



Press Release

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For Immediate Release

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State and Federal Water Projects Violate Standards: Delta Fisheries Plunge in Summer of 2013

Regulators look the other way; refuse to enforce the law

The state and federal water export projects continue to ignore regulatory requirements and Delta fisheries have again been hammered by excessive water exports. The California Department of Fish and Wildlife (DFW) has released the 2013 Fall Mid Water Trawl (FMWT) abundance indices of Delta fish. Fisheries continue to collapse. DFW also released the 2013 USFWS Delta Smelt Recovery Index, which failed to meet recovery criteria and restarted the five-year recovery period. To expedite water exports this summer, the Central Valley and State Water Projects violated water quality standards in the South Delta in June and July through 15 August and at Emmaton in April, May and June and at Jersey Point in June. Emmaton and Jersey Point are in the Western Delta. Additionally, the temperature compliance point on the Sacramento River was moved upstream from Red Bluff to Anderson, eliminating almost two-thirds of the river miles of spawning habitat for endangered winter-run chinook salmon. The State Water Resources Control Board (Water Board) informed the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Bureau) that it would not take any enforcement action for these violations.

The FMWT abundance indices reveal that populations of Delta fish are only a small fraction of their historical abundance before Delta water exports began. The indices for Delta smelt (7), striped bass (23), threadfin shad (70), and American shad (135) were the second, second, third and second lowest, respectively, in the 46 years of the survey. The index for longfin smelt (36) was comparable to the very low indices of recent years. In other words, Delta smelt, striped bass, longfin smelt, American shad and threadfin shad populations in 2013 have plummeted 98.9, 99.6, 99.7, 89.1, 98.1 percent, respectively, from the average of the initial six years of the survey (1967-1972). The splittail index was not released but the 2012 September-October index was zero. The federal Central Valley Project began exporting water from the Delta in 1956.

“The historical pattern and practice of violating regulatory requirements established to protect fisheries is outrageous,” said CSPA Executive Director Bill Jennings, “but the consistent failure by regulators and trustee agencies to enforce the law is simply incomprehensible and indicates a collaborative culture of noncompliance.” “The FBI would be investigating and the Justice Department prosecuting if a financial trust had ignored regulations over three decades and reduced trust assets by 99%,” he said adding “I can understand water agencies attempting to take water that doesn’t belong to them but I can’t understand the cops giving them the green light.”

The State Board has a long history of ignoring violations of Delta standards by DWR and the Bureau, despite the fact that the standards themselves are woefully inadequate. This year's violations are only the latest in a long series. For example, between 1987 and 1992, more than 247 violations of delta standards occurred without enforcement. South Delta standards have been violated for the last 18 years, since adoption of the 1995 water quality control plan. In the spring of 2009, the projects cannibalized a third of legally required Delta outflow for export. The Vernalis flow standards were violated in 2012.

An August 2013 CSPA report titled *Summer of 2013: the demise of Delta smelt under D-1641 Delta Water Quality Standards* detailed how the state and federal projects massacred Delta smelt by increasing exports five-fold in late June and dramatically reducing Delta outflow in early July causing the low salinity zone and Delta smelt to be drawn into the western Delta where they encountered lethal temperatures caused by a upstream reservoir releases coupled with high ambient temperatures. Another CSPA report titled *The Consequences of the End of VAMP's Export Restrictions* detailed how the 2013 Vernalis pulse flow on the San Joaquin River was exported via an unauthorized water transfer that avoided environmental review and killed salmon and Delta smelt. Of course, regulators have long ignored the massive stranding of fish drawn into irrigation channels of the Yolo Bypass and Colusa Basin and stranded to perish, as detailed in CSPA's July 2013 report titled *Colusa Basin Drain Fish Stranding and Rescues*. In 2013, National Marine Fisheries Biologists estimated that as many as half of returning endangered winter-run salmon were stranded.

The legal right to divert water from the Delta is conditioned on compliance with standards. DWR and the Bureau claimed that the violation of standards in 2013 was necessary to protect the cold-water pool behind Shasta Dam in order to protect spawning winter-run salmon. However, Shasta Reservoir storage was 89% of historical average only 55,000 acre-feet (AF) of water was saved in Shasta by failing to meet water quality objectives, according to their 21 August 2013 report. The projects exported more than that in each of the months they violated standards. Indeed, DWR exported some 826,778 AF and the Bureau exported 8,342 AF more than they had projected they would be able to deliver from the south Delta in 2013. That water could have been - should have been - used to comply with standards rather than being exported. Ironically, the Department of Interior (Bureau and U.S. Fish and Wildlife Service) gave away (i.e., didn't use and didn't store) some 451,000 AF of CVPIA water in 2011 that could have been stored for use in 2012 and 2013 to meet Delta standards and ensure sufficient cold water in Shasta Reservoir.

The State Board is in the midst of a multi-year, multi-phase proceeding to develop new Delta Standards that is already years behind in revising the 1995 standards, which by law must be updated every three years. "The existing and outdated standards are seriously inadequate," said Jennings, "but one must question the point of revising standards if they're simply going to be ignored."

The reports and information discussed in this release are either available on CSPA's website at www.calsport.org or by contacting Bill Jennings (contact information above).

The California Sportfishing Protection Alliance (CSPA) is a 501(c)(3) non-profit public benefit conservation and research organization established in 1983 for the purpose of conserving, restoring, and enhancing the state's water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats.