

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

|   |   |                        |
|---|---|------------------------|
| In the Matter of Application 27290      | ) |                        |
| MAZ PROPERTIES INC.,                    | ) | DECISION 1612          |
| dba EL RANCHO TAJIGUAS,                 | ) |                        |
|   | ) | SOURCE: Tajiguas Creek |
| Applicant,                              | ) | tributary to           |
|   | ) | Pacific Ocean          |
| CALIFORNIA DEPARTMENT OF FISH AND GAME, | ) |                        |
| and CALIFORNIA COASTAL COMMISSION       | ) | COUNTY: Santa Barbara  |
|   | ) |                        |
| Protestants.                            | ) |                        |

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DECISION APPROVING APPLICATION

BY THE BOARD:

1.0 INTRODUCTION

MAZ Properties, Inc., having submitted Application 27290; protests having been received from the California Department of Fish and Game and the California Coastal Commission; a hearing on the application having been held on June 12, 1985; the evidence in the record having been duly considered; the Board finds as follows:

2.0 SUBSTANCE OF THE APPLICATION

Application 27290 was filed by MAZ Properties, Inc., dba El Rancho Tajiguas, for a permit to divert 275 acre-feet per annum (afa) from Tajiguas Creek by diversion to storage. The amount requested was later reduced to 106 afa to be diverted from November 1 of each year

through April 15 of the succeeding year. The water will be stored in a 49 acre-feet (af) onstream reservoir located within the SW 1/4 of the NW 1/4 of Section 26, and in four offstream reservoirs described as follows:

1. A 1.5 af reservoir within the NE 1/4 of the NE 1/4 of Section 26.
2. An 8.5 af reservoir within the NW 1/4 of the NW 1/4 of Section 26.
3. An 18 af reservoir within the NW 1/4 of the NW 1/4 of Section 26.
4. A 29 af reservoir within the SE 1/4 of the SE 1/4 of Section 23.

The application proposes two points of diversion, the first one located within the SW 1/4 of the NW 1/4 of Section 26, and the second one located within the NW 1/4 of the SE 1/4 of Section 33. All points of diversion and reservoirs are on the Tajiguas Ranch within T5N, R31W, SBB&M. The proposed purposes of use are irrigation, stock-watering, fire protection and wildlife enhancement.

### 3.0 PROJECT DESCRIPTION

The project will divert water to storage in an existing onstream reservoir which is located in Leon Canyon, tributary to Tajiguas Creek. The reservoir was originally constructed in the 1950s by the Soil Conservation Service. Its present capacity is 49 af. The project will also utilize four existing offstream reservoirs on the applicant's property. The reservoirs are lined, pit type reservoirs, which are now used to regulate water diverted under riparian right and water from ground water wells.

The applicant irrigates about 400 acres of avocados and about 100 acres of various other agricultural crops. The avocados are irrigated through gravity drip irrigation systems. Total water use when the avocado trees reach maturity is estimated at 700 afa. The water storage requested under Application 27290 would furnish 106 afa of the estimated yearly need, with the remaining water need of approximately 600 afa to be supplied by water diverted under riparian rights and from ground water pumping.

#### 4.0 PROTESTS

Protests against Application 27290 were filed by the Department of Fish and Game (Department) and the California Coastal Commission (Commission).

#### 4.1 Department of Fish and Game

The Department of Fish and Game protested on the basis of public interest concerns and adverse environmental impacts. The Department alleged that the proposed project would reduce or eliminate streamflow during low runoff periods which would adversely affect survival of aquatic organisms and cause degradation of wildlife habitat and riparian resources. The Department consented to dismissal of its protest if (1) the applicant agrees to bypass a minimum of 30 gallons per minute (gpm) past each point of diversion and (2) the applicant agrees to implement a land management plan that is consistent with the standards of the Central Coastal Basin, Water Quality Control Plan for all portions of the property from which native vegetation has been removed.

#### 4.2 California Coastal Commission

The California Coastal Commission protested on the basis of public interest concerns, adverse environmental impacts and the contention that the project would be contrary to law. The Commission alleges that planting avocado trees on steep, highly erosive slopes will result in increased erosion and additional sediment in Tajiguas Creek and the near shore waters of the Pacific Ocean. It is also alleged that the increased sediment will degrade water quality and adversely impact fish and wildlife habitat. Finally, the Commission alleges that pesticide and fertilizer use on the ranch will result in water quality degradation in Tajiguas Creek. The Commission consented to dismissal of its protest if any permit which may be issued includes conditions to control adequately the discharge of sediments, pesticides and fertilizers in order to protect water quality, fish and wildlife resources.

#### 5.0 AVAILABILITY OF UNAPPROPRIATED WATER

El Rancho Tajiguas encompasses 80 percent of the entire Tajiguas Creek watershed from its mouth at the Pacific Ocean to a point approximately 3.5 miles upstream. There are no diversions of record from Tajiguas Creek other than those for operation of the ranch. All water in Tajiguas Creek is available for use by the applicant except for the bypass flows necessary to meet instream uses which are discussed in Sections 6.1, 6.2 and 7.0.

6.0 ENVIRONMENTAL AND PUBLIC INTEREST ISSUES ADDRESSED AT HEARING

6.1 Flow Bypass

The Department of Fish and Game requests that the Board include a 30 gallon per minute (gpm) bypass flow requirement as a condition of any permit issued on Application 27290. The requested condition would require the applicant to bypass 30 gpm at the point of diversion on Tajiguas Creek at any time water is being diverted to storage. The purpose of the bypass flow would be to prevent dewatering of the stream below the point of diversion and to preserve the riparian vegetation and habitat in the downstream reach of Tajiguas Creek. The applicant has agreed to incorporation of a 30 gpm bypass flow requirement as a condition of a water right permit.

The only disputed issue regarding the bypass flow requirement is the location of the measuring station. The applicant proposed that the flow be measured near an existing road crossing approximately 100 feet downstream of the point of diversion. The Department requested that the bypass be measured at the point of diversion. No convincing reason or explanation was provided for requiring measurement of bypass flow at the point of diversion rather than near the road crossing. Installation and maintenance of a measuring device, however, would be expected to be easier near the road crossing. Therefore, the Board concludes that the 30 gpm bypass flow requirement should be measured at a point about 100 feet downstream from the point of diversion near the road crossing. The applicant will be required to install a measuring device capable of measuring the required bypass flow.

## 6.2 Riparian Vegetation

The 30 gpm bypass flow requirement discussed above is intended primarily for the protection of riparian vegetation and habitat in the lower section of Tajiguas Creek. The applicant removed a portion of the riparian vegetation from the lower section of Tajiguas Creek in 1982 because it was believed that the vegetation was causing flooding problems, encroaching on lands previously used for agricultural purposes, and impeding cold air drainage down the canyon from the cultivated areas on the hillsides. Prior to its removal in 1982, the riparian vegetation along Tajiguas Creek in 1982 consisted of a dominant overstory of willow growth; mid-canopy brush species such as elderberry, mulefat, and cofferberry, and some lower story plants such as blackberry, poison oak and various grasses. Except for some lower pasture areas, Tajiguas Creek today can be characterized as a recovering riparian system.

Riparian systems are important for the survival of wildlife resources for a number of reasons including the following:

1. They provide the three basic necessities for wildlife in the form of food, water, and cover, and, therefore, are the most diverse and widely used of wildlife habitats.
2. They usually interface another plant community and, consequently, provide an "edge effect", an important and highly used area of interaction for wildlife which does not rely strictly on the riparian system for existence.

3. Extensive loss of riparian habitat elsewhere (as much as 90 percent) within the coastal areas of Southern California, and the fact that most of this habitat is in private ownership, make its value in this location of great importance. (DFG Ex. 2.)

The importance of riparian habitat has been recognized in numerous studies of government agencies and private individuals. In addition, the conservation element of the Santa Barbara County General Plan states that Tajiguas Creek is one of nine streams in the county deserving special protection. The County concluded that only scientific study and light recreational uses should be allowed in the riparian zone. A 100-foot buffer zone and no pesticide use are further specified protective measures. Preservation and maintenance of riparian vegetation in coastal streams is also stressed in the Santa Barbara County Local Coastal Plan.

The record convincingly establishes that preservation and maintenance of the riparian vegetation of Tajiguas Creek is in the public interest. The Department has requested that the Board require the applicant to implement a riparian vegetation management plan and has prepared such a plan for the applicant's consideration. The applicant has agreed that riparian vegetation should be managed to provide wildlife habitat. Both parties believe that proper management of the riparian vegetation can be implemented without adversely affecting agricultural operations.

Evidence presented at the hearing indicates that the applicant and the Department were, at least in concept, approaching an acceptable plan for management of the riparian resources of Tajiguas Creek. The major dispute is not whether the riparian zone should be preserved for wildlife habitat but rather if the Board should require development and implementation of a riparian vegetation management plan as a condition of any water right permit granted on Application 27290. Testifying on behalf of the applicant, Dr. Weaver expressed his reluctance about state involvement in the management of private property and he stressed his goal of creating a well-managed agricultural showcase. Although the Board acknowledges Dr. Weaver's qualifications, it also recognizes that he is an employee of the applicant and that management or ownership of the ranch may change. Water right permit conditions must be based on evidence in the record and not solely on the personal assurances of an applicant or applicant's representative. Based on the evidence in the record, the Board concludes that development and implementation of a riparian vegetation management plan is necessary to protect the public interest. The elements to be addressed in the plan are described below.

6.3 Contents of Riparian Vegetation Preservation and Management Plan

6.3.1 Map of Riparian Corridor

The riparian vegetation preservation and management plan should include a map showing existing riparian resources of Tajiguas Creek, the physical manmade alterations of the resource, and the current land



use along the riparian corridor. The map will establish the existing area boundaries of the riparian corridor which in turn is necessary to provide a description of agricultural and management techniques to occur within the corridor. Mapping the riparian corridor will also assist in determining compliance with permit terms at the time of licensing or in the event of complaints alleging noncompliance.

6.3.2 Description of Agricultural Activities Within Riparian Corridor

A description of agricultural activities within the riparian corridor is needed to determine if the activities are consistent with the goal of preserving and maintaining riparian vegetation within the corridor. The description should include stock crossings, stockwatering areas, and areas where riparian vegetation will be managed for flood control or cold air drainage.

6.3.3 Management Techniques to Preserve and Maintain the Riparian Vegetation

The plan should include a description of management techniques which are to be employed to preserve and maintain riparian vegetation within the corridor. This information will assist the Board in determining if the agricultural activities within the corridor are consistent with preservation of the riparian vegetation.

6.4 Review, Modification and Implementation of Riparian Vegetation Preservation and Management Plan

In order to ensure that the riparian management plan will protect the riparian resources of Tajiguas Creek adequately, the plan should be subject to review by the Chief of the Division of Water Rights. If

the plan is not adequate, the applicant should be informed of the deficiencies and provided an opportunity to correct the deficiencies within 90 days. In view of the quantity of information on the preservation and maintenance of riparian vegetation already available, the Board concludes that if the Chief of the Division of Water Rights finds the plan to be inadequate after the second submittal, the matter should be referred to the Board for hearing and further order, including possible revocation of the permit. If the plan is found to be adequate by the Chief of the Division of Water Rights, implementation and compliance with the provisions of the plan should be required as a condition of the permit. The permit should provide a procedure for approval of modification of the plan after notifying the Chief of the Division of Water Rights and the Department of Fish and Game of the proposed modification.

6.5 Adverse Effects of Existing Agricultural Operations On Water Quality

The record shows that the applicant has implemented steps to prevent or reduce erosion as well as measures to prevent sedimentation from entering Tajiguas Creek. In addition, the applicant's use of a drip irrigation system should minimize run-off of fertilizer into the stream. At the hearing, the witness from the California Coastal Commission stated that the applicant had done everything that was reasonably practical to protect water quality except for reestablishing a minimum riparian buffer zone. The subject of management of riparian vegetation in the lower reach of Tajiguas Creek is discussed in Section 6.4 herein and will be addressed in the riparian vegetation preservation and management plan to be submitted by the applicant.

7.0 FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Board as lead agency has prepared and approved a mitigated Negative Declaration for the proposed project in accordance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.). After the Board adopts this decision, it will file a Notice of Determination with the Office of Planning and Research. Consideration of the mitigated Negative Declaration and Initial Study together with the comments received during the public review process, inclusion of the Negative Declaration and Initial Study mitigation measures in the water right permit, and filing of the Notice of Determination will satisfy the Board's responsibilities under the California Environmental Quality Act.

8.0 CONCLUSIONS

Based on the foregoing findings, the Board concludes that Application 27290 should be approved and a permit issued subject to the terms and conditions set forth in the following order.

ORDER

IT IS HEREBY ORDERED that Application 27290 be approved for diversion of water to storage and use of water for irrigation. The permit shall contain standard

permit terms 6, 10, 11, 12 and 13<sup>1</sup> in addition to the following terms and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 106 acre-feet per annum to be collected from November 1 of each year through April 15 of the succeeding year to be stored as follows:
  - a. 49 acre-feet per annum in an onstream reservoir; and,
  - b. 1.5 acre-feet per annum in an offstream reservoir,
  - c. 8.5 acre-feet per annum in an offstream reservoir,
  - d. 18 acre-feet per annum in an offstream reservoir,
  - e. 29 acre-feet per annum in an offstream reservoir.
2. The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second.
3. Complete application of water to the authorized use shall be made by December 1, 1989.
4. Permittee shall bypass a minimum of 30 gallons per minute as measured at a point approximately 100 feet downstream from the point of diversion on Tajiguas Creek, or the natural stream flow, whichever is less,
5. Permittee shall install and maintain a device satisfactory to the Board to measure the bypass flow required by this permit.
6. a. Within six months of the date of issuance of this permit, permittee shall submit a Riparian Vegetation Preservation and Maintenance Plan. The Plan shall include:

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<sup>1</sup> A copy of the Board's standard permit terms is available upon request.

- (1) A map delineating the existing riparian corridor of Tajiguas Creek from the point of diversion to Highway 101. The riparian corridor shall include all areas currently exhibiting riparian vegetation, or in areas not vegetated, shall consist of the stream channel from channel bank to channel bank at high water. The map shall show all existing man-made facilities and modifications within the riparian corridor including road-crossings, drainage outlets, rip-rap, other channel modifications, or fencing. The map shall delineate areas where vegetation modifications or manipulation have occurred in the course of agricultural operations. The map shall identify current land use along the riparian corridor.
  - (2) A description of agricultural activities to be conducted within the riparian corridor. This will include stock crossings, stockwatering areas, areas where riparian vegetation will be managed for flood control or cold air drainage management.
  - (3) A description of management techniques to be employed to preserve and maintain the riparian vegetation in conducting agricultural activities within the riparian corridor.
- b. The staff of the Board shall review the Plan upon its submittal. If the Chief of the Division of Water Rights finds the Plan to be inadequate to preserve and maintain the riparian vegetation of Tajiguas Creek, the permittee shall be informed of the deficiencies and a specific method suggested to remedy deficiencies. The permittee shall resubmit the Plan within three months of being informed of the Plan's deficiencies. If the Chief of the Division of Water Rights finds the

Plan to be inadequate after the second submittal, the matter shall be referred to the Board for hearing and further order, including possible revocation of the permit.

- c. Upon a finding that the Plan is adequate by the Chief of the Division of Water Rights, the Plan is incorporated by reference as a condition of the permit.
- d. After approval of the Plan, variations or modifications of the Plan may be made by the permittee after written notice of the proposal is received by the Chief of the Division of Water Rights, and a written finding of no objection from the Department of Fish and Game is received. If an objection is received from the Department, and the issue cannot be resolved by the permittee and the Department, the permittee may request a hearing before the Board on the proposed modification.

#### CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a decision duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 20, 1986.

AYE: W. Don Maughan, Chairman  
Darlene E. Ruiz, Vice Chairwoman  
Edwin H. Finster  
Eliseo Samaniego

NO: None

ABSENT: Danny Walsh

ABSTAIN: None

  
Maureen Marche  
Administrative Assistant to the Board