

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23575)
of Hilliard C., Ruby F., and)
Hillary Smathers to Appropriate) Decision 1442
from Soquel Creek in Santa Cruz)
County.)
_____)

DECISION DENYING APPLICATION

BY BOARD VICE CHAIRMAN ROBIE AND MEMBER AUER:

Hilliard C., Ruby F., and Hillary Smathers, having filed Application 23575 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on May 8, 1974; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 23575 is for a permit to appropriate 0.08 cubic foot per second by direct diversion from April 1 to November 1 of each year for irrigation, stockwatering, and recreational purposes from Soquel Creek in Santa Cruz County. The point of diversion is to be located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 34, T10S, R1W, MDB&M.

Riparian Right of the Applicants

2. The riparian status of applicants' land which borders the stream is unquestioned (RT 59). Applicants'

riparian right includes all the water reasonably needed for beneficial use on their land and is superior to any right they could acquire under a permit from the Board. The application was filed because at the time no adjudication proceedings on Soquel Creek had been started and there was nothing in writing to show what quantities of water the land was entitled to; also there was a question whether the riparian right would cover future releases from upstream storage projects and it was thought that a permit might be easier to defend against prescription (RT 59, 60).

3. A statutory adjudication of all rights to the use of water of Soquel Creek and its tributaries is now pending. Applicants have filed proof of their claims and their rights will be determined and included in the court decree. No evidence was presented when upstream storage projects which might make more water available to applicants will be built.

Other Information

4. At the hearing applicants indicated they might wish to amend their application to provide for storage instead of direct diversion and they were allowed 30 days within which to make a decision (RT 60, 64). Later they informed the Board that they had abandoned such a plan.

From the foregoing findings the Board concludes that Application 23575 duplicates applicants' riparian rights and should be denied.

ORDER

IT IS HEREBY ORDERED that Application 23575 be, and
it is, denied.

Dated: November 21, 1974

We concur:

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

W. W. ADAMS
W. W. Adams, Chairman

MRS. CARL H. (JEAN) AUER
Mrs. Carl H. (Jean) Auer, Member

ROY E. DODSON
Roy E. Dodson, Member

W. DON MAUGHAN
W. Don Maughan, Member