

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 17415)
of Wesley Waddle and Alvin Waddle)
to appropriate from an Unnamed Stream)
Tributary to Martis Creek in Nevada)
County and Application 18409 of Estate)
of Joseph E. Joerger to appropriate)
from Martis Creek Tributary to)
Truckee River in Placer County)

Decision D 1085

ADOPTED JUN 26 '62

DECISION APPROVING APPLICATIONS

Applications 17415 and 18409 having been filed; protests having been received; a public hearing having been held before the State Water Rights Board in Truckee, California, on August 10, 1961, before Kent Silverthorne, Chairman, and William A. Alexander, Member; the applicants and protestants having been duly notified of said hearing; all evidence received at said hearing having been duly considered, the Board finds as follows:

1. Application 17415 of Wesley Waddle and Alvin Waddle is for a permit to appropriate by diversion to storage 350 acre-feet of unappropriated water per annum from an unnamed stream, tributary to Martis Creek in Nevada County, to be collected between October 1 of each year and May 31 of each following year

for stockwatering, fire control, recreational use and irrigation. The point of diversion is located within the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 16, T17N, R17E, MDB&M.

2. Said application requests authority to store water in an enlarged Dry Lake, a lake formerly used for logging. The enlarged lake would be the place of use for stockwatering, fire control, and recreational purposes. Water for irrigation would be released and flow by gravity to an area of 280 acres adjacent to Martis Creek. Any return flow from irrigation of the applicants' lands would naturally drain to Martis Creek (RT p. 20).

3. Application 18409 of the Estate of Joseph E. Joerger is for a permit to appropriate by diversion to offstream storage 125 acre-feet per annum at a rate not to exceed 1.5 cubic feet per second from Martis Creek, and from an unnamed stream tributary thereto in Placer County between December 1 of each year and May 1 of each following year for stockwater and irrigation of 205 acres. The respective points of diversion are within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 35 and the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 25, both in T17N, R16E, MDB&M.

4. Application 18409 requests authority to divert from Martis Creek at a point indicated on the application map as Shaeffer Lake by a ditch running in a general northerly direction just to the west of Martis Creek for a distance of a little more than a mile to a former logging pond called Goose Neck Reservoir. The reservoir dam also is the second point of diversion, impounding the flows of some small adjacent streams. Goose Neck Reservoir has been enlarged

to 125 acre-feet capacity and is used for stockwatering purposes. Water is released in the irrigation season from the reservoir to flow down an unnamed natural stream in an easterly direction to Martis Creek, passing through the area to be irrigated. At the end of each storage season the applicant intends to disconnect the diversion ditch from Martis Creek.

5. Protests to Application 17415 were filed by Truckee-Carson Irrigation District, Washoe County Water Conservation District, and Sierra Pacific Power Company. The latter also protested Application 18409. All of said protests were based on alleged injury to established and decreed rights, which involve storage of water in Lake Tahoe and other lakes and reservoirs and releases therefrom to supplement natural flow and meet certain rates of flow at the Farad powerhouse of Sierra Pacific on the Truckee River. These rates of flow depend in part on elevations of Lake Tahoe, and consideration has been given to records of flow of the Truckee River and of historical elevations of Lake Tahoe. However, no evidence was introduced by or on behalf of said protestants to establish the extent of the individual rights of said respective protestants or to show that the projects proposed by subject applications would interfere unreasonably with said rights. An average of 130,000 acre-feet of water per annum wastes to Pyramid Lake and Carson Sink from the Truckee and Carson Rivers (Staff Exh. 3, p. 38).

6. The only protestant to appear at said hearing was the California Department of Fish and Game which stipulated with applicant

Joerger for a bypass of 2 cubic feet per second (RT p.24). This stipulation is found to be reasonable and in the public interest.

7. 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 17415 and Application 18409 should be approved and that permits should be issued to the respective applicants subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Applications 17415 and 18409 be, and the same are, approved, and that permits be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated under the permit issued pursuant to Application 17415 shall be limited to the amount which can be beneficially used and shall not exceed 350 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. The amount of water to be appropriated under the permit issued pursuant to Application 18409 shall be limited to the amount which can be beneficially used and shall not exceed 125 acre-feet per annum by storage to be collected from about December 1 of each year to about May 1 of the succeeding year to be diverted to offstream storage at a rate not to exceed 1.5 cubic feet per second.

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

4. Complete application of the water to the proposed uses shall be made on or before December 1, 1965.

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. 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.

8. The permit issued pursuant to Application 17415 does not authorize collection of water to storage during the period from about June 1 to about September 30 of each season to offset evaporation and seepage losses or for any other purpose.

9. The permit issued pursuant to Application 18409 does not authorize collection of water to storage during the period from about May 1 to about December 1 of each season to offset evaporation and seepage losses or for any other purpose.

10. 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 in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of said water is not authorized under this permit.

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. The permittee under Application 18409 shall during the period from December 1 to May 1 bypass a minimum of 2 cubic feet per second or the natural flow of the stream whenever it is less than 2 cubic feet per second at the Martis Creek point of diversion to maintain fishlife.

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 _____, 1962.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member