

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 21256  
of John W. and Mildred M. Peterson  
to Appropriate from Indian Creek  
in Mendocino County

Decision D 1231

**ADOPTED** AUG 25 1965

DECISION APPROVING APPLICATION

John W. and Mildred M. Peterson having filed Application 21256 for a permit to appropriate unappropriated water; a protest having been received from the California Department of Fish and Game (hereinafter referred to as Fish and Game); a public hearing having been held before the State Water Rights Board in Ukiah, California, on July 14, 1964, conducted by Board Members Ralph J. McGill, presiding, and W. A. Alexander; the applicants and protestant having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 21256 is for a permit to appropriate 0.33 cubic foot per second (cfs) by direct diversion from May 1 to November 1 of each year for irrigation purposes from Indian Creek, tributary to Navarro River, in Mendocino County. The point of diversion is to be located within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 20, T14N, R14W, MDB&M.

2. Applicants have 40 acres of orchard and pasture which they are now developing. They are exercising a claimed

riparian right with respect to 13 of these acres. The 0.33 cfs is the amount calculated to irrigate the entire 40 acres by the use of sprinkler irrigation. A perforated 50-gallon drum is used as a sump in the bed of Indian Creek at a point about 1/2 mile upstream from the Navarro River.

3. Indian Creek is an important spawning and nursery area for steelhead trout. The spawning run for the trout extends between about November and April of each year. The juveniles stay in the stream at least one year and then migrate to the ocean, with the peak being probably in April or May.

4. Fish and Game, by agreement with the applicants, conducted streamflow studies subsequent to the hearing in the relatively dry year of 1964. It subsequently revised downward to 2 cfs the streamflow which it considered should bypass the applicants' point of diversion at all times for the preservation of fishlife (F. and G. Exh. 1). The Board finds the requested streamflow to be reasonably required for the preservation of fishlife.

5. Streamflow in Indian Creek, even in a critical dry year such as 1964, is nearly always in excess of 2 cfs in addition to the 0.33 cfs which the applicants seek to appropriate. At certain times they might be required to pump at night or at less than their full pump capacity to maintain the full 2 cfs flow past their diversion point.

6. There is unappropriated water available to supply the applicants, and subject to suitable conditions,

such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21256 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

#### ORDER

IT IS HEREBY ORDERED that Application 21256 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.33 cubic foot per second by direct diversion to be diverted from about May 1 of each year to about November 1 of each year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Construction work shall be completed on or before December 1, 1967.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1968.

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

6. 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.

7. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

8. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

9. Permittee shall for the preservation of fishlife, release past the point of diversion at all times 2 cfs or the natural flow of the stream, whichever is less.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the            day of            , 1965.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

/s/ Ralph J. McGill  
Ralph J. McGill, Member

/s/ W. A. Alexander  
W. A. Alexander, Member