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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23181
of Rancho Encino Land Company to
Appropriate from Poppet Creek in
Riverside County

Decision 1377

DECISION APPROVING APPLICATION

Rancho Encino Land Company having filed Application 23181 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on March 17, 1970; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of Application

1. Application 23181 is for a permit to appropriate 16.25 acre-feet per annum by storage from December 1 to May 1 of each year for recreation and fish and wildlife enhancement from Poppet Creek in Riverside County. The point of diversion is to be located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 10 T4S, R1E, SBB&M.

Applicant's Project

2. The applicant proposes to reconstruct an existing dam and reservoir on Poppet Creek approximately eight miles

above the creek's confluence with the San Jacinto River. The San Jacinto River terminates at Lake Elsinore. The reservoir is surrounded by a subdivision and the water will be used for public recreation and to support wildlife. It will also afford needed fire protection which should be included as a purpose of use in the permit (RT 8,9). The flow of Poppet Creek will be depleted only to the extent necessary to originally fill the reservoir and to offset evaporation and seepage losses.

Protestants

3. Protestants Lake Elsinore Recreation and Park District, City of Elsinore and Elsinore Valley Municipal Water District protest on the basis of claimed riparian rights to water from Lake Elsinore and prescriptive rights to groundwater supplied from the San Jacinto River on behalf of themselves and landowners within their boundaries. Protestant City of Elsinore has certain contractual rights confirmed by court decree to waters of the San Jacinto River and to the water in Lake Elsinore being maintained at a level which will afford recreational use (City of Elsinore v. Temescal Water Company, 36 Cal. App.2d 116). Protestant Fruitvale Mutual Water Company claims riparian and pre-1914 appropriative rights to water from the San Jacinto River and holds Permit 468 (Application 924) to appropriate 200 cfs from the river.

Water Supply

4. Records of stream flow for Poppet Creek at a point four miles downstream from the applicant's reservoir are available

for the years 1952, 1953 and 1954. During these years the creek produced 1,488 acre-feet, 5.6 acre-feet and 435 acre-feet of water, respectively.

Availability of Unappropriated Water

5. Protestant Elsinore Valley Municipal Water District pumps from wells that draw on the underlying groundwater basin. It has had to purchase Colorado River water to augment an inadequate groundwater supply (RT 46, 47).

In 1964 30,000 acre-feet of Colorado River water was purchased by protestant Lake Elsinore Recreation and Park District to refill Lake Elsinore for recreational purposes (RT 52, 55).

USGS records covering the period of record (1915-1966) show no outflow of water from Lake Elsinore since the year 1917, indicating that no unappropriated water exists in the drainage area.

Exchange Agreement

6. Since the hearing on Application 23181 the applicant and protestant Fruitvale Mutual Water Company have been negotiating an exchange agreement under which the applicant will purchase Colorado River water in the same quantity diverted under any permit issued on Application 23181 and divert it to the San Jacinto River through the company's facilities. This exchange of water will insure that the protestants will not be harmed by the approval of Application 23181.

7. The intended use is beneficial.

8. Any permit issued on Application 23181 should contain the following term:

No diversion shall be made under this permit except in accordance with a water exchange agreement entered into between permittee and the Fruitvale Mutual Water Company or other entity to replace in the San Jacinto River the water stored in the permittee's reservoir with water from another source.

From the foregoing findings, the Board concludes that Application 23181 should be approved and that a permit should be issued to the applicant subject to the recommendations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 23181 be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 16.25 acre-feet per annum by storage to be collected from December 1 of each year to May 1 of the succeeding year.

2. 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 lost by evaporation and seepage or used for fire fighting, and to refill if emptied for necessary maintenance or repair.

3. The maximum quantity herein stated may be reduced in the license if investigation warrants.

4. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

5. Said construction work shall be completed on or before December 1, 1973.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1974.

7. Progress reports shall be filed promptly by permittee when requested by the State Water Resources Control Board until license is issued.

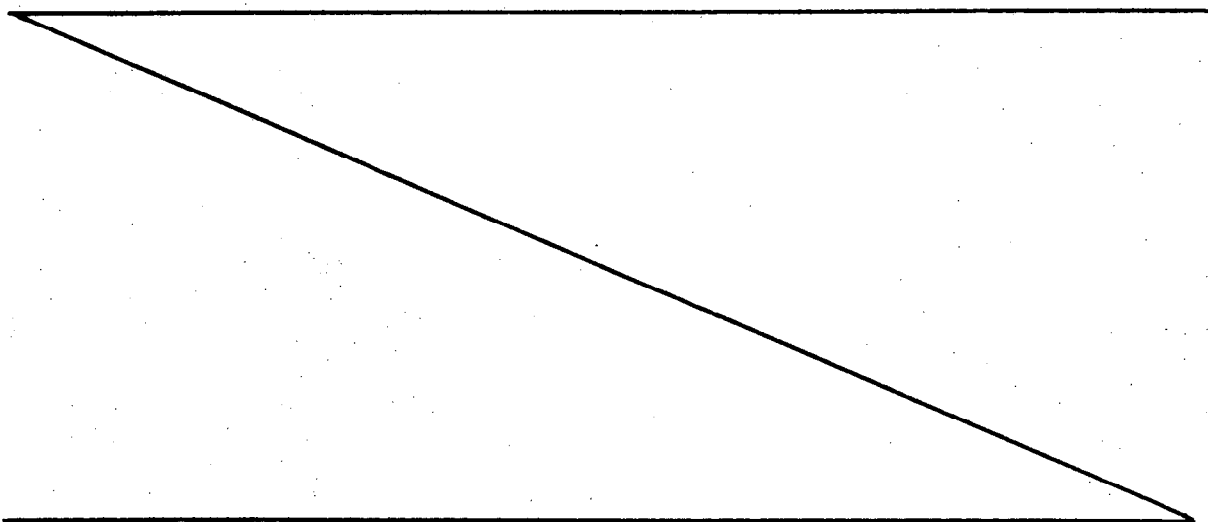
8. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

9. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken

pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

12. No diversion or use of water shall be made under this permit except in accordance with a water exchange agreement between the permittee and the Fruitvale Mutual Water Company or other entity to replace in the San Jacinto River the water stored in the permittee's reservoir with water from another source.



Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: August 5, 1971

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

RONALD B. ROBIE
Ronald B. Robie, Member

ABSENT
W. W. Adams, Member