

High court allows delta water contracts to be challenged

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The U.S. Supreme Court on Monday allowed environmentalists to challenge the government's renewal of 41 long-term contracts for irrigation water from the Sacramento-San Joaquin Delta, in a lawsuit seeking greater protection for the endangered delta smelt.

Water districts had asked the justices to review a ruling in April by a federal appeals court in San Francisco. That ruling reinstated a suit by the [Natural Resources Defense Council](#) and other groups claiming the [U.S. Bureau of Reclamation](#) should have consulted with government biologists before renewing contracts with farms and water districts for as long as 40 years. The justices denied the districts' request on Monday.

The Bureau of Reclamation first granted long-term contracts in 1964 for water from the Sacramento River and the Delta-Mendota Canal. When the contracts came up for renewal in 2004, [U.S. Fish and Wildlife Service](#) biologists said the deliveries would not jeopardize the delta smelt, a 3-inch fish whose numbers are considered an indicator of the estuary's health.

The biologists re-examined the issue in 2008 and reached the opposite conclusion. The environmental groups argued that the Bureau of Reclamation should have consulted the scientists, regardless of their changing views, before renewing the irrigation contracts in 2004-05.

A federal judge dismissed the suit, saying the environmentalists had failed to show that consultation would have made a difference. The Ninth [U.S. Circuit Court of Appeals](#) disagreed, saying federal law required the government agency to ask biologists if anything could be done to protect endangered species when the contracts were up for renewal. Officials could have taken such steps as reducing water allotments or changing the timing of deliveries, the court said in an 11-0 ruling.

In a separate case, also pending before the Supreme Court, water districts and farmers are appealing a [Ninth Circuit](#) ruling upholding the government's plan to limit water shipments from the delta to Central and Southern California in order to protect the delta smelt.

[Stuart Somach](#), a lawyer for Northern California water contractors who sought to dismiss the environmental groups' lawsuit, said he was disappointed by the Supreme Court's action. But he said his clients, who were using the irrigator water even before the 1964 contracts, remain confident that their contractual rights will be upheld.

The case is Glenn-Colusa Irrigation District vs. Natural Resources Defense Council, 14-48.

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