

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25406)	
TRUST OF WILLIAM AND MARY ROTHAS)	Decision: 1541
Applicants)	Source: Johntown Creek
DONALD MONTEATH, ET AL.)	County: El Dorado
Protestants)	

DECISION APPROVING APPLICATION 25406

BY THE BOARD:

Trust of William and Mary Rothaus having filed Application 25406 for a permit to appropriate unappropriated water; protests having been received; an investigation in lieu of hearing having been held on March 27, 1979; the evidence received at the investigation having been duly considered, the Board finds as follows:

Substance of Application

1. Application 25406 seeks a permit to appropriate 60 acre-feet per annum by storage from Johntown Creek from November 1 of each year to June 1 of each succeeding year for domestic, irrigation, recreational and stockwatering purposes. The points of diversion are located within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4, T11N, R10E, Mount Diablo Base and Meridian, and are tributary to Dutch Creek, thence South Fork American River.

Applicants' Project

2. Applicants currently hold permitted Application 22914 to divert 24 acre-feet per annum by storage on the same stream for the same purpose and essentially the same place of use as Application 25406. The reservoir under

this permit is a short distance upstream from the two reservoirs proposed under Application 25406. The three reservoirs discussed herein will be identified as numbers 1, 2, and 3 in downstream order.

3. The project under Application 25406 will consist of Reservoirs 2 and 3 with capacities of 49 acre-feet and 11 acre-feet, respectively.

4. Permitted Application 22914 authorizes irrigation of 97 acres and use of water for domestic and recreational purposes. Application 25406 will make additional water available for the same uses. Currently 28 acres are irrigated and three houses are served domestic water. Some water is purchased from the Georgetown Divide Public Utility District.

5. Donald and Sara Jane Monteath, Thomas H. Infalt, Everett and Barbara Vandewalker, Richard W. and Mary E. Thompson, Donald and Helen Swayze, Clifford and Lottie Bean, and John and Joyce Baker filed protests against Application 25406.

6. All protestants are riparian to Johntown Creek and use the stream for recreation and fire protection. Some divert water from the stream for domestic purposes or plan to do so in the future. They allege that the dams will stop the summer flow of the creek. Measuring devices should be installed in the creek above reservoir number 1 and below reservoir number 3 to assure passage of low summer flows.

Availability of Unappropriated Water

7. Johntown Creek is formed by the confluence of Manhattan Creek and Empire Creek and flows in a general southerly direction approximately 4.5 miles to its confluence with Dutch Creek. Dutch Creek continues from this confluence about three-fourths mile to its junction with South Fork American River.

8. The record shows that the applicants' existing reservoir was full and passing through about 1 cubic foot per second during the first part of June 1979, a dry year. This flow exceeds the requirements of the downstream users. Board Decision 1166, adopted on February 11, 1964, found that unappropriated water was available in Johntown Creek from about November 1 to about May 31 of each year. Investigation in connection with Application 25406 indicates that this season of availability of water is still appropriate.

9. The proposed use of water is beneficial.

Environmental Considerations

10. The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and the State Guidelines. The Board determines that there will be no significant effect on the environment as a result of the project.

Record in this Matter

11. The record, documents, and other data relied upon by the Board in this matter are: Files of Applications 22914 and 25406 and all relevant information on file therewith, particularly the Engineering Staff Analysis of Record dated May 7, 1979.

Conclusions

12. From the foregoing findings, the Board concludes that Application 25406 should be approved and a permit issued to the applicants subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 25406 be approved and a permit issued to the applicant subject to vested rights. The permit shall contain all applicable standard terms (5i, 6, 7, 8, 9, 10, 11, 12, and 13)* in addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 60 acre-feet per annum to be collected from November 1 of each year to June 1 of the succeeding year as follows: (a) 49 acre-feet per annum in Reservoir No. 2, (b) 11 acre-feet per annum in Reservoir No. 3.

2. Construction of the project shall be completed on or before December 1, 1982.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1983.

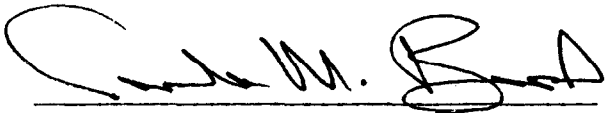
4. No water shall be diverted under this permit until permittee has installed devices satisfactory to the State Water Resources Control Board, to measure water flowing into applicants' existing Reservoir No. 1 specified in Application 22914 and flowing out of applicants' Reservoir No. 3 named in Application 25406. Said measuring devices shall be properly maintained.

5. Permittee shall install and maintain outlet pipes of adequate capacity in his dams as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit may be released.

* The Board maintains a list of standard terms.
Copies may be obtained upon request.

6. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.

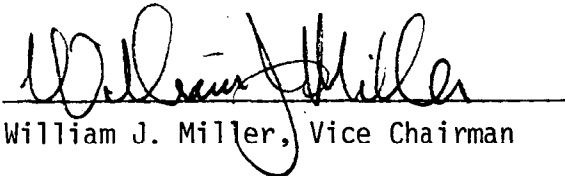
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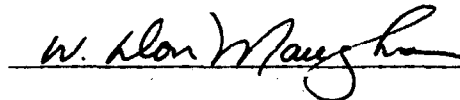
Carla M. Bard, Chairwoman



L. L. Mitchell, Member



William J. Miller, Vice Chairman



W. Don Maughan, Member

