

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Applications 20540  
and 20541 of Hugo and Beatrice Oswald  
to Appropriate from the Russian River  
in Mendocino County

Decision D 1151

ADOPTED DEC 19 1963

DECISION APPROVING APPLICATIONS IN PART

Applications 20540 and 20541 for permits to appropriate unappropriated water having been filed; protests having been received; a public hearing having been held before the State Water Rights Board on February 6, 1963, in Ukiah, California, Board Member Ralph J. McGill, presiding; the parties having been duly notified of said hearing and having appeared and presented evidence; all evidence received at said hearing having been duly considered, the Board finds as follows:

1. Application 20540 is for a permit to appropriate 3 cubic feet per second (cfs) by direct diversion, year-round, for irrigation and stockwatering purposes from the Russian River in Mendocino County. Points of diversion are to be located (a) within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 23, (b) within the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 14, and (c) within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 15, all within T14N, R12W, MDB&M.

2. Application 20541 is for a permit to appropriate 0.4 cfs, year-round, for domestic, stockwatering, and irrigation purposes from the same source at points of diversion designated (a) and (b) in Application 20540.

3. The applicants have been irrigating between 60 and 80 acres of the 250 acres described as the place of use in Application 20540 by pumping from the Russian River. The water is being used for sprinkler irrigation of a vineyard, general crops and pasture, and for the watering of 300 sheep and 300 head of cattle. The irrigation season in this locality normally commences about May 1 and continues to about November 1.

4. Under Application 20541 the applicants intend to use water from the Russian River for the irrigation of an additional 31 acres of vineyard and pasture, for domestic use, and for the watering of the same livestock. Water for the stockwatering and domestic purposes is to be diverted, as it has been in the past, from a well located within 400 or 500 feet of the river.

5. The applications were protested by the Sonoma County Flood Control and Water Conservation District, the District claiming that the approval of the applications would interfere with its rights under prior permits covering the Coyote Valley Project in the Russian River. Protest was also filed by the Department of Fish and Game claiming that approval of the applications would have a detrimental effect on fish in the Russian River.

6. The Department of Fish and Game and the applicants have entered into a stipulation for withdrawal of the Department's

protest provided the permits issued on the applications provide that the permittee shall not divert water under the permits during periods when the flow of the Russian River is less than 150 cfs at the point of diversion.

7. Evidence as to the existence of unappropriated water received at the hearing consisted of certain exhibits which are a part of the record of the hearing of Applications 12919A, etc., of Sonoma County Flood Control and Water Conservation District and others. These exhibits are also part of the record of the hearing of Applications 17232 and 17587 of Willow County Water District and Millview County Water District, respectively. These exhibits are engineering studies which show that after reserving 150 cfs in the Russian River for recreation and preservation of fishlife ordered by Board's Decisions D 1030 and D 1110 which approved the aforementioned applications, and after providing for prior vested rights, the water remaining in the Russian River during the critical summer months is project water released from the Coyote Valley Reservoir. There has been no showing of any change in circumstances since the time of these decisions to justify a contrary finding at this time.

The aforementioned studies also show that during the balance of the year there is water surplus to the amounts necessary to satisfy the holders of prior rights and surplus to the amounts necessary to sustain fishlife and for recreational purposes.

8. However, Board's Decision D 1030 provides that the permits issued to the protestant Sonoma County Flood Control and Water Conservation District are subject to rights acquired or to be acquired pursuant to applications by others for use of water within the Russian River Valley to the extent that water has been beneficially used continuously on the place of use described in said applications beginning prior to January 28, 1949. The applicants and their predecessors in interest have used water from the Russian River beginning prior to January 28, 1949, for the purpose of irrigating approximately 70 acres of the place of use designated by Application 20540 and for stockwatering and domestic purposes. They did not use water prior to that date on the remainder of the place of use described in this application or for the irrigation of the place of use described in Application 20541.

9. There is unappropriated water available to supply the applicant under Application 20540 for stockwatering purposes year-round and for irrigation purposes from about May 1 of each year to about October 31 of each year, provided that from about July 1 to about October 31 irrigation use is limited to the amount necessary to serve 70 acres. There is unappropriated water available to supply the applicant under Application 20541 throughout the year for stockwatering and domestic purposes and from about May 1 to about July 1 for irrigation purposes.

10. The intended uses are beneficial.

11. The permit term proposed by the stipulation between the applicants and the protestant Department of Fish and Game is necessary for the preservation of fishlife and for recreational purposes and is in the public interest.

ORDER

IT IS HEREBY ORDERED that Applications 20540 and 20541 be, and the same are, approved in part, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water appropriated under the permit issued pursuant to Application 20540 shall be limited to the amount which can be beneficially used and shall not exceed 3 cubic feet per second by direct diversion to be diverted as follows: (a) from about May 1 to about November 1 for irrigation purposes provided, however, that from about July 1 to about November 1 use of water under this permit shall be limited to irrigation of an area not to exceed 70 acres; and (b) throughout the year as required for stockwatering purposes.

2. The amount of water to be appropriated under the permit issued pursuant to Application 20541 shall be limited to the amount that can be beneficially used and shall not exceed 0.4 cubic foot per second by direct diversion to be diverted as follows: (a) from about May 1 to about July 1 of each year for irrigation purposes and (b) throughout the year as required for stockwatering and/or domestic purposes.

3. The maximum amount herein stated may be reduced in the license if investigation warrants.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1967.

5. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

6. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

7. Diversion under this permit is authorized only at such times as the flow of Russian River at the point of diversion exceeds requirements for downstream prior rights plus 150 cubic feet per second for recreational purposes and for the maintenance of fishlife.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the        day of        , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member