

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 15699, 15700, )	
and 15701 Issued on Applications )	Order: WR 78-14
5643-A, 14602, and 20532, )	
UNITED STATES BUREAU OF RECLAMATION )	Source: Pit River
Permittee )	County: Modoc

ORDER GRANTING EXTENSIONS OF  
TIME AND AMENDING PERMITS

BY BOARD MEMBER ADAMS:

Applications 5643-A (Permit 15699) and 20532 (Permit 15701) were originally state filings. One of the provisions in the assignment of the permits to the Bureau of Reclamation (Bureau) was that if by December 31, 1970, or upon further extension of time by the California Water Commission, the Allen Camp Unit of the Central Valley Project (CVP) was not authorized by Congress, the applications would revert to the State. Application 14602 (Permit 15700) also covers the Allen Camp Project, but it was filed by the Pit Soil Conservation District and was not a state project coming within requirement of authorization prior to December 31, 1970. Under the terms of the permits construction was to begin on or before June 1, 1969.

On December 17, 1970, the Bureau petitioned for an extension of time to December 31, 1974, in which to obtain congressional authorization of the Allen Camp Unit of the CVP as required by the terms of Permits 15699 and 15701. The Board granted the petition after having received no objection from interested parties who were given 30 days notice of the pending petition.

On November 18, 1974, the Bureau filed a petition for a further extension of time until December 31, 1976 to obtain congressional authorization of the Allen Camp Project. A protest to the extension of time to proceed under the permits was filed by Doctor Peter P. Moyle, Fish Biologist, on the basis of the project's potential damage to fish life, particularly the Modoc Sucker, which is an endangered fish specie. Since the filing of the protest, the permittee and protestant have agreed to the dismissal of the protest provided certain terms are added to the permits. The proposed permit terms are necessary to protect the fishery resource affected by the permittee's project, are in the public interest, and Permits 15699, 15700 and 15701 should be amended to include them.

The Sierra Club appeared at the hearing as an interested party opposing the granting of the petitions for extension of time. Its principal concern is with the effect of the project on the overall water quality of the stream system and the project's effect on the environment. The Department of Fish and Game also appeared as an interested party. Its principal concern was with the effect of the project on the Modoc Sucker and other fish in the Pit River. Both interested parties contend that the Bureau should be required to submit a complete Environmental Impact Statement (EIS) prior to congressional approval of the project. The Department of Fish and Game also requested the Board to add a term to the Bureau's permits requiring it to submit a compensation plan to offset any damage to the fishery from the project prior to congressional authorization of the project.

On March 29, 1976, a hearing was held before the State Water Resources Control Board to determine whether the time allowed to obtain congressional authorization of the Allen Camp Project pursuant to Permits 15699 and 15701 should be extended and whether the time allowed to commence construction pursuant to said permits and Permit 15700, which had expired, should be extended also. Also to be considered was any effect upon the environment that would result from the

granting of the petitions. Evidence having been presented and received at said hearing and having been duly considered, the Board finds as follows:

1. On September 28, 1976, P.L. 94-423 was enacted which authorizes the appropriation for the fiscal year 1978 and thereafter, the sum of \$64,220,000 for the construction of the Allen Camp Project along with further costs incidental to such project. Therefore, the time to obtain Congressional authorization need only be extended to October 1, 1976.

The proposed terms which would require the Bureau to prepare an EIS and a compensation plan to offset any damage to the fishery by the project prior to submitting the project for Congressional authorization appear inappropriate inasmuch as the terms agreed to by the Bureau, set forth below, provide adequate protection for the fishery interests without unduly interfering with administrative processes.

2. Permits 15699, 15700 and 15701 should be amended to include the following terms agreed upon by the Bureau and the protestant Peter B. Moyle:

- a. *Prior to filing the Final Environmental Impact Statement (EIS) with the Council of Environmental Quality (CEQ), the permittee shall report to the Board on the status, distribution, and ecological requirements of the Modoc Sucker (Castostomus microps) and other potentially endangered or threatened species which may be adversely affected by the Allen Camp Unit, Central Valley Project.*
- b. *The State Water Resources Control Board reserves jurisdiction for the purpose of formulating terms and conditions for the protection and preservation of the Modoc Sucker (Castostomus microps) if it is found to be endangered or threatened and other potentially endangered or threatened species which may be adversely affected by the Allen Camp Unit. Such reserved jurisdiction shall be exercised prior to filing of permittee's EIS with CEQ.*

3. The Order granting any extension of time should also include the following standard permit terms which the Board has adopted since Permits 15699, 15700, 15701 were issued:

- a. *The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing:*
- b. *In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.*

The terms as related to water quality should adequately protect the quality of the waters affected by the project.

4. As the Bureau has not completed its required EIS, the impact of the project on the environment cannot now be adequately determined.

5. The Bureau estimated that following congressional approval, which occurred in September 1976, there will be a pre-construction period of about two years. The actual construction of the project will take five years. The time to commence construction shall be extended to December 1, 1981; the time to complete shall be extended to December 1, 1986; and the time to place the water to beneficial use pursuant to the permits shall be extended to December 1, 1988.

IT IS SO ORDERED.

Dated: September 25, 1978

/S/ W. W. ADAMS

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W. W. Adams, Member

/S/ W. DON MAUGHAN

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W. Don Maughan, Vice Chairman

WE CONCUR:

/S/ JOHN E. BRYSON

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John E. Bryson, Chairman

/S/ WILLIAM J. MILLER

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William J. Miller, Member

/S/ L. L. MITCHELL

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L. L. Mitchell, Member