

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application)
22265 of Henry and Sophie)
Tschopp to Appropriate from)
Wixon Spring and an Unnamed)
Spring in Sierra County)
_____)

Decision 1300

DECISION APPROVING APPLICATION

Application 22265 of Henry and Sophie Tschopp having been filed; protests having been received; a public hearing having been held before the State Water Rights Board (predecessor of the State Water Resources Control Board) on November 16, 1967, conducted by Board Chairman George B. Maul; applicants and protestant Vernie J. Veale having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 22265 is for a permit to appropriate 0.06 cubic foot per second by direct diversion, year-round, for irrigation, domestic, recreational, and fire protection purposes.

As filed, the application describes the proposed source of water as an unnamed spring in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28, T20N, R12E, MDB&M. On July 11, 1967, applicants filed a petition to amend the application to describe Wixon Spring and an unnamed spring as sources, both being in the SE $\frac{1}{4}$ of NE $\frac{1}{4}$, same section, township, and range. The proposed amendment will correctly describe the sources of water intended by the applicants and will not operate to the injury of any legal user of the water involved. The petition should, therefore, be granted.

2. Applicants propose to pipe water from the two springs on Forest Service land approximately 1,500 feet to a 20,000-gallon regulatory storage tank on their property. Water from the tank will be used at the Yuba River Inn, owned by the applicants, and for the irrigation of an orchard. The Forest Service has issued a special use permit to the applicants for the necessary easements.

3. On August 7, 1963, the flows of Wixon Spring and the unnamed spring were estimated by the engineers of the Board's staff to be 70 and 15 gallons per minute, respectively. During the summer months, surface flow from the springs does not reach the North

Yuba River or other source on which rights have been established.

4. Protestants Vernie J. Veale, et al, claim that the entire flow of Wixon Spring is needed for fire protection and domestic purposes at their Kentucky Mine, which is within the Tahoe National Forest. The mine has not been operated for over 13 years and no one resides on this mining claim (RT 10, 40). A pipeline conveys water from the spring to a storage tank on the claim. No water is used by these protestants. Instead, the water overflows the tank and wastes into the ground.

5. Protestant Sacred Buttes Mining Corporation did not appear at the hearing in support of its protest. Since the hearing, its Permit 14165 covering use of water from the same sources as designated by Application 22265 has been revoked.

6. Unappropriated water is 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.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22265 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.

ORDER

IT IS HEREBY ORDERED that the petition to correct the point of diversion described in Application 22265 from an unnamed spring within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28, T20N, R12E, MDB&M, to Wixon Spring and an unnamed spring, both within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 28, T20N, R12E, MDB&M, be, and it is, approved.

IT IS FURTHER ORDERED that Application 22265 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.06 cubic foot per second by direct diversion to be diverted year-round. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Actual construction work shall begin on or before December 1, 1968, 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, 1970.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control 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 Resources Control 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 Resources Control 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 Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: MAY 2 1968

/s/ George B. Maul
George B. Maul, Chairman

/s/ W. A. Alexander
W. A. Alexander, Vice Chairman

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

/s/ Norman B. Hume
Norman B. Hume, Member

/s/ E. F. Dibble
E. F. Dibble, Member