

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25917)

BELFAST RANCH)

Applicant)

MAPES RANCH, INC., ET AL.)

Protestants)

Decision: 1572

Source: Willow Creek

County: Lassen

DECISION APPROVING APPLICATION 25917

BY BOARD MEMBER MITCHELL:

Belfast Ranch having filed Application 25917 for a permit to appropriate unappropriated water; protests having been received; a pre-hearing field investigation having been conducted; a public hearing having been held by Board Member Mitchell on January 14, 1980; applicant and protestants having appeared and presented evidence; the evidence received at the hearing and investigation having been duly considered; the Board finds as follows:

Substance of the Application

1. Application 25917 is for a permit to appropriate 60.7 acre-feet per annum (afa) in two reservoirs for irrigation, stockwatering and recreation. The season of diversion is from December 1 to March 31. The points of diversion are within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18, T30N, R14E, and the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 24, T30N, R13E, MDB&M.

Applicant's Project

2. The applicant proposes to construct two earth and rock dams on Willow Creek. The upper dam will be 19 feet high and create a 13.7 acre-foot reservoir. Water will be diverted from this reservoir primarily for irrigation of a Christmas tree farm. The lower dam will be 18 feet high and

create a 47 acre-foot reservoir primarily for stockwatering and recreational use.

Background

3. In Fleming v. Bennett, Lassen County Superior Court No. 4573, the rights to the use of water from Susan River and its tributaries, including Willow Creek, were adjudicated. A decree was entered on April 18, 1940. The diversion season for direct diversion for irrigation set forth in the decree is from March 1 to October 31 of each year.

Protests

4. Mapes Ranch, Inc., McClelland Ranch, Inc., R. C. Roberts, John H. and Deese Theodore, DeWitt Ranch, K. C. and Joyce M. Wells, Donald H. Dow, Tanner Ranch and Department of Fish and Game filed protests against the approval of Application 25917. The Department of Fish and Game withdrew its protest when the applicant agreed to the inclusion in any permit issued of conditions for the protection of fish and wildlife, including a bypass of 10 cubic feet per second (cfs). All remaining protests allege injury to riparian rights which were determined in the Susan River decree. In addition, the Tanner Ranch holds permitted Application 24316.

5. The protestants state the following points of concern:

a. There is no practical method of passing water through the proposed reservoirs during the irrigation season.

b. During most years water for stock during the winter is not in abundance.

c. Winter runoff is the only source of water to recharge groundwater.

d. Protestant Mapes indicated during the hearing that his main concern is that the reservoirs would reduce the high peak flows that occur due to storm runoff, primarily in May and June. He stated that these flows cause natural

flooding of the hay meadows along the river and produce a good hay crop.

6. The applicant's response to these points of protest were:

- a. Once his reservoirs are filled during the winter season, all subsequent inflow will either be passed over the spillway or through the outlet pipes.
- b. The permit could be conditioned to allow filling of the reservoirs only when the total flow exceeds the average flow by the amount of the net diversion.
- c. Studies by the Department of Water Resources and the Division of Soil Conservation show that losses due to percolation from the reservoirs will return to Willow Creek downstream from the dams.
- d. The applicant is willing to use water under his decreed right during the spring months to make up evaporation losses to help maintain the reservoirs full and allow the peak flows to continue downstream.
- e. Any diversion under Application 25917 could be placed under the control of the watermaster.

7. In addition to the availability of unappropriated water, considered later in this decision, the record shows the following regarding issues raised by the protestants.

- a. The method of irrigating hay meadows with instantaneous peak flows has been used for many years in this area. However, to impose special conditions on a permit to protect such a method of irrigation appears unreasonable.
- b. Changing the purpose of use of a decreed right from irrigation to offsetting reservoir evaporation would

require court approval and is outside the Board's jurisdiction. Evaporation and seepage losses in the reservoirs could be replaced in Willow Creek by pumping from applicant's well without involving the decreed right.

- c. The applicant should request the Department of Water Resources to place diversion and use under Application 25917 under the watermaster's control. Although the watermaster is usually not in the area during the winter storage season, he could be called in to control the diversion if a problem developed. He could also control diversion from the reservoirs to the irrigated land during the irrigation season.

Availability of Unappropriated Water

8. The Willow Creek drainage basin is comprised of three sub-basins which total 415 square miles.

- a. Balls Canyon: 280 square miles with an average rainfall of 8 to 12 inches. This drainage joins Willow Creek below the proposed project.
- b. Pete's Valley Creek: 45 square miles with an average annual rainfall of 14 to 16 inches. This drainage joins Willow Creek above the proposed project and just below the USGS gaging station on Willow Creek.
- c. Willow Creek above the USGS gaging station: 90.4 square miles with an average annual rainfall of 14 to 20 inches.

9. An analysis of the downstream water demands and the available water supply shows the following:

- a. A flow of about 35 cfs in the Susan River below Willow Creek will satisfy prior rights during the winter. Most of this flow is to fill reservoirs. Once they are full, only 15 cfs

is required for stockwatering needs as indicated by a 1969 watershed study by the California Division of Soil Conservation. Ten cfs of this amount should come from Willow Creek. The 10 cfs fish bypass requirement will also satisfy downstream rights after the downstream reservoirs are full.

- b. During most months of the diversion season the average flow at the gage exceeds the demand of prior vested rights by more than the requested diversion. Runoff from areas not passing the gaging station, such as the Pete's Valley and Balls Canyon drainages, will increase the monthly average flow available for downstream use.

10. The intended use is beneficial.

Environmental Considerations

11. The applicant had an archeological survey made of the project area in 1979. The locations of the dam sites were adjusted to avoid archeological sites that were identified.

The Board has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code Section 2100, et seq.) and the State Guidelines. The Board determines that the project, as proposed, will not cause any significant adverse effect on the environment.

Conclusions

12. From the foregoing findings, the Board concludes that Application 25917 should be approved and a permit issued to the applicant subject to the conditions in the order following.

ORDER

IT IS HEREBY ORDERED that Application 25917 be approved and that a permit be issued to the applicant subject to vested rights. The permit

shall contain all applicable standard permit terms (5i, 6, 7, 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 60.7 acre-feet per annum to be collected from December 1 of each year to March 31 of the succeeding year as follows: (1) 13.7 acre-feet per annum in the upper reservoir, (2) 47 acre-feet per annum in the lower reservoir.

2. Construction work shall be completed on or before December 1, 1984.

3. Complete application of the water to the authorized use shall be made on or before December 1, 1985.

4. Rights under this permit are, and shall be, subject to existing rights determined by the Susan River Adjudication, Superior Court, Lassen County, No. 4573 insofar as said adjudicated rights are maintained and such other rights as may presently exist. For this reason the permittee may be required, in some years, to terminate its storage collection season on March 1 rather than March 31 of each year.

5. Permittee shall install and maintain outlet pipes of adequate capacity in the 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.

6. For the purpose of temperature control, the intake to the structures used to make releases for the maintenance of fish and wildlife shall be located as near to the bottom of both Upper Dam and Lower Dam as practical.

7. If the dissolved oxygen concentration of Willow Creek below permittee's dams is found to be below the concentration normal to that reach

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

of Willow Creek, permittee shall provide such facilities as may be required to increase the dissolved oxygen immediately below Lower Dam to concentration normal to that reach of Willow Creek.

8. Permittee shall install and maintain devices satisfactory to the Board to measure diversions from the reservoirs to determine the quantity of water to be returned to Willow Creek from the permittee's well.

9. In compliance with Fish and Game Code Section 5943, if storage of water authorized by this permit is on a stream naturally frequented by fish, permittee shall accord to the public, for the purpose of fishing, reasonable right of access to the waters impounded by Upper Dam and Lower Dam during the open season for the taking of fish, subject to the regulations of the Fish and Game Commission and for domestic water supply reservoirs, subject to public health requirements of Sections 7623 to 7630, Title 17 California Administrative Code.

10. Permittee shall not divert at any time when such diversion would interfere with the use of water by California Department of Fish and Game at Honey Lake Wildlife Area under established water rights.

11. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow(s) required by the conditions of this permit. Said measuring device shall be properly maintained.

12. For protection of fish and wildlife, permittee shall release into Willow Creek immediately below the lower dam 10 cubic feet per second or the natural flow, whichever is less.

13. 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, North Lahontan Region,
or by the State Water Resources Control Board.

14. No water shall be diverted under this permit until permittee
has petitioned the Department of Water Resources to include the diversion
and use in the Susan River Watermaster Service Area.

Dated: February 19, 1981

WE CONCUR:

/s/ L. L. MITCHELL
L. L. Mitchell, Vice-Chairman

/s/ CARLA M. BARD
Carla M. Bard, Chairwoman

/s/ JILL B. DUNLAP
Jill B. Dunlap, Member

/s/ F. K. ALJIBURY
F. K. Aljibury, Member