



## BAY DELTA:

### Groups bombard Calif. agency with lawsuits over tunnel plan

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California's attempts to revamp the hub of its water delivery system are drawing lawsuits from all sides, with five suits filed in recent days against a state agency that approved the plan.

Environmentalists, property owners and local water agencies are targeting a state agency's approval of a plan for the Sacramento-San Joaquin River Delta that would allow the construction of underground tunnels to take water from the delta and send it south to agricultural and urban users.

The Delta Stewardship Council unanimously approved its "Delta Plan" on May 16, setting out "co-equal goals" of ecosystem restoration and ensuring the reliability of the delta system, which supplies water to 25 million people, farms and natural systems. It paves the way for the state and federal governments' approval of the \$14 billion tunnels, slated to happen as part of a larger, \$24.5 billion Bay Delta Conservation Plan that includes habitat restoration for species within the fragile delta, including the threatened delta smelt and chinook salmon.

Three suits were filed against the plan yesterday, the last day to sue under the California Environmental Quality Act's one-month statute of limitations: one suit by environmental groups including the Center for Biological Diversity, Friends of the River and the California Sport-fishing Protection Alliance; one by property owners around the delta; and one by two delta-area water agencies that supply water to about 250,000 acres of farms.

The delta-area residents, agencies and environmentalists are arguing that the council has failed to exercise the authority over the delta granted to it by the Legislature in 2009, instead "convert[ing] the Delta Plan into little more than a rubber stamp for the massive and controversial water diversion project known inaptly as the Bay Delta Conservation Plan while leaving the Bay-Delta ecosystem without protection," as the property owners' suit says.

Water deliverers farther south are also suing but arguing the opposite -- that the council is overreaching and potentially jeopardizing the conservation plan, by assuming that it will reduce reliance on delta water.

The State Water Contractors, a group of 27 public water agencies that deliver delta water statewide, filed suit Friday, echoing a lawsuit filed May 24 in Sacramento Superior Court by the Westlands Water District, which supplies irrigation water to about 600,000 acres of farmland in the San Joaquin Valley.

“As it currently stands, the Delta Stewardship Council’s Delta Plan goes well beyond its intended scope,” said Terry Erlewine, general manager of the State Water Contractors.

One of the environmental plaintiffs accused the contractors of using the courts to create a false impression that the plan is universally reviled -- and thus a good attempt at consensus.

“The reason the water contractors have sued is to create that false impression that all sides are dissatisfied,” said Bob Wright, senior counsel for Friends of the River. “I think it’s brilliant strategy on their part, it’s extremely clever. It’s also totally false. They are getting everything they want from the state.”

The contractors denied the strategy. “We mean what we said in our filing,” said Westlands Deputy General Manager Jason Peltier.

The Delta Stewardship Council, which was created by the Legislature in 2009 expressly to resolve the state’s long-standing delta issues, stood by its plan. “We’re disappointed that so many have turned to the courts to reargue issues that were resolved in the Legislature and before the Council,” Executive Officer Chris Knopp said in a statement, adding that the Delta Plan should not be conflated with the BDCP, “at least for now.”

“The Delta Plan does recommend swift and successful completion of BDCP because it includes key elements to improve the Delta,” he said. “We believe that actual accomplishment and progress is what’s required to change the status quo, and the flexible nature of the Delta Plan is a preferable option to the litigation and inaction that California has endured for the past 50 years.”

Michael Jackson, an attorney for the environmental groups, said he expected the lawsuits would be coordinated within one court in the next 60 days.