

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

*Amended by  
attached order  
dated 9-24-70*

In the Matter of Application 22875 )  
of Lenard D. Huntley and Mary A. )  
Huntley to appropriate from an )  
Unnamed Spring in Nevada County )

Decision 1321

DECISION APPROVING APPLICATION

Lenard D. and Mary A. Huntley having filed Application 22875 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 22875 is for a permit to appropriate 16,000 gallons per day by direct diversion from January 1 to December 31 of each year for domestic purposes from an unnamed spring tributary to an unnamed creek, thence Greenhorn Creek, thence Bear River, in Nevada County. The point of diversion is to be located within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 3, T15N, R9E, MDB&M.

2. Applicants propose to develop the unnamed spring by using a concrete spring box to collect water for delivery to two or three homes.

3. The application was protested by the South Sutter Water District, which has Permits 14871 (Application 10221) and 11297 (Application 14804) for direct diversion and storage from the Bear River. Permit 14871 is for direct diversion of 250 cubic feet per second (cfs) from March 1 through June 30 and September 1 through October 31 and diversion to storage of 40,000 acre-feet per annum (afa) from October 1 through June 30. Permit 11297 is for direct diversion of 360 cfs from March 1 to November 1 for irrigation purposes and throughout the year, as required, for domestic purposes and for diversion to storage of 95,000 afa from October 1 to July 1.

4. A field investigation by Board personnel shows that there is no continuous surface flow between the unnamed spring and the Bear River during the summer months and therefore diversion by applicant will not deprive protestant of water during such time.

5. Records of flow in the Bear River during the period from October 1 to June 30 of the following year show that there is water in excess of protestant's requirements and available for diversion by the applicant.

6. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22875 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 22875 and all relevant information on file therewith, particularly the report of the field investigation made on August 1, 1967.

#### ORDER

IT IS HEREBY ORDERED that Application 22875 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 16,000 gallons per day by direct diversion to be diverted from January 1 of each year to December 31 of each year.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before September 1, 1969, and shall thereafter be prosecuted

with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before December 1, 1971.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1972.

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water, and to carry out legally established water quality objectives.

8. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

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

Dated: **JAN** 9 1969

1969

GEORGE B. MAUL  
George B. Maul, Chairman

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

RALPH J. MCGILL  
Ralph J. McGill, Member

NORMAN B. HUME  
Norman B. Hume, Member

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

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ORDER AMENDING AND REINSTATING DECISION 1321

On March 6, 1969, the State Water Resources Control Board adopted an "Order Granting Petition for Reconsideration of Decision 1321" pursuant to a petition by the South Sutter Water District. Said petition contends that the Board's Finding 5 is erroneous as to the period during which there is water in the Bear River in excess of the petitioner's requirements and available for diversion by the applicants, requests the Board to revise Finding 4 so as to identify the "summer months" during which no continuity of flow is deemed to exist between the point of diversion of applicants and that of protestant, and requests the Board to conform its order accordingly.

Based on investigations made during the year 1969, the Board finds that the period during which there is no continuity of flow from the unnamed spring to the Bear River is from about May 1 through approximately October 31, and Finding 4 should be amended accordingly.

Finding 5 in Decision 1321 was based in part on the assumption that water passing the U.S.G.S. gaging station "near Wheatland" below the petitioner's Camp Far West Reservoir was available for appropriation. However, an operation study for Camp Far West Reservoir shows that flows reported at that gaging station include releases made in compliance with the terms for the protection of fish in petitioner's Permits 14871 and 11297 covering the Camp Far West project. Also, the petitioner's project is not fully developed and water has not been placed to full beneficial use. Records of the U.S.G.S. gaging station "near Wheatland" and the operation study for Camp Far West Reservoir show that from about November 1 of each year to about May 1 of the succeeding year there is water in excess of the protestant's requirements. This is consistent with previous decisions by the Board involving the Bear River (Decisions D 914, 1091, and 1228) and Finding 5 should be amended accordingly.

Since there is no hydraulic continuity between the unnamed spring and the Bear River during the period when no unappropriated water is available in the river, no revision of the approved year-round diversion season for Application 22875 should be made. Decision 1321 should be amended in accordance with the foregoing findings and, as amended, should be reinstated. Because of the time elapsed since the decision was adopted, the dates specified in the decision for commencing and completing the appropriation of water should be advanced.

ORDER

IT IS HEREBY ORDERED that Findings 4 and 5 on page 2 of Decision 1321 be amended to read as follows:

4. Field investigations by Board personnel show that there is no continuity of surface flow between the unnamed spring and the Bear River from about May 1 to about October 31 and therefore diversion by applicants will not deprive protestant of water during such time.

5. Operation studies for Camp Far West Reservoir and records of the U.S.G.S. gaging station on the Bear River "near Wheatland" show that there is water in excess of protestant's requirements and available for diversion by the applicants from about November 1 of each year to about May 1 of the succeeding year, which is consistent with previous decisions by the Board involving the Bear River (Decisions D 914, 1091, and 1228).

The dates for commencing construction, completion of construction and application of the water to the proposed use shall be June 1, 1971, December 1, 1973 and December 1, 1974, respectively, and the order contained in Decision 1321 shall be so amended.

IT IS FURTHER ORDERED that Decision 1321, as amended, be, and it is, reinstated.

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: September 24, 1970

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