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**STATE WATER CONTRACTORS SUE FEDERAL AGENCIES OVER FLAWED DELTA  
SMELT BIOLOGICAL OPINION**

*Biological Opinion Ignores Best Scientific Data and Other Causes of Fish Decline*

**Sacramento, CA** – The State Water Contractors (SWC) filed a lawsuit last night against the United States Department of the Interior and the United States Fish and Wildlife Service (USFWS), challenging regulatory restrictions placed on the state’s water operations. The restrictions were outlined in a biological opinion for Delta smelt, an endangered fish species that lives in the Sacramento-San Joaquin Delta (Delta), in December 2008. The biological opinion, or permit, set guidelines for State Water Project (SWP) and Central Valley Project (CVP) pumping operations out of the Delta and has significantly impaired the ability of the two projects to continue to deliver water to 25 million Californians and 3 million acres of farmland. The SWC, an association of 27 public water agencies, has requested that the court invalidate the biological opinion and order the defendants to revise it in accordance with the terms of the federal Endangered Species Act.

The lawsuit makes the case that in drawing up the Delta smelt biological opinion, federal agencies ignored the best scientific data available and other causes of the species’ decline. Scientists have identified several other probable causes of the smelt population decline. Invasive species and thousands of unscreened agricultural diversions in the Delta are upsetting the biological balance while toxic runoff from pesticides and wastewater treatment plant discharges that flow through Delta waters and nonnative predator fish, introduced for sport fishing, have altered the natural food web. These other significant sources of fish mortality are summarily dismissed in the biological opinion.

“Due to this biological opinion, we are not able to take advantage of the recent storms to improve our water supply: more than three billion gallons of water a day are passing by water project facilities right now. Without addressing the other threats to survival of the Delta smelt, it is unclear that pumping restrictions will provide any benefit to the fish,” said Laura King Moon, assistant general manager of the State Water Contractors. “The biological opinion does not provide reasonable or prudent measures for protection of the fish. We need to look at the whole picture, rather than just water project operations. Otherwise, the fish won’t get better and our customers will be forced to take extreme conservation measures for no good reason, with serious economic impacts to them and the state.”

The pumping restrictions imposed by the biological opinion have hampered public water agencies’ ability to access and deliver water to farms, businesses and residents throughout the state during wet periods, thereby hindering the state’s ability to withstand and respond to the ongoing three-year

drought. Right now, the biological opinion is costing those who depend upon the SWP about 8,000 acre feet of water every day. That is enough water to meet the needs of 40,000 to 50,000 people for a year. And that loss is occurring today, tomorrow and will continue for the foreseeable future.

“We’re doing everything we can to fight unnecessary, irresponsible restrictions because people are losing their businesses and jobs as a consequence of them,” added Moon. “We support effective protection of endangered species, but we need to be smart about how we do it. With the current economic crisis and drought situation, we need to look to comprehensive solutions rather than just pumping restrictions.”

At the center of the state’s water supply woes is the failing Delta – a critical estuary and the hub of California’s primary water delivery systems. Public water agencies, environmental organizations, and state and federal agencies are working together to develop a long-term solution. The Bay Delta Conservation Plan (BDCP), a comprehensive conservation plan for the Delta, will provide a basis for addressing the many threats to the Delta needed for fishery and ecosystem recovery, while finding a way to continue to deliver water to Californians throughout the state.

For a copy of SWC’s lawsuit, please contact Ann Newton at (818) 760-2121.

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*The State Water Contractors is a statewide, non-profit association of 27 public agencies from Northern, Central and Southern California that purchase water under contract from the California State Water Project. Collectively the State Water Contractors deliver water to more than 25 million residents throughout the state and more than 750,000 acres of agricultural lands. For more information on the State Water Contractors, please visit [www.swc.org](http://www.swc.org).*