

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 24359 )

PARDUCCI WINE CELLARS )

Applicant )

CALIFORNIA DEPARTMENT OF FISH AND GAME )

Protestant )

Decision: 1528

Source : York Creek Underflow

County : Mendocino

DECISION APPROVING APPLICATION 24359

BY BOARD CHAIRMAN MAUGHAN:

Parducci Wine Cellars, a limited partnership, having filed Application 24359 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held before the State Water Resources Control Board on January 22, 1979; applicant and protestant having appeared and presented evidence; the evidence at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 24359 as originally filed was for a permit to appropriate 0.80 cubic foot per second by direct diversion from April 1 to June 1 and 3.5 acre-feet per annum by storage, from January 1 to June 15 from York Creek tributary to Russian River, for frost protection and irrigation. The maximum amount to be diverted is 12 acre-feet per annum. The point of diversion is within the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 32, T16N, R12W, MDB&M.
2. Testimony given at the hearing indicated there were errors in the original filing. The application was amended at the hearing by deleting the

provision for storage, designating the appropriation as direct diversion from York Creek Underflow and limiting the diversion season to the period March 1 to June 1.

#### Applicant's Project

3. The applicant has excavated a sump which taps the underflow in the gravels about 260 feet from the York Creek channel. The applicant pumps from the sump for irrigation and frost protection on seven acres of vineyards.

#### Protest

4. Application 24359 was protested by the Department of Fish and Game on the basis that the proposed appropriation would not best conserve the public interest and would have an adverse environmental impact. Fish and Game contends that the appropriation could reduce the flow in York Creek in some years below that necessary for the upstream and downstream migration of adult steelhead trout. Fish and Game has prepared an estimate of minimum flows it feels are necessary to ensure a successful migration. It cannot be accurately determined what effect the applicant's pumping from the underflow would have on the surface flow of York Creek, but indications are that it would be minimal. During periods of steelhead migration it would be unlikely that the applicant would be diverting water from York Creek Underflow for either irrigation or frost protection purposes.

#### Existence of Unappropriated Water

5. The watershed above the applicant's diversion point is about 10 square miles. There are no records of the flow of York Creek. However, on the basis of correlation of the flow of the Russian River at the U. S. Geological Survey gaging station above the confluence with East Fork Russian River, staff

estimates the average annual runoff of York Creek to be about 13,000 acre-feet. While it is a rough estimate, it at least gives an idea of what flow can be expected. Applications for other projects on York Creek total 405 acre-feet per annum. There appears to be ample unappropriated water available to supply the applicant without injury to other water users on York Creek. Prior Board decisions have found that the critical period on the Russian River is from July 1 to October 31, which is outside the proposed season.

6. The intended use is beneficial.

#### Environmental Considerations

7. This Board decision authorizes the following activity: diversion of water for frost protection and irrigation purposes. Such activity constitutes only a minor modification to land, and such activity is thereby exempt from the provisions of the California Environmental Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

#### Conclusions

8. From the foregoing findings, the Board concludes that Application 24359 should be approved and a permit issued, subject to the conditions set forth in the order following.

#### ORDER

IT IS HEREBY ORDERED that Application 24359, as amended, be approved and that a permit be issued to the applicant subject to vested rights. The

permit shall contain all applicable standard permit terms (6, 10, 11, 12, and 13)\* in addition to the following conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.80 cubic foot per second to be diverted from March 1 to June 1 of each year. The maximum amount diverted under this permit shall not exceed 12 acre-feet per year.

2. Complete application of the water to the proposed use shall be made on or before December 1, 1983.

3. This permit is subject to the continuing authority of the State Water Resources Control Board to issue any appropriate order to insure that the appropriation of water for frost protection under the permit does not result in waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

4. Applicant shall not exercise any other existing right to the use of water named herein so long as this permit or any license issued pursuant thereto remains in effect.

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\* The Board maintains a list of standard permit terms. Copies are available upon request.

Dated: August 16, 1979

We Concur:

/S/ W. DON MAUGHAN  
W. Don Maughan, Chairman

/S/ WILLIAM J. MILLER  
William J. Miller, Vice Chairman

/S/ L. L. MITCHELL  
L. L. Mitchell, Member

/S/ CARLA M. BARD  
Carla M. Bard, Member

