

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23363
of FRANK J. BRICKWEDEL
to Appropriate from an unnamed
stream tributary to Jordan Creek
in Del Norte County.

Decision 1382

DECISION DENYING APPLICATION

Frank J. Brickwedel having filed Application 23363 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 23363 is for a permit to appropriate .055 cubic foot per second (cfs) by direct diversion, year round, for domestic purposes from an unnamed stream, tributary to Jordan Creek, in Del Norte County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T16N, R1W, HB&M.

Applicant's Project

2. The applicant proposes a subdivision development of approximately 45 homesites on 120 acres adjacent to the

Jedediah Smith Redwoods State Park. The proposed point of diversion is within the park about one-half mile above the confluence of the unnamed stream with Jordan Creek.

Water Supply

3. There are no records of flows of the unnamed stream of Jordan Creek. At the time of the field investigation, August 26, 1970, the flow in the unnamed stream at the applicant's proposed point of diversion was estimated to be between 10 and 15 gallons per minute (gpm) (.022 to .033 cfs).

Protestants

4. Protestant Medford Veneer and Plywood Corporation located just below the confluence of the unnamed stream with Jordan Creek uses water from the creek to maintain a logging pond. It holds License 4504 (Application 14607) for 0.25 cfs by direct diversion from about June 1 to about December 1 of each year and 84 acre-feet by storage from about December 1 of each year to about June 1 of the succeeding year for industrial uses.

Protestant Robert Stary, farther downstream, diverts from the creek to irrigate approximately 240 acres under claim of riparian right.

Ralph McNamara, the lowermost protestant, irrigates 140 acres of lily bulbs and pasture under claim of riparian right.

Arlet Short and Monte English, located below the protestants, hold License 1779 (Application 17811) to divert 0.15 cfs from about June 1 to about October 1 of each year from

Jordan Creek. Under the terms of their license they are required to bypass one cfs of the natural flow for the benefit of fish life. Also, there are other users who apparently have riparian rights to divert from Jordan Creek.

Interested Parties

5. The Save-the-Redwoods League opposes the approval of Application 23363 on the grounds that the project would be contrary to the principles of park preservation and protection for which Jedediah Smith Redwood State Park was established. Further, it contends that the proposed diversion would destroy a waterfall on the unnamed stream which is an important feature of the park. However, the Department of Parks and Recreation does not oppose the project and has indicated that the applicant will be given the necessary right-of-way through the park to the point of diversion (letter of February 17, 1970, from Department of Parks and Recreation; files, Application 23363).

Requirements of Holders of Prior Rights

6. Existing water rights on Jordan Creek and the provision for fish life provided in License 7719 (Application 17811) require a flow in excess of 1.5 cfs (673 gpm). Holders of existing rights to water from Jordan Creek have had to share the available supply, and at the time of the field investigation on August 26, 1970, they were using only approximately one-third of the quantities of water to which they are entitled because of the unavailability of streamflow to meet their full requirement

Limited Diversion Season Considered

7. The applicant has not expressed an interest in receiving a permit for a diversion season limited to the times when surplus water is available. The last communication from the applicant was a request to delay action on Application 23363 for a period of 30 days in order to explore the possibility of having his land included in the Crescent City water service area. His request was granted and action withheld on Application 23363 until January 1, 1971. Since the extension of time, the applicant has not contacted the Board or answered correspondence concerning Application 23363. Due to the nature of the project, a proposed subdivision, which will require a firm year-round supply of water for which no unappropriated water exists during a part of the year, Application 23363 should be denied in its entirety.

Existence of Unappropriated Water

8. There is no unappropriated water available to supply the applicant. In view of this conclusion, other issues raised by Application 23363 become moot.

From the foregoing findings, the Board concludes that Application 23363 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 23363 and all relevant information on file therewith, particularly the report of field investigation made on August 26, 1970.

ORDER

IT IS HEREBY ORDERED that Application 23363 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: September 2, 1971

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

ABSENT
Ronald B. Robie, Member

W. W. ADAMS
W. W. Adams, Member