

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24765)
of David M. Vertin to Appropriate)
from Little Rock Creek in Nevada)
County)

Decision 1492

DECISION DENYING APPLICATION

BY THE BOARD:

David M. Vertin having filed Application 24765 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:

1. Application 24765 is for a permit to appropriate 0.05 cubic foot per second (cfs) of water from Little Rock Creek in Nevada County between May 1 and October 15 of each year for irrigation and throughout the year for fire protection. The proposed point of diversion is located within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 26, T17N, R9E, MDB&M.

2. The two protestants, Brewer and Holt, are riparian water users on Little Rock Creek about $\frac{1}{2}$ mile below the applicant's property. The protestants also claim that they share in an 1876 appropriation for diversion of the entire summer flow of Little Rock Creek. The protestants do not contest the fact that the applicant has riparian rights, but they stated that prior Board Decision 1433 adopted in 1974 has already determined that unappropriated water does not exist in Little Rock Creek.

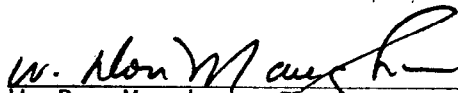
3. Decision 1433 found that there is no unappropriated water available in Little Rock Creek during the summer months and that the entire flow during the summer is required to satisfy prior rights. Staff investigation in 1977 confirmed that there is no unappropriated water in the stream during the irrigation season. Applicant presented no evidence to contradict the findings of Decision 1433. The Board cannot approve an application and issue a permit unless it first finds that unappropriated water is available to supply the applicant (Water Code Section 1375).

4. Denial of Application 24765 does not affect any riparian right the applicant may have.


ORDER

IT IS HEREBY ORDERED that Application 24765 is denied.

Dated: MAR 15 1979



W. Don Maughan, Chairman



William J. Miller, Member



L. L. Mitchell, Member