

AG ALERT: Ruling on stocking permits disappoints fish farmers

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By Ching Lee

California fish farmers say they are disappointed with a recent court ruling that would allow the state to proceed with new fish stocking regulations that they fear could cause economic harm to their businesses and their clients.

A Sacramento Superior Court judge ruled last month in favor of the California Department of Fish and Game, which had sought to implement new rules and changes to current private stocking permit regulations.

Under the proposed regulatory changes, aquaculture farms that stock fish in the state's private and public waters would need to be regularly inspected and certified free of disease and invasive species.

The new rules would also require landowners who want to stock fish in their private lakes and ponds to obtain a permit and a health certificate from the farm conducting the stocking. Some landowners would also be required to conduct an environmental review to evaluate the effect of stocked fish on a list of some 80 sensitive species.

Marko Mlikotin, executive director of the California Association for Recreational Fishing, which filed the lawsuit against DFG, said the environmental assessments are so cost-prohibitive that they will drive lake operators and those who supply fish to them out of business. The association commissioned a study last year that estimates the cost of a full environmental review could reach as high as \$100,000 for some properties.

"The court decision will have a devastating impact on freshwater fishing and California's food supply," Mlikotin said. "It's a trickle-down effect. If that lake operator goes out of business, the fish farmer that stocks it will lose a significant part, if not all, of their business. And unlike other California businesses that have migrated to business-friendly states, fish farmers just don't have that option."

The department proposed the new rules in response to a 2006 lawsuit by environmental groups against the state's fish hatcheries. That suit said DFG had not adequately studied the potential effect of its fish stocking

program on protected species. The court ordered DFG to complete an environmental impact report, released in January 2010. The report outlined proposed changes to the department's own facilities but also included new regulations to cover privately held fish hatcheries and stock ponds.

Mlikotin said the association is considering an appeal and discussing options with its members and coalition partners, including the California Farm Bureau Federation. The case was litigated by the Pacific Legal Foundation on behalf of CARF.

It is unclear how and how quickly DFG will implement the proposed rules, which still must be approved by the state Fish and Game Commission. The commission rejected the department's new regulations last December, a move that many aquaculture farmers saw as a "big win," said Michael Lee, executive director of the California Aquaculture Association, who said he was surprised by the court ruling.

"We really thought it was going to go in favor of the industry, so it definitely came as a bit of a shock to us," Lee said.

CAA is communicating with its members about the outcome of the case and will continue to support CARF in its efforts, Lee said.

Mike Taugher, spokesman for DFG, said the department will work "with a broad group of stakeholders to try to craft a plan that meets their concerns and complies with the law." He said he expects discussions to begin in the coming months.

Tony Vaught, owner of Professional Aquaculture in Chico and president of the California Aquaculture Association, said he hopes CARF will appeal the ruling but is "thankful" that the department had recently appointed an aquaculture coordinator "to engage with the industry" in its next steps to implement the proposed rules.

Vaught, whose business is in consulting and helping fish farmers with site selection and setting up their operations, said the potential impacts of the court ruling and the new regulations have given some of his clients pause with regards to expanding their operations or starting a new aquaculture business. But he said he's telling them to "go ahead cautiously, because I really believe we have a case here that we can argue."

(Ching Lee is an assistant editor of Ag Alert. She may be contacted at clee@cfbf.com.)

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