

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 20568  
of Arthur G. Manzo and Martin J. Sweeney  
to Appropriate from Tunitas Creek Tributary  
to Pacific Ocean in San Mateo County

Decision D 1201

ADOPTED DEC 22 1964

DECISION APPROVING APPLICATION IN PART

Application 20568 of Arthur G. Manzo and Martin J. Sweeney having been filed; protests having been received; a public hearing having been held before the State Water Rights Board in Redwood City, California, on February 19, 1963, conducted by Board Members Kent Silverthorne, Chairman, presiding, and William A. Alexander; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 20568 is for a permit to appropriate 600 acre-feet per annum by storage from November 1 of each year to May 1 of the succeeding year for domestic, irrigation, municipal, recreational, fish culture, and wildlife propagation purposes from Tunitas Creek in San Mateo County.

2. On December 26, 1963, the applicants filed a petition to change the point of diversion on Tunitas Creek to a point on Dry Creek located in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 3, T7S, R5W, MDB&M, and to include a point of diversion on Tunitas

Creek located in the NW $\frac{1}{4}$  of projected Section 3, T7S, R5W, MDB&M. These proposed changes will not result in injury to any legal user of water and should be approved.

3. Tunitas Creek rises in the coastal hills at an elevation of approximately 2,000 feet and flows in a southwesterly direction approximately six miles to the Pacific Ocean. Dry Creek enters Tunitas Creek approximately  $\frac{3}{4}$  mile upstream from its mouth.

4. Applicants plan to construct a storage dam and reservoir on Dry Creek with a capacity of 220 acre-feet, including 20 acre-feet of dead storage, approximately 250 feet above the Dry Creek-Tunitas Creek confluence. A pumping plant will be installed on Tunitas Creek just below this confluence which will pump water at a maximum rate of 1.25 cfs to off-stream storage in the Dry Creek Reservoir. The water will be used to irrigate a 125-acre golf course and to afford a supplemental supply for a subdivision.

5. Protests were filed by parties claiming interference with riparian and appropriative rights to water from Tunitas Creek. In most years water occurs in the sources during the proposed storage season that is surplus to the needs of the protestants under claimed prior rights and is available to satisfy the applicants.

6. A protest was filed by the State of California, Department of Fish and Game, claiming possible destruction of steelhead and resident rainbow trout by the project. Dry Creek contains no significant fishing resources, and the Department has no objection to the applicants' plans to construct their dam on that source. The Department has agreed that its protest may be dismissed as

to Tunitas Creek if the following term is made a condition of any permit or license issued:

"The permittee shall bypass immediately below the point of diversion on Tunitas Creek 5 cfs or the natural flow, if less, from January 1 through March 31 and 1 cfs or the natural flow, if less, during April of each year for the maintenance of fishlife."

These flows are necessary for the maintenance of fish existing in this source, and it is in the public interest that they be maintained. Bypass of water in the quantities requested by the Department will not affect the feasibility of the applicants' storage project. The permit should contain the proposed term.

7. There is unappropriated water available to supply the applicants, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

8. The intended use is beneficial.

9. As the applicants do not own all of the land within their project site and intend to obtain permission for its use from the owners, the permit should contain a term stating that the issuance of the permit shall in no way be construed as conferring upon permittee the right to enter upon or use the lands of others.

From the foregoing findings, the Board concludes that Application 20568 should be approved in part, and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20568 be, and it is, approved in part, and that a permit be issued to the applicants subject to vested rights and the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 220 acre-feet per annum by storage on Dry Creek to be collected from about November 1 of each year to about <sup>May 1</sup> ~~June 30~~ of the succeeding year from Tunitas Creek and Dry Creek. Diversion to off-stream storage from Tunitas Creek shall not exceed the rate of 1.25 cfs.

See Board  
Order of  
2/17/65

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before June 1, 1965, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1967.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. 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 Rights 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.

8. Permittee shall allow representatives of the State Water Rights 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.

9. This permit does not authorize collection of water to storage during the period from about May 1 to about November 1 of each season to offset evaporation and seepage losses or for any other purpose.

10. Permittee shall install and maintain an outlet pipe of such size and at such location as is specified by the State Department of Water Resources.

11. Permittee shall bypass immediately below the point of diversion on Tunitas Creek 5 cfs or the natural flow, whichever is less, from January 1 through March 31 and 1 cfs or the natural flow, whichever is less, during April of each year for the maintenance of fishlife.

12. 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.

13. A separate application for approval of plans and specifications for construction of the dam described in this

approved water right application shall be filed with and approved by the Department of Water Resources prior to commencement of construction of the dam.

14. The issuance of this permit shall in no way be construed as conferring upon permittee the right to enter upon or use the lands of others.

IT IS FURTHER ORDERED that the petition to change the point of diversion to storage from a point on Tunitas Creek 200 feet south 27° west from the confluence of Dry Creek and Tunitas Creek, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 3, T7S, R5W, MDB&M, to a point on Dry Creek south 430 feet and east 1040 feet from the northwest corner of the same section and to include a point of diversion to off-stream storage on Tunitas Creek south 490 feet and east 770 feet from the northwest corner of the same Section, be, and it is, approved. Application 20568 shall be amended accordingly.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the            day of            1964.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

/s/ Ralph J. McGill  
Ralph J. McGill, Member

/s/ W. A. Alexander  
W. A. Alexander, Member