

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24504)
of Rhinefarm Vineyards, A)
Partnership, to Appropriate from)
an Unnamed Stream and from Arroyo)
Seco in Sonoma County)

Decision 1498

DECISION APPROVING APPLICATION AND PETITION
FOR CORRECTION OF THE POINT OF DIVERSION

BY THE BOARD:

Rhinefarm Vineyards, A Partnership, having filed Application 24504 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Resources Control Board on June 22, 1976; applicant and protestant California Department of Fish and Game having appeared and presented evidence; a petition to correct the description of the point of diversion and redirection having been filed; the evidence received at the hearing and in the petition having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 24504 is for a permit to appropriate 0.40 cubic foot per second (cfs) by direct diversion from Arroyo Seco from March 10 to May 20 of each year and 26 acre-feet per annum (afa) by storage to be collected from September 1 to May 20 from the unnamed stream on which the reservoir is built and by pumping to the reservoir from Arroyo Seco. The points of diversion are located within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 16, T5N, R5W, MDB&M. The water is to be used for frost protection and irrigation on 120 acres of vineyard.

Applicant's Project

2. The applicant has completed an earth dam forming a 26 acre-foot capacity reservoir on the unnamed tributary. Between March 10 and May 20 of each year the applicant plans to replenish any water withdrawn from storage for frost protection and irrigation by pumping from Arroyo Seco at a rate not to exceed 0.40 cfs. The total annual diversion under the application is not to exceed 83 acre-feet. The water will be applied to the vineyard by pumping from the reservoir into a sprinkler system at a rate of about 4 cfs.

Protests

3. Protests were filed by Irene M. Pauly with supporting signatures of 24 property owners; R. M. Watts with supporting signatures of 27 property owners; Rose Frauenhoff; Darrel G. Cassidy; and California Department of Fish and Game (Department). The protest of the Department was dismissed prior to the hearing upon agreement with the applicant for inclusion of special terms in any permit that is issued.

4. The protest of Darrell G. Cassidy was withdrawn before the hearing.

5. The protests filed by Pauly, et al., and Watts, et al., both state that the proposed appropriation will reduce groundwater recharge and will pose a serious threat to the wells of the protestant property owners.

6. Rose Frauenhoff uses water from Arroyo Seco under claim of riparian right and pre-1914 appropriative right for storage. Mrs. Frauenhoff is willing to dismiss her protest provided the applicant is willing to share the available water during April, May, and June.

The Hearing

7. Parties attending the hearing were the applicant and the Department of Fish and Game. Applicant agreed at the hearing to reduce his collection season to the season from November 1 to May 20 and confirmed his prior acceptance of the terms requested by the Department of Fish and Game.

Unappropriated Water

8. The allegation by Pauly, et al., and Watts, et al., that the proposed diversion will interfere with their groundwater supply was not supported by any evidence. The applicant's project area and the area immediately downstream consists of diatomaceous silt and clay which does not yield water readily (Staff 9). Under such conditions it is highly unlikely that the proposed diversion will deplete the ground water supply.

9. Unappropriated water is available to supply the applicant, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

10. The intended use is beneficial.

Other

11. All environmental reviews required in compliance with the California Environmental Quality Act have been completed.

From the foregoing findings, the Board concludes that the petition to correct the point of diversion and Application 24504 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that the petition to correct the point of diversion and Application 24504 be approved and that a permit be issued to the applicant subject to vested rights. The permit shall contain all applicable standard permit terms^{1/} in addition to the following limitations:

1/ The Board maintains a list of standard permit terms. Copies of these are available upon request.

1. *The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.4 cubic foot per second by direct diversion to be diverted from March 10 to May 20 and 26 acre-feet per annum by storage to be collected from November 1 of each year to May 20 of the succeeding year.*

The total amount of water to be taken from the source shall not exceed 83 acre-feet each collection season.

The maximum rate of diversion to offstream storage shall not exceed 0.40 cubic foot per second.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purposes.

2. *For the protection of fish and wildlife in Arroyo Seco, permittee shall during the period:*
 - (a) *from December 1 through February 29, bypass a minimum of 5 cubic feet per second.*
 - (b) *from March 1 through May 20, bypass a minimum of 2 cubic feet per second.*

The total streamflow in Arroyo Seco shall be bypassed whenever it is less than the designated amount for that period.

3. *No water shall be diverted under this permit from Arroyo Seco until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required in these terms. Said measuring device shall be properly maintained.*

4. *In accordance with Section 1603 and/or 6100 of the Fish and Game Code, no water shall be diverted under this permit from Arroyo Seco until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee.*

5. *The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.*

6. *This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.*

7. *Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.*

Dated: April 19, 1979

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

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

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