

Public Trust Doctrine/Kern River: Environmental Organizations' Lawsuit Challenging Bakersfield, California, Water Diversions



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The Sierra Club and other environmental organizations filed a December 1st Complaint for Declaratory and Injunctive Relief; Verified Petition for Writ of Mandate (“Complaint”) against the City of Bakersfield, California, and others in the Superior Court of the State of California (County of Kern) (“Court”) challenging the diversion of water from the Kern River.

The other environmental organizations joining in the Complaint include:

- Bring Back the Kern
- Water Audit California
- Kern River Parkway Foundation
- Kern Audubon Society
- Center for Biological Diversity

(Collectively, “Sierra Club”)

Sierra Club argues that Bakersfield regularly diverts water from the Kern River on its behalf and on behalf of other parties either:

- Pursuant to water rights held by certain parties
- Pursuant to contractual agreements

The Complaint further alleges that the City diverts the water:

. . . regularly resulting in the complete dewatering of the Kern River, without satisfying its duties under the California Constitution, the Public Resources Code, Fish & Game Code, the California Civil Code, and the public trust doctrine to protect various resources on behalf of the people of California.

Bakersfield is also alleged by its diversion to create a public nuisance by:

. . . diverting water from the Kern River and its tributary streams without any analysis of the impacts on public trust uses and resources in violation of statutory and common law obligations . . .

The Complaint asks that the Court provide judicial assistance to “improve the City’s conduct to comport with the law.”

The components of the Complaint include discussions addressing:

- Public Trust Doctrine
- California Constitution, Article X
- California Fish and Game Code § 5901
- California Fish and Game Code § 5937
- California Fish and Game Code § 5948

A copy of the Complaint can be downloaded [here](#).