

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
77 Cadillac Drive
Sacramento, CA 95825
(916) 920-6307

**WATER RIGHT
HEARING NOTICE**

FEBRUARY 23 AND 24, 1983, 10:00 A.M.
FOOD & AGRICULTURE BLDG. ASSEMBLY ROOM 127
(1ST FLOOR AUDITORIUM) 1220 N STREET
SACRAMENTO, CALIFORNIA

HEARING SUBJECT:

The State Water Resources Control Board will hold a hearing regarding Decision 1422 (Permits 16597, 16598, 16599, and 16600; Applications 14858, 14859, 19303 and 19304) of the U. S. Bureau of Reclamation to consider (1) whether it should allow increased storage of water in New Melones Reservoir for generation of power and (2) whether it should allow increased storage of water in New Melones Reservoir for consumptive uses.

KEY ISSUES:

1. Should the condition in Order paragraph 2 of Decision 1422 restricting storage of water for generation of hydroelectric power be modified to prevent wast unreasonable use, or unreasonable diversion of water pursuant to Article X, Section 2 of the California Constitution, California Water Code Section 100, and Condition 13 of Decision 1422? Is a need for additional electrical power sufficiently great to warrant increased storage levels in New Melones Reservoir?
2. What progress has the United States Bureau of Reclamation made toward establishing firm commitments to deliver water for consumptive uses which would require storage in New Melones Reservoir of more than 438,000 acre-feet of water? Should the Board issue a further order allowing increased storage in New Melones Reservoir for consumptive uses?

BACKGROUND:

Applications 14858, 14589, 19303, and 19304 were approved in part on April 4, 1973, after a hearing. The Board's decision is set forth in Water Right Decision 1422. Since the decision was issued, general conditions with regard to cost, availability and need for electrical energy have changed, and may warrant increased storage in New Melones Reservoir over amounts allowed in Decision 1422.

Additionally, permittee has recently taken steps toward entering into contracts to deliver water for consumptive use purposes which would require storage of water in New Melones Reservoir in excess of the amount allowed under Water Right Order 80-20. These steps may justify further increase in the amount of water allowed to be stored in New Melones Reservoir under Decision 1422.

IF YOU WANT TO TAKE PART IN THIS HEARING: the attached information sheet will tell you what you must do. A summary of facts about this water right and a pamphlet which will tell you how the hearing will be conducted is also enclosed.

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

Dated: January 20, 1983
Sacramento, California

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

STAFF SUMMARY FOR HEARING
PERMITS 16597, 16598, 16599, 16600
(APPLICATIONS 14858, 14859, 19303, and 19304)

Substance of Permits

Permittee:	United States Bureau of Reclamation
Date Permitted:	April 4, 1973
Source:	Stanislaus River
Tributary to:	San Joaquin River
Counties:	Calaveras and Tuolumne
Reservoir Capacity:	2,400,000 acre-feet
Quantities Allowed by D-1422 and Order 80-20:	438,000 acre-feet storage for all purposes, 6,000 cubic feet per second by direct diversion for power generation

Summary of Record

The New Melones Project was permitted in 1973, subject to certain conditions and limitations. Condition 2 of Decision 1422 provides that, until further order of the Board, the permittee may impound water only for fish and wildlife enhancement, maintenance of water quality, satisfaction of prior rights, and flood control. Further order of the Board increasing the amount of water impounded for consumptive uses must be preceded by a showing that the permittee has firm commitments to deliver water for the proposed uses. The Board may establish dry year criteria when it approves an increased impoundment.

Conditions 1-a and 1-d limit the uses of water appropriated under the consumptive use permits to preservation and enhancement of fish and wildlife, recreation, and water quality control purposes, until further order of the Board.

In 1979 and 1980, the Board held a further hearing on the New Melones Project, and issued Water Right Order 80-20 on November 20, 1980. In Water Right Order 80-20, the Board among other things determined the authorized storage level of the reservoir, based on the amounts of water yield committed to preservation and enhancement of fish and wildlife, water quality control, and satisfaction of prior rights to irrigation water.

The presently authorized storage level for New Melones Reservoir is a temporary limitation. Its purpose is to preserve recreational uses of the river upstream of the dam until such time as the Bureau has established that it has a consumptive use for the water which it could store at the reservoir's full capacity. Impoundment in the reservoir for flood control is not limited by Decision 1422 or by Order WR 80-20.

Decision 1422 provides that no additional storage shall be allowed for power generation or recreation. It includes power generation as incidental to storage for other uses. Power can be generated under the decision as water is released for other purposes or by direct diversion.

However, under Condition 13, all rights and privileges under the permits are subject to the Board's continuing authority to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water appropriated under the permits. Under this provision, if it is shown that under presently existing conditions the restriction on power storage violates the prohibitions against waste, unreasonable use, or unreasonable diversion of water (Cal. Const. Art. X, Section 2; Water Code Section 100), the Board may modify the permits to remove or otherwise change the restriction on power storage.

The Board was notified by the Bureau of Reclamation that it would be able to show that it has firm commitments to deliver water for consumptive uses. Also, since 1973 when the permits were issued, the availability of energy and need for power has changed substantially, and present conditions may show that power generation from stored water is now of more than incidental importance. Because of these factors, the Bureau has requested the Board to reconsider its Decision 1422.

Scope of Hearing

The hearing will include the following issues:

1. Under presently existing conditions, is the restriction in Decision 1422 on power storage a violation of the prohibition against waste, unreasonable use, or unreasonable diversion of water, as set forth in Cal. Const. Art. X, Section 2, in Water Code Section 100, and in Condition 13 of Decision 1422?
2. Can it be demonstrated that the need for the additional power is sufficiently great to warrant filling New Melones Reservoir?
3. Has the United States Bureau of Reclamation made sufficient progress toward establishing firm commitments to deliver water for consumptive uses to justify allowing additional storage of water for these uses?

Documents to be Offered in Evidence

The following documents will be offered in evidence at the hearing by Board staff:

1. Transcript of deposition taken of United States Bureau of Reclamation personnel by the Board's legal counsel on March 25, 1981.
2. Exhibits from the above deposition taken on March 25, 1981.
3. Operations study provided by the United States Bureau of Reclamation as follow-up to the above deposition, filed April 28, 1981.
4. The Board's files of permitted Applications 14858, 14859, 19303, and 19304.
5. 1983 Electricity Report, California Energy Commission, January 1983.
6. Securing California's Energy Future, California Energy Commission, 1983 Biennial Report, to the Governor and the Legislature.
7. Project Status Report No. 4, Staff Report, California Energy Commission, April 1982.
8. Committee Report, Joint Investigation into the Reliability of California's Electric Power System, Docket 81-E5R-1, 1982.

Dated: January 20, 1983
Sacramento, California

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INFORMATION CONCERNING APPEARANCE AT WATER RIGHT HEARINGS

Your attention is directed to the enclosed pamphlet "Regulations Pertaining to Protests and Hearings", and in particular to Sections 731 through 736 commencing on Page 3.

It is the Board's policy to discourage surprise testimony and exhibits at water rights hearings. To this end the Board has adopted the hearing rules contained in Section 733.5, concerning witnesses and exhibits, commencing on Page 5 of the enclosed pamphlet. Since these rules may require certain actions on your part well in advance of the hearing date, you should consult Section 733.5 immediately.

Principal before-hearing actions are the following:

- (1) Witnesses. At least ten days before the hearing, each party intending to participate must submit to the Board and to each of the other parties the name of each witness who will testify in such party's behalf, together with certain other information. This information should be submitted on the enclosed forms.
- (2) Exhibits. At least ten days before the hearing, each party intending to submit exhibit(s) at the hearing shall supply one copy of proposed exhibit (s) to each party and shall supply three copies of proposed exhibit (s) to the Board. The exhibits of an applicant, permittee or licensee shall include any environmental document concerning the project.

The parties who are required to exchange the information noted above are identified on the attached list.

By Board rule, the requirements of Section 733.5 are to be strictly enforced. Failure to submit witness information and exhibits timely may be interpreted by the Board as intent not to appear. Such failure may result in cancellation of the hearing and such further action as the Board may consider appropriate under all the circumstances.

If the hearing is cancelled or rescheduled, only those parties who have indicated intent to attend will be informed of the change.

Materials submitted to the Board should be addressed as follows:

Raymond Walsh, Chief
Division of Water Rights
State Water Resources Control Board
77 Cadillac Drive
Sacramento, California 95825

NOTICE OF INTENT TO APPEAR

I plan to attend the water right hearing scheduled for February 23 & 24, 1983
(date)
regarding Application(s) 14858, 14859, 19303, and 19304

I intend to call the following witnesses to testify at the hearing:

[illegible]

(If more space is required, please add additional pages or use reverse side.)

Dated: _____ (signature)

* For each person testifying as an expert witness, please attach a list of his/her qualifications.

Delta Water Users Assoc.
Alfred S. Ferguson
Augusta Bixler Farms
Herman Gaul
c/o John A. Wilson
504 Bank of Stockton Bldg.
311 E. Main Street
Stockton, CA 95202

PARTIES LIST
(CERTIFIED LIST)

Robert N. Blossom
P. O. Box 278
Thornton, CA 95686

McMullin Reclamation Dist. #2075
Walthall Reclamation Dist. #2094
River Junction Reclamation Dist. #2064
c/o Chadeayne, Wilkinson
& Talley, Attorneys at Law
P. O. Box 930
Tracy, CA 95376

Oakdale Irrigation District
So. San Joaquin Irrigation Dist.
c/o Mr. Keith F. Chrisman,
Executive Secretary-Engineer
P. O. Box 188
Oakdale, CA 95361

Mr. John L. Hertle
4355 Gates Road, Route 3
Modesto, CA 95351

Westside Irrigation District
Naglee Burk Irrigation District
Paradise Mutual Water Co.
Independent Mutual Water Co.
Fremont Irrigation Assoc.
Pescadero Reclamation District
Manual and Olympia Furtado
Antonio and Tony Cardoza
c/o Wadsworth and Souza
112 West 10th Street
Tracy, CA 95376

Tuolumne Regional Water Dist.
c/o Mr. Daniel F. Gallery
926 J Building
Sacramento, CA 95814

Mr. & Mrs. Robert J. Collier
J 21750 East River Road
Escalon, CA 95320

San Joaquin County Flood Control
and Water Conservation Dist.
c/o Mr. Richard W. Dickenson,
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Courthouse
22 East Weber Avenue
Stockton, CA 95202

Contra Costa County
Water Agency
6th Floor Admin. Bldg.
Martinez, CA 94553

Mr. James R. Graham
Acting Regional Director
U. S. Bureau of Reclamation
2800 Cottage Way
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Pacific Gas and Electric Co.
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Paul L. Davies, Jr., Partner
Faith Ranch, A Partnership
c/o Pillsbury, Madison and
Sutro
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Stanislaus River Flood Control
Association
343 E. Main Street, Suite 524
Stockton, CA 95202

Mary P. & L. Eugene Mondo
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Oakdale, CA 95361

Banta-Carbona Irrigation Dist.
c/o Mr. Philip Cavallero
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404 Bank of Stockton Bldg.
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Anna Pelucca, et al.
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