

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25588)

STAR PACIFIC INVESTMENT, INC. )

Applicant )

OROVILLE-WYANDOTTE IRRIGATION  
DISTRICT, ET. AL. )

Protestants )

Decision: 1570

Source: Wyandotte Creek

County: Butte

DECISION APPROVING APPLICATION 25588

BY L. L. MITCHELL:

Star Pacific Investment, Inc., having filed Application 25588 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 December 12, 1979; applicant and one protestant having appeared and presented evidence; the evidence at said hearing having been duly considered; the Board finds as follows:

Substance of Application:

1. Application 25588 is for storage of 778 acre-feet per annum (afa) from November 1 to April 1 for recreation, stockwatering and irrigation purposes. Water is to be collected from Wyandotte Creek tributary to North Honcut Creek thence Honcut Creek thence Feather River. The point of diversion is located within SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 11, T18N, R4E, MDB&M.

Applicant's Project:

2. The applicant proposes to construct an earth dam, 33 feet high and 600 feet long, forming a reservoir with a maximum surface area of about 58 acres, and a capacity of about 778 acre-feet. The stored water intended for irrigation

of pasture will be conveyed through 4,400 feet of pipe and 5700 feet of ditch. Water will be applied to the pasture by means of sprinklers or flood irrigation. The dam is of sufficient size to fall within the jurisdiction of the Division of Safty of Dams, and the applicant will be required to obtain a permit from that agency.

Protests:

3. Protests were filed by Oroville-Wyandotte Irrigation District, Donald W. Guidici, et al., Dennis and Marilyn McGill, Tom and Georgia Powell, and Gordon and Lucille Graham on the basis of injury to vested rights.

4. Oroville-Wyandotte Irrigation District and the applicant reached agreement on protest dismissal terms. The terms are set forth in the order.

5. The Guidici protest was based on a riparian claim for watering 300 head of cattle on winter range during the period November 1 through June 15. The cattle are moved to summer range for the remainder of the year. Mr. Guidici, whose property is located approximately 2½ miles downstream, would withdraw his protest if the applicant would agree to release water in sufficient quantities to allow a flow of one cubic foot per second (cfs) in Wyandotte Creek through his property.

6. The Powells and Grahams failed to respond to subseqent correspondence in regard to their protest and their protests were dismissed. Mr. Powell did appear at the hearing and gave testimony as an interested party. Mr. Powell testified that at times of high flow water from Wyandotte Creek flows into a channel and across property he leases filling a pond which he uses for stockwatering.

7. The McGills did not appear at the hearing in support of their protest and therefore are considered to have abandoned any further interest in the subject matter of the application.

Availability of Unappropriated Water:

8. The watershed contributing to the applicant's project consists of 2,644 acres. The applicant provided an estimate of average annual runoff based on average annual rainfall. However, to evaluate requested releases to satisfy downstream rights a more extensive hydrologic analysis of the watershed was conducted. Streamflow records for South Honcut Creek were correlated with Wyandotte Creek at the applicant's point of diversion. The area of the respective watersheds were compared and weighted by distribution of rainfall. The analysis indicates that the applicant could release one cfs or the natural flow, whichever is less and have the capability of storing the total amount of water requested, except for years when the annual flow is less than 50% of the average. Such a release combined with runoff from the extensive watershed below the applicant should adequately supply downstream rights. The magnitude and frequency of the deficiencies taken by the applicant would not be great enough to significantly restrict the operation of his project. Therefore, based on information available, sufficient unappropriated water is available in most years to fulfill the needs of the project. However, it is recognized that this finding is made on an estimate of the runoff and an estimate of the release required to provide stockwater to downstream riparian property. Therefore, the Board should reserve jurisdiction to review the effect of the one cfs release and to change the release requirement after the project is built if conditions warrant.

9. The proposed uses are beneficial.

Environmental Considerations:

10. The Board has prepared a Negative Declaration in accordance with the Environmental Quality Act (Public Resources Code Section 21000, et seq.) and the State Guidelines and has determined that the project will not cause any significant adverse effects on the environment.

Conclusions:

From the forgoing findings, the Board concludes that Application 25588 should be approved and a permit issued to the applicant subject to the conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that application 25588 be approved and a permit issued to the applicant subject to vested rights. The permit shall contain all applicable standard terms (5i, 6, 10, 11, 12, 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 778 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year.
2. Actual construction work shall begin on or before two years from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.
3. Said construction work shall be completed by December 1, 1983.
4. Complete application of the water to the authorized use shall be made by December 1, 1984.

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

5. 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 in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

6. Construction of the storage dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

7. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

8. 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, Central Valley, Region, or by the State Water Resources Control Board.

9. Permittee shall bypass at all times one cubic foot per second or the natural flow, whichever is less, in order to provide stockwater to downstream riparian property in Sections 22, 28 and 29, T18N, R4E, MDB&M.

10. The State Water Resources Control Board reserves jurisdiction over this permit to change the releases required in Term 9 after the project is constructed. Action will be taken only after notice and opportunity for hearing.

11. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the Sacramento River Basin. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.

12. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

13. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water. The Board shall advise permittee of the probability of imminent curtailment of diversions as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Central Valley Project or the State Water Project operators. The Board shall notify the permittee of curtailment of diversions when it finds that no water is available for diversion under this permit.

For the purpose of initially determining supplemental Project water required for inbasin entitlements, the following definitions shall apply:

a. Inbasin entitlements are defined as all right to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.

b. Supplemental Project water is defined as water imported to the basin by the Projects, and water released from Project storage, which is in excess of water required for Project export and Project inbasin deliveries.

Notice of curtailment of diversion under this term shall not be issued by the Board until:

1. Project operators jointly develop and demonstrate to the Board a reasonably accurate method of calculating supplemental Project water.

2. The Board has approved the method of calculating supplemental Project water and has confirmed the definitions of inbasin entitlements and supplemental Project water after public hearing.

3. The Project operators have notified the Board that the release of supplemental water is imminent or has occurred. Such notice should include the times and amounts of releases or potential releases.

4. The Board finds that supplemental Project water has been released or will be released.

14. The permit is subject to the following terms agreed to by the applicant and Oroville-Wyandotte Irrigation District: (as modified to protect other downstream prior rights).

a. Permittee shall pass through the structure or diversion works such water as may from time to time enter such works through either:

1. Return flow, leakage, seepage or wastewater from facilities of the Oroville-Wyandotte Irrigation District or lands supplied with agricultural water by the Oroville-Wyandotte Irrigation District; and

2. Such amounts as shall be intentionally placed by the Oroville-Wyandotte Irrigation District in the natural channels for the purpose of conveyance.

b. Such waters shall be passed through immediately upon their entrance of any reservoir or diversion facilities without any delay or expense to the Oroville-Wyandotte Irrigation District.

c. Permittee shall install at the entrance to the reservoir and at any points of diversion from the stream a meter or other measuring device satisfactory to the State Water Resources Control Board, which is capable of continuously measuring flows of water into the reservoir and from the reservoir. Measuring devices satisfactory to the State Water Resources Control Board also shall be installed if any independent diversion facilities from

the reservoir, other than the outlet of the reservoir, are utilized. Oroville-Wyandotte Irrigation District shall be allowed free access to read and monitor such measuring devices. Permittee shall maintain such measuring devices in good and operable condition at permittee's sole cost.

15. The State Water Resources Control Board, under its authority to conserve the public interest, retains continuing authority over this permit to require permittee to develop and implement a water conservation program, after notice and opportunity for hearing. The requirements of this term may be satisfied by permittee's compliance with any comprehensive water conservation program, approved by the State Water Resources Control Board, which may be imposed by a public agency.

Dated: November 20, 1980

BY: ABSENT  
L. L. Mitchell, Member

WE CONCUR:

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

/s/ WILLIAM J. MILLER  
William J. Miller, Vice-Chairman

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

ABSENT  
F. K. Atjibury, Member