

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22577)
of Edward B. Beers, et al, to)
Appropriate from an Unnamed Spring)
and an Unnamed Stream in Butte County)

Decision 1329

DECISION DENYING APPLICATION

Edward B. Beers, et al, having filed Application 22577 for a permit to appropriate unappropriated water; a protest having been received; the applicants 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 22577 is for a permit to appropriate 4,000 gallons per day by direct diversion from January 1 to December 31 of each year for domestic purposes from an unnamed spring and an unnamed stream tributary to Pratt Creek and Butte Creek in Butte County. The points of diversion are to be located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 21, and SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 16, T24N, R3E, MDB&M.

2. The applicants' proposed points of diversion are within the area covered by the Butte Creek adjudication. Applicants possess no rights as a result of this adjudication. Under normal conditions, from June to October the entire flow of Butte Creek and its tributaries, within the adjudicated area, is used pursuant to adjudicated rights.

3. The main issue presented by this application is whether or not the unnamed spring and the unnamed stream are tributary to Butte Creek. If the spring and the stream are tributary, the rights to the waters are covered by the Butte Creek adjudication and there is no unappropriated water available from about June 1 to about October 1 of each year.

4. Two field investigations were made by staff personnel to determine whether or not the flow of the unnamed spring and the unnamed stream reached Butte Creek. The first investigation was made in August 1967 and the second in July 1968. During both investigations it was determined that there was hydraulic continuity between the spring and the stream and the west branch of Butte Creek.

5. Unappropriated water is available from about October of each year to about June of the following year. However, since the application is for domestic use, a permit excluding the period July-October would be of no value unless an alternate supply of water were available to applicants during this period.

6. A September 19, 1968, letter to applicants from the Board stated that a permit could be issued on the application for year-round use if an alternate supply of water were obtained to cover the period June-October. A method by which applicants could obtain water during June-October by an exchange agreement was explained and a request was made concerning applicants' interest.

7. Applicants have failed to respond to the September 19, 1968, letter although on October 25 and November 1, 1968, the Board's staff called it to their attention and on each occasion applicants orally indicated a response would be forthcoming.

ORDER

IT IS HEREBY ORDERED that Application 22577 be, and it is, denied.

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

Dated: FEB 6 1969

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

W. A. ALEXANDER
W. A. Alexander, Vice Chairman

GEORGE B. MAUL
George B. Maul, Member

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member