

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25263 )  
to appropriate from Unnamed Stream )  
Tributary to Mill Creek, )

RUTH PADEN and GORDON DENT PICKETT, )

Applicant, )

FRESNO IRRIGATION DISTRICT and )  
KINGS RIVER WATER ASSOCIATION, )  
ET AL., )

Protestant. )

Decision: 1505

Source: Unnamed Stream  
Tributary to Mill Creek

County: Fresno

DECISION DENYING APPLICATION

BY THE BOARD:

Ruth Paden and Gordon Dent Pickett having filed Application 25263 for a permit to appropriate unappropriated water, protests having been received; applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made on October 20, 1978 by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of Application

1. Application 25263 is for a permit to appropriate five acre-feet of water per annum by storage in two reservoirs from November 1 of each year to April 1 of the succeeding year for stockwatering and recreational purposes. The reservoirs are on an unnamed stream tributary to Mill Creek thence Kings River. Both reservoirs are located within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 21, T14S, R26E, MDB&M.

### Applicants' Project

2. The applicants have constructed two earthfill dams. The upper dam, built prior to 1969, impounds approximately one acre-foot of water. The lower dam, built in 1976, impounds approximately four acre-feet. Water stored in the reservoirs is used for recreation and stockwatering.

### Protests

3. Application 25263 was protested by Bob and Laura Boone; Robert and Sharon Riddle; and the Fresno Irrigation District and Kings River Water Association. Protestants Boone and Riddle allege interference with their riparian rights on their property a short distance downstream from the applicants. Protestants Boone have filed Statement of Water Diversion and Use 9369 which states that their cattle are watered by drinking directly from the creek.

4. The Fresno Irrigation District and Kings River Water Association filed a joint protest claiming damage to prior appropriative and riparian rights. They supply water under Permitted Applications 353, 360, 5640, and 11023 to 1,130,000 acres in Fresno, Kings, and Turlare Counties.

### Availability of Unappropriated Water

5. Since the collection season coincides with the rainy season, there will be water available in excess of the requirements of Boone and Riddle. Suitable bypass conditions could be imposed to protect their rights; however, Board Decision 1290 approved eight major applications for Fresno Irrigation District in the Kings River Watershed for amounts of water exceeding the maximum annual runoff of the Kings River measured at Piedra where the river enters the valley floor. Continuity of flow exists during the collection season between the applicants' reservoirs and the Kings River.

Conclusion

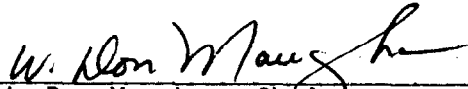
6. The Board concludes that unappropriated water is not available to satisfy Application 25263 and storage of water as proposed would infringe on downstream prior vested rights.

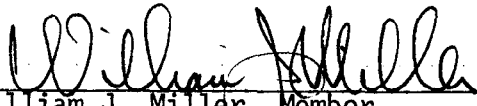
7. The records, documents and other data relied upon in determining the matter are: Application 25263 and all relevant information filed therewith and Decision 1290.

ORDER

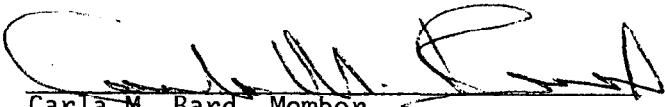
IT IS HEREBY ORDERED that Application 25263 be denied.

Dated: MAY 17 1979

  
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W. Don Maughan, Chairman

  
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William J. Miller, Member

  
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L. L. Mitchell, Member

  
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Carla M. Bard, Member

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