

MEMBER UNITS EXHIBIT NUMBER 110

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 17447)
Issued on Application 23960)

SANTA YNEZ RIVER WATER
CONSERVATION DISTRICT,

Permittee.

ORDER: WR 79-17

SOURCE: Santa Ynez River

COUNTY: Santa Barbara

ORDER DELETING PERMIT TERMS

BY THE BOARD:

1. On September 22, 1978, the Board issued Permit 17447 on Application 23960 to the Santa Ynez River Water Conservation District.

2. The United States Bureau of Reclamation (Bureau), Cachuma Conservation Release Board (CCRB), and California Department of Fish and Game (Department) had protested approval of Application 23960 as initially filed. The Department withdrew its protest upon agreement by the applicant to include specified terms.

3. During the environmental review of the proposed project, the applicant substantially changed its project and submitted an amended application. The Board issued an amended Notice of Application describing the modified project. The Bureau and CCRB again protested approval of the amended application; the Department did not file a protest. The Bureau and CCRB dismissed their protest for reasons not relevant here.

4. The Department and the applicant reviewed the impacts of the modified project during a field investigation on March 25, 1977. At that meeting the Department indicated that it approved of the modified project and that its previous protest could be ignored if the following conditions were met:

(a) the permittee minimized the disturbance of native vegetation during construction, and

(b) the permittee notified the Department when construction was to take place so it could have a representative present during construction.

5. Thereafter, Permit 17447 was issued and the permittee complied with the Department's conditions. However, neither the permittee nor the Department notified the Board of this modified agreement. Further, Permit 17447 contained the Department's protest withdrawal terms proposed in connection with the original application. Inclusion of these terms was inadvertent; they are not relevant to the modified, permitted project.

6. By a letter dated October 3, 1978, the permittee objected to the inclusion of the irrelevant terms (Permit Terms 13, 14, and 15) in Permit 17447. Permittee pointed out that those terms were appropriate for inclusion in a permit for the original project but that they were not appropriate for the modified project. By a letter dated November 14, 1978, the Department concurred and requested deletion of Permit Terms 13, 14, and 15 in Permit 17447.

7. The findings of the Board regarding the Final Environmental Impact Report in its Certificate of Review dated August 15, 1978, remain unchanged.

8. From the foregoing findings, the Board concludes that the inclusion of existing Permit Terms 13, 14, and 15 of Permit 17447 was inappropriate, that the inclusion of said terms was due to an oversight, that the Board has jurisdiction to delete said terms under Water Code Section 1359, that said permit terms should be deleted, and that existing Permit Terms 16 and 17 should be redesignated as Permit Terms 13 and 14, respectively.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Permit Terms 13, 14, and 15 of Permit 17447 are deleted.
2. Permits Terms 16 and 17 of Permit 17447 are redesignated as Permit Terms 13 and 14, respectively.

Dated: JUNE 21, 1979

/S/ W. DON MAUGHAN

W. Don Maughan, Chairman

/S/ WILLIAM J. MILLER

William J. Miller, Member

/S/ L. L. MITCHELL

L. L. Mitchell, Member

Carla M. Bard, Member

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

77 Cadillac Drive, Sacramento, CA 95825

(916) 920-6307



In Reply Refer
to: 310:DWS

JUNE 26 1979

APPLICANT(S), PROTESTANT(S), AND INTERESTED PARTIES

Enclosed is an advance copy of a Decision/Order adopted by the State Water Resources Control Board at its last meeting.

A signed and numbered copy will be forwarded to you as soon as possible. Please note the additional information on the reverse of this letter.

A handwritten signature in cursive script, appearing to read "D. W. Sabiston".

D. W. Sabiston
Program Manager
Hearing Section

Enclosure

EXCERPT FROM TITLE 23, CALIFORNIA ADMINISTRATIVE CODE
ARTICLE 14.5. RECONSIDERATION AND AMENDMENT OF
BOARD WATER RIGHTS DECISIONS AND ORDERS

737.1 Reconsideration of Board Decisions and Orders.

No later than thirty (30) days after adoption by the Board of a decision or order, any person interested in any application, permit or license affected by the decision or order may petition the Board for reconsideration of the matter upon any of the following causes:

- (a) Irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing;
- (b) The decision or order is not supported by substantial evidence;
- (c) There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the hearing;
- (d) Error in law.

737.2 Petition for Reconsideration.

(a) Any petition for reconsideration of a decision or order shall be submitted in writing to the Board and shall contain the following:

- (1) Name and address of the petitioner.
- (2) The specific action of the Board of which petitioner requests reconsideration.
- (3) The date on which the order or decision was made by the Board.
- (4) The reason the action was inappropriate or improper.
- (5) The specific action which petitioner requests.
- (6) A statement that copies of the petition and any accompanying materials have been sent to all interested parties.

(b) If reconsideration is requested based in whole or in part on Section 737.1 (c), the petition shall include a statement that additional evidence is available that was not presented to the Board and the reason it was not presented shall be explained. A general statement of the nature of the evidence and of the facts to be proved shall also be included. A petition made for cause mentioned in Section 737.1 (c) must be made upon affidavit.

(c) The petition shall be accompanied by a statement of points and authorities in support of legal issues raised in the petition.

737.4 Board Action.

(a) The Board may:

- (1) Refuse to reconsider the decision or order if the petition fails to raise substantial issues related to the causes for reconsideration set out in Section 737.1; or
- (2) After review of the Board's records pertaining to the matter, including the transcript of any hearing held by the Board and any material submitted in support of the petition:
 - (A) Deny the petition upon a finding that the decision or order was appropriated and proper; or
 - (B) Set aside or modify the decision or order; or
 - (C) Take other appropriate action.

Before taking final action, the Board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both.