

Court ruling could delay California water project

<http://www.modbee.com/2014/03/14/3239622/california-twin-tunnels-water.html>

The Associated Press

March 14, 2014

FRESNO, Calif. — A state appellate court has ruled that California water officials cannot go onto private property for soil testing and other studies related to construction of two massive tunnels that would siphon water from the Sacramento River.

Nancy Vogel of the state's Department of Water Resources said Friday that officials anticipated the ruling and work won't be delayed.

The decision handed down Thursday by the state's 3rd District Court of Appeal says an intrusion on private property without permission violates the California Constitution.

If built, the Bay Delta Conservation Plan — estimated to cost billions of dollars — would send fresh water around the Sacramento-San Joaquin Delta to Central and Southern California.

The ruling stems from a lawsuit filed against the state by more than 150 property owners in Sacramento, San Joaquin, Yolo, Solano and Contra Costa counties.

The three-judge panel ruled 2-1 in a 44-page decision with the majority opinion saying the state must adhere to eminent domain laws, which give property owners the right to a jury trial to determine a fair payment for taking away their land.

Acts such as testing soil, observing or trapping animals either by driving onto property, using boats or going on foot amount to "taking" and trigger the need for eminent domain proceedings, the majority opinion said.

The Sacramento Bee reported Friday that state officials don't want to buy land — mostly owned by farmers and ranchers — before they decide it is needed for the water project.

Vogel said in a statement that the state has already built time into the project's schedule for such measures.

"Based on the lower court's decision, (the state) has been proceeding pursuant to the eminent domain process to conduct geotechnical drilling and will continue to do so," she said. "Thus, the (project's) schedule takes into account the time needed for this process."

State officials will likely ask the California Supreme Court to review the ruling, the newspaper reported.

Information from: The Sacramento Bee, <http://www.sacbee.com>