

Suit to get Kern Water Bank returned to state

Kelly Zito, San Francisco Chronicle, 7-12-10

Control of California's largest underground water bank was illegally bestowed on a handful of private, wealthy agriculture and real estate companies in the 1990s, according to a group of environmentalists, sport fishermen and delta farmers.

Now, as the Golden State grapples with an aging water network, declining fish species and climate change, a lawsuit argues that the Kern Water Bank should be returned to the state agency that bankrolled it.

"In times of drought, (the water bank) is a dry-day fund that means we don't have to shut people's taps off during drought," said Adam Keats, senior attorney with the Center for Biological Diversity, one of five groups that filed the lawsuit July 2 in state superior court in Kern County. "But rather than protect key populations, it's increasing the profit potential for a small group of water barons in Kern County."

The Kern Water Bank, a vast system of wells, pipelines and underground cisterns spread over 20,000 acres in the southern San Joaquin Valley, was developed as a key surplus reservoir by California in the late 1980s. After sinking about \$75 million into the bank, however, the state handed it over to the Kern County Water Agency in 1995 in exchange for water rights to 45,000 acre-feet of water, or enough to supply 90,000 households for a year.

That same year, a public-private partnership called the Kern Bank Water Authority was formed among four water districts and one private company, Westside Mutual Water Company.

Today, the lawsuit argues, about 84 percent of the water bank is effectively in the grip of two mammoth businesses: Paramount Farms, an agricultural holding company that owns Westside and is controlled by Los Angeles billionaire Stewart Resnick; and Tejon Ranch Company, a real estate firm proposing a resort, 3,500-home development and shopping center in the Tehachapi Mountains.

While the Tejon Ranch proposal marches forward and Paramount Farms - the largest grower of almonds and pistachios in the world - grows apace, dry spells brought on by climate change and environmental restrictions on water pumping are likely to mean water shortages for most other cities and farmers in the state, the plaintiffs contend.

At the same time, Gov. Arnold Schwarzenegger and many large water agencies have voiced support for new dams and reservoirs.

Officials with Kern Water Bank Authority, Paramount Farms and Westside Mutual Water Company did not return calls seeking comment. Attorneys with the state Department of Water Resources are reviewing the lawsuit.

Officials with Tejon Ranch referred comment about the content of the lawsuit to the Kern Water Bank Authority. But Tejon Ranch spokesman Barry Zoeller indicated the legal action came as no surprise given the Center for Biological Diversity's long-held opposition to the development. The group maintains that building on the site will destroy critical California condor habitat.

"The center... has been at this for a long time," Zoeller said. "I expect them to continue."

This month's lawsuit was the second filed by the coalition this year over the so-called "Monterey Plus Amendments," measures enacted in 1995 that changed some aspects of how the state manages the water network supplying about 25 million people and 750,000 acres of farmland.