

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19967)
of Michael J. and Donna L. Durrer)
to Appropriate from Two Unnamed Springs)
in Humboldt County)

Decision D 1102

ADOPTED NOV 21 '62

DECISION APPROVING APPLICATION

Application 19967 having been filed for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 19967 is for a permit to appropriate 1200 gallons per day by direct diversion, year-round for domestic purposes from two unnamed springs, tributary to an unnamed stream, thence Redwood Creek, in Humboldt County. The point of diversion is to be located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 5, T10N, R1E, HB&M.

2. The two unnamed springs were conveyed to the applicants together with the land upon which the water is to be used. The springs are located on a mountainside within the the Redwood Creek watershed approximately one mile from the Pacific Ocean.

3. Water from the springs has been used for several years by applicants and their predecessors in title. The distribution system is complete. The combined flows of the two springs are conveyed by 75 feet of $1\frac{1}{2}$ -inch pipe to a 1,000 gallon redwood tank. By this system the applicants supply two apartments, four house trailers, and a utility house for 20 trailers. They intend to increase their facilities, which will require more water. Substantially the same amount of water that is being used at present has been used for a number of years, and during such time no shortage of water has been experienced.

4. Protestants R. S. and Ella McRivett receive water from the applicants' tank for two fully plumbed homes which are located on a 1-acre parcel of land adjacent to the applicants' property. Their pipeline is connected near the top of the applicants' tank above the applicants' pipeline. They have received ample water up to the present time but contend that any increased use by the applicants might interfere with their supply. They also claim that they are entitled to receive water on an equal basis with applicants and that the pipeline serving them should be connected near the bottom of the tank where it was when they purchased their land about four years ago.

5. Protestants claim the right to the continuation of their present supply of water on the basis of use for approximately four years, use by previous owners of their property for "many years," and that at the time of the purchase of their

property it was represented to them that rights to water from the springs were included in the transfer of the property.

6. Whatever right protestant may have to water from the springs is apparently dependent upon implied grant from former owners or prescription, or both. In any event the Board does not have jurisdiction to determine their right, and any permit issued to applicants will not affect it, since all permits are issued subject to vested rights.

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.

From the foregoing findings, the Board concludes that Application 19967 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 19967 and all relevant information on file therewith, particularly the report of the field investigation made January 11, 1962, License 5906 (Application 14669), and USGS Orick 15-minute series quadrangle dated 1952.

IT IS HEREBY ORDERED that Application 19967 be, and the same is, approved, and that a permit be issued to the

applicants subject to vested rights and to 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 1200 gallons per day by direct diversion to be diverted year-round.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

4. 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.

5. 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.

6. Permittees 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.

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 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member