

Delta water rivals to work on compromise

Offer to talk targets delta pumping limits

John Ellis, Fresno Bee, 5-29-10

The federal government and its environmental allies agreed Friday to try to reach a compromise with water users over the contentious issue of just how much water should be pumped from the Sacramento-San Joaquin Delta through the end of June.

Tom Birmingham, general manager of the Westlands Water District, made the offer on behalf of urban and agricultural water users during a short hearing before U.S. District Judge Oliver W. Wanger. The proposal to talk involves pumping restrictions that protect the threatened delta smelt.

But if talks fail, Birmingham said in an interview that he is prepared to convince Wanger that delta pumping restrictions designed to help endangered smelt should be temporarily lifted.

"We believe the evidence indicates an injunction would not put these species at risk," he said.

Environmentalists are willing to seek compromise, but they, too, feel they can make a good case to Wanger that current pumping restrictions in place are necessary to protect the tiny fish.

Friday's federal court hearing came after Wanger issued a Thursday ruling that found flaws in the current smelt management plan. The ruling was a victory for water users and a setback to environmentalists.

Wanger's ruling found that water officials must consider humans along with the smelt in limiting use of the delta for irrigation and urban use. The judge also found that water users made convincing arguments that the federal government's science didn't prove that increased pumping from the delta imperiled the smelt.

"Overall, we're disappointed by the court's ruling this week, but we feel the [smelt] protections are justified," said Doug Obegi, an attorney with the Natural Resources Defense Council. "Ultimately, we feel we will be vindicated."

This week's smelt decision had many similarities to one issued last week on endangered salmon, which also ended in a victory for the water users.

The Friday hearing was scheduled to hear a request by water users to temporarily halt pumping restrictions designed to help the smelt survive. If Wanger lifted the restrictions, it would mean more water would be pumped from the delta between now and June 30.

Instead, the two sides will talk. They will report back to Wanger next week. If an agreement can't be hashed out, a hearing on the pumping levels likely will be convened.

If it comes to that, around 150,000 acre feet of water will hang in the balance.

Wanger's decision last week to temporarily lift delta pumping restrictions that help endangered salmon meant an extra 200,000 acre-feet of water for west-side agriculture.

But restrictions designed to protect the smelt -- which had been on the back burner because they are less restrictive than those covering the salmon -- moved to the fore after Wanger's salmon decision.

Those smelt restrictions are currently in place, but due to high water flows on the San Joaquin River and two of its delta tributaries -- the Old and Middle rivers -- the pumping cutbacks have not been triggered. But as the San Joaquin flows decrease, it could trigger pumping restrictions.

In fact, Birmingham has said, the smelt pumping restrictions could wipe out every drop of water gained by the salmon ruling.

Birmingham said Friday that water users have evidence that the smelt are currently in parts of the delta that are "well beyond the influence of the pumping plants."

Ultimately, water users want both the smelt and salmon management plans rewritten so they strike more of a balance between fish and people. That may happen, environmentalists concede, but there will be no return to the kind of pumping levels seen several years ago.

"We will not be going back to the Wild West of 2003-2004," the NRDC's Obegi said. "We may tinker around the edges [of the plans], but fundamentally we do need to reduce our reliance on the delta."