

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25572)

RICHARDS ESTATE C/O ELEANOR RICHARDS,
EXECUTOR)

Applicant)

DON JOAQUIN RANCH)

Protestant)

Decision: 1526

Source : Unnamed Stream

County : Mariposa

DECISION APPROVING APPLICATION 25572

BY THE BOARD:

Richards Estate having filed Application 25572 for a permit to appropriate unappropriated water; a protest 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 stipulations; the Board, having considered all available information finds, as follows:

Substance of Application

1. Application 25572 seeks to appropriate 21.6 acre-feet per annum to storage from an unnamed stream tributary to Deadman Creek thence Eastside Canal. The diversion season is from November 1 to April 1 and the point of diversion is located within the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 17, T7S, R18E, MDB&M. The water is to be used for stockwatering, fish and wildlife enhancement and protection, and fire protection purposes.

Applicants' Project

2. The applicants' project consists of an existing earth dam 300 feet long and 20 feet high forming a reservoir with a surface area of three to four

acres and a capacity of 21.6 acre-feet. The dam was built in 1956 and has provided the major watering source for the owners' cattle ever since. In times of shortage the reservoir can supply the cattle for two years without replenishment. The reservoir has been used by the Division of Forestry during the fire season. It is also a wildlife refuge for ducks and geese.

Protest

3. The application was protested by Don Joaquin Ranch on the basis of an injury to vested rights under its licensed Application 17775. That licensed application allows storage of 44 acre-feet per annum from October 1 to May 1 from Deadman Creek for irrigation and stockwatering purposes. The point of diversion is within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 29, T85, R15E, MDB&M. The protestant contends that the project would probably reduce the flows in Deadman Creek in some years to the extent that it would not provide the amount allowed in its license. The protestant assumed interest in Application 17775 in July 1976, at a time when California was experiencing the driest years of record.

Availability of Unappropriated Water

4. The watershed contributing to the applicants' project has a drainage area of less than one square mile and lies within the Deadman Creek drainage at elevations of 1100 to 1670 feet. The runoff is derived entirely from rainfall and the average annual rainfall in the area is 20 inches. Deadman Creek drains approximately 23 square miles of the Sierra Nevada Foothills before discharging into the San Joaquin Valley. The Creek then meanders through the valley floor for approximately 12 miles before reaching the protestant's project.

5. There are no stream flow records for Deadman Creek. However, staff estimates that the 28 square miles of foothill drainage contribute an annual average of about 6,600 acre-feet to the San Joaquin Valley. This is substantially in excess of the permitted water rights on Deadman Creek upstream from licensed Application 17775.

6. Observations made at the time of the field investigation indicate that there are substantial channel losses in the valley floor portion of Deadman Creek due to percolation to groundwater. It would, therefore, be highly unlikely that there would be hydraulic continuity in Deadman Creek between the applicants' and protestant's projects in critical periods such as occurred in 1976-77.

7. The intended use is beneficial.

Environmental Considerations

8. This Board decision authorizes the following activity: collection to storage of water in an existing reservoir for stockwatering, fire protection, and fish and wildlife protection and enhancement. 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

9. The records, documents, and other data relied upon in preparing this analysis are: Licensed Application 17775 and Application 25572 and all relevant information on file therewith, especially the Report of Field Investigation and Engineering Staff Analysis dated April 6, 1979; topographic maps published by the United States Geological Survey (USGS) covering the area under consideration; USGS, Water Resources Division, "Water Resources Data for California, Water Year 1977, Volume 3, Southern Central Valley Basins and the Great Basin from Walker River to Truckee River" and all appropriate predecessor publications.

Conclusions

10. From the foregoing findings, the Board concludes that Application 25572 should be approved and a permit issued to the applicants subject to the conditions in the order following.

ORDER

IT IS HEREBY ORDERED that Application 25572 be approved and a permit be issued to the applicants subject to vested rights. The permit shall contain all applicable standard permit terms (5i, 6, 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 21.6 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year.

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

3. After the initial filling of the storage reservoir, permittees' right under this permit extends only to water necessary to keep the reservoir full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

4. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized uses. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

Dated: August 16, 1979

/S/ W. DON MAUGHAN

W. Don Maughan, Chairman

/S/ WILLIAM J. MILLER

William J. Miller, Vice Chairman

/S/ L. L. MITCHELL

L. L. Mitchell, Member

/S/ CARLA M. BARD

Carla M. Bard, Member

* The Board maintains a list of standard permit terms. Copies are available upon request.

