

Sacramento Bee
Editorial: A Delta water crisis?
March 27, 2007

A lone judge in Alameda County is threatening to shut down the water pumps in the Sacramento-San Joaquin Delta that sustain 18 million Southern Californians and millions of acres of agriculture.

Judge Frank Roesch's tentative ruling, which would give the state 60 days to comply, is fairly simple. Of all the paperwork on file at the Sacramento headquarters of the State Water Project (operator of the Delta pumps), there is not the "incidental take" permit that clearly shows compliance with the state Endangered Species Act.

No permit, no pumping, is Roesch's logic.

It is unlikely that the water pumps, the largest in the nation, will soon fall silent because of the court ruling. But the very possibility is enough to cause a political tsunami throughout the system. Developments throughout Southern California are based on a legal foundation that the State Water Project is a lawful, reliable source of supply. All kinds of business interests typically indifferent to Delta issues are about to become very interested. They will find that the Delta's stakeholders are in the early stages of considering anew how to manage the estuary. This lawsuit puts even more pressure on that process to be successful.

Roesch's ruling came from a lawsuit by a sports fishing group seizing on a not-so-small legal technicality with the species act. The state simply couldn't answer to Roesch's satisfaction a basic question: Where is the one permit that shows compliance with California's premiere environmental law? The state offered Roesch other paperwork -- various programmatic environmental impact statements, accords and operating agreements -- but not the permit. A mountain of good intentions does not necessarily add up to compliance.

How could this happen? Two state agencies are at play here. The California Department of Fish and Game protects endangered species and issues the incidental take permits. The Department of Water Resources runs the State Water Project. Roesch was quite public in his frustration that Fish and Game officials were absent from his courtroom and unable to answer his questions. If he is forcing these two agencies to work together, good.

Looking ahead, another lawsuit is challenging the environmental paperwork of the federal government's Delta pumps. The pumps are part of the Central Valley Project that sustains millions of acres of San Joaquin Valley agriculture. Plaintiffs, who include environmental groups, say the environmental compliance process was rife with controversy. Don't be surprised if this water project faces a similar court problem in the weeks and months ahead.

Meanwhile in the Delta, the estuary suffers from a complicated web of problems that researchers don't fully understand. Pumping is a factor along with numerous invasive species, levee instability, rising sea levels, changes in the food chain and other factors. The physical solutions aren't fully vetted yet. But the current system isn't working. And when it comes to water pumping, there seem to be only two basic ways to isolate the pumping's effects on the Delta. Either the existing pumps pull less water (perhaps a lot less) out of the system. Or a new set of pumps could send water around the Delta rather than through it -- the long-controversial Peripheral Canal.

It is too soon to embrace any one solution. Agencies and legislators, however, will be asked to rally behind a strategy by next year. For now, an exhaustive and impartial review of the viable options is vital.

Long-standing water problems tend to get solved when there is a crisis, a looming deadline and increasing discomfort on all sides in the debate. If we're lucky, the courts will help provide the necessary climate for consensus. But as the stakes rise, so does the chance that the Delta descends into chaos and drags a big chunk of the California economy along with it. No side in this challenge can overplay its hand.