

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 5625)
and 38 Other Applications to)
Appropriate from the Sacramento-)
San Joaquin Delta Water Supply)

SUPPLEMENT TO ORDER DENYING RECONSIDERATION OF,
AND CLARIFYING AND CORRECTING DECISION 1379

On September 16, 1971 the State Water Resources Control Board adopted "Order Denying Reconsideration of, and Clarifying and Correcting Decision 1379". On October 6, 1971 the Board received from The Metropolitan Water District of Southern California, a party to this proceeding, a request that the Board further clarify whether failure to question at this time matters over which the decision continues reserved jurisdiction will prejudice the ability of the parties to raise those issues during subsequent board proceedings.

It appearing that Decision 1379 and the order denying reconsideration of the decision should be clarified in accordance with the request of The Metropolitan Water District of Southern California, it is hereby ordered that the aforesaid "Order Denying Reconsideration of, and Clarifying and Correcting Decision 1379" be supplemented with the following statement:

Except as set forth in Item 9 of its order, Decision 1379 makes only interim determinations on the issues that were then before the Board. Therefore, the parties may raise, without prejudice and without the necessity of judicial appeal at this time, any question or right pertaining

to those determinations, in any appropriate board proceeding held pursuant to the jurisdiction reserved in that Decision or in any related judicial proceedings.

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

Dated: October 13, 1971

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

W. W. ADAMS
W. W. Adams, Member

Board Member Robie did not participate in the vote.

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STATE WATER RESOURCES CONTROL BOARD
Room 1140, Resources Building
1416 Ninth Street
Sacramento, California 95814

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Eight petitions for clarification and/or reconsideration of Decision 1379 have been filed. These petitions are on behalf of ten parties as follows:

1. Central Valley Eastside Project Association, County of Tulare, and Friant Water Users Association (CVESPA)
2. Contra Costa County Water District (CCCWD)
3. Delta Water Agency (DWA)
4. Department of Water Resources (DWR)
5. Metropolitan Water District (MWD)
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7. U. S. Bureau of Reclamation (USBR)
8. Westlands Water District (WWD)

The Board denies reconsideration but clarifies and corrects Decision 1379 and responds to the following numbered items upon which reconsideration has been requested.

1. The release of stored water for fish and wildlife enhancement required by section 2.C. of the State Delta Standards should be conditioned on the provision of funds by the California Legislature to cover the cost of the Department's share of providing such water. (DWR)

This subject was fully considered by the Board in Decision 1379 and the Board is satisfied that its decision in this respect should not be changed.

2. State Delta Standards 2.C.1.a. (striped bass spawning), 2.C.1.c. (Chippis Island, neomysis), and 2.C.3.b. (Suisun Marsh Channels) should be relaxed in dry and critical years in keeping with the standards for agricultural and municipal and industrial use in sections 2A and 2B. (DWR, MWD except standard 2.C.3.b.)

The Board recognizes that relaxation of these standards may appropriately be allowed during certain dry or critical years. However, the record indicates that there is not likely to be a problem in meeting these standards during the next seven years. In the event an emergency does arise, the decision already provides in term 8 of the order that the project operators may petition the Board for the necessary relief.

3. Term 3 of the order should be modified to allow the Board to permit testing of fish and wildlife standards in dry years below the 2 millimhos EC and 350 mg/l Cl⁻ provided for agricultural protection in section 2.A.1. of the State Delta Standards. (DWR)

Protection to agricultural uses afforded by section 2.A.1. should not be sacrificed to permit experimentation with fish and wildlife protection.

4. State Delta Standards 2.C.1.a. (striped bass spawning) and 2.C.1.c. (Chippis Island standards for neomysis) should require flows on the basis of a 14-day mean, rather than a daily mean. (DWR, MWD)

Reasons for using a 14-day average were adequately presented in the hearing. Use of 14-day mean daily basis is consistent with the other provisions of the Board's order. The Board orders that those portions of State Delta Standards 2.C.1.a. and 2.C.1.c. referring to mean daily salinities and mean daily chloride concentration be changed to a 14-day running average of the mean daily salinities or concentration.

5. The State Water Project cannot eliminate reverse flows in the San Joaquin River portion of the Delta (2.C.2.a.) or provide predominantly San Joaquin River water in the southeastern Delta in the months of September, October and November (2.C.2.b.) prior to the operation of the Peripheral Canal.
(DWR, MWD)

The Board recognizes that the project operators cannot eliminate reverse flows in the San Joaquin portion of the Delta during the months of September, October and November without a cross-Delta transfer facility. Prior to the operation of such a facility it is implicit in the Board's order that the permittees shall maintain the standard to the best of their ability with the facilities available. The decision needs no modification in this respect.

6. The electrical conductivity requirement in the agricultural standard (2.A.1.) should be changed from 3 millimhos to 3.6 millimhos. (DWR, MWD)

The number "3" was taken from testimony and was not intended to reflect a direct correlation with 1000 mg/l Cl^- . However, petitioners' argument has merit since there is inconsistency between the two figures.

The evidence shows that the proper correlation is 3.6 millimhos and the Board orders that this modification in section 2.A.1. of the State Delta Standards be made.

7. (a) Term 6 of the order in Decision 1379 should provide that adjustments in the monitoring program can be made by a task force composed of staff level representatives of the Board, the Department of Water Resources, and the Bureau of Reclamation. (DWR)

(b) A staff task force should be established to implement the technical aspects of the decision's monitoring program in cooperation with the California Departments of Water Resources and Fish and Game, the United States Bureaus of Reclamation and Sports Fisheries and other affected agencies, and to tailor the monitoring program so as to make the best use of available resources and funds. (MWD)

The Board recognizes that there will be changes in the monitoring program and therefore provided adequate flexibility in term 6 of its order. However, term 6 should be rewritten to clarify the Board's intent as follows:

"6. The Delta monitoring program as set forth in Tables 2, 3, and 4 will be subject to continuing review. Any

party to this proceeding may for good cause at any time, either before or after the program is initiated, petition the Board to adjust the program, or the Board on its own motion, after evaluation of the results of the required monitoring, may adjust the program. Such action may be taken only after notice to all parties and allowance of opportunity for objection."

8. The Board should re-examine the technical calculations as to the outflows required by the decision. (USBR, SCCFCWD)

The outflow figures provided by petitioners are greatly in excess of the outflow figures which can be derived from the evidence presented in the hearing. The figures provided by petitioners are based on information not in evidence and the Board has no means of verifying them. It appears that actual operating experience will be necessary in order to obtain reliable data. Any substantive information which will enable more accurate computations of Delta outflows and

impact upon the projects should be presented to the Board at a later hearing involving the Delta water rights.

9. (a) Do uses protected by the decision include all quantities of water to be delivered to Contra Costa County Water District by the U. S. Bureau of Reclamation pursuant to its water supply contract with said District? (CCCWD)

(b) Must the State Delta Standard for the intake of the Contra Costa Canal be maintained by the permittees for the period specified in Decision 1379 irrespective of the quantities diverted for municipal and industrial use on lands within the Sacramento-San Joaquin Delta pursuant to prior vested rights, valid appropriative rights, or repayment contracts with the U. S. Bureau of Reclamation or the Department of Water Resources, and irrespective of the time of said diversions and irrespective of the points of said diversions? (CCCWD)

Yes. These matters were fully considered in reaching Decision 1379. The decision carries implicit recognition of vested rights and provides that uses in the Delta shall have priority over export. Therefore, as uses in the Delta build up, it is clear that they will enjoy preference over export of water.

10. The Board did not set criteria at a sufficient number of stations to protect the central and southern Delta and the standards for protection of agricultural uses established by the Board are not as high as those recommended by the Delta Water Agency either in terms of chlorides or electrical conductance. (DWA)

The Board fully considered these matters in arriving at its decision. No changes are needed.

11. The decision does not make reference to the problem of water levels in the channels of the Delta. (DWA)

This is a subject which merits further study and the Board orders that study of water levels in the southerly and southeasterly channels of the Delta be included in term 7 of the Board's order.

12. The Board should reconsider Decision 1379 for the purpose of modifying the Delta standards to conform with the recommendations contained in the Department's joint Opening Brief and the joint Reply Brief. (DWR)

No cause for modifying the standards has been shown.

Other issues, including questions raised by the Bureau regarding the Board's jurisdiction, have been considered and are judged to have no merit except to the extent included in the errata section below.

The Board further orders the following corrections be entered in Decision 1379:

- Page 54 - State Delta Standard B.2. - change "Cl" to "TDS". Except as otherwise noted, computations as indicated below are based on this change.
- Page 24 - third line from bottom - change "2,383,000" to "2,893,000"
- Page 25 - Line 1 - change "4500" to "6200" and "1,350,000" to "1,860,000"
- Line 5 - change "2,383,000" to "2,893,000"
- Line 11 - change "4,112,000" to "4,622,000"
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- Line 23 - change "105" to "230" and "378,000" to "828,000" (see correction for page 31)
- Line 24 - delete entire line
- Line 25 - change "1,906,000" to "2,376,000"
- Page 26 - Line 1 - change "477,000" to "517,000"
- 11 lines from bottom of page, change "30 c" to "30 e"
- 5 lines from bottom of page, delete "the exhibit" and insert "CCCWA 30 e and 30 f"

Page 27 - The figures in "State Delta Standards" column which are listed as "70" should be changed to "*"

Footnote /2, add at end of footnote, "in a normal year"

Page 31 - Last line of last full paragraph, add "according to plate 15 but in the neighborhood of 1800 cfs, based on testimony"

Page 42 - 4th line from the bottom, insert "the Department intends to" before the word "abide"

Page 43 - Line 10 - change "2.4" to "2.9"

Line 12 - change "1.1" to "1.6"

Line 13 - change "400,000" to "500,000"

Page 44 - Line 1 - change "almost doubling that outflow" to "multiplying the outflow by 2.2"

Line 2 - change "double" to "2.2 times" and change "100,000" to "about 120,000"

Line 4 - change "2.4" to "2.9"

Line 6 - change "100,000" to "120,000" and change "1" to "1.2"

Line 12 - change "1.9" to "2.4"

Line 16 - change "0.9" to "1.4"

Line 18 - change "0.8" to "1.4"

Line 25 - change "double" to "triple"

Page 45 - Line 1 - change "200,000" to "300,000"

Line 3 - change "\$2" to "\$3"

Adopted as the order of the State Water Resources
Control Board at a meeting duly called and held at Los Angeles,
California.

Dated: September 16, 1971

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Board Member Robie did not participate in the vote.