

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD



1262

In the Matter of Application 22173)
of Earl B. and Ethel B. Marr to)
Appropriate from Lake Tahoe in) Decision D 1262
Placer County)

DECISION APPROVING APPLICATION IN PART

Earl B. and Ethel B. Marr, having filed Application 22173 for a permit to appropriate unappropriated water; protests having been received; the applicants 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 22173 is for a permit to appropriate two cubic feet per second (cfs) by direct diversion year-round for domestic use from Lake Tahoe in Placer County. The point of diversion is to be located on the shore of Lake Tahoe about 600 feet north of the Placer-El Dorado County line.

2. Applicants have been doing business since 1932 as Tahoe Cedars Water Company, a public utility. Their certificated service area contains a little less than a square mile, and has a frontage of about three-quarters of a mile on Lake Tahoe. The lake has been their only source of water except for a well used in the colder months to avoid freezing damage. The only water right claimed by the applicants is an unadjudicated prescriptive right based on use of water from Lake Tahoe for domestic purposes since 1930.

3. The key issues to be considered may be summarized by quoting 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, and conditions and limitations to be imposed in the public interest 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). As was the case in Decision D 1056, careful consideration must be given to quantitative diversion limitations expected to be imposed by the California-Nevada Compact, covering allocation of water in the Lake Tahoe Basin. Accordingly, individual applications will be considered on their own merits and then with respect to maximum monthly and annual limitations based on requirements."

Because no long-term water development projects are involved, and because of anticipated Compact diversion limitations, maximum requirements will be based on the year 1975. To ensure progress of this project with due diligence, the permit will require completion of full beneficial use by December 1, 1970.

4. The applicants estimated their average daily consumption requirements for months of maximum use to be:

August 1965	-	150,000 gallons
August 1975	-	500,000 gallons

The present summer population of 1,750 is expected to triple by 1975. We find these estimates to be reasonable. The August 1975 daily requirement of 500,000 gallons corresponds to diversion at a continuous rate of 0.78 cubic foot per second and a maximum month of 47.5 acre-feet. Annual requirements are expected to be about 625 percent of the maximum month or about 297 acre-feet. This is based on the analysis in Decision D 1152 of a comparable subdivision located four miles to the north.

5. 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.

6. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22173 should be approved in part and that a permit should be issued to the applicants 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 22173 and all relevant information on file therewith, particularly the report of the field investigation made July 21, 1966; the files and applications with respect to which the Board issued its Decisions D 1056, D 1152 and D 1207; and U.S.G.S. Water Supply Papers and topographic maps covering the Lake Tahoe area.

ORDER

IT IS HEREBY ORDERED that Application 22173 be, and it is, approved in part, 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 0.78 cubic foot per second by direct diversion year-round. The instantaneous rate of diversion under the permit may exceed said rate, provided that the quantity of water appropriated shall not exceed 47.5 acre-feet in any month (equivalent to a continuous diversion at 0.78 cfs). Total appropriation under this permit shall not exceed 297 acre-feet in any one year.

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, 1969.

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

5. 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.

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.

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

Dated: DEC 22 1969

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

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

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