

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 15013 )	Order: WR 78-2
and 15015 through 15024 Issued )	
on Applications 11792 et al., )	Sources: Stanislaus River
CALAVERAS COUNTY WATER DISTRICT, )	and Tributaries
Permittee. )	Counties: Tuolumne, Calaveras,
	Stanislaus and
	San Joaquin

ORDER GRANTING EXTENSION OF TIME ON PERMITS

BY THE BOARD:

By its Order WR 76-11, dated July 15, 1976, the State Water Resources Control Board, following hearing, extended indefinitely the time to commence construction of the project covered by Permits 15013 and 15015 through 15024. Said extension was granted upon the following express conditions:

(1) that permittee formulate the details of its project and obtain a purchaser for project power by December 1, 1977;

(2) that permittee report quarterly to the Board on progress of discussions with other parties whose projects may be affected by permittee's project and with prospective power purchasers;

(3) that the subject permits should be revoked, without further hearing, if permittee failed to obtain approval by its electors on bonds to finance its project

prior to December 1, 1977, and that permittee in accepting the time extension agreed to this condition.

On July 28, 1977, permittee petitioned for an extension of time within which elector bond approval must be obtained, from December 1, 1977, to December 1, 1978. Permittee also requested that the condition requiring permittee to obtain a purchaser for project power by December 1, 1977, be removed, alleging that said condition has been satisfied. Permittee further requested deletion of the condition requiring quarterly reports on progress of discussion with parties whose projects may be affected by permittee's project and with prospective power purchasers.

Permittee's petition was noticed pursuant to Section 778.5, Title 23, California Administrative Code. Protests to the petition were received from Edward F. Casey Family, Friends of the River and Wilderness Society and Dale I. Meyer, Sierra Club, and California Department of Fish and Game. Permittee filed written answers to the protests.

The record in this matter, including the instant petition, protests, and answers, having been duly considered, the Board finds as follows:

1. Permittee has again revised its project plan from the plan contemplated at the hearing which led to Order WR 76-11; the revised project plan, which is in draft form, is smaller in scope.

2. Permittee has entered into a "Memorandum of Understanding" with the Northern California Power Agency (NCPA) which contemplates execution of a power sale contract between permittee and NCPA. NCPA has, pursuant to the Memorandum of Understanding, advanced substantial funds to permittee to assist it in finalizing the revised project. The Memorandum contemplates that approximately \$1,520,000 will be required to carry the project through the licensing period, which expenditures shall be met through advances by NCPA.

3. Permittee has carried on discussions and negotiations with other affected parties, including the Department of Fish and Game, the U. S. Forest Service, the Federal Power Commission, and the Pacific Gas and Electric Company.

4. The Board, at its November 17, 1977 meeting, directed staff to return the matter within three months after December 1, 1977, and at that time, the Board would deal with the extension and any requested modifications to the permit.

5. Permittee has, since November 17, 1977, filed a Draft Environmental Impact Report with the State Clearing House. The report deals with the revised smaller project.

6. Permittee also has filed petitions including the required maps, for the permit changes which will define the revised project. Order WR 75-1, January 16, 1975, also provided for further hearing regarding the definitive project prior to amendments of the permits. This was not considered in Order 76-11.

7. Permittee was not in a position to seek approval of its electors by December 1, 1977, of bonds to finance the project. Accordingly, the condition upon permittee's indefinite extension of time to commence construction has not been satisfied.

#### DETERMINATION OF ISSUES

1. The conditions contained in Order WR 76-11 were specific criteria for prospectively determining permittee's due diligence in furthering the project covered by the instant permits through December 1, 1977.

a. Permittee has obtained a purchaser for project power, within the meaning of Order WR 76-11.

b. Permittee has satisfied the reporting requirements of that Order.

c. Permittee has formulated the details of its project, within the meaning of that Order.

d. Permittee's electors did not have an opportunity to approve bonds to finance permittee's project by December 1, 1977, as required by that Order.

2. Permittee has exercised due diligence in an effort to formulate its project, commence and complete construction work and apply water to beneficial use in accordance with the instant permits and with Division 2 of the Water Code and the regulations of the Board with exception of the requirement of Order WR 76-11 to conduct a bond election by December 1, 1977.

a. Permittee cited reasons beyond its absolute control for inability to schedule bond election before December 1, 1977.

b. California Water Code Section 1398 provides that: "The period specified in the permit for beginning construction work, for completion of construction work, for application of the water to beneficial use, or any or all of these periods, may, for good cause shown be extended by the Board."

c. Permittee's petition for an extension of time was submitted before the expiration of the time period set forth in Order WR 76-11.

3. The protests against granting extension of time were based on environmental issues and lack of diligence by permittee.

a. Environmental issues should rightfully be a part of the Board's consideration of the permittee's petitions for changes in the permits.

b. Permittee has made substantial progress during the time that has elapsed since Order WR 76-11.

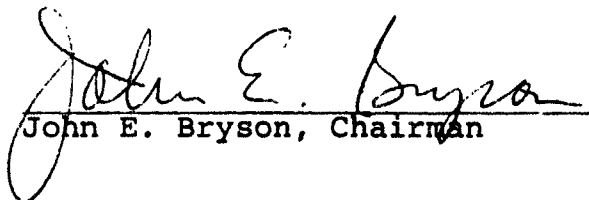
THE BOARD DETERMINES THAT:

1. Disposal of allegations of protestants that permittee has been lacking in diligence is within the Board's authority.

2. Permittee has shown good cause for extension of time under Water Code Section 1398.

NOW, THEREFORE, IT IS ORDERED that the time set forth in Condition 4 of Order WR 76-11 be extended to December 1, 1978.

Dated: FEB 14 1978

  
John E. Bryson, Chairman

  
W. Don Maughan, Vice Chairman

  
W. W. Adams, Member