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Lawsuit Challenges Destructive Delta Tunnels Project in California

SACRAMENTO, *Calif.*— A coalition of conservation groups today sued the California Department of Water Resources over its approval of the controversial Delta tunnels project.

The lawsuit was filed in Sacramento Superior Court by AquAlliance, California Sportfishing Protection Alliance, California Water Impact Network, Center for Biological Diversity, Center for Food Safety, Friends of the River, Friends of Stone Lakes National Wildlife Refuge, Planning and Conservation League, Restore the Delta, Save Our Sandhill Cranes and Sierra Club California.

“Once again Big Ag in the San Joaquin Valley has come begging for more corporate welfare,” said Adam Keats, a senior attorney at the Center for Food Safety. “Only this time it’s at an obscene scale, with tens of billions of dollars to be pilfered from the people’s pockets, an entire ecosystem driven to collapse, and incredible harm caused to the Delta farming economy and California’s sustainable salmon fishery.”

The suit challenges the proposal to build two 35-mile-long tunnels to siphon water from the Sacramento River and San Francisco Bay-Delta to send to Southern California, which could cost up to \$67 billion. The project would increase extinction risk for several endangered species and potentially devastate Delta farmers, Sacramento Valley communities and fishermen throughout the region.

“This project no doubt sets the all-time record for the combination of environmental destruction and economic waste threatened by a single California public-works project,” said Bob Wright, senior counsel for Friends of the River.

The project’s approval violates the state’s environmental review law, as well as laws and policies intended to fairly allocate water resources and preserve salmon and other natural resources. The agency’s flawed and misleading environmental impact report for the project failed to consider alternatives to building the tunnels.

“The environmental impact report is an 80,000 page omelet of distortion and half-truth pretending that massive water diversions won’t harm this severely degraded estuary,” said Bill Jennings of the California Sportfishing Protection Alliance. “The Delta has

already been deprived of most of its natural flow. This project would push native fisheries into extinction and significantly diminish the quality of water to farmers, municipalities and the environment.”

The Department’s project approval is one of a number of hurdles the tunnels project must clear before construction. The county of Sacramento and cities of Antioch and Stockton filed separate lawsuits last week against the state water department’s approval. Conservation and fishing groups have already filed two lawsuits challenging flawed federal Endangered Species Act permits for tunnel construction. Challenges are likely against issuance of state endangered species permits, the inadequate federal environmental review, additional permits from federal wildlife agencies, wetlands fill permits and water-rights changes.

“Californians aren’t going to sit back and let this multibillion-dollar boondoggle destroy the Bay-Delta ecosystem and what’s left of our salmon runs,” said Jeff Miller at the Center for Biological Diversity, one of the groups suing. “This Southern California water grab would be an economic and ecological nightmare for everyone.”

The two giant Delta tunnels, both expected to be as wide as a four-story building is tall, would withdraw enormous amounts of freshwater from the Sacramento River to pumping plants in the South Delta. The tunnels could divert up to 15,000 cubic feet per second, on top of diversions from the existing Delta pumping facilities of the Central Valley Project and State Water Project.

“DWR’s project won’t create new water, but will create huge environmental and economic damage,” said Kathryn Phillips, director of Sierra Club California. “It’s irresponsible for the agency to not consider alternatives that are more responsible.”

The water diversions would significantly degrade environmental conditions in the Delta by reducing flows, increasing salinity, damaging the food web and promoting harmful algal blooms. They would prevent flows needed for fish habitat and water quality, during critical life stages for protected fish species including chinook salmon, steelhead trout, green sturgeon, and delta and longfin smelt. Transmission lines associated with the tunnels project are also likely to harm and kill greater sandhill cranes, in violation of California’s “fully protected species” statutes.

Background

The complaint states that the project approval violates the California Environmental Quality Act, Delta Reform Act, California’s “Fully Protected Species” statutes and California Public Trust Doctrine.

The Department of Water Resources ignored project alternatives even though the California Environmental Quality Act requires consideration of a range of reasonable alternatives, and conservation groups repeatedly called for analyses of alternatives that would increase freshwater flows and reduce water system reliance on Delta water through recycling, conservation and water use efficiency. Despite demands from the

public that a new environmental review be prepared, the Department certified the flawed review and approved the project on July 21, 2017.

The 2009 Delta Reform Act mandated state water-policy reforms intended to solve the decades-long conflict over California's water resources and saving endangered salmon runs. The tunnels project violates the Act's "coequal goals" of providing a more reliable water supply while protecting the Bay-Delta ecosystem. A required conservation plan has been abandoned, and the tunnels are now simply a water diversion project.

The state's water department has never attempted to determine the water flows necessary to recover the Delta ecosystem. The Act prohibits construction of new Delta water conveyance facilities unless the beneficiary water users pay for all costs, but it was recently revealed that the tunnels would require a \$6.5 billion taxpayer subsidy. The Department concealed its own economic analysis showing that a subsidy would be required.

The California Sportfishing Protection Alliance is a conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats.