

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 19121  
of Oren F. and Mabel E. Myers,  
Application 19233 of Paul H. and  
Maurine Isham, and Application 19265  
of Glenn R. and Dora J. Compton to  
Appropriate from Treasure Spring  
Tributary to Spring Creek in  
Sierra County

ADOPTED FEB 21 1963

Decision D 1105

DECISION APPROVING APPLICATIONS IN PART

Oren F. and Mabel E. Myers, Paul H. and Maurine Isham, and Glenn R. and Dora J. Compton having filed Applications 19121, 19233, and 19265, respectively, to appropriate unappropriated water, protests having been received, a public hearing having been held before the State Water Rights Board in Truckee, California, on November 16, 1961, William A. Alexander, Member, presiding; the applicants and the protestant Joe Goss, successor to the interests of protestants Homer and Beatrice Sanborn, having appeared and presented evidence; all evidence received at said hearing having been duly considered, the Board finds as follows:

1. Applications 19121 and 19265 are for permits to appropriate 500 gallons per day each and Application 19233 is for a permit to appropriate 552 gallons per day, all by direct

diversion, year-round, for domestic purposes. They have a common point of diversion located at Treasure Spring, which is within the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 30, T20N, R15E, MDB&M.

2. At the time of the hearing the applicants requested that their petitions to change the point of diversion under the applications to a point 300 feet downstream located S 17° 30' E, 1550 feet from the N $\frac{1}{4}$  corner of said Section 30 be considered as petitions for an alternate point of diversion at that location. The addition of this alternate point of diversion will not result in injury to any lawful user of water, and the petitions should be granted.

3. Treasure Spring, which flows year-round, is the source of Treasure Spring Creek which flows approximately 1,000 feet from the spring to join Cold Stream. Cold Stream joins Webber Creek, also referred to as Bonta Creek, approximately one mile below Treasure Spring, from which point it flows through Sierra Valley to enter Middle Fork Feather River.

4. On June 12, 1961, the flow of Treasure Spring Creek at the county road crossing just above its confluence with Cold Creek was 0.4 cfs.

5. Applicants Myers (Application 19121) and Compton (Application 19265) have constructed homes and are presently using the water as contemplated by their applications. Applicants Isham (Application 19233) plan to construct a home and commence use of water approximately one year hence.

6. Pursuant to a statutory adjudication proceeding, a decree determining the rights to the use of water of the Middle Fork Feather River, which included the flows of Treasure Spring Creek, was entered by the Superior Court, Plumas County (No. 3095), on January 19, 1940.

7. The full allotment of 117.65 cubic feet per second provided by said decree for the Webber Creek area is not usually required until the month of June. Through reuse of water from Webber Creek and other sources, the consumptive use of water by users in this area during the month of May is approximately one-half of their decreed allotments, with the result that there is sufficient water in most years to supply the applicants and other users until about the 1st of June.

8. The supply of water in the area adjudicated by said decree is ordinarily inadequate to supply the protestants and other holders of decreed rights during the period from about June 1 to October 1 of each year and consequently there is no unappropriated water during that period.

9. There is unappropriated water available during the period from about October 1 of each year to about June 1 of the following year and, subject to suitable conditions, such water may be diverted and used in the manner proposed during those times without causing substantial injury to any lawful user of water.

10. The intended uses are beneficial.

11. As the applicants' water requirements are for domestic purposes, year-round, a permit covering only 8 months of the year without an alternate or supplemental supply is of little value. However, the Sierraville Public Utility District operates a municipal water system for the town of Sierraville and the Board is advised that service by the District during the period of shortage could be made available to the applicants. There may be other means whereby the applicants' requirements can be met without diminishing the supply on which prior rights are dependent.

12. As the applicants do not own the property on which either the original or alternate points of diversion are located, the permits should contain a term providing that the issuance of the permits should not be construed as conferring access to the points of diversion.

From the foregoing findings, the Board concludes that Applications 19121, 19233, and 19265 should be approved in part, and that permits should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Applications 19121, 19233, and 19265 be, and the same are, approved in part, 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 shall be limited to the amount which can be beneficially used and shall not exceed 500 gallons per day each under permits issued pursuant to Applications 19121 and 19265 and 552 gallons per day under permit issued pursuant to Application 19233, by direct diversion from about October 1 of each year to about June 1 of the following year.

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

3. Actual construction work (Application 19233) shall begin on or before June 1, 1963, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work (Application 19233) shall be completed on or before December 1, 1965.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

6. 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.

7. All rights and privileges under these permits, 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. Permittees 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 these permits.

9. Rights under these permits are and shall be subject to existing rights determined by Middle Fork Feather River Adjudication, Superior Court, Plumas County (No. 3095), and such other rights as may presently exist on the stream insofar as said existing and adjudicated rights are maintained.

10. The issuance of these permits shall not be construed as conferring upon permittees right of access to the points of diversion.

IT IS FURTHER ORDERED that the petitions to add an alternate point of diversion under Applications 19121, 19233, and 19265 to be located at a point S 17° 30' E, 1550 feet from the N $\frac{1}{4}$  corner of Section 30, T20N, R15E, MDB&M, be and the same are hereby granted.

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 \_\_\_\_\_, 1963.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member