

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Applications 24274 and
24294

MILT WENZEL (APPLICATION 24274), DONALD W.
BOLTINHOUSE AND BETTY P. BOLTINHOUSE
(APPLICATION 24294)

Applicants

MADERA IRRIGATION DISTRICT

Protestant

Decision: 1521

Source : Unnamed Streams

County : Madera

DECISION APPROVING APPLICATIONS 24274 AND 24294

BY THE BOARD:

Milt Wenzel having received assignment from Jack and Gertrude Washburn who filed Application 24274 for a permit to appropriate unappropriated water; Donald W. and Betty P. Boltinhouse having filed Application 24294 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestant having stipulated to proceedings in lieu of hearing as provided by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of Applications

1. Application 24274 is for a permit to appropriate 30 acre-feet per annum from November 1 to May 1 from an unnamed stream tributary to Rancheria Creek thence China Creek, thence Fresno River. Water is stored for later use for irrigation, wildlife enhancement, recreation, and fire protection. The point of diversion is located in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T7S, R22E, MDB&M. In July 1978, Application 24274 was assigned to Milt Wenzel.

2. Application 24294 is for a permit to appropriate 7.34 acre-feet per annum to offstream storage in Ivy Lake from October 1 to June 1. A portion of the supply is from runoff into the reservoir and the remainder comes from Lake Washburn. Water is used for irrigation, domestic, stockwatering, wildlife enhancement, recreation, and fire protection. The points of diversion are located in the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ (Lake Washburn) and NW $\frac{1}{4}$ of SW $\frac{1}{4}$ (Ivy Lake) of Section 19, T1S, R22E, MDB&M.

Applicants' Projects

3. The applicants' projects are part of a network of four interconnected dams and reservoirs designed and constructed by the Soil Conservation Service in 1945. The reservoirs are owned by four different parties. They are Lake Washburn (Application 24274), Ivy Lake (Application 24294), Sierra Lake (no application) and Black Lake (no application). Lake Washburn is the key project of the system and is used not only for storage, but to divert water to the other reservoirs through a series of ditches and diversion works. The method of diverting water from Lake Washburn for the other reservoirs, and permission to so divert water are set forth in an agreement dated November 27, 1948. The agreement is between applicants Washburn and an adjacent property owner named Black.

4. Lake Washburn is formed by an earthfill dam 16 feet high and 400 feet long, creating a reservoir with a capacity of about 28 acre-feet and a surface area of 2.75 acres. A three horsepower pump with a capacity of 40 gallons per minute (gpm) conveys water from Lake Washburn through a three-inch pipe 1,600 feet long with a lift of 30 feet to irrigate two acres of grapes and nine acres of general crops.

5. Water is diverted to Ivy Lake from Lake Washburn by a 4,000-foot ditch. Ivy Lake is formed by an earthfill dam 18 feet high and 180 feet long, creating a reservoir with a capacity of 7.34 acre-feet and a surface area of one acre. Applicant Boltinhouse has deeded access for the ditch.

Protests

6. Madera Irrigation District (MID) filed protests against both applications based on injury to vested rights. MID claims adjudicated rights to 200 cubic feet per second (cfs) from the Fresno River and an appropriative right (Permitted Application 15287) to an additional 200 cfs. In addition, MID has contracted with the Bureau for the entire yield of Hidden Dam and Reservoir on the Fresno River and claims that diversions under the applications would diminish the yield from that project. MID contends that any water diverted from the Fresno River and its tributaries depletes the flow of water to users downstream and deprives MID of its appropriative and adjudicated rights on the Fresno River.

Availability of Unappropriated Water

7. Board Decision 1407 approved Bureau Application 18733 for the operation of Hidden Dam and Reservoir on the condition that the permit be subject to depletion of flow into Hidden Reservoir of 2,000 acre-feet per annum by upstream appropriations with a priority subsequent to May 22, 1959.

The Board's study of upstream allocations pursuant to this condition shows that depletions resulting from appropriations under Applications 24274 and 24294 will come within the limits of this 2,000 acre-foot reservation.

8. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

9. The intended use is beneficial.

Environmental Considerations

10. This Board decision authorizes the following activity: collection and storage of water in the existing reservoirs. Such activity constitutes only a minor modification to land, and such activity is thereby exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

Record In This Matter

11. The records, documents and other data relied upon in determining the matter are: Applications 24274 and 24294 and all relevant information on file therewith including the Engineering Staff Analysis dated September 20, 1978.

Conclusions

12. From the foregoing findings, the Board concludes that Applications 24274 and 24294 should be approved and permits should be issued to the applicants, subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Applications 24274 and 24294 be approved and that permits be issued to the applicants subject to vested rights. The permits

shall contain all applicable standard permit terms (5i, 6, 10, 11, 12, and 13)* in addition to the following conditions:

1. The water appropriated under Application 24274 shall be limited to the quantity which can be beneficially used and shall not exceed 30 acre-feet per annum to be collected from November 1 of each year to May 1 of the succeeding year.

2. The water appropriated under Application 24294 shall be limited to the quantity which can be beneficially used and shall not exceed 7.34 acre-feet per annum to be collected from October 1 of each year to June 1 of the succeeding year.

The maximum rate of diversion to offstream storage shall not exceed one cubic foot per second.

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

4. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

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

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