

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24708 )

ERNEST HAECKEL AND RANCHO SAN JOSE )  
MUTUAL WATER COMPANY )

Applicants )

SAN JOSE CREEK RANCH, ET AL. )

Protestants )

Decision: 1539

Source : San Jose Creek

County : Santa Barbara

DECISION DENYING APPLICATION 24708

BY THE BOARD:

Ernest Haeckel having filed Application 24708 for a permit to appropriate unappropriated water; protests having been received; a pre-hearing investigation having been conducted; a public hearing having been held before the State Water Resources Control Board on January 10, 1978; applicants and protestants having appeared and presented evidence; the evidence received at the investigation and hearing having been duly considered; the Board finds as follows:

Substance of the Application

1. Application 24708 is for a permit to appropriate 6,500 gallons per day (gpd) by direct diversion from June 1 to October 31 for domestic use. During the hearing the applicant voluntarily reduced the amount to 4,200 gpd. The point of diversion is within the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 22, T5N, R28W, SBB&M.

Applicants' Project

2. Applicants divert water from San Jose Creek by gravity flow to a regulatory tank at which point water is pumped to additional regulatory tanks from which distribution is made by gravity flow to the places of use.

The principal place of use is the applicants' residence including stockwatering of goats and two small gardens. A secondary place of use is another residence located about one mile to the south.

3. The applicants hold licensed Application 12684 for 666 gpd year-round and licensed Application 17053 for 4,200 gpd from November 1 to May 31. The purpose of Application 24708 as it now stands is to obtain a right to divert 4,200 gpd during the period not covered by Application 17053. The points of diversion of the above three filings are the same.

#### Protests

4. The San Marcos Trout Club, San Jose Creek Ranch, and the Department of Fish and Game filed protests against Application 24708. The San Marcos Trout Club once was a summer retreat, but now consists of a year-round residential community. The domestic source of water supply for the community comes from springs. The protestant uses the creek for recreational activities and for emergency domestic and fire protection uses under riparian right. The San Jose Creek Ranch is the only major user of water along the creek. The owners irrigate 60 acres of avocado trees with creek water and with water purchased from the Goleta County Water District. The Department of Fish and Game withdrew its protest when the applicant agreed to the inclusion of permit terms for the protection of fish and wildlife.

### Availability of Unappropriated Water

5. The watershed above the applicants' point of diversion consists of about 2.5 square miles of steeply sloping terrain covered with brush. The U. S. Geological Survey has published the mean daily discharge of San Jose Creek at a point about 2.5 miles downstream from the applicants' point of diversion for Water Years 1940-41 through 1973-74. There is one significant intervening tributary and one diverter between the applicants' point of diversion and the gage.

6. The mean monthly flows in cubic feet per second during the 34 year period in San Jose Creek for the months of June through October are as follows: 0.27 cfs for June, 0.13 cfs for July, and 0.12 cfs for August, September and October. During the period of record there were only three years out of 33 in which there was enough water to satisfy applicant and fish bypass requirement during the season requested (June 1 - October 31). During the remaining 30 years, the number of days when water was available for applicant during the proposed diversion season ranged from zero to 99 percent.

7. Decision D 704 considered two applications of Mr. Haeckel for a supply from San Jose Creek: Applications 12684 and 13554. Application 12684 was approved for 666 gpd year-round, but Application 13554, seeking to appropriate 10,000 gpd between June 2 and October 31, was denied. The denial of Application 13554 was based on material interference with downstream water users and the limited supply available for appropriation and its irregularity.

8. Decision D 912 (1958) approved Application 17053 of Mr. Haeckel to appropriate 0.08 cubic foot per second (licensed amount 4,200 gpd) from about November 1 to May 31. This decision indicated that unappropriated water ordinarily exists from about November 1 to about May 31 at the applicant's proposed point of diversion, but seldom exists at other times.

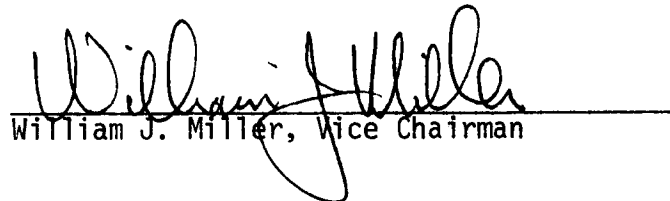
9. Decisions D 704 and D 912 both determined that there is no unappropriated water in San Jose Creek from about June 1 to October 31. The applicant presented no information showing that water is now available for appropriation.

ORDER

IT IS HEREBY ORDERED that Application 24708 be denied because of the unavailability of unappropriated water.

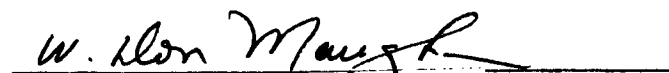
Dated: **SEP 20 1979**

  
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Carla M. Bard, Chairwoman

  
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William J. Miller, Vice Chairman

**ABSENT**

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L. L. Mitchell, Member

  
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W. Don Maughan, Member