

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22345  
of Louise Barrett, Richard D. Rabe  
and Andrienne Barrett Rabe to Appro-  
priate from Lake Mary in Mono County

Decision 1339

DECISION DENYING APPLICATION

Louise Barrett, et al., having filed Application 22345 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:

1. Application 22345 is for a permit to appropriate 0.05 cubic foot per second (cfs) by direct diversion, year round, for domestic purposes from Lake Mary in Mono County. The point of diversion is to be located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 16, T4S, R27E, MDB&M.

2. Mammoth Creek heads on the eastern slope of the Sierra Nevada at Barney and Woods Lakes near the Mono-Fresno county line. The creek flows in a northwesterly direction for about three miles through Skelton and Arrowhead Lakes into Lake Mary, the proposed point of diversion under Application 22345. From Lake Mary the creek flows in a northerly direction for about 1 $\frac{1}{2}$  miles through Lake Mamie into Twin Lakes and then in a general northerly and easterly direction for approximately 15 miles to the Owens River.

3. The applicants propose to use water from Lake Mary at a lodge to be constructed, which will have 167 rooms, and at 10 to 20 camp sites.

They presently have a small lodge which obtains its water supply from a well on the shore of Lake Mary.

4. Protestant Mammoth County Water District holds License 5715 (Application 12079) to appropriate 25,000 gallons per day from about May 1 to about December 1 from Lake Mary and Permit 1163 (Application 17770) to appropriate 2 cfs, year round, from Twin Lakes.

Protestants Howard Arcularius, et al., claim riparian and pre-1914 appropriative rights to divert from Lake Mary and Mammoth Creek for the flood irrigation of 330 acres of native pasture.

Protestant Jess Chance and Son, a partnership, claims riparian and pre-1914 appropriative rights to irrigate approximately 400 acres of pasture and for domestic and stockwatering use. Since the filing of this protest, the Chance land and water rights have been conveyed to the City of Los Angeles, Department of Water and Power (hereinafter referred to as "the City"). The City has leased the land back to the Chance interests and water from the creek is being used on the land in the same manner and to the same extent as it was prior to the sale (Statement of Water Diversion and Use S4447, dated June 21, 1968, and letter to the Board from the City dated January 16, 1969).

5. On June 30, 1964, the Board's predecessor adopted its Decision D 1187, which found no flow in Mammoth Creek in excess of the amounts necessary to satisfy the uses of the Chance interests under their claimed rights during August and September in most years and also during July in years of below-normal runoff. There has been no showing by the applicants of any change in circumstances that would justify a different conclusion at the present time.

Due to the nature of the applicants' proposed use, a permit covering the remainder of their diversion season would be of little or no value to them.

6. There is no unappropriated water available to supply the applicants.

7. In their answers to the protests the applicants claim a riparian right to the use of the water covered by Application 22345. Denial of Application 22345 will have no effect upon any such claimed right.

From the foregoing findings, the Board concludes that Application 22345 should be denied.

The records, documents, and other data relied upon in determining the matter are: Applications 12079, 17770, 19640 and 22345 and all relevant information on file therewith, particularly the report of the field investigation made May 9, 1968, on Application 22345, and U.S.G.S. topographic maps, "Devils Postpile" and "Mt. Morrison".

ORDER

IT IS HEREBY ORDERED that Application 22345 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 San Jose, California.

Dated: April 17, 1969

KERRY W. MULLIGAN  
Kerry W. Mulligan, Chairman

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

NORMAN B. HUME  
Norman B. Hume, Member