

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 19965  
of Tahoe Paradise, Inc., to  
Appropriate from Upper Truckee River,  
Tributary to Lake Tahoe, in  
El Dorado County

Decision D 1200

**ADOPTED DEC 22 1964**

DECISION APPROVING APPLICATION

Application 19965 was consolidated for hearing with Application 19111 of Sierra Nevada Water Company and several other applications to appropriate from Lake Tahoe or its tributaries. Public hearings were held in Sacramento, California, on February 28, 1962, and on February 27, 1963, presided over by Board Member W. A. Alexander. The other applications are covered by Decision D 1152, adopted December 19, 1963. Application 19965 is the subject of this separate decision because of an error found in a stipulation entered into between the applicant and the California Department of Fish and Game. The stipulation has subsequently been amended.

Under Application 19965 Tahoe Paradise, Inc., proposes to build a reservoir for recreational use and fish culture purposes with a water surface of about 12 acres and a capacity of 44 acre-feet. The application requests a permit to appropriate 44 acre-feet per annum by off-stream storage in Paradise Pond from September 30 of each year to April 15 of the following year, and

0.5 cubic foot per second (cfs) by direct diversion from April 15 to September 30 of each year for circulation of water and replacement of reservoir evaporation losses. The reservoir is to be located within the service area of Meyers Water Company, which is a subsidiary wholly owned by the applicant.

The reservoir is to be filled by diversion from Upper Truckee River. Streamflow to be bypassed during the proposed filling and refilling of the reservoir is covered by an amended stipulation entered into by the applicant and Department of Fish and Game, which is found to be in the public interest.

The key issues to be considered in connection with Application 19965 may be summarized by quoting from Decision D 1152, 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."

Lake Tahoe is an area where unappropriated water is rapidly being depleted and, in the near future, it is probable that no unappropriated water will be available even for domestic or municipal use. Under these circumstances, it would not be in the public interest to give unqualified approval to appropriation under this application exclusively for recreational use, particularly in view of the nearness of this project to Lake Tahoe. However, Paradise Pond would have a large recreational use, and issuance of a permit until such time as the water is needed for higher uses would be in the public interest. The permit will provide that use thereunder will be subordinate to future requirements for domestic or municipal purposes, which clause will become operative when California's compact allotment is exhausted.

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.

The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 19965 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.

#### ORDER

IT IS HEREBY ORDERED that Application 19965 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 amount of water appropriated shall be limited to the amount which can be beneficially used and shall not

exceed 0.5 cubic foot per second by direct diversion to be diverted from about April 15 to about September 30 of each year and 44 acre-feet per annum by storage to be collected from about September 30 of each year to about April 15 of the succeeding year.

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

3. Actual construction work shall begin on or before June 1, 1965, and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1968.

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

6. 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.

7. 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.

8. 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.

9a. In the filling and refilling of the proposed recreation pond, permittee shall bypass the following flow or the total flow of Upper Truckee River, whichever is less:

September 30 to March 30: 15 cubic feet per second

April 1 to April 15: 75 cubic feet per second

b. Except at such times as the pond is filling, as provided for hereinabove, the rate of return flow to Upper Truckee River from the proposed recreation pond shall equal the rate of inflow to the pond minus evaporation from the pond.

c. The amount of evaporation shall be calculated in a manner acceptable to the permittee and the Department of Fish and Game and approved by the State Water Rights Board. In the absence of an agreement between the permittee and Department of Fish and Game the amount of evaporation shall be determined by the State Water Rights Board.

d. The diversion intake and outlet works of the proposed recreation pond shall be constructed and/or adequately screened so as to prevent fish in Upper Truckee River from entering said pond.

10. The right to appropriate water under this permit is and shall remain subordinate to rights to the use of water for domestic or municipal purposes without regard to the time such rights are initiated, and when the water is required to satisfy

said rights, this permit and any license that may be issued thereon shall be subject to revocation in whole or in part.

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            , 1964.

/s/ Kent Silverthorne  
Kent Silverthorne, Chairman

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

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

