

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 20547  
of The Oversoul Foundation to  
Appropriate from Five Unnamed Springs  
and an Unnamed Stream, Tributary to  
Butte Creek, in Butte County

ADOPTED APR 4 1963

Decision D 1119

DECISION APPROVING APPLICATION

The Oversoul Foundation having filed Application 20547 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant 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 20547 is for a permit to appropriate 1 cubic foot per second (cfs) by direct diversion, year-round, from five springs, tributary to Butte Creek, and 10 acre-feet per annum by storage from an unnamed stream tributary to Butte Creek, from October 1 of each year to May 1 of the succeeding year, for irrigation, domestic, recreational, and stockwatering purposes in Butte County. The points of diversion are to be located within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 18, NE $\frac{1}{4}$  of NW $\frac{1}{4}$  and NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 19, all in T22N, R3E, MDB&M.

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2. Applicant proposes to develop five springs located on its property, designated as "A" through "E" on its application, with a combined flow of approximately 1 cfs, and to construct a reservoir of a capacity of 10 acre-feet to impound the waters of an unnamed stream tributary to Butte Creek. Water will be used initially for irrigation and stockwatering. Eventually the principal use of water will be for a subdivision and a health resort to be constructed on the property.

3. Protestant Durham Mutual Water Company, Ltd., which diverts from Butte Creek at two points located approximately 5 and 8 miles downstream from the applicant's property, holds a right to divert 44.70 cfs from Butte Creek between April 1 and October 15 and 12 cfs during the remainder of the year. This right was confirmed by a Judgment and Decree of the Superior Court of Butte County (No. 18917) following proceedings to determine rights to the use of the waters of Butte Creek and its tributaries in the area in which the applicant's proposed project is to be located. The protest states that the company does not have sufficient water to meet its needs under its rights after June 15 in most years and after June 1 in some dry years.

4. On September 6, 1962, the flows of the individual springs ranged from less than 1 gallon per minute at Spring "A" to 0.25 cfs at Spring "E". At that time almost all of the water was either percolating into the hillside or being consumed by evapo-transpiration within 100 feet of the springs. The flow of Spring "E" reached Humbug Road, located approximately 1,000

feet below the spring where, as no culvert is nearby, the water flowed into a roadside drain and did not reach Butte Creek.

5. As little, if any, of the water from the springs reaches Butte Creek during the critical summer months and as return flow from the applicant's project will compensate for whatever diminution in flow of the creek that may result from the proposed diversions from the springs, no harm will result to the protestant by the approval of this feature of the application.

6. The storage on the unnamed stream proposed by the applicant will not interfere with uses by the protestant and other holders of adjudicated rights on Butte Creek and its tributaries, as water surplus to their uses occurs during the winter and early spring months.

7. There is unappropriated water available to supply the applicant, 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 uses are beneficial.

From the foregoing findings, the Board concludes that Application 20547 should be approved and that a permit should be issued to the applicant 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 20547 and all relevant information on file therewith, particularly the report of the field investigation made September 6, 1962; Butte County Superior

Court Judgment and Decree No. 18917; United States Geological Survey 15-minute quadrangle "Paradise," and 7.5-minute quadrangle, "Hamlin Canyon," and California Division of Mines and Geology, geologic maps of California, "Chico Sheet."

ORDER

IT IS HEREBY ORDERED that Application 20547 be, and the same is, approved, and that a permit be issued to the applicant 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 a total of 1 cubic foot per second by direct diversion from the five unnamed springs to be diverted year-round and 10 acre-feet per annum by storage from an unnamed stream to be collected from about October 1 of each year to about May 1 of the succeeding year.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Actual construction work shall begin on or before September 1, 1963, 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, 1965.

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

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 October 1 of each season to offset evaporation and seepage losses or for any other purpose.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at California, on the \_\_\_\_\_ day of \_\_\_\_\_, 1963.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member