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REGION: Water districts take hit on endangered fish lawsuit

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PM

A federal judge   
has ruled against a dozen local water districts by upholding a U.S. Fish and Wildlife Service decision to double the area considered critical to the survival of the endangered Santa Ana sucker fish.

Environmentalists lauded the decision Monday, Oct. 22, by U.S. District Court Judge James V. Selna in Santa Ana, who upheld a 2010 ruling by the wildlife agency that designated 9,331 acres along the fish's namesake river in San Bernardino and Riverside counties and in a few waterways in Los Angeles County.

"The ruling puts bookends on a decade of litigation over critical habitat for the Santa Ana sucker. We think it's a big win," said Illeene Anderson, a biologist with the Center for Biological Diversity, which filed a lawsuit that prompted the expanded designation by

Fish and Wildlife.

Monday's ruling was the latest step in a 13-year fight over the fate of the small, algae-eating fish.

Water district officials contended the habitat designation would harm the region economically and jeopardize billions of dollars in future water supply and transportation projects. They are discussing whether to appeal the decision, said Douglas Headrick, general manager of San Bernardino Valley Municipal Water District.

"We are obviously troubled by the court's decision, which appears to give free reign to federal agencies to interpret scientific information however they see fit, regardless of the inconsistencies, contradictions, omissions or gaps in the data they use to support their arguments," he said.

In their lawsuit, filed last year, the districts argued that the habitat decision was based on flawed science and without the input of local agencies, which is required by federal law. Water agencies also said that Fish and Wildlife failed to properly balance the needs of people with the needs of the fish, as required by the Endangered Species Act.

A critical habitat designation does not prohibit development, affect land ownership or create a refuge, but it does require federal agencies that fund or permit activities on the land to consult with Fish and Wildlife to ensure critical habitat is not destroyed or adversely modified.

The designation will add another layer of red tape and expense to projects on that land, Headrick said. Planned projects that could be affected are a recycled water treatment project for San Bernardino's water department, groundwater recharge near the Seven Oaks Dam, a rubber dam to capture

water on the Santa Ana River and a storm runoff capture project by Headrick's district, he said.

Water district officials said the habitat designation included areas where they fish has never lived. Included in the designation is the upper river from below the dam to Tippecanoe Avenue, along with parts of Mill Creek and City Creek; the main stem of the river from Tippecanoe Avenue to Prado Dam and Flood Control Basin near Corona, along with some portions of the Rialto Drain and Sunnyslope Creek in the Rubidoux Nature Center; and the lower portion of the river below Prado Dam.

The suckers now live in a three-mile stretch of river south from Highway 60 in Riverside, but environmentalists have said expanding protected areas better ensures survival.

The fish is an important barometer of the health of the river and the watershed that supplies much of the region with drinking water, Anderson said. Measures that benefit the fish also would improve habitat for rare birds, toads and other species, she said.

Other water agencies involved in the lawsuit were Bear Valley Mutual Water Company in Redlands; Big Bear Municipal Water District; city of Redlands; city of Riverside; San Bernardino Municipal Water Department; East Valley Water District in Highland; Riverside County Flood Control and Water Conservation District; San Bernardino Valley Water Conservation District; Western Municipal Water District in Riverside; West Valley Water District in Rialto; and Yucaipa Valley Water District.

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