

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 11565
and 15013 through 15024 Issued
on Applications 11792 et al.,
CALAVERAS COUNTY WATER DISTRICT,
Permittee.

Order: WR 76-11
Sources: Stanislaus River
and Tributaries
Counties: Tuolumne, Calaveras,
Stanislaus and
San Joaquin

ORDER GRANTING EXTENSIONS OF
TIME AND REVOKING PERMITS

BY BOARD MEMBER ADAMS:

The time to commence construction work under Permits 11565 and 15013 through 15024 having expired, petitions for extensions of time were filed by the Calaveras County Water District (permittee). A public hearing was held before the State Water Resources Control Board (Board) on March 26, 1974, to determine whether extensions of time should be granted or the permits revoked, following which the Board revoked Permit 15014 and ordered a further hearing when the draft Environmental Impact Statement is complete, but not later than September 1, 1975 (WR 75-1). Following a request by permittee, the Board subsequently ordered reconsideration of the portion of the order which revoked Permit 15014 (WR 75-5).

A further hearing was held on August 27, 1975. As the permittee has not yet completed the environmental review process required by state and federal law, the scope of the

hearing, in respect to the permittee's North Fork project, which is covered by all of the subject permits except Permit 11565, was limited to the following issues: (1) diligence with which the permittee has pursued the project since the hearing of March 26, 1974, (2) ability to proceed, including economic feasibility of the proposed development, and (3) the schedule for obtaining required governmental approval and agreements before commencing construction. Permittee and interested parties having appeared and presented evidence, the evidence having been duly considered, the Board finds as follows:

Permittee's diligence in proceeding with its North Fork project since the hearing of March 26, 1974:

1. At the time of the last hearing the Federal Power Commission (FPC) had denied the permittee's application for a federal power license for the North Fork project. Thereafter, permittee filed a motion for reconsideration and modification of the FPC order denying its application. This motion was granted on July 10, 1974 (RT 19). In accordance with the order granting reconsideration and modification of the FPC order, the permittee was required to file a revised application for a power license along with the required Environmental Impact Statement. An application was filed on March 31, 1975 (RT 20). The next step in the licensing procedure will be hearings before the FPC (RT 25). The permittee has spent over \$800,000 since the hearing of March 26, 1974, on expenditures related to the FPC license application and water rights (RT 26).

2. The permittee has continued its negotiations with prospective power purchasers, including Pacific Gas and Electric Company, Northern California Power Agency, Southern California Edison Company, and the State of California's Department of Water Resources (RT 28).

3. EDAW, Inc., has prepared a report on the environmental impact of the North Fork project as part of its revised application for an FPC power license. The permittee has held a series of meetings with local, state and federal agencies to determine environmental concerns. Over one hundred meetings were held for such purpose since the last hearing. Studies have been made on the environmental impacts of a number of project alternatives (RT 43). The consultant's report is expected to be the basis for an environmental document conforming to the requirements of the National Environmental Policy Act and the California Environmental Quality Act.

Ability to proceed and economic feasibility of North Fork project:

4. The permittee's consulting economist has prepared a report on the power benefits of the North Fork project based on the costs of electrical energy from other sources (RT 54). Assuming a project cost of \$250 million (the estimated 1974 costs of the North Fork project), a 6.5 percent interest rate for bond financing and a 25 percent cost escalation in five years, which is the estimated project construction time, then the cost of the North Fork project hydroelectric development power would be approximately \$65 per kilowatt year. Assuming a bond interest rate of 7.5 percent and a cost escalation of 40 percent, the cost of

North Fork project power would be \$82 per kilowatt year. The most economical alternative to hydroelectric power production is thermal production in a combined single turbine generation plant (RT 57). The cost of this source of energy would be \$87.50 per kilowatt year (RT 59).

5. The estimated total cost of the North Fork project as now revised is \$264 million (RT 94), based on the payment of an interest rate of 6.5 percent on bonds. The annual value of the power that would be produced is estimated at \$23 million. The annual cost of the project, including operation and maintenance and funding is estimated at \$18,848,000. The project will provide water for consumptive use without costs and also provide funds to construct other reservoirs and distribution systems within the County (RT 95).

It should be noted that present federal law precludes tax exemption of interest on revenue bonds issued by public agencies if the power user is a private agency. Under present conditions the bonds could not sell at the low 6.5 percent interest rate if Pacific Gas and Electric Company was the purchaser of the project power because the interest would not be tax exempt.

There is a bill before Congress which allows tax exempt interest on bonds for public agency projects where the power is to be sold to privately owned utilities (RT 100). Another problem in financing the permittee's project is that, under state law, bonds issued by a public district such as the permittee must be sold at a price which will net the purchaser an interest rate of not more than 8 percent per year (Government Code Section 53400). Other bonds of a comparable rating are currently yielding over 9 percent.

Permittee's progress schedule:

6. A decision from the FPC on the permittee's application for a power license, following the usual hearings, is expected to be issued in the latter part of 1976 (RT 103).

An agreement has yet to be entered into with the Department of Fish and Game. The permittee is presently negotiating agreements with the State of California, Department of Parks and Recreation, and the United States Forest Service (RT 101). The bond issue to finance the North Fork project will be submitted to the electors at the November 1976 General Elections even though the permittee may not have received approval of its FPC license by that time. The permittee cannot enter into a power sales contract until it receives an FPC license (RT 104). The permittee's present estimate is that construction of the project will commence about March 1, 1978, and be completed January 1, 1981 (RT 96).

Permits 11565 and 15014:

7. Permit 15014 covers a terminal reservoir on Black Creek for the Salt Springs pipeline from the Pacific Gas and Electric Company's Ross Reservoir. The permit authorizes a diversion of 5,000 acre-feet per annum (afa) of Black Creek water for irrigation of 8,400 acres (RT 72, hearing held March 6, 1962). The permittee contends that the proposed reservoir is an integral part of the Calaveras County Water Master Plan and is needed to serve that part of the County (RT 78). However, the most water the creek could yield is 1,000 afa. It appears that a reservoir

is needed at this location as a regulatory facility for imported water from the North Fork project. The permittee should petition the Board to include such a reservoir as a point of diversion and/or point of offstream storage under one or more of the permits which accurately describe the source of water in question. The permittee does not have a viable plan for a conservation project utilizing only Black Creek water, which is what Permit 15014 covers.

8. Permit 11565 covers a reservoir on Clover Creek and four small reservoirs on Littlejohns Creek. These reservoirs are primarily intended for local farmers in the area. The permittee has assigned 200 acre-feet (af) of the 6,660 af covered by the permit to an individual and the permittee has no present plans to construct the contemplated reservoirs (RT 88).

9. The permittee has failed to exercise due diligence in an effort to commence and complete the necessary construction work and apply water to beneficial use in accordance with Permits 11565 and 15014 and with Division 2 of the Water Code and the regulations of the Board.

10. The permittee's North Fork project will have an effect on the Tri-Dam project constructed by the Oakdale Irrigation District and the South San Joaquin Irrigation District on the Middle Fork of the Stanislaus River (RT 125). Stockton-East Water District is interested in the permittee's project as a possible source of supplemental water (RT 122). The permittee should be required to report quarterly to the Board

regarding progress of discussions with other parties whose projects may be affected by the permittee's plans.

From the foregoing findings it is concluded:

1. That Permits 11565 and 15014 should be revoked.
2. That permittee has proceeded diligently with efforts to further the project covered by Permits 15013 and 15015 through 15024 since the March 1974 hearing, and that the permittee has made a prima facie showing that it has a feasible project. The permittee should be allowed an extension of time to December 1, 1977, to formulate the details of its project and obtain a purchaser for the project power pursuant to Permits 15013 and 15015 through 15024.
3. That permittee should be required to report quarterly to the Board, commencing October 1, 1976, regarding the progress of discussions with other parties whose projects may be affected by the permittee's project and with prospective power purchasers.

4. That Permits 15013 and 15015 through 15024 should be revoked without further hearing if the electors fail to approve bonds to finance the permittee's project prior to December 1, 1977, and that the permittee in accepting the time extension agrees to this condition.

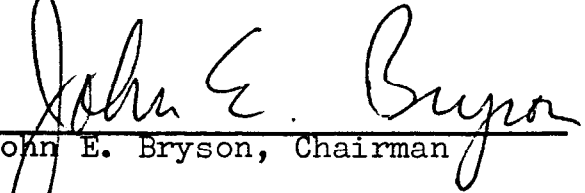
IT IS SO ORDERED.

Dated: JUL 15 1976

We Concur:



W. W. Adams, Member



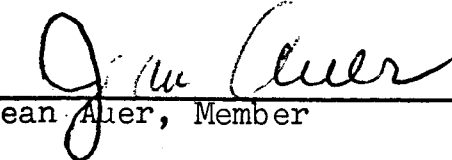
John E. Bryson, Chairman



W. Don Maughan, Vice Chairman



Roy E. Dodson, Member



Jean Auer, Member