

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 75-102

RELATING TO REQUESTING APPEAL OF
THE DECISION ON NEW MELONES DAM

WHEREAS:

1. California is firmly and historically committed, through many decades of development of its water management law, to the principles that its waters are the property of all of the people of the State, to be conserved in the interest of all of the people and for the public welfare.
2. California has established the State Water Resources Control Board as that agency of its people primarily responsible for implementing these water management principles as to surface water within the State.
3. California's State Water Resources Control Board exercises its responsibility by acting upon the applications of those persons and entities who seek the right to the use of California's waters, and, in so acting, is guided by the legislative mandate that it shall allow the appropriation for beneficial purposes of unappropriated water under such terms and conditions as in the Board's judgment will best develop, conserve and utilize in the public interest the water sought to be appropriated.
4. The Bureau of Reclamation, an agency of the United States, has for many decades sought and received from the State Water Resources Control Board entitlements to the use of California's waters following the filing of applications therefor, pursuant to the legal processes applicable to all who would appropriate California's waters and has enjoyed the benefits of such entitlements.
5. The State Water Resources Control Board, acting in response to applications by the Bureau of Reclamation, issued its Decision 1422 granting to said Bureau the right to the use of waters to be appropriated by the New Melones Dam, proposed to be constructed on California's Stanislaus River.
6. The State Water Resources Control Board, pursuant to its legislative mandate, directed in Decision 1422 that the entitlement for appropriation at New Melones Dam include certain terms and

conditions which in its judgment would best conserve the public interest, such terms and conditions assuring that recreational and fish and wildlife preservation and enhancement uses would not be destroyed by the project, but would continue to be available to all of the people.

7. The Bureau of Reclamation, dissatisfied with these terms and conditions, did not seek review of their reasonableness by the California Court as is provided under California's water law, but instead sought a determination in the United States District Court that as an agency of the United States the Bureau was not obliged to respect the terms and conditions of its entitlement.
8. The United States District Court, in its decision filed on October 9, 1975, held that Decision 1422 is void in all respects where it attempts to impose terms and conditions of any kind upon the acquisition by the federal government of unappropriated waters as said terms and conditions may relate to the control, development or operation by the federal government of the New Melones Project.
9. The decision provides that the United States can appropriate unappropriated water for use in any federal reclamation project free from state-imposed terms and conditions.
10. The Court's decision will result in a loss of protection of those water users that have relied upon the State to protect their vested water rights, as well as a loss of protection of in-stream uses that benefit the public as a whole.
11. The State Water Resources Control Board firmly believes that no person or entity should be held immune from the principles of law which govern the conservation of California's waters in the interest of all of the people and for the public welfare.

THEREFORE BE IT RESOLVED:

That the State Water Resources Control Board requests the Attorney General to appeal diligently to the appropriate Court the decision of the United States District Court.

CERTIFICATION

The undersigned, Executive Officer of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on **November 20, 1975.**

Bill B. Dendy
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Executive Officer