

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permit 15098 )  
Issued on Application 21516 of )  
Raymond W. and Edna K. Hansen to ) Decision 1333  
Appropriate from Russian River )  
in Mendocino County )

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DECISION AND ORDER APPROVING PETITION FOR A CHANGE  
IN POINT OF DIVERSION AND DENYING PETITION  
FOR A CHANGE IN PLACE OF USE

On October 11, 1967, Raymond W. and Edna K. Hansen filed a petition to change the point of diversion and place of use authorized by Permit 15098 (Application 21516, Decision D 1247) by adding an additional point of diversion and an additional 25 acres to the authorized place of use. The present place of use consisting of 56 acres, is to be retained.

Water Code Section 1701 provides that a change in the place of use and point of diversion of a permittee may be made only upon permission of the Board. Before the Board grants permission to make the change, Water Code Section 1702 requires the petitioners to establish, and the Board to find,

that the change will not operate to the injury of any legal user of water involved.

The petition was protested by the Sonoma County Flood Control and Water Conservation District. The district claimed that approval of the petition would result in injury to its long-range project involving total development of the Russian River stream system under its prior filings.

A hearing was held on the petition on September 11, 1968. Subsequent to the hearing, the petitioners and protestant filed briefs with the Board summarizing their positions.

#### Change in Place of Use

A determination of the availability of unappropriated water in the Russian River was made by the Board in Decision D 1030, which concerned the applications of the Sonoma County Flood Control and Water Conservation District and others. In that decision the Board stated that it was in the public interest to protect water uses supplied from the Russian River which existed at the time the district's applications were filed, on January 28, 1949. Condition 8 of Decision D 1030 provides as follows:

"These permits are subject to rights acquired or to be acquired pursuant to applications by others whether heretofore or hereafter filed for use of water within the service area of Mendocino County Russian River Flood Control and Water Conservation Improvement District and within the Russian River Valley in Sonoma County, as said Valley is defined in Decision D 1030 of the State Water Rights Board at page 9, to the extent that water has been beneficially used continuously on the place of use described in said applications since prior to January 28, 1949 (the date of filing Applications 12919 and 12920)."

By virtue of Condition 8, petitioners were granted Permit 15098 to divert up to 0.7 cubic foot per second (cfs) from the Russian River to irrigate 56 acres during the period May 1 to November 1 of each year.

Petitioners now request that they be allowed to add 25 acres to the authorized place of use but request no increase in the rate or season of diversion.

The portion of the petition requesting the addition of 25 acres to the authorized place of use must be denied. Evidence introduced at the hearing indicates that the 25 acres have not been irrigated continuously since before January 28, 1949, and therefore use of water from the Russian River upon this acreage would not be in accord with Condition 8 of Decision D 1030 and would result in legal injury to the protestant, Sonoma County Flood Control and Water Conservation District (RT 12, 19).

Petitioners claim that the 25-acre parcel was a part of the total ranch unit and that no injury would result to other water users since no increase in the rate of diversion authorized by Permit 15098 is sought. This claim is incorrect since petitioners do not have a fixed right to 0.7 cfs, but only a right to divert an amount of water not exceeding 0.7 cfs which can be beneficially used on the 56-acre tract. If it is later found that less than 0.7 cfs is required to irrigate the 56 acres covered by Permit 15098, a license will be issued for that lesser amount (see Conditions 2 and 5, Decision D 1247).

Petitioners have an alternate method of obtaining water for the 25-acre parcel. A representative of the Mendocino County Russian River Flood Control and Water Conservation Improvement District appeared at the hearing and stated that the district is ready, willing and able to sell water to the petitioners (RT 49, 50, 51). The district received an entitlement of 8,000 acre-feet per annum under Decision D 1030 and this entitlement constitutes the source from which petitioners could be furnished water (RT 29 and Decision D 1030).

#### Change in Point of Diversion

Instead of placing a pump at the point of diversion mentioned in Permit 15098 (Application 21516), petitioners placed a 400-gallon-per-minute (gpm) pump some 400 feet away.

Recently petitioners installed an 820-gpm pump at the point of diversion authorized in Permit 15098. In their September 11 petition, petitioners requested that they be allowed to divert from both points. The 820-gpm pump is presently being used to irrigate the 25-acre parcel mentioned above and to supplement the 400-gpm pump in a combined underground-overhead sprinkler system for frost protection and irrigation of the 56-acre parcel presently designated as the place of use. The total maximum rate of diversion from the two pumps is 1,250 gpm, or approximately 2.8 cfs, which is four times the authorized rate of diversion. However, 1,250 gpm are required to efficiently operate the underground-overhead sprinkler system.

Permit 15098 provides that the equivalent of 0.7 cfs for any 30-day period may be diverted in a shorter period of time for the purpose of irrigation if there be no interference with vested rights. So long as petitioners do not exceed this equivalent amount, diversion at two points instead of one will not injure other users.

#### ORDER

The petition for change in point of diversion and place of use filed October 11, 1967, is approved as to the change in point of diversion and denied as to the change in

place of use. The Chief of the Division of Water Rights is directed to issue a separate order describing the additional point of diversion in conformity with the petition.

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

Dated:

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

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

GMC:ck

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In the Matter of Permit 15098  
Issued on Application 21516 of  
Raymond W. and Edna K. Hansen to  
Appropriate from Russian River  
in Mendocino County

ORDER DENYING PETITION  
FOR RECONSIDERATION OF DECISION 1333

On April 7, 1969, a petition for reconsideration of Decision 1333 was received from John Golden, attorney for Raymond W. and Edna K. Hansen. The decision had approved the Hansens' petition for a change in point of diversion but had denied their petition for a change in place of use under Permit 15098.

The sole ground for denying the petition for change in place of use was that the 25-acre parcel which petitioners desire to add to the place of use authorized in the permit had not been irrigated continuously since before January 28, 1949, and that therefore use of water from the Russian River on this acreage would not be in accord with Condition 8 of Decision 1030 and would result in legal injury to the protestant, Sonoma County Flood Control and Water Conservation District.

Petitioners' only reasons for requesting reconsideration of the decision is that the appearance of Mendocino

County Russian River Flood Control and Water Conservation Improvement District's appearance at the hearing was unanticipated and newly discovered evidence indicates that the Mendocino District is not "ready, willing or able to provide water to the applicants." However, such evidence would not be sufficient to justify approval of the change in place of use. While it is true that Decision 1333 contains a statement that the petitioners can obtain water for the 25-acre parcel from the Mendocino District, this statement did not constitute a material basis for the denial of the petition. Regardless of the availability of an alternate method of obtaining water for the 25-acre parcel, the Board would be obligated to deny the petition for the reason that the parcel had not been irrigated continuously since before January 28, 1949.

IT IS ORDERED that the petition for reconsideration of Decision 1333 be, and it is hereby, denied.

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

Dated: May 1, 1969

Kerry W. Mulligan  
Kerry W. Mulligan, Chairman

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

ABSENT  
Norman B. Hume, Member

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