

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Applications 21726  
and 21828 of Ardis G. Paxton to  
Appropriate from Eagle Creek in  
Shasta County

Decision D 1230

ADOPTED AUG 25 1965

DECISION DENYING APPLICATIONS

Applications 21726 and 21828 of Ardis G. Paxton having been filed; protests to the applications having been received; a public hearing having been held before the State Water Rights Board in Redding, California, on February 24, 1965, conducted by Kent Silverthorne, Chairman; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 21726 is for a permit to appropriate 0.25 cubic foot per second (cfs) by direct diversion, year-round, for the purpose of irrigation from Eagle Creek in Shasta County. The point of diversion is to be located within the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 2, T30N, R7W, MDB&M.

Application 21828 is the same as Application 21726 except that it is for 1.0 cfs.

2. The applicant's project has been in existence since the year 1897. Water is diverted from Eagle Creek through the Gill Ditch which heads approximately 1.5 miles above the Eagle Creek-North Cottonwood Creek junction and

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is conveyed approximately 1 mile to irrigate 180 acres of pasture.

3. A decree of the Superior Court of Shasta County (Bee Creek Ditch and Water Co. v. Happy Valley Land and Water Co., et al.), dated June 9, 1920, confirmed in the predecessor of the protestant Happy Valley Water Company the right to divert 16 cfs during the irrigation season from Eagle Creek into the Happy Valley Land and Water Company's ditch approximately 2 miles above the head of the Gill Ditch which the protestant now owns. The decree also confirms in the company the right to the natural flow of the creek reaching the head of the Gill Ditch.

4. Under an agreement between the applicant's predecessor and the company, dated April 3, 1930, which has been periodically renewed at the end of its 10-year term and assigned to the applicant, the applicant leases the Gill Ditch and is served water. When there is not sufficient water in Eagle Creek to meet the applicant's demands, water from the company's system is released into the creek.

5. Both the company and the applicant have expressed their intention to continue under this agreement. The applicant has limited her application to the winter months (RT 115), during which time she claims that water exists surplus to the needs of the company. No additional or different use of water is proposed by the applicant than has been used in the past under the aforesaid agreement.

As long as the applicant is served by the company under the agreement, a permit to cover her use would not be necessary and would constitute a duplication of rights covering the same use of water. In the unlikely event that the company, a public utility, would not renew the agreement, a permit would be of no value, as she would no longer have the right to the use of the Gill Ditch, her only access to the source of water.

To issue a permit under these circumstances would not be appropriate. This conclusion makes it unnecessary to consider claims of the other protestants.

From the foregoing findings, the Board concludes that Applications 21726 and 21828 should be denied.

ORDER

IT IS HEREBY ORDERED that Applications 21726 and 21828 be, and they are, denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, the            day of            , 1965.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

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

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