

IN THE MATTER OF APPLICATION)  
21950 TO CHANGE THE POINT OF)  
DIVERSION AND PLACE OF USE )  
OF HUMBOLDT DECREED WATERS )

R U L I N G

GENERAL:

Application 21950 was filed April 13, 1964, by Alonzo Knudsen to change the point of diversion of 0.395 c.f.s. or 92.01 acre-feet of water decreed under Proof 00214 of the Humboldt River Adjudication. Diversion is to be made from Burnt Creek at a new point in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 2, T. 38 N., R. 61 E., MDB&M, and is to be conveyed to 32.92 acres of land located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 2, T. 38 N., R. 61 E. The existing point of diversion is from Burnt Creek located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 29, T. 38 N., R. 61 E., and the water is conveyed to 32.92 acres of land located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 29, NE $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 32, T. 38 N., R. 61 E. This application was protested on June 8, 1964, by Marble Ranches, Inc., H. W. Jaynes and Son, by the Estate of H. H. Cazier and Neva Cazier and by W. R. Peavey and Florence G. Peavey on the following grounds:

- 1) The water right sought to be transferred is not possessed 100% by applicant. Protestants are informed and believe that W. R. Peavey and Florence G. Peavey own portions thereof and have not consented to transfer.
- 2) The water right is not qualified as appurtenant to lands owned by applicant.
- 3) The granting of the application would injure the protestants in the use of their prior water rights on Burnt Creek.
- 4) The applicant is attempting to move a water right that is appurtenant to lands held jointly with others and make it appurtenant to land owned exclusively by him.
- 5) The water right was heretofore abandoned by applicant.
- 6) The application requests that the water right be moved upstream, which injures the prior water rights of protestants and is against the rule of the State Engineer.

The protest against the granting of Application 21950 by W. R. and Florence G. Peavey was withdrawn April 11, 1969.

Mr. Marshall L. Morgan is successor in interest of the Estate of H. H. Cazier and Neva Cazier.

A field investigation in the matter of this application was made on July 16, 1969.

The right sought to be changed by this application is a portion of the right evidenced on Page 147 of the Bartlett Decree under the heading: Claimant - Weeks Bros., Inc.

The applicant has submitted suitable documentary evidence that he is the owner of that portion of the right sought to be changed by this application and that he and the other joint owners have partitioned said right and have agreed to the transfer.

The rights of the protestants have an earlier priority than the right sought to be changed and have been and will continue to be served in accordance with their respective priorities.

There are no intervening rights between the proposed place of use and the existing place of use.

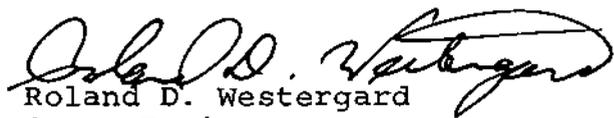
#### Opinion

It is our opinion that the applicant owns that portion of the right sought to be changed; and that no abandonment has taken place; and that the granting of the application would not impair the value of existing rights or be otherwise detrimental to the public welfare.

#### Ruling

The protests to the granting of Application 21950 are herewith overruled and the application is hereby granted.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

RDW:TJS:gs

Dated this 7th day  
of May, 1971.