

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 21980)
of Edward W. Temp to Appropriate) Decision D 1276
from Dog Creek in Sierra County)

DECISION APPROVING APPLICATION

Edward W. Temp having filed Application 21980 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant 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 21980 is for a permit to appropriate 12,000 gallons per day (gpd) by direct diversion year round and 20 acre-feet per annum (afa) by storage from October 1 of each year to May 31 of the succeeding year for recreational purposes from Dog Creek, tributary of Truckee River, in Sierra County. The point of diversion is to be located within Lot 2 of the NW $\frac{1}{4}$ of Section 7, T19N, R18E, MDB&M.

2. The applicant proposes to construct a reservoir with a surface area of four acres and a capacity of 20 acre-feet across Dog Creek at an elevation of about 5,000 feet. The recreational use would be for fishing, boating, and swimming. Originally the applicant had intended also to use water for domestic purposes on 40 lots to be located near the reservoir. The applicant's answer to the protest shows that he now intends to use the reservoir for recreational purposes only, with the reservoir filling in the winter storage season, and the direct diversion of 12,000 gpd intended only to replace evaporation and seepage losses.

3. Harry Drackert is a lessee of Baxter Realty Corp., and filed a protest on its behalf, relying principally on decreed rights established in United States v. Orr Water Ditch Co., et al, the decree having been filed September 8, 1944, in the U. S. District Court in Reno, Nevada. On page 83, the decree sets forth appropriate rights with priorities of 1862 and 1866 in the name of Walts and others for 2.57 cubic feet per second (cfs) from Dog Creek, diverted in Lot 13, for a total of 293 afa to be used in Nevada on land now owned by protestant, half a mile downstream from the applicant's proposed reservoir, just above the point where Dog Creek flows into the Truckee River. The protestant now operates a dude ranch on this land.

4. Protestant's diversion from Dog Creek is by a dirt ditch. The point of diversion is now located just upstream from the site of the applicant's proposed dam.

5. From 1957 to 1961 the U. S. Geological Survey maintained a gaging station "Dog Creek near Verdi, Nevada," at a point a little over two miles upstream from the applicant's proposed reservoir. For the period of record the average annual flow passing this gage was 2,712 acre-feet, with a minimum of 330 acre-feet in the 1960-61 water year. On July 20, 1966, when the protestant was diverting about 1.5 cfs, no surface flow was visible at the gaging station. It therefore appears that flow at the point of diversion is about three acre-feet a day in addition to that recorded at the gaging station. Also on July 20, 1966, the seepage from the protestant's diversion dam flowing toward the applicant's proposed damsite was 0.109 cfs, which is several times the amount proposed to be appropriated by the applicant in the summer months.

6. The protestant cannot be prejudiced by applicant's use of water not diverted and used by the protestant.

7. There is unappropriated water 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 21980 should be approved 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 21980 and all relevant information on file therewith, particularly the report of the field investigation made August 26, 1966; U.S.G.S. water supply papers of stream-flow for Dog Creek and the Truckee River; U.S.G.S. Loyalton and Reno 15' topographic maps; the file of Application 21824.

ORDER

IT IS HEREBY ORDERED that Application 21980 be, and it is, approved, 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 12,000 gallons per day by direct diversion to be diverted year round and 20 acre-feet per annum by storage to be collected from about October 1 of each year to about May 31 of the succeeding year.

2. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing evaporation and seepage losses and refill if emptied for necessary maintenance or repair.

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

4. Actual construction work shall begin on or before June 1, 1968, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

5. Construction work shall be completed on or before December 1, 1970.

6. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

7. 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.

8. 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.

9. Permittee 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.

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

Dated: July 6, 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