

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 16477, 16478,)
16479, 16480, 16481, 16482 and 16483)
Issued on Applications 5629, 5630,)
14443, 14444, 14445A, 17512, and 17514A)
CALIFORNIA DEPARTMENT OF WATER RESOURCES)
Permittee)

ORDER WR 73-21

ORDER ALLOWING MODIFICATION OF BLIND POINT CONDITION

WHEREAS:

1. The Department of Water Resources and the Department of Fish and Game jointly requested on February 5, 1973 the State Water Resources Control Board to temporarily allow suspension of condition 15 of Decision 1275, as amended by Decision 1291, which is incorporated in the above-numbered permits issued to the Department of Water Resources.

2. Notice of proposed staff recommendations in regard to the request has been circulated to interested parties.

3. The State Water Resources Control Board has reviewed the information pertinent to the staff recommendations, together with comments submitted by parties who were provided with notice thereof.

4. Department of Water Resources Bulletin 120-73, Report No. 2, entitled "Water Conditions in California", indicates the April-July 1973 runoff will be above normal, and the daily reports of project operations show that San Luis Reservoir is essentially full.



RECYCLED PAPER

NOW, THEREFORE, the State Water Resources Control Board finds that suspension of condition 15 for the year 1973 will not adversely affect agriculture in the Delta and is in the public interest in that the information to be acquired and analyzed by the Department of Fish and Game may contribute to a fuller understanding of the Bay - Delta Ecosystem;

NOW, THEREFORE, IT IS ORDERED that:

1. Condition 15 is suspended for the year 1973.
2. The proposed testing program during the year 1973 shall be concurred in by the Department of Fish and Game.
3. This Board reserves the right, for good cause, to terminate this temporary suspension of condition 15.

Dated: May 3, 1973

W. W. ADAMS

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member

W. DON MAUGHAN

W. Don Maughan, Member



STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

CONTROL BOARD

In the Matter of Water Rights Permits)
16477, 16478, 16479, 16480, 16481,)
16482, and 16483 Issued on Applications)
5629, 5630, 14443, 14444, 14445A, 17512,)
and 17514A, CALIFORNIA DEPARTMENT OF)
WATER RESOURCES.)
Permittee)

Order: 74-15
Source: Sacramento-
San Joaquin Delta
County: Sacramento
and Contra Costa
Counties

ORDER ALLOWING MODIFICATION OF
BLIND POINT CONDITION IN
WATER RIGHTS PERMITS NOS. 16477-16483

BY BOARD CHAIRMAN ADAMS:

WHEREAS:

1. The Department of Water Resources and the Department of Fish and Game jointly requested on November 7, 1973 the State Water Resources Control Board to temporarily suspend (a) condition 15 of Decision 1275, as amended by Decision 1291, which is incorporated in the above-numbered permits issued to the Department of Water Resources and (b) condition A-2 of Resolution 73-16 (Water Quality Control Plan Supplementing State Water Quality Control Policy for Sacramento-San Joaquin Delta).

2. Notice of proposed staff recommendations in regard to the request has been circulated to interested parties.

3. The request for temporary suspension of condition A-2 has been withdrawn.

4. The State Water Resources Control Board has reviewed the information pertinent to the request submitted by the Department of Water Resources and the Department of Fish and Game.

5. Department of Water Resources Bulletin 120-74, February Report, titled "Water Conditions in California", indicates the April-July 1974 runoff will be above normal, and the daily reports of project operations show that San Luis Reservoir is essentially full.

NOW, THEREFORE, The State Water Resources Control Board finds that suspension of condition 15 for the year 1974 will not adversely affect agriculture in the Delta and is in the public interest in that the information to be acquired and analyzed by the Department of Fish and Game may contribute to a fuller understanding of the Bay-Delta Ecosystem;

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 15 is suspended for the year 1974.
2. The proposed testing program during the year 1974 shall be concurred in by the Department of Fish and Game.

3. Persons diverting water from the Bay-Delta System who are likely to be affected by the testing program shall be notified by the Department of Water Resources at least 15 days prior to initiation of the testing of specific changes in flows to be made by the program.

4. This Board reserves the right, for good cause, to terminate this temporary suspension of condition 15.

Date: May 16, 1974

W W Adams
W. W. Adams, Chairman

Ronald B. Robie
Ronald B. Robie, Vice Chairman

Roy E. Dodson
Roy E. Dodson, Member

Mrs. Carl H. Auer
Mrs. Carl H. (Jean) Auer, Member

W Don Maughan
W. Don Maughan, Member

Regional Water Quality Control Board and the Contra Costa County Water Agency were denied and the petition of the Department of Water Resources was granted for limited purposes. A further hearing was held on August 22, 1967, to receive additional evidence and argument regarding the seasons of diversion, date for completion of construction, protection of fish and wildlife, and the proposed Oroville-Thermalito power sales contract.

Seasons of Diversion from the Delta

Decision D 1275 excluded July, August, and September from the authorized seasons of diversion from the Delta. The reason for excluding these months, discussed in the decision beginning on page 26, was that the studies introduced by the Department at the hearing (Exh. 72 and related exhibits) showed that unappropriated water would have been available in the Delta during these months in only a few years during the 30-year period of study and then only in small quantities.

The Department contended in its petition that greater quantities of unappropriated water than were indicated by its previous studies will be available in the Delta for several years because the actual in-basin use of water will be less than the assumed in-basin rights due to the fact that some rights are still in a development period and all in-basin rights will not be utilized simultaneously at maximum rates.

The Department's exhibits and testimony demonstrated that for several years substantial quantities of unappropriated

water will probably occur in the Delta during July, August, and September that were not indicated by the evidence which was the basis for deleting these months from the seasons of diversion in Decision D 1275.

Exhibits 28 and 29 indicate that there has been more water actually available in July, August, and September in the years 1952 through 1967 than was estimated for these months in Exhibit 72 and related exhibits introduced at the original hearing. If the figures in Exhibit 29, which are based on actual measurements of inflow and diversions less assumed Delta Lowlands consumptive use, are reduced by 108,000 acre-feet per month assumed Delta outflow, the following quantities of water (expressed in thousands of acre-feet) were available in the Delta for diversion in July, August, and September during five of the last 15 years:

	<u>July</u>	<u>August</u>	<u>September</u>
1952	985	296	441
1956	410	250	568
1958	632	411	693
1965	252	340	606
1967	1,358		

The magnitude of the quantities assures that there will be substantial quantities of water available in the Delta with an average frequency of one year in three even if the assumptions are in error by relatively large percentages. If the assumptions

are accurate, there was also some water available in the other ten years of the last 15 in all but three Julys and one August.

It is true, as argued by protestants, that DWR Exhibits 122 through 127 do not provide evidence of definite quantities of unappropriated water for comparison with DWR Exhibit 72, but Exhibits 122-127 provide examples of factors that will result in greater quantities of water being available for several years and DWR Exhibits 128 and 129 provide recent flow figures that indicate the frequency and magnitude of these quantities. When there is a reasonable expectation that substantial quantities of unappropriated water will occur during a particular month with such frequency that it can be put to beneficial use by the applicant, that month should be included in the season of diversion authorized in the permit.

It was argued that extending the seasons of diversion will have the effect of "tampering" with the relative priority of permits held by the United States and the State. As we said in Decision D 1275, the permits issued to the Department will be subject to vested rights; the Department may divert in compliance with special conditions in its permits and all applicable laws only when it can do so without interfering with the exercise of vested rights, including those rights of the United States under permits granted by Decision D 990 which have priority dates earlier than the priority dates of the permits under which the Department is diverting.

In Decision D 1275 it was said in the footnote on page 28 that Decision D 990 limited direct diversion from the Delta under Application 5626 to the water available at Shasta Dam and that this effectively excluded July and August from the season for such diversion for the reason that no water was found available during July and August at Shasta Dam. Upon further consideration and analysis it appears that this conclusion is not entirely correct. It is true that July and August were excluded from the season of diversion at Shasta Dam. However, this was not because unappropriated water was found to be entirely lacking during these months but was because such water is available so seldom and in relatively such small quantities during these months that their inclusion in the season of diversion was not justified. This is not to say that such unappropriated water as is available at Shasta Dam during July and August may not be diverted from the Delta under Application 5626.

Paragraph 1-b of the order in Decision D 1275 limits the Department's 1927 right to divert from various points, including those in the Delta, to the quantity of water that would be available at Oroville Dam in the same way that the right of the United States, under its 1927 priority to divert from the Delta, was limited by Paragraph 4 of the order in Decision D 990 to the quantity available at Shasta Dam. The same limitation as in Paragraph 1-b of the order in Decision D 1275 will be included in Paragraph 1-c relating to Application 14443 as to water of the Feather River.

It is concluded that the seasons of diversion from the Delta in the permits granted to the Department should include July, August, and September.

Seasons of Diversion from the Feather River

The Department did not offer any additional evidence regarding the availability of unappropriated water from the Feather River but contended that the study previously introduced shows water available in the Feather River during July, August, and September in some years and that the quantities and frequency are actually greater. Year-round seasons of diversion from the Feather River, excluding August for storage, were requested so as to permit beneficial use of unappropriated water when it occurs. No other evidence or argument was offered on this subject.

The evidence shows unappropriated water in the Feather River during July, August, and September in some years, but so infrequently that these months would not be included in the season of diversion as a general rule (see Decision D 1275, p. 23). However, the unique ability of the Department to make beneficial use of the water despite the uncertainty of the supply, and to ascertain precisely when and how much unappropriated water is available, justifies year-round seasons of diversion, excluding August for storage, in the permits issued to the Department to divert from the Feather River.

Date for Completion of Construction

The Department introduced DWR Exhibit 121, which provides the most recent official estimate of the dates for completion of construction of various components of the State Water Project. The data contained in DWR Exhibit 121 were not questioned; Paragraph 8 of the order in Decision D 1275 will be revised accordingly.

Protection of Fish and Wildlife

An agreement between the Department of Water Resources and the Department of Fish and Game was admitted as DWR Exhibit 120. This is an agreement as to the flows to be maintained in the Feather River, so Paragraph 27 of the order in Decision D 1275 will be revised to provide that the permit is subject to this agreement and continuing jurisdiction is retained as to the flows in the Delta only.

Proposed Oroville-Thermalito Power Sales Contract

The Department requested the opportunity to submit the Oroville-Thermalito power sales contract, still being negotiated, at a later date. Several parties asked for the opportunity to comment or request a further hearing on the matter after the contract has been executed. Of course, the Board will have no jurisdiction over the contract itself and could at most consider revision of the Department's permits in light of the contract

terms, if such revision were to appear appropriate.

Jurisdiction for such purpose will be reserved, to be exercised after a further hearing held on the Board's own motion or on motion of any interested party based on adequate grounds.

ORDER

IT IS HEREBY ORDERED that the order in Decision D 1275 be amended as follows:

1. Paragraph 1-a is amended to read:

1-a. The water appropriated under permit issued pursuant to Application 5629 shall be limited to the quantity which can be beneficially used and shall not exceed 7,600 cubic feet per second by direct diversion, to be diverted from January 1 to December 31 of each year, and 380,000 acre-feet per annum by storage, to be collected from about September 1 of each year to about July 31 of the succeeding year.

2. Paragraph 1-b is amended to read:

1-b. The water appropriated under permit issued pursuant to Application 5630 shall be limited to the quantity which can be beneficially used and shall not exceed 1,400 cubic feet per second by direct diversion, to be diverted from January 1 to December 31 of each year, and 380,000 acre-feet per annum by storage, to be collected from about September 1 of each year to about July 31 of the succeeding year, provided the quantity of water appropriated by direct diversion shall be limited to such quantity as would be available for appropriation at Oroville Dam.

3. Paragraph 1-c is amended to read:

1-c. The water appropriated from the Feather River under permit issued pursuant to Application 14443 shall be limited to the quantity which can be beneficially used and shall not exceed 1,360 cubic feet per second by direct diversion, to be diverted from January 1 to December 31 of each year, and 3,500,000 acre-feet per annum by storage, to be collected from about September 1 of each year to about July 31 of the succeeding year, provided the quantity of water appropriated by direct diversion shall be limited to such quantity as would be available for appropriation at Oroville Dam; the water appropriated from the Sacramento-San Joaquin Delta channels shall not exceed 6,185 cubic feet per second by direct diversion and 42,100 acre-feet per annum by storage, to be diverted and collected from January 1 to December 31 of each year.

4. Paragraph 1-d is amended to read:

1-d. The water appropriated under permit issued pursuant to Application 14444 shall be limited to the quantity which can be beneficially used and shall not exceed 11,000 cubic feet per second by direct diversion, to be diverted from January 1 to December 31 of each year, and 3,500,000 acre-feet per annum by storage, to be collected from about September 1 of each year to about July 31 of the succeeding year.

5. Paragraph 1-e is amended to read:

1-e. The water appropriated under the permit issued

pursuant to Application 14445A shall be limited to the quantity which can be beneficially used and shall not exceed 2,115 cubic feet per second by direct diversion and 44,000 acre-feet per annum by storage, to be diverted and collected from January 1 to December 31 of each year.

6. Paragraph 1-f is amended to read:

1-f. The water appropriated under permit issued pursuant to Application 17512 shall be limited to the quantity which can be beneficially used and shall not exceed 1,100,000 acre-feet per annum by storage, to be diverted from Italian Slough and Sacramento-San Joaquin Delta channels and to be collected from San Luis Creek from January 1 to December 31 of each year.

7. Paragraph 1-g is amended to read:

1-g. The water appropriated under permit issued pursuant to Application 17514A shall be limited to the quantity which can be beneficially used and shall not exceed 135 cubic feet per second by direct diversion, to be diverted from January 1 to December 31 of each year.

8. Paragraph 8 is amended to read:

8. Construction work shall be completed on or before December 1, 1980.

9. Paragraph 15 is amended to read:

15. Until further order of the Board, permittee shall make no direct diversions (except under permits issued

pursuant to Applications 5629 and 14444) and shall not collect water to storage during the period from April 1 through June 30 at any time the maximum surface zone chloride ion content of the San Joaquin River at Blind Point exceeds 250 parts per million. If Blind Point is not used as a monitoring station, permittee shall establish a correlation with some other station satisfactory to the Board to provide the necessary data on quality at Blind Point.

10. Paragraph 27 is amended to read:

27. These permits shall be subject to the "Agreement and Stipulation Concerning the Operation of the Oroville Division of the State Water Project" entered into July 19, 1967, filed of record as DWR Exhibit 120 in the hearing on reconsideration of Decision D 1275 in the matter of Applications 5629, etc., of the California Department of Water Resources. The State Water Rights Board reserves continuing jurisdiction over these permits for the purpose of formulating terms and conditions relative to flows to be maintained in the Delta for the protection of fish and wildlife.

11. Paragraph 28 is added to read:

28. The Board reserves continuing jurisdiction over these permits for the purpose of reviewing the Oroville-Thermalito power sales contract upon request of any interested party and, after a hearing, making such revisions in permit conditions as may be appropriate.

12. Paragraph 29 is added to read:

29. The Department may divert in compliance with special conditions in these permits and all applicable laws only when it can do so without interfering with the exercise of vested rights, including those rights of the United States under permits granted by Decision D 990 which have priority dates earlier than the priority dates of the permits under which the Department is diverting.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California.

Dated: November 30, 1967

/s/ George B. Maul
George B. Maul, Chairman.

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member

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(revised)

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 5629, 5630,
14443, 14444, 14445A, 17512, 17514A, and
17515A of California Department of Water
Resources to Appropriate from Feather River,
Sacramento-San Joaquin Delta, Lindsey Slough,
Italian Slough, and San Luis Creek in Butte,
Contra Costa, Sacramento, San Joaquin,
Solano, Yolo, and Merced Counties

ORDER GRANTING FOR LIMITED PURPOSES PETITION OF
THE DEPARTMENT OF WATER RESOURCES, AND DENYING
PETITIONS OF CENTRAL VALLEY REGIONAL WATER QUALITY
CONTROL BOARD AND OF CONTRA COSTA WATER AGENCY
FOR RECONSIDERATION OF DECISION D 1275

Petitions for reconsideration of Decision D 1275
were filed by Central Valley Regional Water Quality Control
Board on June 29, 1967, and by Contra Costa Water Agency and
by the Department of Water Resources on June 30, 1967. The
United States Bureau of Reclamation filed a request that a
hearing be held pursuant to the petition of the Department
of Water Resources and that the Bureau of Reclamation be given
an opportunity to be heard.

Petition of Department of Water Resources

The petition of the Department of Water Resources
contains the following summary:

"Reconsideration of the following aspects of Decision D 1275 is requested:

1. With regard to the season of diversion:

a. It is requested that the season of diversion from the Delta be made year-round if the May 16, 1960 agreement with the Bureau of Reclamation should be determined to provide for sharing of Delta shortages and Delta water.

b. It is requested that the season of direct diversion to the Feather River service area be made year-round and that the season for storage of water in Oroville Reservoir be about September 1 to about August 1 of the following year.

2. Since the State Water Project will not be completed by December 1, 1972, it is requested that after submission of a current construction schedule, Condition 8 be modified to reflect the construction capability of the Department of Water Resources.

3. It is proposed to present evidence as to the adverse effects of Condition 15 on the State Water Project in order to establish that it should be eliminated. In the alternative, it is requested that it be made clear that rediversion of stored water is not precluded and that it is intended to be in effect only until the exercise of continuing jurisdiction under Condition 19, but not beyond July 1, 1970. Also, after the submission of evidence it will be requested that Condition 15 be modified to include less stringent dry year provisions.

4. It is desired to submit a final agreement between the Department of Water Resources and the Department of Fish and Game for approval and to eliminate the continuing jurisdiction over flows in the Feather River for the preservation of fish and wildlife.

5. The Department wishes to have the opportunity to submit its proposed power sales contract for Oroville-Thermalito power to the Board for its review. At the time of such review, the Department would request that the Board limit its continuing jurisdiction under Conditions 19, 24 and 27 so as not to impair the power sales contract."

It is concluded that Decision D 1275 should be re-considered in part and a further hearing held to receive evidence and argument on the matters referred to in Paragraphs 1-a, 1-b, 2, 4, and 5.

The seasons of diversion set forth in Decision D 1275 were based primarily on the joint water right study presented by the Department at the hearing and to some extent on the water right study presented by the Bureau at the Sacramento River hearings.

The Department contends that there will be more unappropriated water available for a longer season than was shown in these studies, particularly in the early years of the project. The Department assures the Board that it can identify, divert, and beneficially use unappropriated water no matter how infrequently it occurs without the possibility of infringing on prior rights. The Department also contends that by virtue of its May 16, 1960, agreement with the Bureau, it will be entitled to divert water from the Delta year round whenever water is available for diversion by the Bureau. The Department should be permitted to present further evidence and argument to support these contentions.

The Department states that the project construction will not be completed by December 1, 1972, as required in Decision D.1275 and requests that it be allowed to submit an up-to-date schedule so the permits will reflect the anticipated dates of completion of construction.

This new schedule should be accepted and considered.

The requests contained in the first and last sentences of Paragraph 3 of the petition, to eliminate Condition 15 of the decision or, in the alternative, to revise the condition so as to provide less stringent dry-year requirements, are denied.

This condition was included in the decision to protect prior rights until such time as an agreement with the prior-right owners is reached or until additional studies are completed to further refine a method of protecting these rights.

The Department does not contend that it has evidence to prove that the criteria set forth in Condition 15 are not necessary to protect prior rights. Instead, the Department urges that the condition be stricken because it might cost more than \$15 million in lost power revenues due to a possible delay in the filling of Oroville Dam. This could happen only in a dry or series of dry years and is no cause for eliminating the condition.

Any relaxation of this restriction in a dry year would allow the Department to take water that almost certainly would belong to prior-right owners in such years. The water available to these prior-right owners would be more important to them in dry years than in other years, so the protection is more important in dry years.

Clarification of Condition 15 as requested in the second sentence of Paragraph 3 of the petition does not require further hearing. The interpretation that the term "diversions" in line 2 of the condition means direct diversions and not rediversions is correct, and the permit will be so clarified by inserting "direct" before "diversions."

The continuation of jurisdiction until July 1, 1970, provided by Condition 19, was designed to indicate that the Board would definitely reconsider Condition 15 by or before that time, along with other possible methods of affording reasonable protection to existing rights in the Delta.

The Board retained jurisdiction for protection of fish and wildlife with the expectation of receiving an agreement or agreements concerning this problem. If the agreement on the Feather River has been signed, the Board should accept it at this time to consider its incorporation in the permits.

The request that the Board review a proposed power sales contract, when it is in final form, should be granted. The Board does not imply that it will necessarily modify the permits to comply with the terms of the contract. However, due to the statewide public interest involved, it may be appropriate for the Board to review such a contract to

determine if its implementation would violate any provisions of the permits. If it does, the Board might wish to hold hearings to determine if a change should be allowed in the permits without jeopardizing the protection afforded to prior-right owners.

Petition of Contra Costa County Water Agency

The petition of Contra Costa County Water Agency sets forth in Paragraphs III through XV separate grounds for reconsideration of Decision D 1275. The comments which follow are numbered to correspond with the numbered paragraphs of the petition.

III

The report by the Federal Water Pollution Control Administration contains data and conclusions which duplicate, substantially, material already in the record. The Board does not reconsider a decision merely to permit the introduction of cumulative evidence.

IV

As explained on page 19 of the decision, the Board adopted, subject to further review, the water quality criteria which the Department had contracted to maintain for the period July 1 through November 30, as such criteria would provide water of higher quality than would be provided under natural conditions at most times. Presumably, if the Board were

"to make an order disavowing the legal significance of the November, 1965, instrument," as requested, a lower quality of water for the July-November period would result.

V

The petitioner requests that the Board reconsider the same evidence and proposals and arrive at a different conclusion in accordance with the petitioner's original recommendation. This does not present cause for reconsideration of the decision.

VI

Reconsideration is requested to require assurance by the Department that it will comply with Section 11271 of the Water Code. This section is a legislative directive to the operator of the North Bay Aqueduct and creates a legal obligation which the Department is bound to observe. It is not apparent how assurance of compliance by the Department would add to the protection afforded to the Delta by the legislative directive. Furthermore, construction of the North Bay Aqueduct from the Delta to Cordelia is not scheduled until 1980 (Bulletin 132-66, DWR Exh. No. 55). Ample opportunity to explore the legal effect of Section 11271 will be afforded at further hearings to be held before that date pursuant to Condition 19 of the decision.

VII

The petitioner contends that permits were granted on Applications 5629, 5630, 14443, and 14444 based on future development of the Eel River System, that this proves the water available in the Feather River-Delta Systems is not sufficient for the permit requirements, and that therefore the permits should be limited to the amount of water which can actually be supplied by the Feather River System.

The permits were granted on the basis that there is sufficient unappropriated water presently available from the sources named in the applications. Because the permits are subject to future upstream depletions, the quantity of water available under these permits will progressively decrease. The Eel River Project was included in the Department's operations study and considered by the Board, as it demonstrated how the State Water Project could be operated in the future when the water available under these permits is no longer sufficient. The future development of Eel River water was not included in determining the amount of unappropriated water available under these permits. The supply from the Eel River was included in the yield of the State Water Project in the future to show that project is feasible despite the reduction in amount available from the Feather River and Delta under these permits.

The permits to be issued on Applications 5629, 5630, that part of 14443 for which the Feather River is the source, and 14444 will be limited to the amount of water which can be supplied by the Feather River, which is what the petitioner suggests should be done.

VIII

The petitioner contends that a further hearing should be held to require the Department to present evidence assuring the construction and operation of the Peripheral Canal.

The present plan of the Department is to build and operate the Peripheral Canal jointly with an agency of the Federal Government. If Congress fails to take the action necessary for federal participation in the project, the Department could proceed alone, revise the project, or abandon it. Whatever the Department does with regard to the Peripheral Canal, the protection to the Delta water users remains the same; the quality specified and to be specified by future orders must be respected. The purpose of the Peripheral Canal is to increase the quantity of water that can be exported from the Delta. If less water is exported because the Peripheral Canal is modified or not built, there would appear to be no reason for the Delta water users to object. There is no reason to hold a further hearing at this time to consider what may occur with regard to the Peripheral

Canal in the future; if and when a significant change occurs in the Department's plans regarding the Peripheral Canal, the Board will consider whether a hearing should be held to decide whether changes should be made in the permit terms as a result.

IX

The petitioner contends the Board erred in refusing to permit introduction at the hearing of evidence regarding the effect of the San Joaquin Drain on water quality in the Delta.

It is uncertain as to who will construct the drain, when it will be constructed, where it will be constructed, and what measures will be taken to offset the effect of the drain on quality of water in the Delta.

No reason has been presented for reversing the Board's ruling excluding evidence on the San Joaquin Drain.

X

The quantity of Delta outflow is included in the subject of salinity control in the Delta, which was one of the principal issues considered by the Board in preparing the decision. With nothing new to be considered, no purpose would be served by a further hearing regarding the relationship between various Delta outflows and the quality of water in the Delta.

XI

The petitioner asserts that the wording of Condition 22 of the decision puts the burden of negotiating for a substitute water supply on the water users. Condition 22 has nothing to do with a "substitute" water supply. It gives persons in the area of origin the first right to contract for stored project water if they wish a supplemental supply. There is nothing in the decision which requires water users to negotiate for water which would substitute for the supply to which they are entitled. In the last paragraph on page 20 of the decision attention is directed to the general principle that an appropriator is responsible for any interference with prior rights.

XII through XV

Petitioner, in paragraphs XII through XV, requests the Board to reconsider and substantially revise its decision on the basis of the present record or further evidence. The evidence and arguments in the present record cited by the petitioner as justifying different findings or conclusions were all considered by the Board in arriving at its decision and there is no showing that new or different evidence would be offered at a further hearing. The Board finds that good cause for reconsideration of the decision is not shown in these paragraphs.

Petition of Central Valley Regional
Water Quality Control Board

This petition requests reconsideration and review of Decision D 1275 for the purpose of substituting water quality objectives adopted by the Regional Water Quality Control Board for the provisions in the decision pertaining to water quality in the Delta.

Water quality in the Delta was the subject of extensive evidence and argument by the parties, which was all considered by the State Water Rights Board in arriving at its decision. The data and conclusions of the Regional Water Quality Control Board in its water quality objectives substantially duplicate material already in the record. The State Water Rights Board does not reconsider a decision to permit the introduction of cumulative evidence; therefore the request of the Regional Water Quality Control Board should be denied.

IT IS HEREBY ORDERED that Decision D 1275 be reconsidered and that a further hearing be held pursuant to Water Code Sections 1357 and 1358 at a time and place to be announced. The hearing will be limited to such additional evidence and argument as the Board may find to be required for further consideration of the season of diversion and of the other matters referred to in Paragraphs 2, 4, and 5 of the petition by the Department of Water Resources.

IT IS FURTHER ORDERED that the petitions of the Central Valley Regional Water Quality Control Board and the Contra Costa County Water Agency for reconsideration of Decision D 1275 be denied.

Adopted as the order of the State Water Rights Board at a meeting duly called and held at Fresno, California.

Dated: July 19, 1967

/s/ George B. Maul
George B. Maul, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member