

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23809)
)
of Ambrose B. and Mabel Spooner to) Decision 1427
)
Appropriate from Walker Creek in)
)
Glenn County.)
_____)

DECISION DENYING APPLICATION

BY THE BOARD:

Ambrose B. and Mabel Spooner having filed Application 23809 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:

Substance of the Application

1. Application 23809 is for a permit to appropriate 2 cubic feet per second (cfs) by direct diversion from April 15 to June 15 of each year for irrigation purposes from Walker Creek in Glenn County. The point of diversion is to be located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 23, T20N, R3W, MDB&M.



Applicants' Project

2. Application 23809 was filed to obtain water to supplement a supply from wells used to irrigate 145 acres of rice. In the past water has been diverted from the creek by the applicants during the months of July and August by means of a portable pump. Application 23809 was originally for these months. The applicants changed their diversion season following advice from the Board's staff that the Board had found in previous decisions that the entire natural flow of streams tributary to the Sacramento-San Joaquin Delta from June 15 through August 31 is required to satisfy existing rights.

Protestants

3. Protestants Walter E. and Ruth E. Sprague hold the following appropriative rights to water from Walker Creek for the irrigation of 130 acres of rice and 60 acres of sorghum: License 9580 (Application 22385) for 0.55 cfs from April 1 to June 15 and from September 1 to September 15 with total annual quantity under the license limited to 72 acre-feet (af); License 9975 (Application 22594) for 2 cfs from May 1 to June 15 with total annual quantity under the license limited to 202 af; and Permit 16278 (Application 23581) for 1.5 cfs from April 1 to June 15 and from October 1 to November 1 with total annual quantity under the permit limited to 180 af.

Protestants claim that they are often short of water during the applicants' proposed diversion season (April 15 to June 15) and that in the year 1972 there was no flow at all in the creek during April, May and June.



Proof of Existence of Unappropriated Water

4. Apart from occasional spot checks there are no records of streamflow for Walker Creek. During the summer months there is no natural flow in the creek and, whatever water there is, is irrigation return water. The applicants have no knowledge of normal flows that occur during their proposed diversion season because they have not been diverting during that period and have made no estimates of the flow. The applicants have failed to establish one of the essential conditions prerequisite to issuance of a permit to appropriate water, that there is unappropriated water to supply the applicant (Water Code Sec. 1375).

Diligence in Applying the Water to Beneficial Use

5. Application 23809 was apparently filed primarily to attempt to protect "future rights" to water available from drainage sources upon the completion of the Tehama-Colusa Canal (letter dated September 21, 1972 from Attorney Memmott; files Application 23809). If such was the case, Application 23809 was prematurely filed, as an applicant must be prepared to proceed with due diligence in the construction of his works and the utilization of the water for beneficial purposes (Water Code Sec. 1396). An application to appropriate water cannot be used for the purpose of reserving water from some uncertain source for use at some indefinite time in the future.

From the foregoing findings, the Board concludes that Application 23809 should be denied.



The records, documents, and other data relied upon in determining the matter are: Application 23809 and all relevant information on file therewith, particularly the report of field investigation made July 25, 1972.

ORDER

IT IS HEREBY ORDERED that Application 23809 be denied.

Dated: September 6, 1973

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

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

ROY E. DODSON
Roy E. Dodson, Member

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

W. DON MAUGHAN
W. Don Maughan, Member

