

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permitted
Applications 11792, 12910, 12911,
12912, 13091, 13092, 13093, 18797,
18728, 19148, and 19149
CALAVERAS COUNTY WATER DISTRICT,
Permittee

Order: WR 80-9
Sources: Stanislaus River and
Tributaries
Counties: Tuolumne, Calaveras,
Stanislaus and San Joaquin

ORDER GRANTING PETITION FOR RECONSIDERATION AND
ADOPTING TIMES FOR CONSTRUCTION AND FOR PUTTING WATER TO USE

BY THE BOARD:

Order WR 80-7 was adopted by the Board on March 20, 1980. A joint petition for reconsideration of the order has been filed by the following petitioners:

Sierra Club
Friends of the River
Concerned Citizens of Calaveras County
Wilderness Society
Dale Meyer

1. The petition for reconsideration raises substantial issues which provide a basis for reconsideration as set forth in Section 737.1, Title 23, California Administrative Code.

2. The petition should be granted on the ground that substantial issues are raised.

3. Condition 20 of Order WR 80-7 states:

"Time extensions for constructing the hydroelectric project are granted for permitted Applications 12911, 13092, 13093, 18727, and 19148. Time extensions for constructing the features of the water supply projects integral for the hydroelectric project are granted for permitted Applications 11792 (as it pertains to the North Fork of the Stanislaus River), 12910, 12912, 13091, 18728, and 19149. Upon completion of the litigation concerning the adequacy of the SEIR, the Board will establish dates for the commencement and completion of construction and for applying the water to the proposed use for permitted Applications 12911, 13092, 13093, 18727 and 19148."

4. The litigation concerning the adequacy of the SEIR became final on April 9, 1980, when pursuant to stipulations the appeal from judgment was dismissed by the Third Appellate District.

5. The petitioners allege that the establishment of dates called for by Condition 2 will substantially affect their interests and request opportunity to amend their Petition for Reconsideration after any Board action implementing the condition. It is further alleged that failure to provide such opportunity will be prejudicial.

6. Establishment of the dates called for by Condition 2²⁰ is appropriate at this time. Because the litigation has been concluded so quickly, this action should be based on the existing record.

7. Petitioners request a hearing "to elaborate their concerns with WR 80-7" and to submit "some newly available evidence" on economic aspects of the project. Title 23, California Administrative Code, Article 14.5, Subchapter 2, Chapter 3, sets forth the Board's regulations for reconsideration of water rights orders. The Board has discretion to hold a hearing for the purpose of oral argument or receipt of additional evidence or both. (Section 737.4) The regulations require a petitioner to state why an action of the Board is inappropriate or improper. (Section 737.2)

8. A petition stating why Order WR 80-7 is believed to be inappropriate or improper has been filed. However, the petitioners do not include any clear statement why a hearing is needed to elaborate the concerns stated in the Petition for Reconsideration. Petitioners' request for a hearing to present new evidence is not made in conformity with the regulations. (Sections 737.1(c) and 737.2(b)) The request is not supported by an affidavit, nor is it clear whether the evidence offered as Exhibit A could have been produced during the hearings

previously held. Further, the petitioners do not indicate how the evidence offered has relevance to Order WR 80-7. These defects would normally be cause for denial of the request for hearing. However, we have found that Order WR 80-7 should be amended to establish the dates called for by Condition 2 of said order. (Finding 6, above) We further find that a 30-day period should be allowed for petitioning for rehearing on this amendment. Accordingly, we deem it appropriate to allow petitioners a period of time to cure these defects.

ORDER

1. Order WR 80-7 shall be reconsidered. This order to grant reconsideration does not imply any decision of the Board on the merits of the issues raised. It is solely a decision that the issues raised are sufficiently substantial to merit reconsideration.

2. Condition 2 of Order WR 80-7 is amended as follows:

"2. Time extensions for constructing the hydroelectric project and for putting water to use are granted for permitted Applications 12911, 13092, 13093, 18727, and 19148. Time extensions for constructing the features of the water supply projects integral to the hydroelectric project are granted for permitted Applications 11792 (as it pertains to the North Fork of the Stanislaus River), 12910, 12912, 13091, 18728, and 19149 as follows:

a. Actual construction shall begin on or before December 1, 1982.

b. Construction shall be completed on or before December 1, 1984.

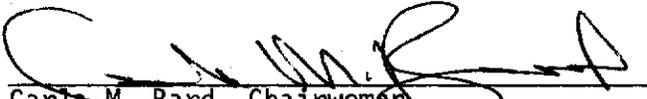
c. Complete application of the water to the proposed use for permitted Applications 12911, 13092, 13093, 18727, and 19148 shall be made on or before December 1, 1985."

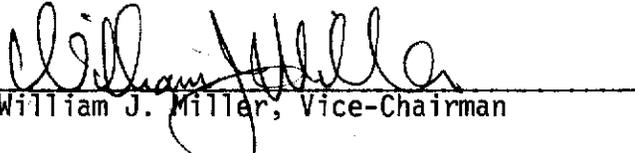
3. Up to but not later than June 16, 1980, the petitioners and any other party may petition for reconsideration respecting the times for

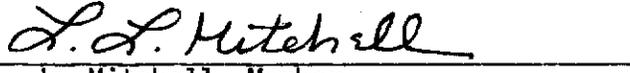
construction and for putting the water to use adopted by paragraph 2 of this order as provided by Water Code Section 1357. Up to but not later than June 2, 1980, petitioners may supplement their original petition to cure the defects identified in Finding 8, above. Calaveras County Water District may respond to the issues raised in the original Petition for Reconsideration, any further petition respecting the time schedule and any supplement, up to but no later than July 1, 1980.

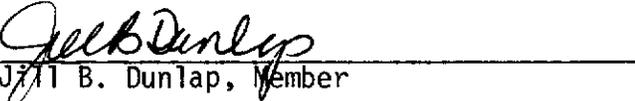
4. Petitioner, Calaveras County Water District, and other parties shall, prior to the Board's taking final action, be notified of the scope of reconsideration as provided in Section 737.4, Title 23, California Administrative Code.

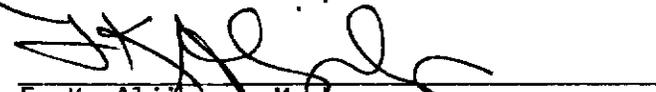
Dated: **MAY 15 1980**


Carla M. Bard, Chairwoman


William J. Miller, Vice-Chairman


L. L. Mitchell, Member


Jill B. Dunlap, Member


F. K. Atjibury, Member