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## Delta landowners say no to peripheral canal survey

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Property owners in five counties around the Sacramento-San Joaquin Delta are protesting plans by the state to survey their land for a controversial new water canal – opposition that has landed them in court.

The conflict marks a rocky start to the rebirth of the peripheral canal, a plan to divert the Sacramento River around the Delta rejected by voters statewide in 1982. The proposed surveys are an important first step in reviving the project, still considered by water planners an important piece of California's plumbing.

Three dozen property owners in the Delta have refused to let researchers from the California Department of Water Resources onto their land to study soil properties and environmental conditions. As a result, state Attorney General Jerry Brown has petitioned the courts in Contra Costa, Solano, Yolo, San Joaquin and Sacramento counties to enforce access on DWR's behalf.

"The general feeling down here is that the state, egged on by its water contractors, is just going to try to roll over the Delta," said Tom Zuckerman, a land owner on Rindge Tract, a Delta island near Stockton, who is one of those challenging the state.

Property owners oppose the terms of access sought by DWR. But perhaps more importantly, they're challenging the validity of the project itself, claiming the state doesn't have authority yet to study a canal.

"We don't think they're proceeding legally," said Dante Nomellini Sr., a Stockton attorney representing a number of property owners. "We want to get those (questions) framed in these legal actions regardless of the outcome by the court in terms of access."

A Delta canal is drawing renewed interest as a means of addressing environmental and water security problems affecting the entire state.

The Delta is the largest estuary on the West Coast of the Americas, as well as a water supply for 23 million Californians and more than 2 million acres of farmland. Water diversions by state and federal agencies are one suspect in the decline of nine fish species.

Troubled species include the Central Valley fall-run chinook salmon, which plunged to record levels last year, prompting closure of commercial salmon fishing in Oregon and California.

Gov. Arnold Schwarzenegger's Delta Vision Task Force last year recommended a Delta canal after two years of study. The aim is to divert a portion of Sacramento River flows directly to diversion pumps near Tracy, thereby avoiding diversions directly from the Delta that kill millions of fish

every year.

Two canal options are proposed, stretching up to 50 miles long and at least 600 feet wide. They could be combined with an additional "through-Delta" canal built by reinforcing existing levees.

DWR wants access to 125 parcels over a three-year period in a first phase of work. Spokesman Matt Notley said about half of those have so far agreed to provide access.

Two additional phases involve 338 more properties. So the list of objecting owners is likely to grow.

The surveys could include digging trenches up to 12 feet deep and 20 feet long, drilling holes up to 100 feet deep, trapping wildlife and surveying historic resources.

The agency wants access for as much as 60 days over a three-year period. It is offering each owner a \$500 payment for inconvenience and a promise to fix any damage.

The lengthy access period is needed because wildlife surveys require return visits over several seasons, said DWR spokesman Matt Notley.

"We do not want to get in the way of their farming operations or anything else that would disrupt their life," he said.

Some landowners claim \$500 isn't enough for the inconvenience, especially on farm properties with permanent crops like vineyards and orchards. Others contend extended access is a "taking" that could harm their livelihoods.

"A lot of the landowners would like not to have it happen, or at least be compensated in a way they feel is more fair," said Brian Poulsen, a Sacramento attorney representing two property owners.

At the core of many objections is a philosophical dislike for the project itself.

The Delta canal remains one of California's most sensitive water issues. Many Delta residents are opposed to it, fearing it would hurt agriculture by altering freshwater flows.

Nomellini contends the Legislature must first approve the canal, then the obscure California Water Commission must vote to access private land.

But DWR Chief Counsel David Sandino said existing law gives DWR power to study new water projects, and the water commission's vote is needed only to purchase land.

"We believe we have broad authority to go forward and do environmental surveys and geologic surveys for water-related activities," he said. "The court has authority to give us that entry and can also prescribe, if it feels necessary, appropriate conditions."

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