

IN THE MATTER OF PERMIT 20085 TO)
 APPROPRIATE THE WATERS OF AN UNDER-)
 GROUND SOURCE, PERMITS 21310 AND)
 21322 TO CHANGE THE POINT OF)
 DIVERSION AND MANNER OF USE OF WATER)
 HERETOFORE APPROPRIATED, PERMIT)
 21321 TO CHANGE THE POINT OF DIVERSION,))
 MANNER AND PLACE OF USE OF WATER HERE-)
 TOFORE APPROPRIATED, AND PERMIT 21323)
 TO CHANGE THE POINT OF DIVERSION OF)
 WATER HERETOFORE APPROPRIATED IN THE)
 NAME OF CONNECTICUT GENERAL LIFE)
 INSURANCE COMPANY, HUMBOLDT COUNTY,)
 NEVADA.)

R U L I N G

GENERAL:

Application 20085 was filed on September 14, 1961 by Carolyn Harrick Hobbs, to appropriate 5.4 c.f.s. of water from an underground source. The point of diversion is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, T. 44 N., R. 34 E., M.D.B.&M. The place of use listed as being the E $\frac{1}{2}$ of Section 16, T. 44 N., R. 34 E., M.D.B.&M. Water was to be used for irrigation and domestic purposes.

Application 21310 was filed on May 28, 1963 by Hazel L. Till, to change the point of diversion and manner of use of 3.5 c.f.s. of water heretofore appropriated under Permit 17304. The existing point of diversion was an underground source located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 6, T. 44 N., R. 34 E., M.D.B.&M. The proposed point of diversion is located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 6, T. 44 N., R. 34 E., M.D.B.&M. The place of use listed as 320 acres in the E $\frac{1}{2}$ of Section 6, T. 44 N., R. 34 E., M.D.B.&M. The proposed manner of use was for irrigation and domestic purposes.

Application 21321 was filed on June 7, 1963 by Marilyn Knaur Smith to change the point of diversion, place and manner of use of 3.5 c.f.s. of water heretofore appropriated under Permit 17103. The existing point of diversion was located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23, T. 46 N., R. 33 E., M.D.B.&M. The proposed point of diversion is located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23, T. 46 N., R. 33 E., M.D.B.&M. The existing place of use is listed as being 320 acres in the SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, all in T. 46 N., R. 33 E., M.D.B.&M. The proposed place of use is listed as 280 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26; and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25, T. 46 N., R. 33 E., M.D.B.&M. The proposed manner of use was irrigation and domestic purposes.

Application 21322 was filed June 7, 1963 by Rio King Land and Investment Company to change the point of diversion and manner of use of 2.5 c.f.s. of water heretofore appropriated under Permit 17037. The existing point of diversion is within the NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 3, T. 45 N., R. 33 E., M.D.B.&M. The proposed point of diversion is within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T. 45 N., R. 33 E., M.D.B.&M. The place of use is listed as 160 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 2, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, all in T. 45 N., R. 33 E., M.D.B.&M. The proposed use was irrigation and domestic purposes.

Application 21323 was filed on June 7, 1963 by Rio King Land and Investment Company to change the point of diversion of 3.5 c.f.s. of water heretofore appropriated under Permit 16818. The existing point of diversion is located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T. 46 N., R. 33 E., M.D.B.&M. The proposed point of diversion is located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26, T. 46 N., R. 33 E., M.D.B.&M. The place of use is listed as being 320 acres in the E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26; NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 35, all in T. 46 N., R. 33 E., M.D.B.&M. Water is to be used for irrigation purposes.

Permits were issued under Applications 21310, 21321, and 21323 on December 9, 1964. After one extension, the Proofs of Beneficial Use became due on July 9, 1970. On that date, certified notices requesting the Proofs of Beneficial Use and cultural maps were forwarded to Rio King Land and Investment Company, the then owner of record of the permits. The Proofs of Beneficial Use and cultural maps were not filed under these permits within 30 days of the certified notice. On August 11, 1970, Permits 21310, 21321, and 21323 were cancelled because of failure of applicant to comply with the provisions of the permit.

A permit was issued under Application 21322 on December 9, 1964. After four extensions on the Proof of Beneficial Use, the proof became due on February 9, 1972. On April 11, 1972, a certified notice requesting the Proof of Beneficial Use and cultural map was mailed to Mr. Stan Levers at Orovada, Inc. A carbon copy of that notice was mailed to the law firm of Dinkelspiel, Steefel, Levitt, Weiss and Donovan. On April 21, 1972, another certified notice requesting the Proof of Beneficial Use and cultural map was mailed to Mr. Stewart Kaplan as trustee for Great Western Ranches. A carbon copy of that notice was mailed to Mr. Stan Levers at Orovada, Inc. On April 26, 1972, a letter was received in this office from a Mr. Stewart M. Kaplan stating that as trustee for Great Western Ranches, he was again in control of the Rio King Ranch. He stated that the estate did not have the funds to undertake the work necessary to complete the Proof of Beneficial Use; however, they would have the \$5.00 extension fee that would be required if our office would consider accepting an extension of time request. On April 27, 1972, Mr. Peter Morros of this office replied to Mr. Kaplan's letter and advised him that if they were in litigation at the present time that our office would consider an application for an extension of time up to a period of one year. No further correspondence was received concerning this permit, and on May 25, 1972, it was cancelled because of failure of the applicant to comply with the provisions of the permit.

A permit was issued under Application 20085 on September 20, 1965. After two extensions, the Proof of Beneficial Use became due on April 20, 1972. On that date, a certified notice requesting the Proof of Beneficial Use and cultural map was mailed to Mr. Stewart M. Kaplan as trustee for Great Western Ranches. A carbon copy of that notice was sent to Stan Levers, Orovada, Inc. The Proof of Beneficial Use was not filed within 30 days of that certified notice, and on May 25, 1972, Permit 20085 was cancelled because of failure of applicant to comply with the provisions of the permit.

On October 12, 1970, this office received a copy of an Order Approving Debtors Petition under Chapter X and Appointing Trustees, issued by the United States District Court for the Northern District of California. In paragraph 15 of that order it stated "and all creditors, stockholders, and all other persons, firms and corporations are hereby enjoined and restrained from instituting, commencing, prosecuting or continuing the prosecution or from taking any further steps in any suit, action or proceeding, whether at law or in equity, or under any statute against the debtor, or to foreclose any mortgage, lien or claim upon the estate or property of the debtor, or from selling any property of the debtor, or from levying or serving any garnishment, attachment, execution or other process on or against the debtor or its property, until further order of the court, or until entry of a final decree herein." This order was issued on August 4, 1970.

As of May 25, 1972, a final decree had not yet been entered under this order. Therefore, the order had remained in effect from the date of August 4, 1970 through May 25, 1972. It is the opinion of the Deputy Attorney General for the Department of Conservation and Natural Resources that the above quoted portion of paragraph 15 did and would include any actions that our office might take in reference to cancelling any permits owned by Rio King Land and Investment Company or its successors in interest.

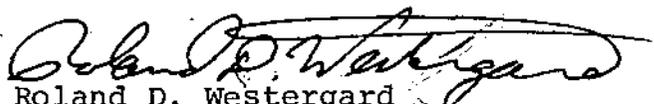
Ruling

The cancellation of 20085, 21310, 21321, and 21322, and 21323 are herewith rescinded on the grounds that these cancellations were inadvertently executed contrary to the above mentioned order issued by the Federal District Court. This ruling is issued subject to the provision that the Proofs of Beneficial Use and cultural maps must be filed under these permits on or before the following dates: Permit 20085, June 1, 1973; Permit 21310, December 1, 1972; Permit 21321, September 1, 1973; Permit 21322, December 1, 1972; Permit 21323, September 1, 1973.

Respectfully submitted,

Dated this 11th day

of September, 1972


Roland D. Westergard
State Engineer

RDW:BLR:gs