

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 85-85

DIRECTING THE EXECUTIVE DIRECTOR TO REFER TO THE ATTORNEY
GENERAL THE MATTER OF UNAUTHORIZED DIVERSION OF WATER
BY STORAGE IN TWO RESERVOIRS ON CHY-DOC RANCH IN FRESNO COUNTY

WHEREAS:

1. On March 17, 1982 the Division of Water Rights received a complaint from downstream appropriators Frances C. and Betsy C. Huffman of Buttonwillow Ranch against the unauthorized storage of water in two existing reservoirs located within the boundaries of Chy-Doc Ranch in Fresno County.
2. Staff's preliminary investigation revealed that the Division has no record of a water right permit, a stockpond filing, or any other legal basis for the storage of water in the two reservoirs specified in the Huffmans' complaint.
3. Valley Ranches, Inc., owner of record of Chy-Doc Ranch according to the records of the Fresno County Assessor, was informed by letter dated March 28, 1983 of the Board's jurisdiction over surface water and was advised to submit a stockpond claim, if qualified, or an application to appropriate water by storage, or advise staff of the steps which would be taken to eliminate the unauthorized reservoirs.
4. The March 28, 1983 letter, along with five subsequent letters dated May 6, 1983, July 17, 1983 (certified), August 25, 1983 (certified), October 24, 1983 (certified) and November 4, 1983 (certified), failed to produce a response from Valley Ranches, Inc.
5. A subsequent search through the records of the Federal Court in Fresno, California revealed that the Chy-Doc Ranch property has been involved in bankruptcy and that the trustee was James C. Orr. Mr. Orr was notified by letters dated February 2, 1984 and March 16, 1984 to secure the necessary basis of right by filing and successfully pursuing an application for a water right permit.
6. Fresno County Assessor records indicate that American Pacific State Bank (Bank) has foreclosed on Chy-Doc Ranch. The Bank was notified by letters dated March 14, 1985, May 15, 1985 (certified) and August 20, 1985 to file an application for a water right or take steps to eliminate the unauthorized reservoirs located on Chy-Doc Ranch.
7. By letter dated August 21, 1985 the Bank informed staff of its intention not to file an application. The Bank further gave assurances that the unauthorized reservoirs would be eliminated by October 1, 1985.
8. Staff has been notified by Buttonwillow Ranch that the unauthorized reservoirs are still in place as of October 3, 1985. To date, neither an application nor evidence substantiating a legal basis of right for the storage of water on Chy-Doc Ranch has been submitted.

9. A water right application must be filed before the Board will consider whether to issue a permit to appropriate water.
10. Section 1052 of the California Water Code authorizes the Board to Institute appropriate legal action to enjoin the unauthorized diversion of water.

THEREFORE BE IT RESOLVED:

That the State Water Resources Control Board does authorize and direct the Executive Director to refer immediately the matter of storage of water without a valid permit in two reservoirs on Chy-Doc Ranch to the Attorney General for appropriate action including requiring the release of water collected without a permit or other substantiation of a legal basis of right and to prevent any further storage of water unless and until a permit is issued.

CERTIFICATION

The undersigned Executive Director of the State Water Resources Control Board does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 21, 1985.


Raymond Walsh
Interim Executive Director