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NORTHERN CALIFORNIA'S LARGEST NEWSPAPER

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## Ruling to protect delta smelt may force water rationing in Bay Area

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Cities around the Bay Area face the possibility of mandatory water rationing next year as a result of a federal court decision Friday to protect a rare fish found only in the Sacramento-San Joaquin River Delta, state officials and water experts said.

The decision, which could cut by up to a third the amount of water drawn from the delta, will definitely force conservation measures and, in the end, could be the most far-reaching decision ever made under endangered species laws, according to experts.

The ruling, made Friday evening by U.S. District Judge Oliver Wanger, was an attempt to help the delta smelt, a tiny fish once plentiful but now facing extinction. Environmentalists insist the huge Tracy-area pumps used by the State Water Project and federal Central Valley Project suck up smelt, killing huge numbers of them. Those water systems redistribute delta water to parts of the Bay Area, the San Joaquin Valley and Southern California.

"This is the most drastic cut ever to California water supplies," said Tim Quinn, the executive director of the Association of California Water

Agencies, a lobbying group that represents more than 400 agencies that deliver 90 percent of the state's water. "It is the most significant decision ever made in the implementation of either the state or federal Endangered Species Act. It's the biggest impact anywhere, nationwide."

Water agency representatives said cropland is likely to go fallow, and cities in the Tri-Valley, Santa Clara County, Los Angeles and elsewhere could have to institute mandatory rationing programs in order to deal with the cuts in water.

Agencies that rely on delta water - such as the Zone 7 Water Agency that serves Livermore, Pleasanton and Dublin - also will have to rely on water reserves, threatening efforts to deal with severe droughts or disasters like earthquakes.

The court case, which started Aug. 21 in Fresno, was an attempt to establish temporary guidelines for the protection of the 2- to 3-inch-long, silver-colored fish, which is listed as threatened under the Endangered Species Act. Once plentiful in the delta, the fish have been dying in large numbers over the past few years. The pumps are blamed, as is pollution from farms and cities and other factors.

The environmentalists, led by the Natural Resources Defense Council,

were pitted against state and federal water brokers and their contractors. At stake was not only a rare species of fish uniquely adapted to the delta's shifting currents and brackish water but also the drinking water for 25 million Californians and irrigation for 750,000 acres of cropland.

The ruling came after more than a week of expert testimony. In his decision issued from the bench, Wanger did not prohibit pumping. Instead, he required state and federal water officials to maintain sufficient water flow by reducing pumping or releasing more water upstream to prevent the smelt from being sucked into the pumps.

The complicated ruling set water flow targets from late December through June, the primary spawning season when young smelt are in particular danger of being sucked into the pumps. It could mean up to 35 percent less water for the state, according to officials from the state Department of Water Resources.

The decision is meant to be effective for about a year, after which federal wildlife officials are expected to issue their own decision on how to protect the smelt. But experts said there is no reason to expect that decision will free up more water.

Some environmentalists said it didn't go quite far enough.

“It’s not as protective as we would have liked, but we’re pleased that the government will be taking some measures to protect the smelt,” said Kate Poole, one of the lawyers for the National Resources Defense Council. “It’s a step in the right direction to restoring the delta. It’s not clear whether this will protect the smelt and prevent its extinction.”

Jerry Johns, the deputy director of the Department of Water Resources, said the ruling might not have been as severe as environmentalists wanted, but it was harsh. Selling water around the state will be more difficult now that the delta pumps can’t work as hard, he said.

“The ability to move water across the market is greatly limited here because the delta can’t perform,” he said.

The water fight started in 2005 when environmentalists sued the U.S. Fish and Wildlife Service after the agency issued an opinion saying that the federal and state water projects would not jeopardize the delta smelt.

The plaintiffs said the pumping plants were primarily responsible for a drastic decline in the number of smelt in the delta.

In May, Wanger ruled against federal authorities, essentially ordering the government to establish new guidelines to protect the fish. The state Department of Water Resources

and the Fish and Wildlife Service now are attempting to come up with a new “biological opinion” - a conclusion about the impact the jointly operated water projects have on the fish species.

Such biological opinions are required under the Endangered Species Act. The latest hearing was to determine what measures should be taken to protect the fish until that opinion is completed in about a year.

The fact that the delta smelt is unique to the delta’s vast network of channels, islands and marshes makes it a crucial gauge of the ecological health of the region. The species adapted over the eons to the brackish water, varying currents from converging rivers and flooding that has historically inundated the valley.

Smelt swim only in bursts to get to locations where they can drift with the currents and feed, according to experts. They live for about a year, spawn and their larvae then drift down to Suisun Bay, where they grow and repeat the cycle.

Over the past four or five years, experts have noticed a precipitous drop in the number and range of the smelt, historically the most common fish in the delta.

Peter Moyle, a professor of fisheries at UC Davis, and Tina Swanson, the senior scientist at The Bay Institute,

testified during the hearing that the smelt appear to get confused in the south delta because the pumps actually change the direction of the current.

Moyle believes the delta smelt is on the verge of extinction. The fish is particularly vulnerable now, he said, because it is concentrated mostly in one area where a toxic spill or disaster of some sort could wipe them all out.

Lawyers for the state and federal governments and water contractors argued that the pumps are only a minor part of the problem and that other factors - like nonnative predatory species, toxic runoff, wastewater dumping and unregulated pumping from farmers - are the major culprits. They wanted the other issues studied and addressed before limits on pumping were put in place.

Environmentalists contend a limited water supply might impress upon the farmers the realities of global warming, thereby forcing them to grow more sustainable crops and install more efficient irrigation systems.