

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 22266)
of Perazzo Properties, a Limited)
Partnership, to Appropriate from)
Perazzo Canyon in Sierra County)

Decision D 1270

DECISION APPROVING APPLICATION IN PART

Perazzo Properties having filed Application 22266 for a permit to appropriate unappropriated water; protests having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 22266 is for a permit to appropriate 3.35 cubic feet per second (cfs) by direct diversion from November 1 of each year to August 1 of the succeeding year and 1,007 acre-feet per annum by storage from December 15 of each year to June 15 of the succeeding year for domestic and recreational purposes from Perazzo Canyon, tributary to Little Truckee River, in Sierra County. The point of diversion is to be located within the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 34, T19N, R14E, MDB&M.

2. The applicant owns 2,860 acres of mountain land, most of which is intended to be developed into 1-acre residential lots around Perazzo Lake, a reservoir to be built with a surface area of 106 acres. The direct diversion is calculated as needed to meet the domestic requirements of a maximum population of about 9,000 persons. Reservoir storage would be used to meet domestic water requirements at the end of the direct diversion season, and the reservoir would be used year round for swimming, boating, and fishing. The reservoir would be maintained as full as permitted by water supply and water rights.

3. Perazzo Canyon and the Little Truckee River are mountain streams with high flows from snowmelt in the late spring. The flows usually decline rapidly in June and early July, and become only a few cubic feet per second by late summer at the juncture of Perazzo Canyon and Little Truckee River.

4. The protest of the Department of Fish and Game is based on the protection of trout that reproduce naturally in the five miles of stream below the proposed dam and above the diversion dam of Sierra Valley Water Company. The applicant has stipulated with the Department that it will allow 10 cfs or the natural inflow, whichever is less, to pass the point of diversion from April 1 to June 1 of each year, and 5 cfs or the natural inflow, whichever is less, to pass the

point of diversion at all other times for the protection of fishlife. This stipulation is found to be in the public interest, and will be a permit condition.

5. A protest was filed by Truckee-Carson Irrigation District for the protection of irrigation uses in Nevada. The district stated that there was no unappropriated water, but the district was not represented at the investigation. That unappropriated water is available, as between California and Nevada, is indicated by the following language from Decision D 1152 (adopted December 19, 1963), at page 3:

"The evidence and issues relative to water supply, vested rights, unappropriated water, interstate division of interstate waters ... are to a large extent identical with the evidence and issues discussed by the Board in its Decision D 1056, adopted February 15, 1962, of which the Board takes official notice. In that decision the Board assumed to be surplus and unappropriated the water from Lake Tahoe and the Truckee River stream system 'flowing by Derby Dam which is not required to satisfy decreed downstream Indian rights and which wastes into Pyramid Lake.' An analysis of studies of the Department of Water Resources indicated the availability of unappropriated water. The same conclusion is indicated by the 'Joint Report on the Use of Water in the Lake Tahoe Watershed,' prepared by the State Engineers of Nevada and California, and dated June 1949 (Staff Exh. 3)."

6. There remains for consideration the protest of Sierra Valley Water Company, Inc., which will be referred to as "the Company". The Company has a decreed right to a supplementary supply of a maximum of 60 cfs, as measured at

its point of diversion from the Little Truckee River, during the irrigation season of March 15 to September 30, for use on lands of Company stockholders in Sierra Valley for irrigation, domestic, and stockwatering purposes. This right was adjudicated in the District Court of the United States for the Northern Division of the Northern District of California, Civil No. 5597. This right is subject to releases of water for the maintenance of fishlife in Little Truckee River below the diversion dam. Sufficient quantities of water are required to be released to maintain flows of 5 cfs from March 15 to June 15, and 3 cfs for the rest of the year, at the U.S.G.S. gaging station on the Little Truckee River near Hobart Mills. This station is 2-1/2 miles downstream from the Company's diversion dam, with relatively little tributary inflow between the dam and the gaging station.

7. The Company's diversion dam is a concrete structure, on top of which flashboards are added each spring in the early weeks of diversion. "A concrete Parshall flume and float-operated drumgate spillway were installed in the Little Truckee Ditch near the diversion dam" in the fall of 1959, according to the Department of Water Resources Report on Watermaster Service in Northern California, 1959 Season. The Department's watermaster for the Middle Fork Feather River watermaster area regulates this diversion by

an informal arrangement. The drumgate controls the quantity of water diverted through the ditch and prevents diversion of more than 60 cfs. Water in excess of that diverted by the ditch is spilled back to the Little Truckee through the spillway or over the flashboards.

8. Since the Company's ditch is regulated by a state watermaster, it can be assumed that no more water is diverted by the Company than it is entitled to and that therefore the applicant should not be permitted to appropriate water unless water is either spilling from the diversion ditch back into the Little Truckee River or is spilling over the diversion dam. An analysis of the record shows that such spill seldom exists after July 1 and therefore the permit should be limited to that date. A comparison of the records of ditch diversions with Little Truckee River flow near Hobart Mills indicates that prior to July 1 no spills or releases of water from the Company's diversion dam are necessary to maintain the required flows at Hobart Mills for fish. Therefore, so long as applicant is permitted to appropriate water prior to July 1 only when spill would otherwise occur at the Company's diversion dam, no prejudice will result to either the requirements for fish or the Company's prior rights.

9. The Company requested that the applicant be required to petition for watermaster service by the Department of Water Resources to regulate its diversions. However,

none of the prerequisites set forth in Water Code Section 4027 for the Department to furnish such service exists.

10. Unappropriated water is available to supply the applicant, 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.

11. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22266 should be approved in part and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 22266 and all relevant information on file therewith, particularly the report of the field investigation made September 26, 1966; U.S.G.S. discharge records for Little Truckee River near Hobart Mills, California, 1946 to present; Department of Water Resources Report on Watermaster Service in Northern California, 1959 to 1965; U.S.G.S. topographical maps, Donner Pass and Sierraville, California, and Truckee, California-Nevada quadrangles; Board Decision D 1152.

ORDER

IT IS HEREBY ORDERED that Application 22266 be, and it is, approved in part, and that a permit be issued to the applicant 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 3.35 cubic feet per second by direct diversion to be diverted from about November 1 of each year to about July 1 of the succeeding year and 1,007 acre-feet per annum by storage to be collected from about December 15 of each year to about June 15 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

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

3. Actual construction work shall begin on or before December 1, 1967, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1969.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

6. 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.

7. 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.

8. Permittee shall allow representatives of the State Water Rights Board, representatives of the Sierra Valley Water Company, 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.

9. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under this permit. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Rights Board to comply with this paragraph.

10. Permittee shall install and maintain suitable measuring devices (a) upstream from the high water elevation of the reservoir and (b) immediately below the storage dam in order that accurate measurement can be made of the quantity of water flowing into and out of said reservoir.

11. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

12. Construction of the dam shall not be commenced until the Department of Water Resources has approved plans and specifications.

13. Rights under this permit are, and shall be, subject to existing rights of Sierra Valley Water Company defined by Decree in Civil No. 5597 in the District Court of the United States for the Northern Division of the Northern District of California, dated October 24, 1958, and may be reduced in amount or season upon showing of interference with said rights after notice and opportunity for hearing by the State Water Rights Board.

14. Permittee shall allow 10 cubic feet per second or the natural inflow, whichever is less, to pass the point of diversion during the period April 1 to June 1 of each year and shall allow 5 cubic feet per second or the natural inflow, whichever is less, to pass the point of diversion at all other times for the protection of fishlife.

15. Permittee shall appropriate water by storage or direct diversion under this permit only at such times as water is either spilling from the diversion ditch of the Sierra Valley Water Company back to the Little Truckee River or is spilling over the Company's diversion dam, or would be spilling except for such appropriation. For the purpose of this clause, excessive and reasonably preventible leakage through the flashboards shall be considered as constituting spill.

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

Dated: MAY 11 1967

/s/ George B. Maul
George B. Maul, Chairman

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

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