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## New push to save Delta smelt

Three groups petition for fish to receive 'endangered' status.

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Environmental groups are cranking up the pressure on state and federal officials to save the threatened Delta smelt after watching its population plunge over the past year.

On Wednesday, three groups petitioned the U.S. Fish and Wildlife Service to upgrade the tiny fish to "endangered" status. A fourth group warned the state Department of Water Resources on Tuesday that it will be sued unless it complies with the state Endangered Species Act.

State officials revealed at a legislative hearing in August that they have never had explicit authority as part of their Delta water export operations to kill smelt or any other protected fish under the state act. Instead, they said, that authority exists under a "patchwork" of other laws.

Thousands of smelt are killed ev-

ery year in the giant pumps that ship Delta water to Southern California.

"This is symptomatic of why the Delta is in such a perilous state," said Bill Jennings, executive director of the California Sportfishing Protection Alliance, which is bringing the action against DWR. "Those agencies charged with protecting the fish have simply ignored any state law that they disagreed with."

DWR Deputy Director Jerry Johns rejected Jennings' characterization of the issue, but said his department will not obtain the state Endangered Species Act permit Jennings' group is seeking, likely setting the stage for a lawsuit.

Johns said the department is covered under other state laws.

"We've talked about a patchwork. We're trying to make a better quilt out of it," Johns said.

"The key is to comply with the intent of the legislation, and we think we've done that."

The smelt is a finger-length, translucent fish native to the Sacramento-San Joaquin Delta. It is considered a key indicator of the Delta's health because it lives for only one year and thrives in a narrow range of water conditions.

In addition to the smelt, three other Delta fish are declining: striped bass, threadfin shad and longfin smelt.

Scientists have been at a loss to explain the declines. In December, after six months of research, they narrowed the list of culprits to two broad factors: hostile water quality in Suisun Bay, a vital breeding ground for many fish, and the influence of water management in the Delta.

The Bay Institute, the Natural Resources Defense Council and the Center for Biological Diver-

city filed the petition to change the smelt's federal status to "endangered." Their petition to the U.S. Fish and Wildlife Service asks for an emergency decision.

An annual fall survey of the smelt population, done regularly since 1967, showed that the fish population plunged to a new historic low in 2005.

"There's growing scientific evidence that the species is in imminent risk of extinction," said Tina Swanson, senior scientist at the Bay Institute. "It's really clear to us that our ongoing management and protection of Delta smelt habitat is insufficient."

Fish and Wildlife Service spokesman Al Donner said the petition would get "full consideration."

Just last week, the agency announced it was already re-evaluating the smelt's listing status as part of a recovery plan update for the species.

Under the law, "endangered" status means the species is at risk of becoming extinct, and it can require more rigid protections. The smelt's current "threatened" status means it could become endangered.

The service normally has 90 days to review a listing petition and 12 months to rule. Those deadlines are waived under an emergency petition, and the service can change a species' status immediately upon reviewing it.