

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25269)
of Archie A. Welty and Hope Welty)
to Appropriate from Truckee Creek)
in Tehama County)

Decision 1500

DECISION DENYING APPLICATION

BY BOARD MEMBER WILLIAM J. MILLER:

Archie A. and Hope Welty having filed Application 25269 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held before the State Water Resources Control Board on September 26, 1978; applicants and protestants having appeared and presented evidence; a post-hearing investigation having been authorized and conducted, the evidence received at the hearing and investigation having been duly considered, the Board finds as follows:

Substance of Application

1. Under Application 25269, Archie and Hope Welty propose to directly divert 0.3 cubic foot per second (cfs) for irrigation of 10 acres of pasture and to divert 150 gallons per day (gpd) for stockwatering. The source of supply is Truckee Creek, the diversion point is to be located within SE $\frac{1}{2}$ of SE $\frac{1}{2}$ of Section 14, T25N, R3W, MDB&M, and the proposed diversion season is April 1 to June 15 and September 1 to October 31 of each year.

Protests

2. The application was protested by Bob and Larry Botts, successors in interest to the protest filed by Bill Botts. The protestants are directly downstream from the applicants and hold Permit 16733 (Application 24255) to

directly divert 0.25 cfs to irrigate 15 acres of orchard and 5 acres of pasture. The protestants state in their protest that "the flow of Truckee Creek is insufficient to support another diversion".

Availability of Unappropriated Water

3. Truckee Creek is an intermittent stream supplemented by irrigation return flow from purchased water. As a result of contradictory testimony presented at the hearing, a post-hearing investigation was authorized (RT 15-17) and conducted to investigate the source of water in Truckee Creek. The report of investigation indicates that the source of water flowing from reported "springs" within Mr. Welty's property is actually irrigation return flow from water applied to higher lands that reappears on the surface.

4. Mr. Welty testified that a standing pool of water sits on his property year round (RT 8). However, this pool consists of backwater caused by Mr. Botts' diversion dam.

5. The quantity diverted by Mr. Botts is dependent on upstream irrigation. When water is available, Mr. Botts pumps the stream dry (RT 13-15). No additional water is available for appropriation.

6. The Board cannot approve an application and issue a permit unless it finds that unappropriated water is available to supply the applicant. The record indicates that there is no unappropriated water available for this project.

7. From the foregoing findings, the Board concludes that Application 25269 should be denied.

ORDER

IT IS HEREBY ORDERED that Application 25269 be denied.

Dated: April 19, 1979

WE CONCUR:

/s/ WILLIAM J. MILLER

William J. Miller, Member

/s/ W. DON MAUGHAN

W. Don Maughan, Chairman

/s/ L. L. MITCHELL

L. L. Mitchell, Member

