



Press Release

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For Immediate Release

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Court Denies Injunction Sought to Stop Water Transfers to Protect Fish *Delta smelt on the scaffold*

On 11 July 2014, Judge Lawrence J. O'Neill, of the U.S. District Court in Fresno California, denied a motion for preliminary injunction to stop the U.S. Bureau of Reclamation (USBR) from transferring water through the south Delta export pumps to the San Luis & Delta-Mendota Water Authority (SLDMWA). The motion for preliminary injunction was filed by the California Sportfishing Protection Alliance (CSPA) and AquAlliance and alleged that the environmental assessment (EA) was seriously flawed and that the transfers posed an eminent threat to threatened Delta smelt.

The injunction request pointed out that the EA failed to consider the relaxed flow and water quality standards recently ordered by the State Water Board, actual outflows were lower than represented and that Delta smelt were being drawn into the Delta and exposed to lethal water temperatures. USBR and SLDMWA denied that Delta smelt were in the Delta and referred to the U.S. Fish & Wildlife Service's (USFWS) Delta smelt Biological Opinion that provides no protection for smelt in July because smelt are supposed to be in Suisun Bay and not in the Delta. The decision was predicated on "agency deference," with Judge O'Neill writing, "Courts should defer to the agency on matters within the agency's expertise unless the agency has completely failed to address a factor that was essential to making an informed decision."

CSPA Executive Director, Bill Jennings, said, "We're disappointed with the decision and will consider next steps. The ruling is contrary to the facts: Delta smelt abundance is at an historic low, Delta smelt are presently in the Delta, USBR's alleged outflow numbers are seriously exaggerated and the species is at a severe risk of extinction." Jennings added, "The USFWS, USBR and SLDMWA have escorted Delta smelt to the scaffold and the judge signed the warrant. We did what we could to prevent disaster."

An abundance Index of Delta smelt showing the historically low population, the CDFW's late June and early July 20mm Delta smelt surveys since 1996 demonstrating that Delta smelt are actually in the Delta during this period in all but the wettest years and a comparison of USBR's alleged Delta outflow with actual outflow monitoring from USGS's state-of-the-art flow gages is attached, titled *Delta Smelt on the Scaffold*.

The California Sportfishing Protection Alliance (CSPA) is a 501(c)(3) non-profit public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats. www.calsport.org