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## **LA Times - Delta Plan Is Dealt a Blow**

By Bettina Boxall, Times Staff Writer

The 5-year-old CalFed program, which governs California's single largest source of fresh water, the Sacramento-San Joaquin Delta, has been dealt a setback by a state appeals court that ruled that parts of the program's environmental review were inadequate.

The opinion, released late Friday, concluded that the review was too narrow because it failed to consider the effects of reducing water exports from the delta to Central and Southern California. The CalFed program was created to balance the state's water needs with protection of the delta, including its fish.

State officials were still reviewing the 224-page decision, but CalFed critics suggested the ruling opened the door to a fundamental rethinking of the program's plan to fix the delta's many environmental problems while simultaneously stepping up water deliveries.

"The implications are substantial," said longtime delta advocate Bill Jennings, chairman of the California Sportfishing Protection Alliance. "It's certainly a huge victory that will perhaps dissuade us from continuing this headlong rush of increasing exports that have contributed to the delta's decline."

The ruling is just the latest problem for CalFed, a joint state-federal effort that has struggled for federal funding since its inception. This year it encountered stinging criticism from state legislators who said it was ineffective, and the Schwarzenegger administration has ordered a reevaluation of the program.

"We're in the middle of a restructuring and refocusing on how to best accomplish our goals, and this provides further guidance for that effort," said Keith Coolidge, spokesman for the California Bay-Delta Authority, which oversees CalFed.

The 3rd District Court of Appeal in Sacramento upheld CalFed on a number of issues in the case, turning away challenges to other parts of its environmental review that were raised in a lawsuit filed by delta water agencies and the California Farm Bureau Federation.

But the panel said that when CalFed was reviewing various options for the delta,

it should have considered the possibility of reducing water exports — which help provide water to nearly two of every three Californians.

The state, a defendant in the suit, has said that given population growth and CalFed's mandate to improve water supplies, that option was not feasible.

Though the court wrote that "the record contains evidence that significant exports from the delta will be needed in the future to meet water demands in Southern California," it went on to say that reduced exports could help meet CalFed's other goals, which include ecosystem restoration.

The appeals panel further suggested that if less water flowed south from the delta, there might be less growth and therefore less demand.

"CalFed appears not to have considered, as an alternative, smaller water exports from the Bay-Delta region, which might, in turn, lead to smaller population growth due to the unavailability of water to support such growth," the judges wrote.

Officials of the Metropolitan Water District of Southern California, which intervened in the case, said they were troubled by that argument.

"There's an assumption in this court's decision that if you reduce exports, you will reduce growth," said Metropolitan Vice President Tim Quinn. "If you look at the history of California over the last quarter of a century, that doesn't fit with facts. The State Water Project never got completed, yet we grew."

Metropolitan's general counsel, Jeffrey Kightlinger, said a separate case involving legal challenges to CalFed's federal environmental reviews was still pending, complicating the implications of the state ruling. He also pointed out that since the environmental reports were drawn up, CalFed had been reauthorized by Congress and the California Legislature.

"There clearly has been a legislative directive to go and do these projects, so there's a legal question as to whether you would even need this kind of [environmental] document," he said. "I don't think you're going to see a complete revamping or rewriting of CalFed because the legislatures have said to move forward."