

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications)
12919A, 12920A, 15704, 15736,)
15737, 15738, 15739, and 15779)
to appropriate Water from East)
Fork Russian River and Russian)
River in Mendocino and Sonoma)
Counties.)

Decision D 1030

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STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Applications 12919A)
12920A, 15704, 15736, 15737, 15738,)
15739, and 15779 to Appropriate Water)
from East Fork Russian River and)
Russian River in Mendocino and Sonoma)
Counties)

Decision D 1030

Substance of the Applications

<u>Applicants</u>	<u>Number</u>
Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, as joint applicants	12919A 12920A
Sonoma County Flood Control and Water Conservation District	15736 15737 15779
Mendocino County Flood Control and Water Conservation District	15738 15739
City of Ukiah	15704

Applications 12919 and 12920 were filed on January 28, 1949, by the State Department of Finance pursuant to Section 10500 of the Water Code.* Each application is for a permit to appropriate 200,000 afa (acre-feet per annum)

*Section 10500 provides in part as follows:

"The department shall make and file applications for any water which in its judgment is or may be required in the development and completion of the whole or any part of a general or co-ordinated plan looking toward the development, utilization, or conservation of the water resources of the State."

by storage and 550 cfs (cubic feet per second) by direct diversion from the East Fork Russian River for use in portions of Mendocino and Sonoma Counties. The applications to the extent of 122,500 afa and 335 cfs were assigned to Sonoma County Flood Control and Water Conservation District (hereinafter referred to as "Sonoma District") on November 14, 1955, pursuant to Section 10504 of the Water Code.* The assigned portions were designated as Applications 12919A and 12920A. The assignment was upon the condition that partial reassignment would be made to an appropriate district in Mendocino County to be thereafter organized. The required partial reassignment was made on December 20, 1956, to Mendocino County Russian River Flood Control and Water Conservation Improvement District (hereinafter referred to as "Mendocino District"). A later section of this decision is devoted to a further discussion of the assignment and reassignment. The applications were finally amended and completed by the Districts in May, 1958.

*"10504. All applications made and filed pursuant to Section 10500 shall be transferred to the California Water Commission and held by the commission for the purposes of this part. The commission may release from priority or assign any portion of any application filed under this part when the release or assignment is for the purpose of development not in conflict with such general or co-ordinated plan. The assignee of any such application whether heretofore or hereafter assigned, is subject to all the requirements of diligence as provided in Part 2 (commencing at Section 1200) of Division 2 of this Code. 'Assignee' as used herein includes, but is not limited to, state agencies, commissions and departments, and the United States of America or any of its departments or agencies."

Application 12919A as amended is for a permit to appropriate a total of 335 cfs by direct diversion and 122,500 afa by storage, year-round, from East Fork Russian River. Storage is to be at Coyote Valley Dam within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 34, T16N, R12W, MDB&M,* in Mendocino County. The dam is an earth-fill structure 151 feet in height, 3532 feet long, with a freeboard of 19.2 feet. Coyote Valley Reservoir (also known as Lake Mendocino), formed by the dam, has a surface area of 1,960 acres and a capacity of 122,500 acre-feet. The application also describes Coyote Valley Dam as a point of direct diversion, although no water is to be diverted from the river at that point.

Other points of direct diversion as well as points of rediversion of stored water on Russian River below its confluence with East Fork were added by amendment to the application. They are at locations set forth in Table 1:

*All references to section, township and range are from Mount Diablo Base and Meridian (MDB&M).

TABLE I

POINTS OF DIRECT DIVERSION AND POINTS OF
REDIVERSION OF STORED WATER ON RUSSIAN RIVER
UNDER APPLICATION 12919A

Diversion Point	Location of Diversion Point				
	: 1/4	: 1/4	: Section	: Township	: Range
Wohler	NE	SW	29	8N	9W
Mirabel Park	NW	SE	31	8N	9W
Monte Rio	SW	NW	7	7N	10W
Healdsburg	NW	NE	28*	9N	9W
Geyserville	NE	SE	18*	10N	9W
Cloverdale Dam	SE	SE	7*	11N	10W
Asti Dam	SW	SW	27*	11N	10W
Fitch Mt. Dam	NE	NW	23*	9N	9W
Healdsburg Dam	NE	NE	28*	9N	9W
Guerneville Dam	NW	NW	32	8N	10W
Vacation Beach	NE	NW	6	7N	10W
Jenner	SE	NE	13*	7N	12W

*Projected Section

The water is to be used for municipal, industrial, domestic, and recreational purposes in Russian River Valley of southern Mendocino County from Coyote Valley Reservoir southward to the Mendocino-Sonoma County line; in all of Sonoma County below elevation 500, except for the North Coastal area; and in Marin County when export to that area proves feasible.

Application 12920A as amended is for a permit to appropriate the same water as that covered by Application 12919A, for irrigation and domestic purposes. The source, amounts, season and points of diversion and rediversion are the same as those described in the former application. The place of use is also generally the same and includes 12,100 irrigable acres within Mendocino County and 133,000 net irrigable acres within a gross irrigable acreage of 203,500 acres in Sonoma County.

Application 15736, filed by the Sonoma District on February 18, 1954, is for a permit to appropriate 20 cfs from Russian River year-round for municipal, industrial, and domestic purposes. The points of diversion are at the Geyserville Dam within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 18, T10N, R9W; Healdsburg Intake within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 28, T9N, R9W; Wohler Intake within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, T8N, R9W; Mirabel Park Intake within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31, T8N, R9W; and Monte Rio Intake within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 7, T7N, R10W. The place of use will be urban areas within the Sonoma District service area, which includes all of Sonoma County.

Application 15737, filed February 18, 1954, by Sonoma District is for a permit to appropriate 60 cfs from Russian River between April 1 and September 30 of each year. The points of diversion are the same as those described under Application 15736. Water is to be used for incidental domestic purposes and the irrigation of 203,500 gross irrigable acres within the Sonoma District.

Application 15779, filed by the Sonoma District on March 17, 1954, is for a permit to appropriate 125 cfs by direct diversion and 900 afa by storage from the Russian River between May 1 and November 30 of each year for recreational purposes. No points of direct diversion from the river channel are named in the application. The channel itself would constitute a "conduit" in which it is proposed to maintain a flow of 125 cfs for the benefit of recreation. Storage is to be accomplished in the channel at locations described as follows:

<u>Storage Dam</u>	<u>Location of Storage Dam</u>				<u>Range</u>	<u>Storage Capacity Acre-feet</u>
	<u>1/4</u>	<u>1/4</u>	<u>Section</u>	<u>Township</u>		
Vacation Beach	NE	NW	6	7N	10W	48
Guerneville	NW	NW	32	8N	10W	18
Healdsburg	NE	NE	28	9N	9W	102
Fitch Mountain	NE	NW	23	9N	9W	9
Asti	SW	SW	27	11N	10W	18
Cloverdale	SE	SE	7	11N	10W	18
Jenner	SE	NE	13*	7N	12W	-
					Total	213

*Projected Section

Use of water will be for swimming, boating and fishing on the lakes created by the storage dams.

Application 15704, filed by the City of Ukiah on January 25, 1954, is for a permit to appropriate 20 cfs, year-round, from the underflow of Russian River for municipal purposes. Water is to be pumped from wells located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 17 and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 16, T15N, R12W. Water is to be used within the City of Ukiah and environs.

No evidence having been submitted at the hearing in support of Applications 15738 and 15739 filed by Mendocino County Flood Control and Water Conservation District on February 18, 1954, a description of their feature is omitted.

Hearing

All of the aforesaid applications were completed in accordance with the Water Code and applicable administrative rules and regulations. A public hearing under the provisions of the California Administrative Code, Title 23, "Waters", was held before the State Water Rights Board (hereinafter referred to as "the Board") on June 9, 10, August 18, 19, 20, and 21, at Santa Rosa, California, before Board Members W. P. Rowe and Ralph J. McGill, and on September 28, 1959, at Sacramento, California, before Board Members Kent Silverthorne (Chairman), W. P. Rowe, and Ralph J. McGill.

On May 16, 1960, the Board adopted Decision D 965. That decision was vacated on June 10, 1960, pursuant to a petition for reconsideration by the Sonoma District.

Further hearing was held on November 22 and 23, 1960, at Sacramento, before the entire Board. The applicants, protestants

and other interested parties were duly notified of all sessions of the hearing.

Watershed

East Fork Russian River heads in Mendocino County north of Potter Valley in T18N, R11W, 15 miles north northeast of the City of Ukiah, and flows in a southerly direction for about 7 miles, thence in a southwesterly direction for about 7 miles to its junction with Russian River approximately 2 miles north of the City of Ukiah. The river then flows about 9 miles through Ukiah Valley, thence about 10 miles through a steep, winding gorge, and emerges into Hopland Valley near the town of Hopland. After leaving Hopland Valley the river continues southerly some 25 miles in a canyon section through rough, nonagricultural land to Alexander Valley, thence turns west for about 15 miles through the Fitch Mountains to Healdsburg Valley. The river flows in a southerly direction to a point 6 miles south of Healdsburg near Mirabel Park where it turns sharply to the west and courses an airline distance of some 12 miles through the gorge of the Coast Range to the Pacific Ocean at Jenner (Staff Exh. 6).

The Russian River watershed is in an area which receives little rainfall during the summer and fall months and is normally unaffected by snow melt. The natural runoff from the watershed decreases rapidly after the conclusion of the spring rains and becomes virtually nonexistent during the late summer and fall months (Staff Exh. 5). The mean annual precipitation in the valley lands along the Russian River for the 50-year period 1897 to 1947 varied from 35.28 inches at Ukiah to 38.94 inches at Healdsburg (Staff Exh. 1).

Coyote Valley Dam and Reservoir are located on the East Fork Russian River about one mile above its junction with the Russian River (Sonoma Dist. Exh. 2). The Russian River Valley as hereinafter referred to includes only those areas designated as Areas B through P, Y, and Z in the U. S. Army Corps of Engineers Survey Report, Appendix V, Table 9 and Plate 1 (Sonoma Dist. Exh. 4D), as Ukiah Valley, Hopland Valley, Alexander Valley, portions of Dry Creek Area, and "Russian River Below Healdsburg East Side."

Development of Russian River Valley

The first agricultural development in the Russian River Valley began about 1860, grain and hay being produced for local use. Construction of the Northern Pacific Railroad to Ukiah in 1889 provided access to markets, and by the turn of the century, most of the better agricultural land close to the river had been developed.

In 1906 or 1907, the Snow Mountain Water and Power Company started to divert water from the South Eel River at Van Arsdale diversion dam through a transmountain tunnel to a powerhouse in Potter Valley. After its use to generate power, the water was discharged into the East Fork Russian River. The Pacific Gas and Electric Company acquired the system and, in 1922, constructed Scott Dam on the South Eel River. Diversion of stored water from Lake Pillsbury formed by the dam greatly stabilized and increased the flow of East Fork Russian River. The power company entered into a contract with Potter Valley Irrigation District whereby it agreed to supply 50 cfs to the District at the tailrace of the power plant. In 1950, the

capacity of the tunnel for Eel River diversion was increased to about 350 cfs. This factor has further increased the flows to Potter Valley and Russian River (RT 103). In answer to a letter from Masonite Corporation dated August 13, 1947, the power company stated that it would not enter into further contracts but would abandon all water in excess of its contractual commitments with Potter Valley Irrigation District (Masonite Exh. 6).

During late summer and fall months, the major supply of water in the Russian River is water imported from the South Eel River as above described. Although inflow to the Russian River drainage system from this source is fairly uniform and dependable, it is subject to daily curtailment or to being shut off entirely, depending upon power plant operations (Masonite Exh. 6, RT 744).

After this imported water became available, agriculture in the valley expanded rapidly and, by 1916, about 2,000 acres of hops were being irrigated (RT 444, 471, 472). Irrigation has continued to increase steadily until the present time and is dependent to a considerable extent on the importation of Eel River water. In more recent times a wider acceptance of scientific methods has spurred an increase of irrigation and the diversification of crops (Mendocino Exh. 1).

Urban development with related industry has kept pace with agriculture. The towns of Ukiah, Hopland, Healdsburg, and Cloverdale, to name the larger ones, are examples of this urban growth and are also dependent to a large extent on the continued availability of Eel River water.

The Russian River Project

As a result of recurrent floods which caused extensive damage in the Russian River Valley, the United States Army Corps of Engineers engaged in a study of a project which would control floods and permit conservation of water for various beneficial purposes. The results of this study are contained in a report of the Corps of Engineers dated April 22, 1949 (House Document No. 585, 81st Congress, 2nd Session; Sonoma Dist. Exh. 4a). Coyote Valley Dam and Reservoir on the East Fork Russian River were recommended for immediate construction to have an initial storage capacity of 122,500 acre-feet, of which 48,000 acre-feet would be reserved for flood control; 70,000 acre-feet for conservation and storage to provide releases for domestic, industrial, and agricultural uses, and for augmentation of summer stream flow; and 4,500 acre-feet for siltation. Other features of the project planned for construction at a later time include a reservoir on Dry Creek, a tributary of the Russian River, and enlargement of the Coyote Valley Reservoir to a capacity of about 200,000 acre-feet.

The project as recommended by the Corps of Engineers was authorized by the Flood Control Act of 1950 (P.L. 516, 81st Congress, 2nd Session). In the following year the project was also adopted and authorized by the California Legislature (Stats. 1951, Ch. 1397; Water Code Section 12698).

The Sonoma District was created by the Legislature in 1949 (Stats. 1949, Ch. 994). In 1955, the voters of the District approved two bond issues, one for \$5,650,000 to cover cost of local

participation in the project as required by the authorizing Act of Congress, and the second for \$8,500,000 to provide a local distribution system. Negotiations by the representatives of Sonoma and Mendocino Counties to provide for participation by the latter in the benefits and costs of the project culminated in formation of the Mendocino District and an agreement for payment by the latter of \$633,000, plus interest, to the Sonoma District in return for an appropriate share of the project determined on the basis of the amount of project water required to irrigate approximately 4,000 acres (8000 afa). In 1956, voters of the Mendocino District approved a bond issue to cover participation in the Project.

The Corps of Engineers completed construction of Coyote Valley Dam and Reservoir in 1958. These facilities have been in operation since that time.

Initiation of Water Rights for the Project

In 1949, the California Department of Finance filed Applications 12919 and 12920 to appropriate water of the Russian River in furtherance of the Coyote Valley Project. These applications were for sufficient water to cover the ultimate capacity of the project works as envisioned by the Corps of Engineers. The partial assignment to the Sonoma District referred to in the first part of this decision covered only the initial capacity of the reservoir (122,500 acre-feet) together with a proportionate share of the direct diversion amounts named in the applications (RT 11/22/60, p. 47).

The assignment provides, in part,
as follows:

"WHEREAS, said Corps of Engineers' report contemplates the serving of irrigation water to Mendocino County to irrigate an additional area of 4,096 acres and to Sonoma County to irrigate an additional area of 8,259 acres under the initial stage of the Coyote Valley Project, which with the estimated average annual irrigation yield of the initial stage of Coyote Valley Project of 24,000 acre-feet would make approximately 8,000 acre-feet per annum available to Mendocino County and approximately 16,000 acre-feet per annum available to Sonoma County; and (Emphasis added.)

"* * *

"WHEREAS, the amounts of 8,000 acre-feet per annum and 16,000 acre-feet per annum are ample to supply the water requirements of the 4,096 acres in Mendocino County and the 8,259 acres in Sonoma County referred to in said Corps of Engineers' report, and the increased amount of water yield from the project due to any reduction in the recreation flow can only be used for beneficial purposes on other lands; and

"WHEREAS, any increase in yield in the initial stage of the Coyote Valley Project over and above that envisioned in the original Corps of Engineers' report should be made available to serve additional land in Sonoma County and for export to Marin County; and

"* * *

"The Department of Finance in consideration of the foregoing and of the general benefits to accrue to the State of California from the construction of the Coyote Valley Project DOES HEREBY TRANSFER, ASSIGN AND SET OVER to the Sonoma County Flood Control and Water Conservation District for the use and benefit of said Coyote Valley Project, that portion of the aforesaid Applications 12919 and 12920 and of such rights and interests in and to the waters of the East Fork Russian River as were acquired thereby and initiated thereunder to the extent of 335 cubic feet of water per second by direct diversion and

122,500 acre-feet of water per annum for storage under both applications, reserving to itself the remainder of said applications and each of them;

"SUBJECT, in conformity with Section 10505 of the Water Code of the State of California, to any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of lands in such county lying in the watershed above Coyote Valley Reservoir;

"FURTHER SUBJECT TO, and upon condition that, upon payment by such appropriate district in Mendocino County as may be hereafter organized for the purpose, to Sonoma County Flood Control and Water Conservation District of (1) a share of the local contribution to the cost of said project not to exceed \$633,000, and (2) a proportionate share of the interest cost incurred by the Sonoma County Flood Control and Water Conservation District, said Mendocino County District shall be entitled to an amount of project water reasonably required for beneficial use on not to exceed 4,096 acres or such portion thereof as the amount paid under Item (1) above bears to said sum of \$633,000 and that upon such payment Sonoma County Flood Control and Water Conservation District shall reassign to said Mendocino County District an interest in the aforesaid Applications 12919 and 12920 and in such permits and licenses as may be hereafter issued thereon, which interest shall be representative of the aforesaid entitlement of said Mendocino County District to the use of project water; provided that said Mendocino County District be required to financially participate on or before 1990 or before the commencement of construction of the second stage of the Coyote Valley Project, whichever is earlier, and provided further that in the event of financial participation by the Mendocino County District and reassignment to said District as above provided, the use of water covered by all that portion of the applications the subject

of this assignment, outside the boundaries of the two counties, shall be permitted only upon the approval of both districts. It is the intent of this provision that, in the event Mendocino County participates in the project, the two counties shall share on an equitable basis, considering the amounts of surplus water available for such use from Mendocino and Sonoma Counties' respective basic apportionments and the use of facilities in any proceeds that may be realized from such use of water outside the boundaries of the counties.

"FURTHER SUBJECT TO, and upon condition that, in the event of failure of the Sonoma County Flood Control and Water Conservation District to exercise due diligence in the completion of the appropriations of water initiated by the aforesaid Applications 12919 and 12920 to the extent they are hereby assigned, this assignment shall be of no force and effect and the interest in said applications transferred thereby and any and all rights to water or the use of water acquired thereunder, shall revert to the Department of Finance which department shall thereupon forthwith become reinstated in and to said applications and any and all rights hereby conferred upon said districts as if this assignment had not been executed; and in like manner and with like effect, in the event of reassignment of an interest in the aforesaid applications to a district hereafter organized in Mendocino County as hereinbefore provided, and subsequent failure of such district to exercise due diligence in the completion of its appropriation of water thereunder, the interest of such district in the aforesaid applications and in appropriations of water thereunder shall revert to the Department of Finance."

On December 20, 1956, the Sonoma County District executed a reassignment of a portion of Applications 12919 and 12920 to Mendocino District. The reassignment provides in part as follows:

"WHEREAS, Mendocino County-Russian River Flood Control and Water Conservation Improvement District organized for the purpose of and as such an appropriate District in Mendocino County has tendered payment therefor to the Sonoma County Flood Control and Water Conservation District of a sum of moneys as required by said document of assignment by the Department of Finance, State of California, dated November 14, 1955, to wit:

- (1) A share of the local contribution of the cost of said Coyote Valley Project in the amount of Six Hundred Thirty-Three Thousand Dollars (\$633,000.00), plus
- (2) A proportionate share of the interest cost incurred by the Sonoma County Flood Control and Water Conservation District, to wit: Thirteen Thousand One Hundred Five and 91/100ths Dollars (\$13,105.91), making a total payment of Six Hundred Forty-Six Thousand One Hundred Five and 91/100ths Dollars (\$646,105.91);

"NOW, THEREFORE, for and in consideration of payment of said sum of Six Hundred Forty-Six Thousand One Hundred Five and 91/100ths Dollars (\$646,105.91) to the Sonoma County Flood Control and Water Conservation District, said District DOES THEREBY TRANSFER, ASSIGN AND SET OVER to the Mendocino County Russian River Flood Control and Water Conservation Improvement District for the use and benefit of

said Coyote Valley Project, without warranty, that portion of the aforesaid assignment of Water Rights to the Sonoma County Flood Control and Water Conservation District by the Department of Finance, State of California, dated November 14, 1955, to which said payment entitled said Mendocino County District under the terms and conditions of said assignment dated November 14, 1955, consisting of a proportionate interest as therein provided in the aforesaid partial assignment of Applications 12919 and 12920 and in such permits and licenses as may be hereafter issued thereon which interest shall be representative of the aforesaid entitlement of said Mendocino County District to use of project water.

"Nothing herein contained, or in Coyote Valley Project proceedings heretofore had, shall be construed as an assumption of duty on the part of the Sonoma County Flood Control and Water Conservation District to exercise due diligence in the completion of the appropriations of water initiated by the aforesaid Applications 12919 and 12920 to the extent they are hereby reassigned, or to otherwise perfect, protect or assert the rights, powers, privileges or immunities of Mendocino County or the Mendocino County Russian River Flood Control and Water Conservation Improvement District."

The Issues

General Principles

Among the prerequisites to the issuance of a permit to appropriate water, the law requires that there be unappropriated water available to supply the applicant and that the intended use be beneficial (Water Code Sec. 1375). After having established these prerequisites, an applicant is entitled to receive a permit for no greater quantity of water than he is prepared to place to beneficial use within a reasonable time and with due diligence commensurate with the magnitude of the project and with the obstacles to be overcome. The proposed use, as well as the proposed method of diversion and of use, must be reasonable in order to comply with public policy as set forth in Section 3 of Article 14 of the California Constitution. In connection with the foregoing, the Board must consider both the reasonable water requirements of the area to be served by an applicant and the capacity of his proposed facilities for appropriating water to beneficial use.

The Board is required by law to consider the relative benefits to be derived from all beneficial uses of the water concerned and to subject permits to "such terms and conditions as in its judgment will best develop, conserve, and utilize in the public interest the water sought to be appropriated." (Water Code Sections 1253, 1257).

Position of the Parties

While not opposing approval of the subject applications, some of the parties who appeared and presented evidence at the hearing oppose issuance of permits to the Districts for the full amounts of water which are requested upon the ground that they have not demonstrated a need for such water or a definite plan to make beneficial use of it. The Board is asked to impose conditions in any permit that is issued for the protection of existing and potential uses of water in areas adjacent to the Russian River and its tributaries. Some parties oppose approval of Applications 15736 and 15737 upon the ground they are not necessary. The Department of Fish and Game appeared for the purpose of protecting the fishery in the affected streams.

The following sections of this decision are responsive to the foregoing matters.

Water Supply and Unappropriated Water

The United States Geological Survey operated a gaging station "East Fork Russian River near Ukiah" above the Coyote Valley Reservoir site during the periods 1911-13 and 1951-55 prior to construction of the dam. According to the stream-flow record at the station, the flow of the East Fork has varied from no flow in August 1913 to a maximum of 13,300 cfs on December 21, 1955. The average flow for the period of record is 328 cfs or 237,500 afa. Of this quantity, an average of 201 cfs or 145,500 afa is imported from Lake Pillsbury on South Eel River through Potter Valley Powerhouse (Staff Exh. 5). This stored water is released for the most part during the critical summer months when little or no natural flow exists in East Fork Russian River.

Records of the United States Geological Survey gaging station "Russian River near Guerneville", which is below all major diversions from the river, show that for the period 1939-1959 the average flow was 2,248 cfs or 1,627,000 afa. The maximum flow recorded at this station during the foregoing period was 90,100 cfs in December of 1955 and the minimum was 61 cfs in July of 1950.

Sufficient unappropriated water is available to justify approval of the applications to the extent determined to be proper in light of the following discussion.

Anticipated Minimum Yield

With Coyote Valley Project in operation, as envisioned in studies by the U. S. Corps of Engineers, a firm yield of 60,000 acre-feet per annum is available from the Russian River system. This figure is based on the minimum runoff conditions of 1924, the driest year of record, and the following assumptions (Sonoma Dist. Exh. 5A):

(a) Flow at Guerneville is to be maintained at not less than 125 cfs (for recreational purposes);

(b) Flow at the confluence of Russian River and East Fork Russian River is to be maintained at not less than 150 cfs. (Up to 20 per cent deficiency allowable in this flow);

(c) 116,500 acre-feet maximum conservation storage is to be available in Coyote Valley Reservoir (including encroachment on flood control space);

(d) The entire Russian River system is to be operated as a unit; i.e., of the safe yield of 60,000 acre-feet (1924), 45,500 acre-feet are to be supplied from storage and 14,500 acre-feet are to be obtained from stream flow entering the river below Coyote Valley Dam;

(e) Allowances are made for actual uses in Potter Valley and uses in Sonoma and Mendocino Counties below the dam prior to 1948, at the 1948 level, and actual uses for later years;

(f) Pacific Gas and Electric Company tunnel from South Fork Eel River to Potter Valley is at the enlarged capacity of 350 cfs;

(g) An irrigation delivery reduction of 35 per cent is imposed in dry years. (One-half of the project water is assumed to be used for irrigation purposes).

It is noted from the yield studies that, in the controlling year (1924), 26,800 acre-feet of stored water would have been released during months of little or no natural or foreign flow to maintain the minimum flow at Guerneville of 125 cfs (RT 193) and that, for 20 of the 30 years studied, releases from storage are required to maintain this flow (Sonoma Dist. Exh. 5A).

In a year with water supply conditions similar to 1924, the minimum yield of 60,000 acre-feet plus recreational flows would consist of diversion to storage and direct diversion of 72,300 acre-feet (45,500 + 26,800) from waters appropriated under Applications 12919A and 12920A from East Fork Russian River, and 14,500 acre-feet from main stream Russian River under Applications 15736 and 15737.

Water Requirements

The Mendocino District

The ultimate annual consumptive use water requirement for those portions of Mendocino County below Coyote Valley Dam and susceptible to service from the Russian River is estimated to be 25,300 acre-feet during the irrigation season (Mendocino Dist. Exh. 1, p. 44). This figure includes consumptive use of 7,800 acre-feet annually for municipal and industrial purposes.

Diversions from the Russian River for use in the river valley in Mendocino County below Coyote Valley Dam prior to 1949 were estimated to be about 8,100 acre-feet per annum (Mendocino Dist. Exh. 1, p. 24), including the use at that time of the City of Ukiah, Masonite Corporation, and others. It has been estimated that this quantity, plus the 8,000 acre-feet per annum to be made available to this area from the project, will be sufficient to supply the total requirements within Mendocino District until about 1977, at which time an additional water supply will have to be secured (Mendocino Dist. Exh. 1, p. 45).

The Sonoma District

In addition to the irrigation uses as of 1949 (20,000 afa), there is need for sufficient water to irrigate 8,259 acres in the Russian River Valley in Sonoma County (Staff Exh. 2; Sonoma Dist. Exh. 4D; Mendocino Dist. Exh. 1). The ultimate consumptive use

requirement for this land was estimated in the Survey Report of the Corps of Engineers to be about 16,000 acre-feet per annum (Sonoma Dist. Exh. 4D, Appendix V, Table 15).

The probable annual use of water to be exported from the Russian River Valley to other parts of Sonoma County and Marin County as envisioned by the Sonoma District in its Exhibit 30 will be as follows:

Santa Rosa and Petaluma Aqueducts	31,234 acre-feet
Sonoma Aqueduct	5,230 acre-feet
Windsor Aqueduct	513 acre-feet
Forestville Aqueduct	<u>567</u> acre-feet
	37,544 acre-feet

It was testified that the foregoing facilities are designed to provide a 20-year supply for the areas to be served (RT 9/22/60, p. 90).

Another proposed use of water in Sonoma County under Applications 12919A and 15779 is the maintenance of a minimum flow of 125 cfs for recreational purposes between Guerneville and the ocean. The project as originally contemplated by the county and the U. S. Corps of Engineers included 200 cfs continuous flow for recreational purposes (Sonoma Dist. Exh. 4A, B, C, D). Further study of the stream system and the recreational area indicated that this quantity could be reduced to a minimum of 125 cfs.

The recreational area in Sonoma County has been organized into a zone (Zone 5) for tax purposes to pay for the benefits received (RT 179, 200; Sonoma Dist. Exh. 2; Staff Exh. 2). A substantial portion of the economy of Sonoma County depends on the recreational features of the Russian River (RT 179 and 789 to 795).

The City of Ukiah

Maximum use of water by the City of Ukiah prior to 1949 was 2.8 cfs (RT 11/23/60, p. 321). In 1954, the maximum demand was 6.4 cfs (RT 11/23/60, p. 322). A population forecast introduced into evidence as City of Ukiah Exh. 1 indicates a population for the City of 30,000 in the year 2000. Based upon the present average per capita use of 420 gallons per day, the City's maximum requirement in 2000 will be 20 cfs (Ukiah Exh. 6).

Project Works

Coyote Valley Reservoir as constructed has a maximum capacity of 122,500 acre-feet. The U. S. Corps of Engineers requires a 3-foot freeboard on the spillway to prevent wave erosion. This factor reduces the total allowable storage to 116,500 acre-feet (Sonoma Dist. Exh. 5B). If additional storage space is required by the applicants, flashboards, sandbags, or some other device can be installed to prevent wave erosion of the spillway, and the full 122,500 acre-foot storage capacity can be

utilized (RT 514, 515). Releases for flood control and downstream uses are made through the outlet gates which have a capacity of 6,500 cfs (RT 518). Infringement upon the 48,000 acre-foot space reserved in the reservoir for flood control is permitted after April 1 of each year (RT 513).

The Mendocino District has neither constructed diversion works nor has it any immediate plans for doing so (RT 748). All of the existing diversion works below Coyote Valley Dam in Mendocino County are owned and operated by private industries, individuals, cities and other political entities and this pattern will probably be extended (RT 754, 755; 11/23/60, pp 305-307).

The Sonoma District has constructed diversion works (Wohler Intake and Santa Rosa Aqueduct) downstream from the dam and has established a basic policy for the sale of project water.

Wohler Intake, a "Ranney System" consisting of two concrete caissons and radiating collecting pipes, has been constructed near the Wohler Bridge to pump water from the river for export through the Santa Rosa Aqueduct. The capacity of the works is about 30,000,000 gallons per day or 46.5 cfs (RT 313, 314). The system has additional features built into it whereby a maximum diversion of 40,000,000 gallons per day, or 62 cfs, can be made when required (RT 915, 916). It is expected that 26,700 acre-feet per year will be pumped through this system for use in Sonoma County by the year 1980, plus 10,000 acre-feet per year for export to Marin County (RT 915, 916; No. Marin Co. W. D. Exh. 5).

It is contemplated that diversion works with a capacity of 23 cfs will be constructed at Mirabel Park in order to meet maximum rates of delivery. The estimated construction date of these facilities is 1972 (Sonoma Dist. Exh. 31). Concurrently as the demand for water in the service areas away from the river in the Russian River Valley increases, additional facilities will be constructed at Monte Rio and Healdsburg with maximum diversion capacity of 3.5 cfs each (Sonoma Dist. Exh. 31; RT 11/22/60, pp. 120, 215). The District also contemplates completion of the Sonoma Canal in about 1980 with a diversion capacity of some 640 cfs (Sonoma Dist. Exh. 31; RT 11/22/60, p. 120, 11/23/60, p. 215).

The storage dams for recreational use in Sonoma County under Application 15779 have been in use for years. Some of these dams are permanent while others are temporary and are reconstructed each year (RT 813, 844). The total storage capacity of the reservoirs created by the dams described in the application is 213 acre-feet (Staff Exh. 2). Water for recreational purposes will be permitted to flow over, around, and through these storage dams and thus maintain a quality of water suitable and safe for swimming and other recreational uses (RT 789, 795).

Quantities of Water to Be Allowed

The Sonoma and
Mendocino Districts

There is no question that the full 122,500 acre-feet requested in Applications 12919A and 12920A can be impounded in Coyote Reservoir and that permits should be issued for this quantity in order that the anticipated firm yield derived therefrom may be made available for beneficial use.

Although there is no natural or artificial flow in the river at Guerneville during the dry season in years such as 1924, assuming that use of water is at the 1949 level, there is in most years water available for direct diversion in addition to storage. Therefore, direct diversion and re-diversion of stored water should be allowed to the capacity of the following proposed diversion works of the Sonoma District:

<u>Intake</u>	<u>Capacity</u>
Wohler	62 cfs
Mirabel	23
Monte Rio	3.5
Healdsburg	<u>3.5</u>
	92.0 cfs

In addition to the above, the Sonoma and Mendocino Districts request that they be authorized to divert up to 67 cfs and 53 cfs, respectively, at points along the river below Coyote Valley Dam in order that the Districts may comply with requests for project water to serve lands adjacent to the river within

the Russian River Valley. Such service may be accomplished by diversion works to be constructed by the water users or by the Districts (RT 11/22/60, p. 72). The foregoing water requirement of 67 cfs for the Sonoma District approximates 135 acre-feet per day which would be the amount required during the month of maximum use for valley lands in Sonoma County assuming an annual diversion requirement of 10,000 acre-feet to serve these lands (RT 11/22/60, p. 78).

According to evidence presented by the Sonoma District, this amount will be required by the year 1970, after which it is planned to develop additional water by means of other conservation facilities to supply the ultimate consumptive use requirements of these lands (RT 11/22/60, p. 76). Similarly, the request of the Mendocino District is based upon the rate required during the month of maximum use (RT 11/23/60, pp. 294, 295).

The points at which water may be diverted for local use as discussed in the preceding paragraph cannot be determined at this time and of necessity were not described in the applications. Therefore, in addition to other conditions, the permits will require that no diversion for such use shall be made until a description of the location of the point of diversion and a statement of the quantity of water to be diverted are filed with the Board.

The request for a permit to divert water by means of a proposed Sonoma Canal was not supported by the weight of

the evidence. Although it would be possible to construct the facility and divert the winter flows of East Fork, little or no beneficial use could be made of the water without offstream storage (RT 287-288). This is because summer flows are not generally available in sufficient quantities to satisfy other commitments and to supply the Sonoma Canal as well. Inasmuch as no application has been filed for offstream storage, approval of this portion of the application is not warranted.

The evidence presented indicates that 125 cfs continuous flow at Guerneville is the minimum amount required to maintain recreational facilities (RT 794). The Board finds that the furnishing of water by the Sonoma District along this reach of the Russian River for uses common to resorts or other recreational establishments, such as boating, swimming, fishing, etc. is a reasonable beneficial use and the flow therefrom into the ocean is not an unreasonable use. See Water Code Section 1243; City of Elsinore v. Temescal Water Co., 36 Cal. App. 2d 116; 97 P. 2d 274; 23 Cal. Adm. Code 667.

To the extent the Sonoma District proposes to "appropriate" 125 cfs by simply allowing that amount of the flow in the river to remain undisturbed for the benefit of recreational facilities, the applications cannot be approved. An essential element of a valid appropriation of water is physical control, akin to possession. Physical control is usually exercised by diverting water from its natural channel, and it has been said

that such diversion is necessary in order to constitute a valid appropriation (Simons v. Inyo Cerro Gordo Mining and Power Co., 48 Cal. App. 524). However, the required control may also consist in artificial regulation of natural flow within the channel itself, as by constructing dams to form recreational pools and the like. In an effort to establish the required degree of control, the Sonoma District introduced evidence that outflow from Coyote Valley Reservoir has been considerably less variable than inflow. This is because changes in rate of release of water from the reservoir are made gradually for the benefit of recreation uses downstream, although many other factors also enter into the criteria for reservoir operation (Sonoma Dist. Exh. 43; RT 11/23/60, p. 139). However, no precedent is known in California law for recognizing that type of regulation as constituting an appropriation. The principle that diversion of water is an essential element of a valid appropriation is basically sound and should not be modified without legislative or judicial authority.

Applications 15736 and 15737 of the Sonoma District should be approved inasmuch as they may be needed at times to meet the direct diversion requirements along the Russian River and thereby permit storage of East Fork Russian River water at Coyote Valley Dam to the maximum possible extent.

The storage features of Application 15779 should be approved in sufficient quantities to fill all reservoirs described therein which, according to the record, total 213 acre-feet. All

other quantities should be denied, inasmuch as the waters sought are either covered under prior applications of the District or cannot be physically taken under control by the District.

City of Ukiah

Application 15704 of City of Ukiah should be approved. The City is within the Mendocino District and as such may share in Mendocino's 8,000 acre-feet annual yield of the project. However, the Mendocino District has no immediate plan for constructing diversion facilities for delivering water to its consumers, and it is proper for the City to proceed under its own application insofar as its use of water is not already covered under a valid right.

Mendocino County Flood Control
and Water Conservation District

Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District should be denied, inasmuch as no evidence in their support was presented by the applicant.

Conditions to Be Imposed

Potter Valley

Potter Valley Irrigation District, the Sonoma District, the Mendocino County Districts,* and the County of Mendocino stipulated as to uses of water in Potter Valley (Sonoma Dist. Exh. 13, RT 170). This stipulation, in effect, recognizes as prior the rights of Potter Valley Irrigation District to the amount of water required to irrigate all lands within the district and future district boundaries wherein the drainage is tributary to the East Fork Russian River upstream from Coyote Valley Dam. Permits issued to the Sonoma and Mendocino Districts will be subject to this stipulation.

*Mendocino County Russian River Flood Control and Water Conservation Improvement District and Mendocino County Flood Control and Water Conservation District.

Pre-1949 Uses

A written, unsigned statement was presented at the hearing as Mendocino District Exhibit 3 and was accepted by counsel for both the Mendocino and Sonoma Districts as signifying an agreement between such Districts (RT 764). It provides for releases of inflow to the Coyote Valley Reservoir sufficient to supply beneficial uses under rights vested prior to January 28, 1949, the date of filing of Applications 12919 and 12920, and, subject to reasonable conditions imposed by the Districts, sufficient to supply beneficial uses established as of January 28, 1949, without regard to legal rights.

The Board finds that the protection of water uses supplied from the Russian River which existed at the time Applications 12919 and 12920 were filed in 1949 is in the public interest, and that permits issued to the Sonoma and Mendocino Districts should be appropriately conditioned for that purpose. Although the assignment of the State applications did not specifically reserve water to the extent of the pre-1949 uses in the Russian River Valley, there is no question that both the Corps of Engineers and the State contemplated that only water surplus to these uses was to be appropriated by means of the Project for future requirements.

In view of the special circumstances involving the long-continued diversion of water from the South Eel River to East Fork Russian River, the apparent naturalness and permanence of this water supply to lands in the Russian River Valley, and

the very substantial economy that had grown and prospered for many years in reliance upon that supply, the Board finds that the aforesaid protection should be afforded to all pre-1949 uses without regard to whether there has been compliance with statutory procedures for appropriating water, provided the users hereafter comply with such procedures to the extent necessary to establish a valid right to the use of water.

Protection to Valley Lands

Both the State assignment of Applications 12919A and 12920A and the Corps of Engineers Survey Report (Sonoma Dist. Exh. 4A) express the intent that of the originally estimated project yield of 24,000 afa, about 8,000 afa would be used in Mendocino County and the remaining 16,000 afa would be made available for uses along the Russian River in Sonoma County. There should be reserved for these primary project service areas sufficient water to meet their future requirements for a reasonable time in the future, and permits issued to the districts will be so conditioned.

In light of the entire record, 10 years is found to be a reasonable time within which water users along the Russian River within the Sonoma District should exercise their preferred right to contract for project water, after which time any water not contracted for should be made available for use elsewhere. No time limit need be specified for use of the Mendocino District's share of project water, since that District does not plan to export any water from the valley.

The evidence indicates that within the next 10 years there will be a diversion requirement for project water of not to exceed 10,000 afa for use within the Russian River Valley portion of the Sonoma District, after which time it is planned to construct additional facilities to supply further requirements throughout the District (RT 11/22/60, pp. 76-79).

Future Appropriations by Others

Although, as indicated earlier in this decision, Applications 15736 and 15737 should be approved in order to permit greater flexibility in project operations, the record clearly demonstrates that Sonoma District's share of the yield of the project under Applications 12919A and 12920A should meet its requirements for many years to come. It would not be in the public interest to allow the Sonoma District by virtue of permits issued pursuant to Applications 15736 and 15737 to interfere with development by others in Potter Valley or in other watersheds tributary to the Russian River. Therefore, permits will be issued pursuant to these applications subject to appropriations by prior or subsequent appropriators for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.

Protection to Fish

The California Department of Fish and Game and the Sonoma District entered into a stipulation regarding minimum flows for preservation of fish life (Sonoma Dist. Exh. 23). These proposed flows are 25 cfs between Coyote Valley Dam and the Forks of Russian River and East Fork Russian River, 150 cfs at the Forks, and 125 cfs in the channel of the Russian River throughout Zone 5 of the Sonoma District. The latter quantity is for both protection of fish life and recreation. The maintenance of the aforesaid flows is contingent upon and subject to numerous conditions set forth in the stipulation.

The Board finds that the aforesaid flows for protection and maintenance of fish life and for recreational use are reasonable and in the public interest, and permits issued to the districts will be subject to the aforesaid stipulation to the extent its provisions relate to matters within the jurisdiction of the Board.

Retention of Jurisdiction

It was orally agreed between counsel for the Sonoma and Mendocino Districts that the Board should retain continuing jurisdiction until such time as the districts reach agreement whereby the Mendocino District might acquire the right to additional project water, at which time the terms of the

agreement would be included in the permits issued pursuant to the State applications. The evidence justifies such retention of jurisdiction, and the permits will be so conditioned.

Counties of Origin

The assignment of Applications 12919A and 12920A from the State to the Sonoma District was subject to "any and all rights of any county in which the water sought to be appropriated originates to the extent that any such water may be necessary for the development of lands in such county lying in the watershed above Coyote Valley Reservoir." This condition will be included in the permits issued pursuant to said applications.

Other Issues

Municipal Preference

Some of the protestants and the City of Ukiah claim municipal preference for their applications which are junior in time to Applications 12919A and 12920A. The Board has previously concluded (Decision D 935) that applications filed pursuant to Water Code Section 10500 (State applications) are not, as a matter of law, subordinate to applications for municipal purposes filed subsequent to such State applications. Therefore, it would not be proper to subordinate permits to be issued pursuant to Applications 12919A and 12920A to

applications of these other parties, as requested. In the event of a dispute, the matter of relative priorities should be submitted to a court of competent jurisdiction for determination.

These parties are concerned that they may be required to purchase water from the districts instead of being allowed to develop their own water supplies at less cost. This is a matter for local solution. However, it is not the intention of the Board in issuing permits to the districts for direct diversion of water without storage to compel water users to purchase water from the districts or to foreclose appropriations by others to the extent water may be available over and above that actually placed to beneficial use by the districts.

Protest by Masonite Corporation

The Masonite Corporation has requested that its existing license issued pursuant to an application filed subsequent to Applications 12919 and 12920 be given a higher priority than the assigned State filings of the applicants and that any permit issued thereon be so conditioned.

The record indicates there is no question as to the adequacy of supply to meet the requirements of the entire southern Mendocino County to at least the year 1980, including those of the Masonite Corporation. The controversy does not concern availability of unappropriated water but whether Masonite Corporation should be required to pay the Mendocino District for that portion of the water which it diverts and which will be

subject to appropriation under the prior State-assigned applications. Although the Board may, when the facts justify, disregard the priority of an application in the public interest, there is no consideration of public interest that would warrant doing so in this instance. It would appear that the protection and relief which the Masonite Corporation seeks to achieve can only be accomplished by reliance on such rights as it may have as an owner of land overlying an underground water basin and as an owner of land riparian to the Russian River.

Designation of Points of Diversion

Applications 12919A and 12920A, as originally filed and advertised, described Coyote Valley Dam as the only point of direct diversion and diversion to storage, thus limiting the water to be appropriated to that flowing in the East Fork. The applications were subsequently amended in 1958 to add twelve points of diversion on the main stem of the Russian River.

These changes, if permitted without suitable conditions, would allow diversion of water of both the East Fork and all other tributaries above the respective points of diversion and would, to that extent, constitute a new appropriation with, at best, a 1958 priority. The applicants were so advised soon after the amendments were submitted and were informed that it would be to their interest to rely upon

Applications 15736 and 15737 with priority of 1954 for any right they might desire to acquire to divert water from sources other than the East Fork.

However, it is apparent that designation of Coyote Valley Dam as the point of direct diversion in the original and amended applications was and is fictitious, since no diversion of water from the natural channel of the river was or is proposed at that point. Instead, it has always been intended to allow water not impounded by the dam to continue to flow down the channel of the river to be diverted at so-called points of "rediversion".

The proper course to follow at this time is to authorize appropriation by direct diversion under permits issued pursuant to Applications 12919A and 12920A at the points described in the amended applications but limited to water contributed to the Russian River by flow from the East Fork. This will give the applicant districts the advantage of the 1949 priority to the extent water is available from the source filed upon at that time at the points of actual diversion and will avoid the improper designation of the Coyote Valley Dam as the points of diversion. The practical problem of segregating East Fork water from other water at the intakes on the Russian River will be no greater than it would be if the permits specified the Coyote Valley Dam as the point of diversion and the intakes as the points of rediversion.

Conclusions

The evidence indicates and the Board finds that unappropriated water exists in East Fork Russian River and Russian River at times and in sufficient amounts to justify approval in part of Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, portions of Applications 15736, 15737 and 15779 of Sonoma County Flood Control and Water Conservation District, and Application 15704 of City of Ukiah; that the applicants have substantially completed construction of a major portion of the projects and started delivery of water; that such waters in general but subject to certain conditions may be taken and used as proposed without interference with the exercise of prior rights and that those applications should be approved and permits issued pursuant thereto, subject to the terms and conditions set forth in the following Order. The Board finds that as so conditioned the developments proposed in such applications will best develop, conserve and utilize in the public interest the water sought to be appropriated.

The Board finds that Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District should be denied for reasons heretofore set forth.

Order

Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District, Application 15704 of City of Ukiah; Applications 15736, 15737 and 15779 of Sonoma County Flood Control and Water Conservation District, and Applications 15738 and 15739 of Mendocino County Flood Control and Water Conservation District for permits to appropriate unappropriated water having been filed with the former Division of Water Resources; protests having been filed; jurisdiction of the administration of water rights including the subject applications having been subsequently transferred to the State Water Rights Board; a public hearing having been held by the Board; and the Board having considered all of the evidence received at said hearing and now being fully informed in the premises:

IT IS HEREBY ORDERED that Applications 12919A and 12920A of Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District be and the same are approved in part and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The quantity of water to be appropriated for municipal, industrial, domestic and recreational purposes under

permit issued pursuant to Application 12919A shall be limited to water of East Fork Russian River, which can be beneficially used and shall not exceed 212 cubic feet per second by direct diversion to be diverted from January 1 to December 31 and 122,500 acre-feet per annum by storage to be collected in Coyote Valley Reservoir between January 1 and December 31 of each year.

2. The quantity of water to be appropriated for irrigation and domestic purposes under permit issued pursuant to Application 12920A shall be limited to water of East Fork Russian River which can be beneficially used and shall not exceed 212 cubic feet per second by direct diversion to be diverted from January 1 to December 31 and 122,500 acre-feet per annum by storage to be collected in Coyote Valley Reservoir between January 1 and December 31 of each year.

3. The total quantity of water to be appropriated under permits issued pursuant to both applications shall not exceed 122,500 acre-feet per annum by storage and 212 cubic feet per second by direct diversion at the following points:

62.0 cubic feet per second at Wohler Intake

23.0 " " " " " Mirabel Park Intake

3.5 " " " " " Monte Rio Intake

3.5 " " " " " Healdsburg Intake

53.0 " " " " " various points along
East Fork Russian River and Russian River
between Coyote Valley Dam and Mendocino-
Sonoma County line, and

67.0 cubic feet per second at various points along
Russian River downstream from Mendocino-Sonoma
County line;

Provided, however, that there shall be neither direct diversion nor rediversion of stored water pursuant to these permits, except at Wohler, Mirabel Park, Monte Rio and Healdsburg Intakes, until a description of the location of each point of diversion and statement of the quantity of water to be diverted at each point is filed with the State Water Rights Board; and provided further that use of water diverted at other than the Wohler, Mirabel Park, Monte Rio, and Healdsburg Intakes shall not be made outside of Russian River Valley.

4. The maximum amount herein stated may be reduced in the license if investigation warrants.

5. Construction work shall be completed on or before December 1, 1975.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

7. Progress reports shall be filed promptly by permittee on forms to be provided annually by the State Water Rights Board until license is issued.

8. These permits are subject to rights acquired or to be acquired pursuant to applications by others whether heretofore or hereafter filed for use of water within the service area of Mendocino County Russian River Flood Control and Water Conservation Improvement District and within the Russian River Valley in Sonoma County, as said Valley is defined in Decision D 1030 of the State Water Rights Board at page 9, to the extent that water has been beneficially used continuously on the place of use described in said applications since prior to January 28, 1949 (the date of filing Applications 12919 and 12920).

9. The right to export water from the Russian River Valley under these permits is subject to depletion by consumptive use of project water appropriated under these permits of 8,000 acre-feet per annum for beneficial use in the service area of Mendocino County Russian River Flood Control and Water Conservation Improvement District.

10. The right to export water from the Russian River Valley under these permits is subject to depletion by diversion of project water appropriated under these permits of not to exceed 10,000 acre-feet per annum for beneficial use within the Russian River Valley in Sonoma County, provided that

agreements for the use of said project water are entered into with Sonoma County Flood Control and Water Conservation District prior to August 1, 1971.

11. These permits are subject to the stipulation between permittees and Potter Valley Irrigation District dated August 18, 1959, and filed of record as Sonoma District Exhibit 13 at the hearing of Application 12919A and others.

12. These permits are subject to beneficial use in Potter Valley whether under prior or subsequent rights and to any and all rights of any county in which the water appropriated hereunder originates to the extent that any such water may be necessary for the development of lands in such county lying in the watershed above Coyote Valley Reservoir.

13. The State Water Rights Board retains continuing jurisdiction for the purpose of conforming the permits to any agreement between Sonoma County Flood Control and Water Conservation District and Mendocino County Russian River Flood Control and Water Conservation Improvement District whereby the Mendocino District will have an opportunity to acquire a greater portion of the Coyote Valley Project and/or a share of any additional water above the minimum safe yield thereof, or upon failure to reach said agreement, as may be ordered by a court of competent jurisdiction.

14. These permits are subject to the Stipulation and Agreement between Sonoma County Flood Control and Water Conservation District and the California Department of Fish

and Game, dated August 21, 1959, filed of record as Sonoma District Exhibit No. 23 at the hearing of Applications 12919A and others, to the extent the provisions of said Stipulation and Agreement relate to matters within the jurisdiction of the State Water Rights Board.

15. These permits are subject to compliance with Water Code Section 10504.5 (a).

16. All rights and privileges under these permits, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

IT IS FURTHER ORDERED that Applications 15736 and 15737 of Sonoma County Flood Control and Water Conservation District be, and the same are, approved and that permits be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated for municipal, industrial, and domestic purposes under permit issued pursuant to Application 15736 shall be limited to the amount which can be beneficially used and shall not exceed a total of 20 cubic feet per second to be diverted at the

Wohler Intake, Mirabel Park Intake, Monte Rio Intake, and Healdsburg Intake, and at various points along Russian River in Sonoma County, between January 1 and December 31 of each year.

2. The amount of water to be appropriated for irrigation and incidental domestic purposes under permit issued pursuant to Application 15737 shall be limited to the amount which can be beneficially used and shall not exceed a total of 60 cubic feet per second, to be diverted at the Wohler Intake, Mirabel Park Intake, Monte Rio Intake, and Healdsburg Intake and at various points along Russian River in Sonoma County between April 1 and September 30 of each year.

3. No water shall be diverted at points other than Wohler, Mirabel, Monte Rio, and Healdsburg Intakes until a description of the location of each point of diversion and statement of the quantity of water to be diverted at each point is filed with the State Water Rights Board.

4. The total amount of water to be appropriated by direct diversion under permits issued pursuant to Applications 12919A, 12920A, 15736, and 15737 shall not exceed 212 cubic feet per second.

5. The maximum amount herein stated may be reduced in the license if investigation warrants.

6. Construction work shall be completed on or before December 1, 1975.

7. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

8. Progress reports shall be filed promptly by permittee on forms to be provided annually by the State Water Rights Board until license is issued.

9. These permits are subject to appropriations of water by others, whether under rights acquired prior or subsequent to February 18, 1954 (the date of filing Applications 15736 and 15737), for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.

10. These permits are subject to the stipulation between permittees and Potter Valley Irrigation District dated August 18, 1959, and filed of record as Sonoma District Exhibit 13 at the hearing of Application 12919A and others.

11. These permits are subject to the Stipulation and Agreement between Sonoma County Flood Control and Water Conservation District and the California Department of Fish and Game, dated August 21, 1959, filed of record as Sonoma District Exhibit No. 23 at the hearing of Applications 12919A and others, to the extent the provisions of said Stipulation and Agreement relate to matters within the jurisdiction of the State Water Rights Board.

12. All rights and privileges under these permits including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of

the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

IT IS FURTHER ORDERED that Application 15704 of City of Ukiah be, and the same is, approved and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 20 cubic feet per second to be diverted from January 1 to December 31 of each year.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1985.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

IT IS FURTHER ORDERED that Application 15779 of Sonoma County Flood Control and Water Conservation District be, and the same is, approved in part and that a permit be issued to the applicant subject to vested rights and to the following terms and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 213 acre-feet per annum by storage to be collected between about May 1 and about November 30 of each year.
2. The maximum amount herein stated may be reduced in the license if investigation warrants.
3. Complete application of the water to the proposed use shall be made on or before December 1, 1963.
4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.
5. All rights and privileges under this permit including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. In accordance with Water Code Section 1393, permittee shall clear the site of all reservoirs with a capacity of 50 acre-feet or more of all structures, trees, and vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

7. This permit is subject to the stipulation between permittees and Potter Valley Irrigation District dated August 18, 1959, and filed of record as Sonoma District Exhibit 13 at the hearing of Applications 12919A and others.

8. This permit is subject to the Stipulation and Agreement between Sonoma County Flood Control and Water Conservation District and the California Department of Fish and Game, dated August 21, 1959, filed of record as Sonoma District Exhibit No. 23 at the hearing of Applications 12919A and others, to the extent the provisions of said Stipulation and Agreement relate to matters within the jurisdiction of the State Water Rights Board.

9. This permit is subject to appropriations of water by others, whether under rights acquired prior or subsequent to March 17, 1954 (the date of filing Application 15779) for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.

That portion of Application 15779 for appropriation of 125 cubic feet per second by direct diversion and all water in excess of 213 acre-feet per annum by storage is hereby denied.

IT IS FURTHER ORDERED that Applications 15738 and 15739 be, and the same are, hereby denied.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on this day of , 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

Board Member W. A. Alexander, not having participated in the original decision in this matter (Decision D 965), did not participate in this decision.

