

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permits 2631, 12258,  
10473, and 10474 Issued on Applications  
2270, 5645A, 13707, and 13708

U. S. BUREAU OF RECLAMATION

Petitioner

and

Permit 16762 Issued on Application 23416,  
Licenses 537 and 6238 Issued on Permits  
1030 (Application 1838) and 10144  
(Application 16142)

BANK OF AMERICA AS CORPORATE CUSTODIAN  
OF THE PENSION TRUST FUND FOR OPERATING  
ENGINEERS (RANCHO MURIETA)

Petitioner

OMOCHUMNE-HARTNELL WATER DISTRICT

Protestant

ENVIRONMENTAL COUNCIL OF SACRAMENTO

Complainant

License 2629 Issued on Permit 1320  
(Application 2296) of

Cosumnes Irrigation Association

Licensee

JAY SCHNEIDER

Protestant and Complainant

Order : WR 79-23

Source: Cosumnes River

County: Sacramento

ORDER MODIFYING ORDER WR 79-13 ON RECONSIDERATION

BY THE BOARD:

Rancho Murieta, Omochumne-Hartnell Water District and Jay Schneider,  
having petitioned the State Water Resources Control Board (hereinafter the Board)  
for reconsideration of Order WR 79-13, adopted June 7, 1979, which approved change

petitions of the U. S. Bureau of Reclamation and Rancho Murieta, and allowed complaints of Jay Schneider in part; the Board having received written statements in opposition to the petition of Jay Schneider from Rancho Murieta and El Dorado Irrigation District; the Board having made its order on July 19, 1979 granting reconsideration; the petitions and the record in this matter having been duly considered the Board finds as follows:

Petition of Omochumne-Hartnell Water District

1. The District contends that the lands within its jurisdiction should be included within the place of use under the U. S. Bureau of Reclamation's, permits. Petitioner Schneider concurs with this contention.

2. The Board finds that this proposal was not a part of the Bureau's change petitions and, therefore, was not within the scope of the proceedings on said petitions. Accordingly, the proposal cannot by orderly process be properly considered on reconsideration of Order WR 79-13. This finding is without prejudice to consideration of any subsequent petition embodying the proposal.

Petition of Rancho Murieta

3. Rancho Murieta's petition raises two issues:

a. Petitioner objects to order Paragraph 8 on Permit 16762. This order paragraph requires that all local runoff be collected to storage and that the right under Permit 16762 be correspondingly reduced. Petitioner correctly points out that local runoff cannot be accurately forecast since runoff in the area comes from rainfall rather than from any measurable snowpack. Petitioner further contends that the term provides no benefit or necessary protection to Schneider. The existing diversion season constraints (November 1 to May 1)

in Permit 16762, and the minimum flow requirements of Condition 18 (no diversion when the flow is less than 70 cfs), together with Condition 21 (there must at all times be a live stream from the permitted diversion down to McConnell gage), provides the necessary protection to the protestant. Furthermore, spill from Chesbro and Clementia reservoirs will flow into the Cosumnes River upstream from the protestant. Calero reservoir's entire watershed is 210 acres, with the reservoir itself occupying 118 acres. Therefore, only a small additional amount could be diverted from the Cosumnes River in place of collecting local runoff, but only outside the protestant's irrigation season.

Petitioner further points out that order Paragraph 8 may conflict with Condition 18 which requires that in subnormal years the reservoirs be filled early to aid downstream fish migration flows. The Board finds that order Paragraph 8 is excessively burdensome and does not provide optimum operation of the permittee's project considering all of the permit requirements together. The project as permitted also contains a built-in incentive to collect local runoff since the collection of such runoff avoids needless pumping and energy expended. Accordingly, order Paragraph 8 should be modified to require petitioner to collect local runoff where practicable.

b. 'Petitioner requests the Board to amend subparagraph (d) of finding 7.d.(2), which reads:

*"Protestant's concerns with access to the meters was resolved at the hearing at which time OHWD and Rancho Murieta agreed that Schneider Ranch would be granted **access as** a representative of OHWD."*

Petitioner contends that this finding incorrectly implies that Rancho Muieta agrees to designation of multiple representatives by OHWD. We find that the record substantiates petitioner's contention. The order will be amended accordingly.

Petition of Jay Schneider

4. Petitioner raises four issues:

a. Petitioner insists that the requested change in place of use under License 6238 (Rancho Murieta) should be disapproved. Petitioner offers no new matter in support of his request. We have reviewed the record and find no error in our interpretation of the facts. Petitioner's request should, therefore, not be granted.

b. Petitioner requests that License 2629 (Cosumnes Irrigation Association) be reduced on a pro rata basis rather than by considering actual use data as found in finding 24 b of Order 79-13. The original basis for determining the amount of water to be licensed was an estimate and was not based on use data which is a preferable basis. There is no doubt from the record that the full amount of the license was beneficially used prior to issuance of the license. With the present change in the project, current use data will be available. There is no reason not to use a measured amount rather than a hypothetical amount when such data becomes available. There is precedent for this approach. (See Board-Order 74-35.)

c. Petitioner, in reference to the U. S. Bureau of Reclamation's permits requests that the Schneider Ranch be included in the place of use. We find that inclusion of the Schneider Ranch in the place of use is outside the scope of this proceeding and that the discussion under finding 2, above, is applicable to this request. Petitioner further requests that domestic use as well as municipal and industrial uses be limited to net amounts to control growth. The Board finds further that the U. S. Bureau of Reclamation properly petitioned for a change in character of use and the records indicate that the water under the permits has been fully utilized and the Bureau expects the

project to be licensed in 1979. Further, the El Dorado Irrigation District has previously Pointed out that future growth will be supplied with water from other sources.

d. Petitioner requests that the Board amend its order concerning public access to the Cosumnes River adjacent to Rancho Murieta to require equal access to all portions of the river. The Board finds that petitioner has offered no new matter to support his request, that the order was made after due consideration of all the record and that the County of Sacramento is the proper authority to implement and control access to the river.

5. The Board further finds that reference to License 537, order Paragraph 3 of Order 79-13 on Page 42 is a clerical error and should be amended to refer to License 6238.

From the foregoing findings, the Board concludes that Order 79-13 should be amended as set forth in the order following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The permit term contained in order Paragraph 8 on Permit 16762, Page 40, of Order 79-13 is modified to read as follows:

*"Permittee shall make all reasonable effort to collect local runoff to storage to the extent local runoff is available in lieu of diverting water from the Cosumnes River."*

2. Subparagraph (d) of finding 7.d(2) (Page 11) of Order 79-13 is modified as follows:

*"Protestant's concerns with access to the meters was resolved at the hearing, at which time OHWD and Rancho Murieta agreed that Schneider Ranch could be granted access as the representative of Omochumne-Hartnell Water District."*

3. Paragraph 3 of Order 79-13 on Page 42 is deleted and a new Term 10 on Page 41 shall be added to License 6238 as follows:

*"This license is subject to the agreement dated March 26, 1979 between licensee and Omochumne-Hartnell Water District to the extent such agreement covers matters within the Board's jurisdiction."*

4. Except as hereinabove ordered, the petitions for reconsideration are dismissed.

Dated: August 16, 1979

/S/ W. DON MAUGHAN

W. Don Maughan, Chairman

/S/ L. L. MITCHELL

L. L. Mitchell, Member

/S/ WILLIAM J. MILLER

William J. Miller, Vice Chairman

/S/ CARLA M. BARD

Carla M. Bard, Member