

Errata
December 2, 2008 State Water Board Meeting Agenda
Item 6

Hearing Team staff recommend the following changes to the October 21, 2008 Draft Order entitled, "In the Matter of Permits 16209, 16210, 16211 and 16212 (Applications 18721, 18723, 21636 and 21637) of UNITED STATES BUREAU OF RECLAMATION, Auburn Dam Project"

1. Page 5, §3.1, first sentence of second paragraph, should be modified to read:

"The primary components of the project were Auburn Dam and Reservoir, with a capacity of 2,500,000 acre-feet, to be located on the North Fork American River near the ~~town~~ city of Auburn."

2. Page 16, §4.3, first sentence of first paragraph, should be modified to read:

"Reclamation's primary argument in support of its position that the Auburn Dam Project permits should not be revoked is that ~~Congress's failure to reauthorize and fully fund~~ the fact that Congress has not reauthorized or fully funded the project excuses Reclamation's lack of ~~due diligence~~ progress in developing the project."

3. Page 20, §5.1, third and fourth sentence of third paragraph, should be modified to read:

"State-filed applications 7936 and 7937 are not listed on Staff Exhibit 4 because they ~~are~~ have a senior priority date relative to the Auburn Dam Project permits. Ordinarily, the holder of a ~~senior~~ water right with a senior priority date would not benefit from the revocation of a ~~junior~~ right with a junior priority date because the ~~senior~~ right holder with the senior priority date has a paramount claim to the available water supply anyway."

4. Page 22, first two sentences of first paragraph, should be modified to read:

"If the county were to acquire the Auburn Dam Project permits (or obtain contracts under the permits), the county does not ~~presently~~ propose to construct (and recognizes that Reclamation has no current plans to construct) Auburn Dam or otherwise change the county's proposal to divert from the Sacramento River at Freeport (except, necessarily, to change the source of the proposed appropriation from the South Fork American River to the North Fork American River). Instead, the county desires the permits (or contracts under the permits) because they are senior in priority to the 1990 priority date of the county's pending application, and the authorized season of diversion for the permits includes the additional month of November.⁶"

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5. Page 22, the following sentence should be added to the end of footnote seven:

“The discrepancy between our count of 26 permits and San Joaquin County’s count of 30 permits is probably attributable to the fact that, in addition to 26 permits, Staff Exhibit 4 lists four state-filed applications with priority dates that are junior to the Auburn Dam Project permits but senior to San Joaquin County’s 1990 application.”

6. Page 22, second sentence of second paragraph, should be modified to read:

“There are a number of flaws, however, with the county and Stockton East’s argument that they should be given the opportunity to acquire the Auburn Dam Project permits (or contracts under the permits).”

7. Beginning on page 22, the last sentence should be modified to read:

“Contrary to the county’s implication, the Board has not denied the county the right to divert from other sources on the explicit grounds that water would be supplied to the county from the American River.”

8. Page 22, the last sentence of footnote eight should be modified to read:

“The State Engineer found that American River water would be available to NSJWCD via the Folsom-South Canal, but this finding was not ~~the~~ an explicit basis for the decision to deny NSJWCD’s application, and the State Engineer did not direct NSJWCD to obtain water from the American River.”