

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25014)

L. R. MARTIN, INCORPORATED

Applicant

FRED C. MASSETTI, ET AL.

Protestants

Decision: 1543

Source: Unnamed Stream

County: Madera

DECISION APPROVING APPLICATION 25014

BY THE BOARD:

L. R. Martin, Inc., having filed Application 25014 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided by Section 737 of Title 23, California Administrative Code; an investigation having been made by the State Water Resources Control Board pursuant to said stipulations; the evidence received at the investigation having been duly considered; the Board finds as follows:

Substance of Application

1. Application 25014 is for a permit to appropriate 25.2 acre-feet per annum (afa) from October 1 to June 1 from an unnamed stream tributary to Buzzard Canyon, thence Fresno River. Water is to be collected to storage for stockwatering, recreation, and fish culture at a point within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 18, T9S, R20E, MDB&M.

Applicant's Project

2. The applicant's reservoir was constructed in 1953 and consists of a dam forming a reservoir (Middle Lake) with a capacity of 74.2 acre-feet. The

applicant currently holds licensed Application 24042 for storage of 49 afa in the reservoir for stockwatering, recreation, and fish culture. Inspection subsequent to filing of Application 24042 revealed that the capacity of the reservoir is 74.2 acres-feet. Application 25014 was filed to cover the additional 25.2 acre-feet.

3. The actual capacity of the reservoir is such that the dam is under the jurisdiction of the Division of Safety of Dams and requires approval from that agency.

Protests

4. Madera Irrigation District (MID), holder of claimed adjudicated rights and permitted Application 15287, and Fred Massetti, holder of licensed Application 22302 filed protests against Application 25014 on the basis of injury to vested rights. MID withdrew its protest on conditions that the permit be subject to an agreement dated August 31, 1972, between the applicant, MID, and U. S. Bureau of Reclamation (Bureau) regarding range management.

5. Protestant Massetti's license is for storage of 15.1 afa from Buzzard Creek for stockwatering and recreational use. His reservoir is about a mile downstream from the reservoir under Application 25014.

Availability of Unappropriated Water

6. The area tributary to the reservoir is approximately 210 acres and is located in the Sierra Nevada Foothills. It ranges in elevation from 1,150 feet to 1,700 feet. Runoff is derived from rainfall which occurs mainly from November through April with occasional precipitation occurring earlier and later. The average annual rainfall is about 18 inches. Most of the drainage

basin is within the boundaries of the applicant's property and a range management program has been implemented which has significantly increased the runoff of the watershed. The details of the range management program are contained in an August 31, 1972 agreement between the applicant, MID, and the Bureau. The agreement was based on studies that indicate the 327.4 afa expected to be stored in the applicant's various reservoirs is generated by the brush clearing program. The quantity requested by Application 25014 is included in the 327.4 afa.

7. Board Decision 1407, approving the Bureau's Application 18733 for Hidden Dam and Reservoir, provided for depletion to the project of 2,000 afa by future upstream appropriations. However, the range management practices implemented by the applicant under the terms of the agreement, have made water available for appropriation that was not previously available. Therefore, the applicant's projects have not caused a "depletion" chargeable under the reservation in the Bureau's permit.

8. The intended use is beneficial.

Environmental Consideration

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

Record in this Matter

10. The record, documents, and other data relied upon in determining the matter are: Application 25014 and all relevant information on file therewith including the Report of Field Investigation and Engineering Staff Analysis dated June 13, 1978.

Conclusions

11. From the foregoing findings, the Board concludes that Application 25014 should be approved and that a permit should be issued to the applicant subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 25014 be approved and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard terms (6, 10, 11, 12, and 13)* in addition to the following conditons:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 25.2 acre-feet per annum to be collected from October 1 of each year to June 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, permittee's 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 (or license) upon a finding by the Board that the amount is in excess of that

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

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.


5. Storage of water shall not be commenced until the Department of Water Resources has approved plans and specifications for the dam.

6. This permit is subject to the following terms of the agreement dated August 31, 1972, between permittee, Madera Irrigation District, and the U. S. Bureau of Reclamation:

- A. This permit is conditioned upon the permittee maintaining the existing level of brush removal and vegetation management heretofore accomplished by permittee. "Existing level" is understood to mean that level reached at or about the time applicant's property was inspected by representatives of the U. S. Bureau of Reclamation and the Madera Irrigation District on March 29, 1971. Such vegetation management program has consisted of brush and tree clearing, control burns and chemical applications. It is stipulated that as a result of said practices enough water has been saved to make up at least the amount of water provided for in permittee's combined permits and/or licenses.
- B. Permittee shall allow inspection of his property and dams by representatives of the Madera Irrigation District and/or the U. S. Bureau of Reclamation annually after reasonable notice, unless such inspection is waived.

- C. The Board shall retain continuing jurisdiction of permits and licenses issued; in the event the District of the Bureau determines that the brush management program has not been maintained at its present level, either may apply to said Board for reconsideration as to whether said permits or licenses should be revoked in whole or in part.
- D. These stipulations and conditions are binding upon permittee, his successors in interest, grantees and assigns, as to all or any portion of permittee's land.

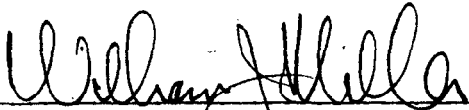
Dated: OCT 18 1979



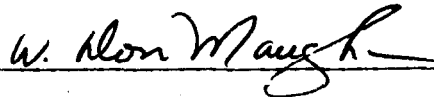
Carla M. Bard, Chairwoman



L. L. Mitchell, Member



William J. Miller, Vice Chairman



W. Don Maughan, Member