

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 15844)
Issued on Application 22853;)
S. N. MOORE,)
Permittee.)

ORDER : WR 78-16
SOURCE: Panther Canyon
COUNTY: Lake

ORDER REVOKING PERMIT

BY BOARD MEMBER ADAMS:

Permittee's Entitlement

1. On April 30, 1969, permittee was issued a permit to appropriate water from Panther Canyon in Lake County. Panther Canyon is ultimately tributary to Cache Creek. The appropriation permitted is for one cubic foot per second by direct diversion from March 1 to May 31; and 14 acre-feet per annum by storage from November 1 to May 1. The uses permitted are mining, domestic, and stockwatering. The due diligence milestones in the permit are to commence construction by September 1, 1970; to complete construction by December 1, 1971; and to complete use of water by December 1, 1972.

The Hearing

2. A Board inspection on November 12, 1975 -- almost three years after the time by which permittee was to complete use of water under the permit -- disclosed no evidence of construction effort on either the diversion works or on mining works. Permittee was notified by notice of April 14, 1976, that

the Division of Water Rights proposed to recommend to the Board that the subject permit be revoked in that the work thereunder had not been commenced, prosecuted, or completed or the water applied to beneficial use as contemplated in the permit; permittee was also thereby notified of his right to a hearing on the matter. (Water Code Section 14140.) Permittee requested a hearing, which was duly noticed and held on December 17, 1976. Permittee appeared by Mr. Edward A. Aziz, his business partner. The Bureau of Land Management, United States Department of the Interior, appeared as an interested party by J. P. Collier, Geologist. The evidence received at the hearing having been duly considered, the Board finds as follows:

3. Permittee has filed numerous mining claims in Lake County, which claims comprise his place of use under the subject permit. Use of water for mining purposes was the principal intended use under the subject permit; proposed domestic and stockwatering uses were related to the mining operation.

4. According to his annual progress reports, permittee has made some minor use of water in connection with a cabin which he constructed in 1971. Permittee's cabin burned in 1973, and subsequent use of water appears to have been limited to domestic use associated with occasional camping on the property. The Bureau of Land Management has not issued permittee a grazing lease or a house construction permit. It has no plans to authorize grazing or houses in the area.

5. Permittee has expended no construction effort on storage diversion facilities. Diversion for such use as has been made consists of tapping springs tributary to Panther Canyon to fill a water tank for domestic use. There has been no substantial construction of direct diversion facilities to permit beneficial use of water for mining purposes. At hearing permittee's representative testified that there had been an expenditure of funds on the order of \$150,000 in road construction, clearing work, and ore trenches on the claims. This work, it was said, was to facilitate inspection of the claims by large mining interests whom permittee and his partner hope to interest in these claims, through an intermediary in Chicago. However, permittee has been reporting on such negotiations since his progress report for 1973 and none have come to fruition. All of the evidence of record points to an intent on the part of permittee to transfer operating interests in the proposed mining project to others, if such others can be found, at some indefinite time in the future.

6. The representative of the Bureau of Land Management testified that his agency had concluded that there are not sufficient quantities and qualities of minerals on permittee's claims to constitute a valid mining claim and that his office was recommending that a contest be initiated against the mining claims. While the Bureau of Land Management's position regarding the validity of the mining claims is not determinative of the diligence issue with which the Board is faced, it provides the basis

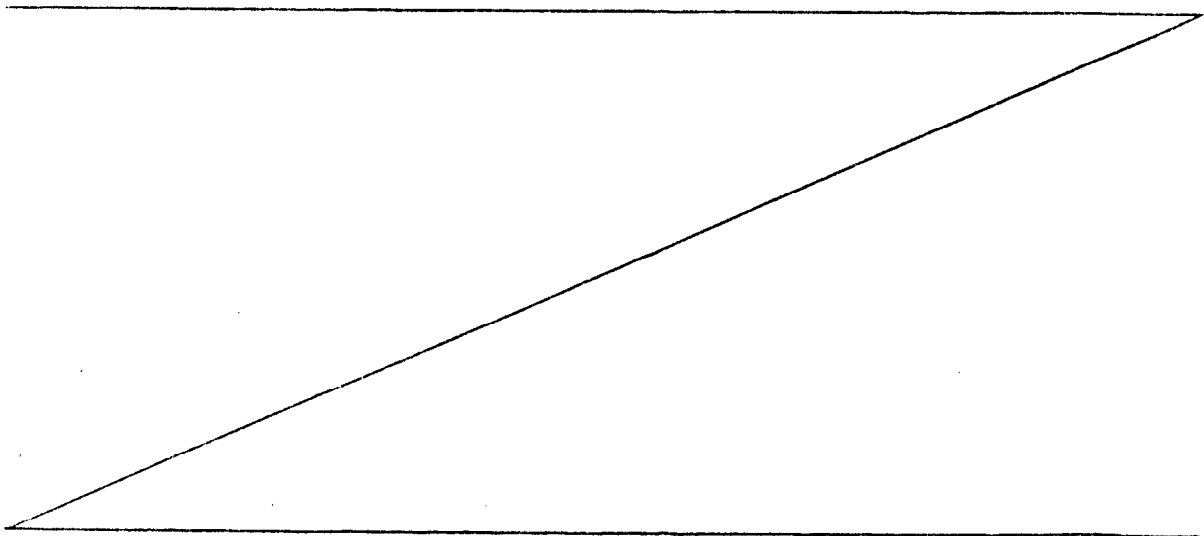
for an inference that the project is not likely to be more diligently developed than it has since permit issuance, and we so find.

DETERMINATION OF ISSUES

1. Construction of the work and utilization of water, under subject permit, for beneficial purposes has not been prosecuted with due diligence in accordance with Division 2 of the Water Code, the terms of the permit, or the rules and regulations of the Board.

2. The work has not been completed nor the water applied to beneficial use under subject permit, in accordance with Division 2 of the Water Code, the rules and regulations of the Board, or the terms of the permit, including the diligence milestones specified therein.

3. Good cause has not been shown for extending the period specified in the permit for beginning construction work, for completion of construction work, or for application of the water to beneficial use, or for any of these periods.



NOW, THEREFORE, IT IS ORDERED that Permit 15844 issued on Application 22853 should be, and is hereby, revoked and the water permitted to be appropriated thereunder is hereby declared subject to further appropriation.

Dated: September 25, 1978

WE CONCUR:

/s/ W. W. ADAMS
W. W. Adams, Member

/s/ JOHN E. BRYSON
John E. Bryson, Chairman

/s/ W. DON MAUGHAN
W. Don Maughan, Vice Chairman

/s/ WILLIAM J. MILLER
William J. Miller, Member

/s/ L. L. MITCHELL
L. L. Mitchell, Member



1
9
4