

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23119  
of Robert E. and Lucille J. Boardman  
and Harold W. and Mary M. Beck to  
Appropriate from Boulder Creek in  
San Diego County.

Decision 1349

DECISION DENYING APPLICATION

Robert E. Boardman, et al., having filed Application 23119 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 23119 is for a permit to appropriate 9,000 gallons per day by direct diversion, year round, and six acre-feet per annum by storage from December 1 of each year to May 31 of the succeeding year for domestic, irrigation, fire protection and soil conservation purposes from Boulder Creek in San Diego County. The point of diversion is to be located within the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 9, T14S, R3E, SBB&M.

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2. The applicants propose to construct a concrete dam on Boulder Creek which will form a sump with a capacity of approximately two acre-feet. Water will be pumped from the sump into a pressure system and used at two residences, for the irrigation of a small orchard, for the irrigation of grass and for fire protection purposes.

3. Protestant Helix Irrigation District (hereinafter referred to as "District") stores water in the District's Cuyamaca Reservoir on Boulder Creek approximately six miles above the applicants' point of diversion. Water released from the reservoir flows down the creek and into the San Diego River approximately four miles below the applicants' point of diversion, and, along with the natural flow, is stored in El Capitan Reservoir. Water in El Capitan Reservoir is used for domestic, municipal and agricultural purposes within the District's 4,668 acres and by the City of San Diego (hereinafter referred to as "City") for municipal purposes. The District impounds approximately 3,200 acre-feet of water annually at Cuyamaca Reservoir and diverts approximately 4,500 acre-feet of water directly from the San Diego River during the months of December through June.

4. The District's right to water from Boulder Creek and the San Diego River is based upon pre-1914 appropriative rights initiated by its predecessor, S. A. Flume Company. The City claims a paramount right to water from

the San Diego River and its tributaries necessary to meet its needs by virtue of a pueblo right. This right has been recognized by court decisions (The City of San Diego v. Cuyamaca Water Company, et al., 209 Cal. 105; The City of San Diego v. The Cuyamaca Water Company, et al., 209 Cal. 152).

5. There has not been sufficient water in the San Diego River watershed to meet the City's and District's needs and it has become necessary for them to purchase Colorado River water from the Metropolitan Water District. During the period 1947 to 1968 the City and the District purchased water from the Metropolitan Water District in every year. The City's annual purchases varied from a minimum of 20,684.9 acre-feet to a maximum of 121,433.2 acre-feet. The District's annual purchases varied from a minimum of 4,256 acre-feet to a maximum of 28,235 acre-feet.

6. There is no unappropriated water available to supply the applicants.

From the foregoing findings, the Board concludes that Application 23119 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 23119 and all relevant information on file therewith, particularly the report of field investigation made May 23, 1969, and U.S.G.S. topographic map "Tule Springs" quadrangle.

ORDER

IT IS HEREBY ORDERED that Application 23119 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: November 6, 1969

KERRY W. MULLIGAN  
Kerry W. Mulligan, Chairman

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

NORMAN B. HUME  
Norman B. Hume, Member

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

RONALD B. ROBIE  
Ronald B. Robie, Member