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Groups Challenge Bush-Era Central Valley Water Contracts

Flawed water management plans shortchange wildlife, Delta

San Francisco, CA (November 30, 2009) — Conservation groups have appealed a decision to keep long-term water delivery contracts in California's Central Valley that would result in years of damage to devastated salmon and other native fisheries, and fail to protect and restore California's largest estuary, the Sacramento-San Joaquin Delta and San Francisco Bay.

The appeal was filed in the U.S. Court of Appeals for the Ninth Circuit by conservation groups including the Natural Resources Defense Council and the San Francisco Baykeeper, represented in court by Earthjustice and NRDC. The groups charge that the contracts, based on a 2005 Biological Opinion on the delta smelt that has been thrown out by a federal court, violate the Endangered Species Act and must be renegotiated to reflect current science.

“These water contracts must be revised to reflect a reasonable level of water diversions, require sensible conservation measures, and protect the collapsing Delta if we are going to fix California's broken water system and restore healthy fish populations,” said Kate Poole, lead attorney at the Natural Resources Defense Council.

The long-term water contracts being challenged would lock in super water rights for the next 40 years to a select group of farmers in the Sacramento Valley. These growers, primarily rice farmers, have received 100 percent of their water supplies in the last three years. They would be allowed to continue diverting more than 2.2 million acre-feet of water annually, at the expense of valuable fish populations, wildlife and other water users. Other contracts being challenged allow the diversion of over 300,000 acre-feet of water from the Delta to San Joaquin Valley growers for the next 25 years, without considering looming water shortages in light of the drought and Delta's ecosystem collapse.

“We're talking about agreements that hand over California's real wealth, its water, for decades to some growers watering desert soils full of toxic minerals for a fraction of the real value of that water, all at taxpayer and urban water users' expense,” said Earthjustice Attorney Trent Orr. “These contracts would be locked in for 25 years, and many for 40 years. As the climate changes and California becomes drier, these contracts based on Bush-Cheney political science will damage the Bay and Delta more and more each year.”

The 2005 delta smelt Biological Opinion at the center of this appeal is one of two such opinions covering Central Valley water policies that were prepared by the U.S. Fish and Wildlife Service and National Marine Fisheries Service during the Bush administration. Conservation groups challenged the 2005 plan and won. In 2007, a federal district court ruled that the plan drastically understated the potential damage the water diversions caused when they failed to leave enough water in the Delta to protect habitat and restore fish populations, including valuable Chinook

salmon. However, the court did not require reconsideration of the long-term water delivery contracts signed under those flawed plans, even though their legal foundation had crumbled.

Water diversions from the Delta have depressed salmon numbers to the point where virtually no salmon fishing has been allowed for the past two years and have brought other native fish to the verge of extinction. The unprecedented closure of the salmon fishery has caused an economic disaster along hundreds of miles of the Pacific Coast, with estimated losses in California of \$2.8 billion and 23,000 jobs lost in the commercial and recreational fishing industries in 2008 and 2009.

“Big agriculture has had a free ride for years on the backs of regular Californians. It’s time for the industry to stop profiting at the expense of our ecosystem and economy,” said Deb Self, Executive Director of San Francisco Baykeeper.

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