hearing testimony from the defendants that other factors such as invasive species and toxics resulted in the collapse of the imperiled fish, said the pumps cause reverse flows in the Delta that kill smelt and damage vital habitat.

"The evidence is uncontradicted that these project operations move the fish. It happens and the law says something has to be done about it," said Wanger.

The ruling will reduce pumping from the end of the December, when the fish are ready to spawn, until June, when the fish can move out of harm's way from the pumps into Suisun Bay.

Thousands of smelt were killed in the state and federal pumps this May and June, in spite of a nine day reduction in pumping spurred by a court order issued by Alameda Superior Court Judge Frank Roesch in a separate lawsuit filed by the California Sportfishing Projection Alliance.

Kate Pool, Senior Attorney for the Natural Resources Defense Council, said that Wanger's ruling "appears to improve the smelt's chances" of survival. NRDC, Earthjustice and two other environmental groups launched their lawsuit to prevent the smelt's extinction at time when the fish has declined to record low levels.

"The question is whether it's enough to save the smelt from extinction," she stated. "That's what's needed to protect the delta and clean drinking water, and it's what's required under the federal Endangered Species Act."

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<p>indymedia.org</p> <p>africa ambazonia canarias estrecho / madiacq kenya nigeria south africa</p>	<p>"The San Francisco Bay Delta can't perform its vital job of supplying clean water for people, if it's so sick that it can't even support the tiny delta smelt. Millions of Californians depend on the delta to supply clean drinking water, irrigate crops and support salmon and other fishing jobs," said Poole.</p> <p>Governor Arnold Schwarzenegger described the federal court ruling as "devastating blow to our water supply system and state economy."</p>
<p>canada hamilton london, ontario maritimes montreal ontario ottawa quebec thunder bay vancouver victoria windsor winnipeg</p>	<p>"Today's federal court ruling to drastically cut Delta water exports is further proof that our water system is broken, unreliable and in crisis," Schwarzenegger contended. "We must act now to ensure the safety and reliability of California's water system while we work to protect the environment. This decision is also going to have a devastating impact on the state's economy and the 25 million Californians who depend on Delta water."</p> <p>Schwarzenegger used the judge's decision as another chance to promote his campaign to build a peripheral canal – code-worded as a "better conveyance system" – and more water storage behind two proposed reservoirs in the Sacramento and San Joaquin valleys.</p>
<p>east asia burma jakarta japan manila qc</p>	<p>"We need to invest in a better conveyance system so we have reliable water supplies and are able to protect the Delta's fragile ecosystem," said Schwarzenegger. "Following today's ruling, there can be no doubt, we need more water storage and greater conservation efforts to meet the needs of our growing population, respond to the challenge climate change presents and meet the requirements of what the court has imposed."</p> <p>Jeff Kightlinger, General Manager of the Metropolitan Water District (MWD), criticized the ruling for not addressing other factors in the Delta smelt's decline.</p>
<p>europa alacant andorra antwerpen armenia athens austria barcelona belarus belgium belgrade bristol bulgaria calabria croatia cyprus emilia-romagna estrecho / madiacq euskal herria galiza germany grenoble hungary imc patras ireland istanbul italy la plana liege lille lombardia madrid malta marseille nantes napoli netherlands nice norway oost-vlaanderen paris/ile-de-france piemonte poland portugal roma romania russia saint-petersburg scotland sverige switzerland thessaloniki torun toscana toulouse</p>	<p>"Judge Wanger's decision to cut back water supplies doesn't address various other Delta problems and issues," Kightlinger said. "Invasive species will continue to deplete food supplies for Delta smelt, pesticide runoff that can harm the estuary will persist, and the levee system will remain vulnerable to earthquakes and rising sea levels caused by climate change."</p> <p>MWD, the primary water importer for urban Southern California, claimed it stands to lose as much as 30 percent of its supplies from Northern California next year and possibly longer, based on initial estimates supplied by the state.</p> <p>"California simply cannot lose important water supplies without real consequences throughout the state," said Kightlinger. "This historic court decision affirms what the water community has realized for some time, but the general public may not fully appreciate--the Delta, both as a valuable ecosystem and essential water supply, is broken. This court ruling did not fix it."</p> <p>However, Poole noted that it too early to determine exactly how much water would be taken out of water supplies to protect the smelt – and she emphasized that the Delta can be managed to both protect fish and supply water to cities and agriculture by increased water conservation.</p> <p>"We can manage the San Francisco Bay Delta to protect fisheries and supply clean, reliable water to downstream users," she stated. "The key is to use water wisely. Through conservation, wastewater recycling and better use of groundwater, we can keep enough fresh water in the delta to ensure clean water and healthy fisheries. Water managers have been planning for this for years."</p> <p>The judge gave both parties 50 days to jointly come up with an order after giving an outline of what he wanted. Wanger earlier this year tossed out a key U.S. Fish and Wildlife Service biological opinion regarding Delta water management and ordered the agency to rewrite the opinion. The August 31 ruling will be in effect only until the agency finishes rewriting the opinion.</p> <p>Fishing groups also welcomed the decision, although they weren't sure exactly how much the decision would reduce pumping levels and protect the smelt.</p> <p>"Nobody really knows the full ramifications of the decision yet," said Bill Jennings, executive director of the California Sportfishing Protection Alliance. "I'm also concerned that the ruling doesn't protect the delta smelt during the fall. However, the fact that a conservative federal judge had to compel the reduction of state and federal pumps to protect the smelt is a searing indictment of the state and federal governments' failure to protect the estuary."</p> <p>In response to Schwarzenegger's dire prediction of disaster resulting from the ruling, he replied that the Governor could protect the water supplies of "99.9 percent of California's urban and agricultural users" if water-intensive cotton crops in the San Joaquin Valley were taken out of production. California's cotton production approximates 1.5 million bales annually from approximately 550,000 acres, representing the 2nd largest planted acreage of any crop in the state.</p> <p>Jennings also said Wanger's decision should help strengthen the alliance's current litigation against the Department of</p>

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"It's clear that if the Delta is to be saved, given the political paralysis of the Schwarzenegger and Bush administrations, it will be saved in court," he said. "Hopefully, the Wanger ruling will make a difference."

The decision occurs in the context of an alarming decline in recent years of four California Delta pelagic (open water) species, including delta smelt, longfin smelt, striped bass and threadfin shad, as the state and federal governments have increased water exports by over 1,000,000 acre feet of water per year.

On August 8, the Bay Institute, Center for Biological Diversity and NRDC simultaneously asked the federal government to list the Bay-Delta population of longfin smelt under the federal Endangered Species Act and the California Fish and Game Commission to list the species statewide under the California Endangered Species Act.

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