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**CSPA Continues to Challenge the Proposed Sites Reservoir
Despite Adverse Court Ruling**

On May 31, 2024, CSPA, Friends of the River, Center for Biological Diversity, California Water Impact Network, and Save California Salmon received an adverse ruling on their challenge to the proposed Sites Reservoir's Environmental Impact Report (EIR). The court found the EIR to be legally adequate.

CSPA and allies filed an appeal of the court's decision on June 19, 2024.

On December 19, 2023, CSPA and its allies had sued the Sites Project Authority, challenging its certification of the Final EIR for the Sites Reservoir Project and required findings under the California Environmental Quality Act (CEQA).

CEQA requires an EIR to consider a reasonable range of alternatives that reduce or avoid

environmental degradation. The Sites Authority's EIR fails to consider alternatives that would protect fish and wildlife. The EIR only considers one operational alternative which takes too much water from the Sacramento River.

CSPA's Chris Shutes said in response to the ruling, "The Court allowed Sites to reject as "infeasible" any alternatives that would better protect fish and wildlife. The diverters get to divert and the fish get to suffer. This project should not be built."

Separate regulatory hearings held by the State Water Resources Control Board (State Water Board) began on April 10, 2024. These hearings will determine if the State Water Board should issue the Sites Reservoir Project a water rights permit. These hearings will last over the summer and fall of 2024.

CSPA is involved in this regulatory process and necessary litigation every step of the way, working to protect California's fisheries from massive new diversions of the Sacramento River to this destructive reservoir.

Sites Reservoir must be stopped.

Help CSPA show up day after day and win this battle with a donation and/or by becoming a member of CSPA today!

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Photo: Close up of California white sturgeon, CDFW, public domain.

White Sturgeon One Step Closer to Being Listed as Threatened

On June 19, 2024, California Fish and Game Commission (Commission) unanimously approved white sturgeon as a candidate for threatened species status. The California Department of Fish and Wildlife (Fish and Wildlife) must now conduct a review and decide whether to list the white sturgeon as threatened or endangered. This means effective immediately, white sturgeon are protected under the California Endangered Species Act (ESA) until Fish and Wildlife makes its decision.

The Commission's decision was made in response to a petition made by San Francisco Baykeeper, CSPA, the Bay Institute, and Restore the Delta in November 2023. CSPA and allies petitioned the Commission to list the state's white sturgeon as "threatened" under the California ESA.

The coalition also petitioned United States Secretary of the Interior Deb Haaland and the U.S. Fish and Wildlife Service to list California's white sturgeon as threatened under the federal ESA.

Insufficient freshwater flows in the Delta and its tributaries have led to low rates of successful white sturgeon reproduction. Algal blooms and poor water quality, especially in the Bay, threaten remaining adult white sturgeon. In these conditions, the white sturgeon population is highly sensitive to overharvest. The Commission's decision means that anglers who catch white

sturgeon must release them until the Commission makes a decision on possible exemptions in August.

Speaking on the proposed listing, CSPA's Chris Shutes said, "Bad water management is devastating California's fisheries, and people who fish are left to shoulder far too many of the consequences." Yet he maintains some hope: "There's still a chance for sturgeon to be plentiful and rebound."

State Water Board Fast Tracks Proposed Delta Tunnel Water Rights Hearings

On June 14, 2020, the State Water Resources Control Board (State Water Board) released a notice advising the public that it has scheduled a pre-hearing conference for water rights petition made by the Department of Water Resources (DWR) for the "Delta Conveyance Project," also known as the Delta tunnel. This action by the State Water Board is premature and does not follow correct procedural order.

The pre-hearing conference would be the first step in a series of hearings during which the State Water Board, Delta counties, non-governmental organizations, and others will test the merits of DWR's water rights petition. The State Water Board scheduled the pre-hearing conference for August 13, 2024.

On June 27, 2024, lawyers for the County of Contra Costa and other protestants of DWR's water rights applications submitted a letter to the State Water Board to request that it follow proper procedural order and refrain from conducting a pre-hearing conference until DWR makes a good faith effort to resolve protests. The deadline for DWR to make such an effort is November 12, 2024, three months after the scheduled pre-hearing conference.

In March 2024, CSPA and allies submitted a similar letter to the State Water Board requesting that it resolve the protests of CSPA and others of a petition for extension of time submitted by the DWR in 2009. DWR has not resolved these longstanding protests, and the State Water Board has not acted on DWR's 2009 petition.

The State Water Board's scheduling of the pre-hearing conference for the proposed Delta tunnel would give DWR and the state preferential treatment in their mission to fast-track another big water development project.

The pre-hearing conference for the Delta tunnel would overlap with hearings on the water rights applications for the proposed Sites Reservoir. These simultaneous hearings will put enormous strain on the resources of CSPA and others protesting both the proposed Delta tunnel and Sites Reservoir.

The proposed Delta tunnel has the potential to create significant harm to fish and wildlife in the Bay-Delta and Sacramento River. The proposed tunnel would also harm Delta agricultural communities.

Though the timing of the State Water Board's proceedings on the water rights for the proposed Delta tunnel are unfavorable, CSPA will continue to vigorously challenge the disastrous Delta tunnel project.



Merced ID Continues its Attempts to Avoid Compliance with the Clean Water Act and CEQA

On June 27, 2024 CSPA and allies submitted a [letter](#) to Merced Irrigation District (Merced ID). The letter was written in response to Merced ID's recent Notice of Intent (NOI) to rely on the Final Environmental Impact Statement (FEIS) produced by the Federal Energy Regulatory Commission (FERC) in 2015 for the relicensing of the Merced River Hydroelectric Project and Merced Falls Hydroelectric Project (Projects).

Merced ID's decision to rely on FERC's



CSPA Submits Protest on Yuba Water Agency's Petition for Long-Term Transfer

On June 28, 2024, CSPA and allies filed a [protest](#) of a Yuba Water Agency's (YWA) petition to extend its transfer of up to 200,000 acre-feet of water annually through December of 2050. CSPA and allies filed the protest with the State Water Resources Control Board (State Water Board) on the grounds that granting YWA's petition would not best serve the public interest and would have an adverse environmental impact. Specifically, granting YWA's petition would have a detrimental impact on

FEIS is a continuation of its efforts to avoid compliance with California Environmental Quality Act (CEQA) requirements and Section 401 of the Clean Water Act. The environmental standards required by the Clean Water Act are more stringent than those applied by FERC.

In May 2024, the State Water Board set aside for procedural reasons the joint water quality certification (certification) for the Projects. The Board acted following a lengthy battle in federal courts with Merced ID and other water agencies that successfully defended the State Water Board's authority to issue certifications as part of the FERC relicensing process.

Merced ID must produce an environmental review document under CEQA as part of the new certification process.

FERC's FEIS issued under the federal National Environmental Policy Act (NEPA) does not satisfy CEQA requirements. Merced ID proposes a supplement to FERC's FEIS, but the proposed scope of the supplement would not be adequate to support the State Water Board's certification process. CSPA and allies call upon Merced ID to expand the scope of the CEQA analysis to cover the update of the Bay-Delta Plan. CSPA and allies also call out the need for analysis of new information known since 2015 regarding native fish species in the upper Merced River and the fact that the lower Merced River has run dry in four out of the last 10 years.

water quality and fish populations in the Yuba River and the Bay-Delta.

Since 2008, YWA has been permitted to transfer up to 200,000 acre-feet of water annually. The majority of this water is transferred to State Water Project (SWP) and Central Valley Project (CVP) contractors. Some water is also transferred to East Bay Municipal District (EBMUD) and Contra Costa Water District (CCWD).

The protest cites evidence that demonstrates adverse impacts YWA's transfers have had on fish populations and water quality since 2008. This evidence includes the well documented long-term decline of wild Chinook salmon populations, both in the Yuba River and in the greater Bay-Delta watershed.

YWA's transfers to the SWP and CVP contractors contribute to the long-term decline of native fish species for several reasons. YWA stores water in the spring when salmonids need high volumes of cold water the most. Transfers occur in years when water quality standards in the Delta are not being met. In addition, SWP and CVP intake facilities in the south Delta kill thousands of fish every year due to inadequate fish screens and "reverse flows" that misdirect fish.

The protest urges the State Water Board to incorporate conditions to protect fisheries and water quality into any approval of YWA's petition.

Specifically the protest calls for:

- A prohibition on transfers in years when Delta water quality standards

A complete CEQA document for these Projects must also include proposed mitigation measures. CEQA requires mitigation of significant impacts where feasible. NEPA requires only disclosure of significant impacts.

CSPA has been involved with FERC relicensing of California's hydroelectric projects for over three decades. CSPA works to ensure that the state's hydroelectric projects are managed to protect fisheries, aquatic habitat, and public health. CSPA has also worked particularly hard over the last five years to defend the state's authority to place conditions on hydroelectric projects under Section 401 of the Clean Water Act.

Photo: Lake McClure formed by New Exchequer Dam on the Merced River, Wikicommons, public domain."

are not being met.

- Prioritization of transfers to EBMUD and CCWD. These district's intake facilities have better engineered fish screens that kill far less fish.
- Reduction of the maximum annual contracted transfer volume to 100,000 acre-feet.

Photo: New Bullards Bar Reservoir, May 2024, Sara Nevis, California Department of Water Resources, public domain.

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