

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 18693 of Aldercroft)
Heights Company, Inc., to Appropriate from)
Moody Gulch in Santa Clara County)

Decision D 1010

ADOPTED MAY 4 '61

DECISION DENYING APPLICATION

Aldercroft Heights Company, Inc., having filed Application 18693 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 Rights Board pursuant to said stipulations; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 18693 is for a permit to appropriate 0.09 cubic foot per second (cfs) from Moody Gulch in Santa Clara County, year-round, for municipal purposes at a point of diversion within the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 8, T9S, RLW, MDB&M.

2. Moody Gulch flows approximately 1 $\frac{1}{4}$ miles from its point of origin into Los Gatos Creek at a point just above the Lexington Reservoir of protestant Santa Clara Valley Water Conservation District. Applicant proposes to divert approximately one-half mile upstream from the confluence of Moody Gulch and Los Gatos Creek.

3. On August 24, 1960, the flow of Moody Gulch was 13 gallons per minute, which is about normal for low summer flow.

4. Protestant San Jose Water Works claims a pre-1914 appropriate right to the entire flow of Moody Gulch for domestic purposes when the stream is not turbid, which is during most of the summer season. On August 23, 1960, and on other occasions, its plant was not in operation due to insufficient water.

5. Protestant Chemeketa Park Mutual Water Company diverting immediately below the applicant's proposed point of diversion holds License 3424 for 0.04 cubic foot per second from April 1 to December 31 for domestic use. On August 23, 1960, and on other occasions, the use of water by the company's customers was restricted to certain hours of the day due to a short supply.

6. During years of below normal runoff, Moody Gulch goes dry. It has gone dry at a point approximately four-tenths of a mile downstream from applicant's point of diversion, and where Protestant San Jose Water Works diverts, during five of the last seven years. It was dry 105 days in 1955 and 78 days in 1960.

7. There is insufficient water available to supply the applicant with an adequate amount of water for municipal project as proposed by Application 18693.

From the foregoing findings, the Board concludes that Application 18693 should be denied.

The records, documents, and other data relied upon in determining the matter are: Application 18693 and all relevant information on file therewith, particularly the report of the field investigation made August 23, 1960; the files of License 520 (Application 1733), License 521 (Application 2153), License 5729 (Application 11751) and License 3424 (Application 12066);

State Water Rights Board's Decisions D 868 and D 919; and United States Geological Survey "Los Gatos" quadrangle, 7 $\frac{1}{2}$ -minute series, dated 1953.

IT IS HEREBY ORDERED that Application 18693 be, and the same is, denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member