

**\*\*\*Media Alert\*\*\***

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**Important Federal District Court Hearing on Delta Water Issues**  
**August 21 in Fresno**

To: Reporters Covering Delta Water Issues

FR: Coalition for a Sustainable Delta

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A federal district court in Fresno on Tues., Aug. 21, will hear arguments in a proceeding that has far-reaching implications for the 25 million residents, three million-plus acres of prime agricultural farmland, and thousands of businesses – from the Bay Area to southern California – that depend on the Sacramento-San Joaquin Delta for all or part of their water supplies.

The hearing is the latest development in complex state and federal litigation over the Delta smelt, a three-inch long fish that inhabits the Delta, which has pitted environmental and anti-growth groups against the water supply needs of roughly two-thirds of California's residents.

On May 25, 2007, the federal court held that the 2004 biological opinion the U.S. Fish and Wildlife Service issued for operation of the Central Valley Project (CVP) and the State Water Project (SWP) is unlawful. The court scheduled the Aug. 21, hearing in order to determine the appropriate remedy for the unlawful action in light of its earlier holding.

During the intervening period, the Fish and Wildlife Service and the Bureau of Reclamation began the process of developing a new biological opinion that is expected to be complete within a year.

After the Aug. 21 hearing, the court must decide whether to allow the CVP and SWP to continue to operate under the 2004 biological opinion until the Fish and Wildlife Service issues a new biological opinion, or vacate the biological opinion, which would require changes to the operation of the projects.

**The parties to the litigation have proposed a wide range of possible remedies for the court's consideration, from leaving the 2004 biological opinion in place to implementing a court supervised action plan that would result, according to the Department of Water Resources (DWR), in a decrease of**

*The Coalition for a Sustainable Delta is an ad hoc group of water users who depend on the delta for a large portion of their water supplies. The Coalition is dedicated to protecting the delta and is committed to promoting a strategy to ensure its sustainability.*

**water exports by over two million acre feet annually in an average year. That is equivalent to the water supplies needed to serve 4 million average households, or roughly 16 million of the state's residents.**

In July, in response to a request for an emergency injunction environmental groups filed that would have led to an indefinite and complete shutdown of pumping operations, the court ruled there was insufficient evidence to indicate that current CWP and SWP pumping operations would lead to the extinction of the Delta smelt. **Those same environmental groups are now back in the courtroom seeking draconian water delivery curtailments of over 3 million acre feet of water, or more than half of the entire SWP and CVP baseline deliveries.**

The court's July 2007 ruling is consistent with and reflects more recent scientific analysis that identifies and documents a number of other factors, or stressors, that are likely responsible for the smelt's continued decline. Leading state and federal biologists and independent researchers are increasingly pointing to multiple stressors – that, in combination, directly and indirectly affect the smelt and its primary food source – as the more plausible cause of the smelt's demise.

The following information was compiled to shed more light on the evolving and increasing bank of scientific knowledge that suggests that the Delta ecosystem is being impacted by a host of combined factors, not solely and simply the CVP and SWP.

The improved scientific understanding of what ails the Delta demonstrates the need to focus on previously unregulated contributors to the decline of the Delta ecosystem, including the Delta smelt, and also shows that additional efforts to shut down or further curtail CWP and SWP pumping operations proposed by environmental groups, will produce minimal ecological benefits, at best, while potentially causing catastrophic economic impacts.

**The packet includes the following:**

1. What the experts are saying
2. A summary of the factors that impact the Delta Smelt
3. Summary of potential water delivery reductions
4. Declaration of Dr. William (B.J.) Miller
5. Declaration of Dr. Bryan Manly
6. Court's identification of issues and subject matter for the hearing