

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: CV 19-08696-AB (JPRx)

Date: April 17, 2020

Title: *San Luis Obispo Coastkeeper, et al. v. Santa Maria Valley Water Conservation District, et al.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Carla Badirian
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):

None Appearing

Attorney(s) Present for Defendant(s):

None Appearing

**Proceedings: [In Chambers] ORDER DENYING PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Before the Court is Plaintiffs San Luis Obispo Coastkeeper, et al.'s ("Plaintiffs") Motion for Preliminary Injunction. ("Motion," Dkt. No. 37). Oppositions and Replies were filed. The Court heard oral argument on concurrently-pending motions to dismiss on January 31, 2020, and took those motions and the present Motion under submission. The Motion is **DENIED**.

DISCUSSION

Plaintiffs' Complaint under Section 9 of the Endangered Species Act ("ESA"), 16 U.S.C. §§ 1531, *et seq.*, alleges that Defendants commit unlawful take of Steelhead by their operation of Twitchell Dam on the Cuyuma River. The Court described the Complaint in its concurrently-issued order resolving two motions to dismiss and will not repeat that discussion. By this Motion, Plaintiffs seek a mandatory preliminary injunction requiring Defendants to modify the release regime at Twitchell Dam to avoid take of endangered Steelhead.

A plaintiff seeking a preliminary injunction must demonstrate that: (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) the requested injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Where, as here, the movant seeks a mandatory injunction, rather than a prohibitory injunction, injunctive relief is “subject to a heightened scrutiny and should not be issued unless the facts and law clearly favor the moving party.” *Dahl v. HEM Pharms. Corp.*, 7 F.3d 1399, 1403 (9th Cir. 1993). A court abuses its discretion when it grants a preliminary injunction that extends “beyond the preservation of the then existing status quo” and orders affirmative action “prior to a determination” of the validity of the defendant’s conduct. *Id.* A district court should deny a request for a mandatory injunction “‘unless the facts and law clearly favor the moving party’.” *Stanley v. University of Southern California*, 13 F.3d 1313, 1320 (9th Cir. 1994).

Having considered Plaintiffs’ Motion under the demanding standard for a mandatory preliminary injunction, the Court cannot find that the facts and law clearly favor Plaintiffs. The concurrently-issued Order denying the motions to dismiss describes many of the difficult legal and factual issues surrounding Plaintiffs’ claim and the Defendants’ conduct. As reflected in that Order, neither the facts nor the law *clearly* favor either party. As just one example, whether Steelhead are actually present such that take actually occurs is an unresolved factual question. The Court therefore cannot find that any of the preliminary injunction factors favor Plaintiffs, let alone that the facts and law clearly favor them and that Defendants’ conduct is wrongful.

The Motion is **DENIED**.

IT IS SO ORDERED.