

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23312 of)
James Dodd to Appropriate from North)
Fork Cosumnes River in El Dorado)
County.)

Decision 1369

DECISION DENYING APPLICATION

James Dodd having filed Application 23312 for a permit to appropriate unappropriated water; protests having been received; the applicant 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:

Substance of the Application

1. Application 23312 is for a permit to appropriate 0.18 cubic foot per second by direct diversion from May 15 to September 15 of each year for irrigation purposes from North Fork Cosumnes River in El Dorado County. The point of diversion is to be located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 10, T9N, R11E, MDB&M.

Applicant's Project

2. The applicant proposes to divert from the North Fork Cosumnes River to irrigate approximately 35 acres of Christmas trees which he intends to plant when the proper variety is determined from experimental plots. He claims a riparian right to water from the river which apparently covers his proposed use.

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Protestants

3. Protestants Cosumnes Irrigation Association, United States Bureau of Reclamation, Omochumne-Hartnell Water District and Bank of America as trustee for Operating Engineers hold applications, permits, and licenses to appropriate water from, and claim pre-1914 appropriative and riparian rights to water from, North Fork Cosumnes River and sources to which it is tributary.

Availability of Unappropriated Water

4. The State Water Rights Board, predecessor of this Board, concluded in its Decisions D 855, D 1077, and D 1163 that there was no unappropriated water in the Cosumnes River system during the period July 1 through October 31. No evidence has been presented by the applicant which would justify a different conclusion at the present time. As a permit covering the remainder of the applicant's diversion season would be of little or no value to the applicant, Application 23312 should be denied in its entirety.

5. There is no unappropriated water available to supply the applicant.

6. The applicant's place of use has been logged and burned over. The applicant claims that his project will benefit the ecology of the area and that for that reason his application should be approved. The Board has no authority to issue a permit to appropriate water when there is no unappropriated water available.

From the foregoing findings, the Board concludes that Application 23312 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 23312 and all relevant information on file therewith, particularly the report of field investigation made August 19, 1970; State Water Rights Board Decisions D 855, D 1077, and D 1163.

ORDER

IT IS HEREBY ORDERED that Application 23312 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 Los Angeles, California.

Dated: February 18, 1971

KERRY W. MULLIGAN

Kerry W. Mulligan, Chairman

E. F. DIBBLE

E. F. Dibble, Vice Chairman

NORMAN B. HUME

Norman B. Hume, Member

RONALD B. ROBIE

Ronald B. Robie, Member

W. W. ADAMS

W. W. Adams, Member