

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 25132)
of Mammoth County Water District)
to appropriate from Lake Mary in)
Mono County.)

Decision 1461

DECISION AND ORDER VALIDATING ISSUANCE
OF A TEMPORARY PERMIT TO APPROPRIATE WATER

BY BOARD MEMBER DODSON:

Mammoth County Water District having filed Application 25132 for a temporary permit to appropriate unappropriated water pursuant to Chapter 6.5, Part 2, Division 2 of the Water Code; objections having been received; a public hearing having been held before State Water Resources Control Board (Board) Member Dodson on October 6, 1976, pursuant to Board Resolution No. 76-82; applicant and objectors having appeared and presented evidence; Board Member Dodson having concluded from the evidence that the applicant was entitled to a temporary permit to appropriate water subject to review and validation by the Board as provided by Water Code Section 1425; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 25132 is for a temporary permit to appropriate two cubic feet per second (cfs) by direct diversion from September 15, 1976, through March 14, 1977 for domestic

and municipal purposes from Lake Mary in Mono County. The point of diversion is to be located within the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 16, T4S, R27E, MDB&M.

Applicant's Project

2. The applicant is the primary purveyor of domestic water for the community of Mammoth Lakes which is situated on the eastern slope of the Sierra Nevada mountains approximately 44 miles north of Bishop, at an elevation of approximately 9,000 feet. There are approximately 3,500 permanent residents and an average of another 4,000 transients within the District (RT 88, 89).

3. The applicant's principal source of water is Lake Mary, a natural lake on Mammoth Creek. The capacity of the lake has been increased to approximately 120 million gallons by the erection of a structure on the Creek (RT 35). The structure is equipped with a gate and water is released down Mammoth Creek through lower Lake Mamie and to the applicant's diversion works further downstream (RT 17). The project is being operated under an agreement with the U. S. Forest Service which owns the land and is covered by Licenses 1214 (Application 4920) and 5715 (Application 12079) and Permit 11463 (Application 17770). The subject application (Application 25132) was filed to obtain a right to water in Lake Mary which is not presently physically available to the applicant due to the elevation of the outlet gate. The applicant proposes to install a 12-inch siphon which will enable it to place water into the Creek when the level of Lake Mary drops below the outlet structure (RT 12). The siphon will have a valve to control the rate of flow downstream (RT 18).

By the use of the siphon the applicant will be able to draw an additional 100 million gallons of water from Lake Mary (RT 38).

Disposition of Objections

4. Application 25132 was protested by the Department of Fish and Game, University of California, Hot Creek Ranch, Inc., Crystal Crag Water and Development Association and Richard Rabe. Richard Rabe did not appear at the hearing in support of his objection.

5. Objector Crystal Crag Water and Development Association withdrew its objection upon assurance that the project is only temporary, that the granting of a temporary permit will not establish precedent for a permanent permit and that diversion under any permit would be restricted to two cfs (RT 70, 71).

6. Objector University of California withdrew its objection following a stipulation with the applicant that appropriation of water will not extend beyond March 14, 1977, will not exceed two cfs and the source will be restricted to Lake Mary (RT 139).

7. The expert witness for the Department of Fish and Game stated that, overall, the issuance of a temporary permit would not have "an unreasonable effect on fish and wildlife", a prerequisite for a temporary permit under Water Code Section 1425.

8. The water sought to be appropriated does not now contribute to the supply of Hot Creek Ranch, Inc., or any other downstream user. The only possible interference with downstream rights will be during the period when the lake is refilled. However,

while it will take two to three weeks to replenish Lake Mary, it would be refilled during May and June when precipitation is extremely high and there is ample water for all users. For the protection of the objectors and other downstream users, any permit issued pursuant to Application 25132 should contain a term requiring the permittee to install in the diversion pipeline devices, satisfactory to the Board, which are capable of measuring, restricting and controlling the flows diverted.

Existence of Unappropriated Water

9. 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.

10. The intended use is beneficial.

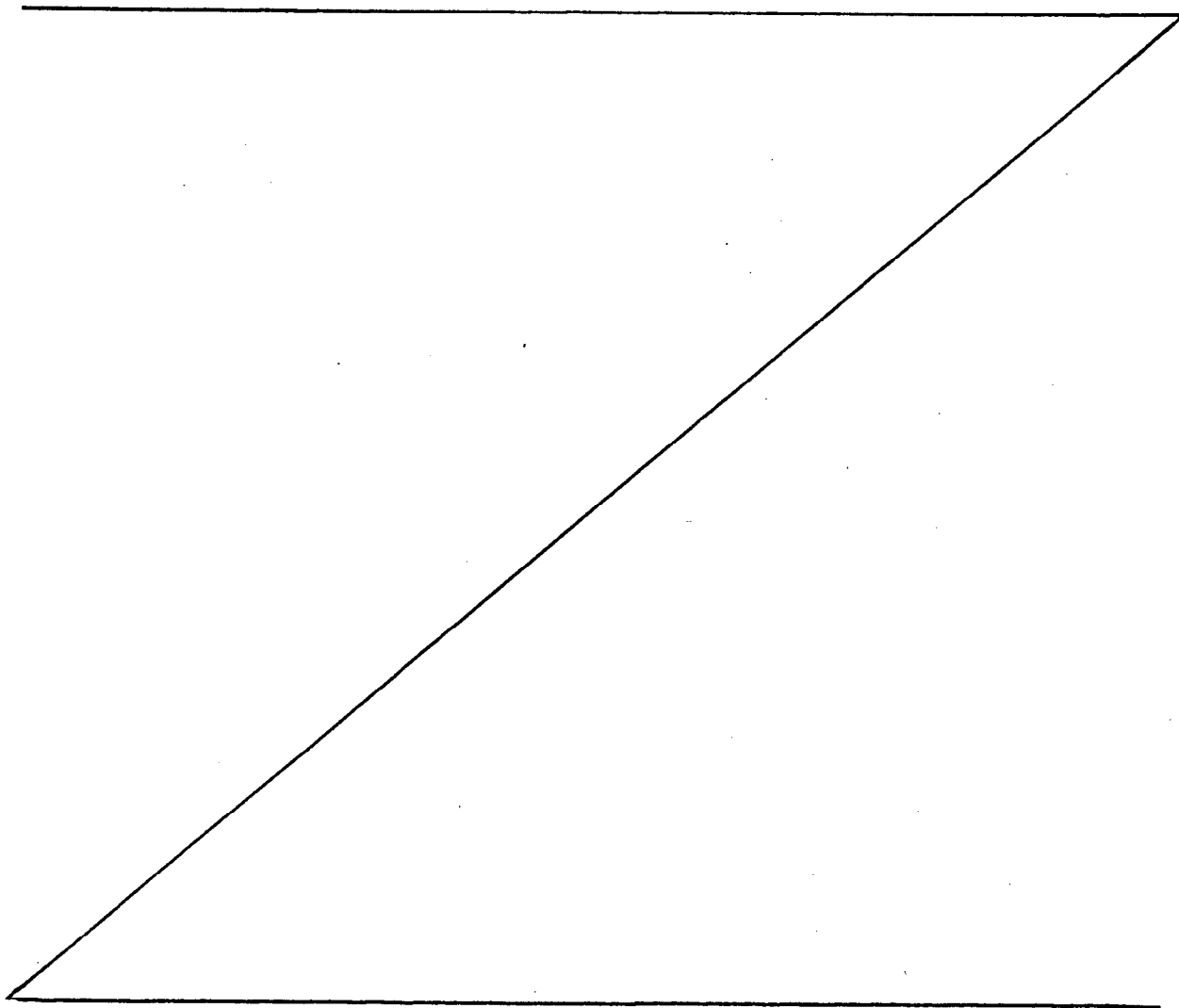
The Applicant Has an Urgent and Temporary Need to Appropriate Water

11. This year the runoff in the Mammoth Lakes area was 41 percent of normal (RT 26). It is estimated that by sometime in January or February the level in Lake Mary will be at a level which will require the use of the siphon to make water available in Mammoth Creek (RT 40). The Board of Directors of the District has adopted emergency restrictions relating to the use of water which curtail consumption by the users and require them to employ water saving devices and practices (RT 97).

12. The only practical alternate source of water available to the applicant is vertical wells which it has tested (RT 64). However, it would take four months to connect up with that source.

Pipelines, pumps and pressure reduction systems would have to be installed. The District does not have the pumps and pipelines on hand for such a project (RT 66).

From the foregoing findings, the Board concludes that Board Member Dodson's action in approving Application 25132 for a temporary permit be validated and that a temporary permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.



ORDER

IT IS HEREBY ORDERED that Application 25132 be approved and that a temporary 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 two cubic feet per second by direct diversion from September 15, 1976, through March 14, 1977. The diversion works installed pursuant to this permit shall be removed as soon as conditions allow after March 14, 1977, but no later than June 15, 1977. The permittee shall notify the Board in writing that the diversion works have been removed within two weeks following their removal.

2. The total quantity of water diverted under this permit, together with that diverted under Permit 11463 issued pursuant to Application 17770, shall not exceed two cubic feet per second.

3. The maximum amount diverted under this temporary permit shall not exceed 700 acre-feet. Permittee shall submit a report by on or before June 1, 1977, showing the quantities of water diverted by months under this permit.

4. 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 Resources Control 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.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

5. The quantity of water diverted under this permit is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water

quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

6. Permittee shall allow representatives of the State Water Resources Control 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.

7. No water shall be diverted under this permit until permittee has installed in the diversion pipeline devices, satisfactory to the State Water Resources Control Board, which are capable of measuring, restricting and controlling the flows diverted.

8. In accordance with the requirements of Fish and Game Code Section 5946, this permit is conditioned upon full compliance with Section 5937 of the Fish and Game Code.

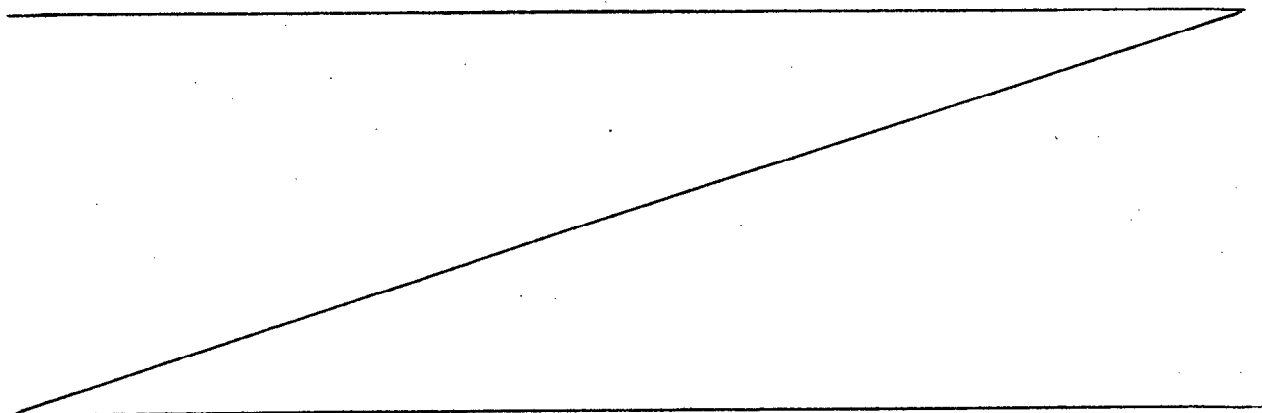
9. No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Lahontan Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements

or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to groundwater without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

1. The Regional Board issues a waiver pursuant to Section 13269, or
2. The Regional Board fails to act within 120 days of the filing of the report.

No report of waste discharge pursuant to Section 13260 of the Water Code shall be required for percolation to the groundwater of water resulting from the irrigation of crops.

10. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.



11. This permit is subject to the agreement dated July 13, 1976, between permittee and the United States Forest Service to the extent such agreement covers matters within the Board's jurisdiction.

12. The applicant has complied with the California Environmental Quality Act of 1970 (CEQA) by finding that the project is exempt under the emergency project exemption of the CEQA Guidelines.

13. Pursuant to Section 2713(c), Title 23, California Administrative Code, the staff shall file a notice of exemption with the Secretary of the Resources Agency.

Dated: October 21, 1976

ROY E. DODSON
Roy E. Dodson, Member

JOHN E. BRYSON
John E. Bryson, Chairman

W. DON MAUGHAN
W. Don Maughan, Vice Chairman

W. W. ADAMS
W. W. Adams, Member

JEAN AUER
Jean Auer, Member