

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21787)
of Jose Gutierrez to Appropriate)
from an Unnamed Spring)
in San Bernardino County)

ORDER DENYING PETITION FOR
RECONSIDERATION OF DECISION D 1246

By letter received April 5, 1966, the applicant petitioned the Board for reconsideration of Decision D 1246, adopted March 30, 1966, in which the Board denied Application 21787.

The applicant contends that the Board was in error in finding that License 288 (Application 1675) held by the applicant to appropriate 22,600 gallons per day from an unnamed spring for agricultural and domestic use covered the same source and place of use as described by Application 21787. It was upon the basis of this finding and in view of the supply of water available at the spring that the Board concluded that there is no water surplus to the applicant's present right confirmed by License 288, and therefore, no unappropriated water.

The applicant's petition states that the spring designated as the point of diversion in Application 21787 is located in an entirely different canyon and is more than one-half mile in a northeasterly direction from the spring

covered by License 288 (Application 1675). The applicant, in his Application 21787, located the point of diversion as follows: "About 300 feet southwesterly from the SE corner of Section 31, T4N, R2W, SBB&M, being within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 6, T3N, R2W, SBB&M," and the spring was so located on the map filed with Application 21787. License 288 (Application 1675) states that the point of diversion is located 230 feet south and 250 feet west of the NE corner of Section 6, T3N, R2W, SBB&M, being within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 6. The two points described are located within a few feet of each other and can be considered the same. There is no error in the Board's finding that License 288 and Application 21787 cover the same source of water.

The second spring located in another canyon, to which applicant refers, was developed and water from it was used by a former owner of applicant's land, but this development and use occurred before Application 1675 was filed and apparently was under a claim of right based upon a notice of appropriation made prior to 1914.

The report of the field investigation made on May 11, 1965, shows that the fact that License 288 and Application 21787 have a common point of diversion was brought to the applicant's attention and that the cancellation of the application for that reason was considered. On July 20, 1965, a letter was sent to the applicant stating that the

available supply of water from the spring was adequately covered by the license he held.

No error appearing in the Board's findings of fact, and no good cause being shown to justify reconsideration of Decision D 1246, the petition for reconsideration is hereby denied.

Adopted as the order of the State Water Rights Board at a meeting duly called and held at Sacramento,

~~California, the _____ day of _____ 1966.~~
Dated:

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member