



AQUALLIANCE

DEFENDING NORTHERN CALIFORNIA WATERS

Embargoed Until 9 AM, September 7, 2010

Contacts: Michael Jackson, Attorney for Plaintiffs (530) 283-0712, (530) 927-7387 (cell)
Carolee Krieger, C-WIN (805) 969-0824
Bill Jennings, CSPA (209) 464-5067, (209) 938-9053 (cell)
Barbara Vlamis, AquAlliance (530) 895-9420, (530) 519-7468 (cell)

C-WIN, CSPA & AquAlliance File Comprehensive Lawsuit to Protect Delta Public Trust Fisheries by Enforcing State Water Laws

The California Water Impact Network (C-WIN), the California Sportfishing Protection Alliance (CSPA) and AquAlliance filed a public trust lawsuit in Sacramento County Superior Court to protect Delta fisheries and water quality from excessive Delta pumping.

"The voters of California passed a constitutional amendment in 1928 to ban wasteful water use and harmful diversions from streams," said attorney Michael Jackson of Quincy who represents C-WIN, CSPA and AquAlliance in this case. "We intend to show the court how DWR and the State Water Board have not complied time and time again, and to persuade the court to end DWR's illegal and excessive water exports from the Delta."

"We can no longer stand by while the State Water Board gives a wink and a nod to DWR's illegal Delta pumping," added Jackson. "If we don't act immediately, our historic salmon runs will be lost forever."

The lawsuit charges that the State Water Resources Control Board (SWRCB) and the California Department of Water Resources (DWR):

- Fail to protect public trust fishery resources
- Divert water from the Delta wastefully and unreasonably
- Use water from the Delta wastefully and unreasonably
- Fail to enforce and comply with the State's water quality laws
- Fail to enforce and comply with the flow and water quality requirements of SWRCB's water rights decision 1641, adopted 10 years ago
- Fail to comply with the narrative fish doubling standard in the SWRCB's 1995 Water Quality Control Plan

Specifically, the six-count lawsuit charges that the huge state export pumps near Tracy in the south Delta kill thousands upon thousands of Delta smelt, young salmon and other species every year, at different times of year, and are the main threats to public trust resources in the Delta. Even a recent Delta flow report adopted by the State Water Board acknowledged that more fresh water flows into and out of the Delta to the Bay are needed for fish and other species to recover.

"California's regulation of its public trust resources and water quality is remarkably similar to federal regulation of the financial and real estate markets. Regulators in both cases went AWOL. The public is left with collapsed fisheries, bankrupt aquatic ecosystems and toxic waters for the taxpayers to clean up" said CSPA Chairman and Director Bill Jennings. "The complete failure of the State Water Resources

Control Board to enforce its own laws, regulations and decisions has left us with no alternative but to turn to the courts to prevent the total loss of our historic fisheries.”

“The State Water Board consistently submits to political pressure to avoid enforcing the law” added Jennings. “They make their decisions based on politics, not science and law.”

“This is the Delta watershed’s version of the Mono Lake case of the 1970s and 1980s,” said Barbara Vlamis, Executive Director of AquAlliance in Chico. “These two state agencies charged with protecting California’s public trust resources must be forced to comply with the law. They have consistently demonstrated that they are incapable of enforcing existing law and protecting the public trust.”

DWR increased its water exports since 2000 by 53% over the average of 2.1 million acre-feet it exported in the decade of the 1990s. Meanwhile, Delta fish populations of salmon, striped bass, Delta smelt, and other listed and unlisted species collapsed, despite runoff in 2006 reaching 173% of normal. Much of the increase in exported water is labeled as “excess” by DWR and exported from the Delta as “surplus” under Article 21 of the amended State Water Project contracts, and is largely used to further development, water banking, and water transfers. The plaintiffs recently filed a separate lawsuit challenging the State Water Project contracts known as “Monterey Plus Agreements.”

“Our state government continues to turn a blind eye to the public trust and the State constitution,” said Carolee Krieger, president and executive director of C-WIN. “We have no choice but to petition the court to force the State Water Board and DWR to comply with State water laws and the State constitution.”

“We must stop the carnage in the Delta now,” added Krieger. “Our state government has utterly failed to enforce the public trust and follow the California constitution. It will take lots of people all over California to protect the Delta’s public trust resources as was done for Mono Lake,” she added.

###

For more information on the lawsuit, see
<http://www.c-win.org/press-room-delta-public-trust-lawsuit.html> and
<http://www.aqualliance.net/pressroom.html>

The California Water Impact Network promotes the equitable and environmental use of California's water, including instream uses, through research, planning, public education, and litigation.
www.c-win.org

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

AquAlliance was founded in 2010 to protect waters in the northern Sacramento River’s watershed to sustain family farms, communities, creeks and river, native flora and fauna, vernal pools, and recreation.
www.aqualliance.net.