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Judge orders U.S. to revise salmon safeguards

Jurist also rules that a federal agency was justified in finding that exporting water from the Sacramento-San Joaquin River Delta jeopardizes endangered species.

By Bettina Boxall, Los Angeles Times

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A judge ordered a federal agency Tuesday to rewrite protections for migrating salmon that have reduced water shipments from Northern California, concluding that some of the pumping curbs were based on "equivocal or bad science."

But in a mixed ruling, U.S. District Judge Oliver Wanger also said that the National Marine Fisheries Service was justified in finding that government water operations that export supplies from the Sacramento-San Joaquin River Delta jeopardize dwindling populations of chinook salmon and several other fish on the endangered species list.

"Project operations negatively impact the listed species and adversely modify their critical habitat in various ways that remain incompletely described and quantified," Wanger wrote in a detailed 279-page decision replete with scientific graphs.

He added that some of the agency's "analyses rely upon equivocal or bad science" to impose pumping limits "without clearly explaining or otherwise demonstrating why" they are necessary. "The agency must do more to comply with the law."

The decision, which echoed one Wanger issued last year involving delta smelt protections, means federal biologists will have to reconsider restrictions they issued in 2009 to protect chinook salmon, steelhead and green sturgeon.

Central Valley irrigation districts, the Metropolitan Water District of Southern California and other water users affected by the pumping curbs have repeatedly challenged them in lawsuits that Wanger has presided over for years.

"The court got it right again," Tom Birmingham, general manager of Westlands Water District, said in a statement. "Those agencies now have an opportunity to make fundamental changes in the way they implement this law, and it is our hope that they take advantage of that opportunity."

Natural Resources Defense Council attorney Kate Poole, who represents environmental and fishing

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groups in the case, said it could be several more years before the fisheries agency issues new salmon protections. "That part of it is very disappointing to us" because the judge "has confirmed that the water projects jeopardize the existence of the species."

Tuesday's ruling will be Wanger's last major one in the delta wars. He is stepping down from the bench at the end of the month, leaving a record of increasing frustration in the matter. At a hearing last week in the smelt case, Wanger lashed out at two federal biologists for what he called their inconsistent testimony.

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