

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

WRA:ck
3-7
(3-20-69)

In the Matter of Application 22956
of Philip R. Bradley and Katherine
C. Bradley to Appropriate from a
Mine Tunnel in Nevada County

ORDER DENYING PETITION
FOR RECONSIDERATION OF DECISION 1325

On January 23, 1969, the State Water Resources Control Board adopted Decision 1325 which approved the Application 22956 of Philip R. Bradley and Katherine C. Bradley to appropriate water from a mine tunnel in Nevada County.

On February 21, 1969, a petition for reconsideration of Decision 1325 was filed by protestant E. Robert McDowall, President, Brown Homestead Co., Inc. The petition requests reconsideration by the Board on the basis that (1) the source is not a "natural water source"; (2) vested rights are impaired; (3) petitioner has superior rights in the mine; (4) the amount granted exceeds the supply; and (5) the decision allows diversion for domestic use not incidental to mining.

Petitioner presents no arguments that were not considered by the Board in arriving at Decision 1325 and therefore that decision is hereby reaffirmed.

The Board has jurisdiction to issue permits to appropriate unappropriated water which flows from an artificial source

such as a man-made mine as well as from natural sources such as a flowing stream (see Decision D 878).

Vested rights, including any mineral rights which petitioner may have, are protected in the first paragraph of the Board's order in Decision 1325.

While the rate of diversion granted in Decision 1325 is larger than the amount actually measured during a field inspection on August 15, 1968, there is no reliable evidence as to the exact quantity of water available at other times. Therefore the decision granted the quantity requested subject to later reduction, if necessary (see Condition 3, p. 4 of Decision 1325).

Paragraph 3 of Application 22956 clearly states that water will be used for domestic purposes without qualification.

NOW, THEREFORE, IT IS ORDERED that the petition for reconsideration of Decision 1325 be, and it is, denied.

Adopted as the order of the State Water Resources Control Board at a meeting duly called and held at Santa Rosa, California.

Dated: March 20, 1969

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

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

GEORGE B. MAUL
George B. Maul, Member

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member