

IN THE MATTER OF APPLICATION)  
21925 TO CHANGE THE POINT OF)  
DIVERSION AND PLACE OF USE )  
OF HUMBOLDT RIVER DECREEED )  
RIGHTS )

R U L I N G

GENERAL:

42 Application 21925 was filed April 6, 1964, by Alonzo Knudsen to change the point of diversion and place of use of 0.2214 c.f.s. or 54 acre-feet of water heretofore appropriated under Proof 00608 of the Humboldt River Adjudication. Water is to be diverted 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., and will be conveyed to 18 acres of land within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  Section 2, T. 38 N., R. 61 E. The existing point of diversion is from Burnt Creek located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 26, NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 35, T. 40 N., R. 61 E., MDB&M. Water is conveyed to 18 acres of land in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 35, SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 36, T. 40 N., R. 61 E., MDB&M. 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 Casier, and by W. R. Peavey and Florence G. Peavey on the following grounds:

1) The granting of the application would injure the protestants in the use of their prior water rights on Burnt Creek.

2) 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.

3) The water cannot be practically applied to beneficial use at the new place of use and creates a nuisance to the downstream users who are protestants.

4) The water was heretofore abandoned by the applicant.

The protest of W. R. and Florence G. Peavey was withdrawn by letter dated April 11, 1969.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 July 16, 1969.

The right sought to be changed by this application is a portion of Proof 00608 as evidence on Page 220, Bartlett

Decree under the heading: Claimant - H. A. Agee, Steele Bros., S.C. & S. J. Weeks.

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 holders of the right have partitioned said right and have agreed to the transfer.

The water can and has been used beneficially on the land described as the proposed place of use.

#### Opinion

It is our opinion that no abandonment has taken place; that the applicant does own that portion of the right sought to be changed; that the applicant can place the water to beneficial use; 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 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.