

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22573 )  
of Truckee Public Utility District )  
to appropriate from Unnamed ) Decision 1301  
Springs in Nevada County )  
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DECISION APPROVING APPLICATION

Truckee Public Utility District having filed Application 22573 for a permit to appropriate unappropriated water; protests having been received; a public hearing having been held before the State Water Rights Board (predecessor of the State Water Resources Control Board) on August 1, 1967; applicant and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Application 22573 is for a permit to appropriate 0.25 cubic foot per second (cfs) by direct diversion, year-round, for municipal use from unnamed springs, sometimes called Hofert Springs, tributary to Trout Creek in Nevada County. This amount is equivalent to approximately

112 gallons per minute (gpm). The point of diversion is to be located within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 8, T17N, R16E, MDB&M.

2. Applicant is a mountain utility district, serving an area of 44 square miles, with four water systems that for historic and geographic reasons are interconnected only to a very limited extent. This application is intended to increase the water supply of the Gateway-Donner Trail System (Gateway System). The protests raise issues as to whether applicant needs water from Hofert Springs, in view of applicant's many other sources of water, and whether the public interest does not require the water to remain in Trout Creek for existing and future beneficial uses, including protection of a valuable native trout fishery, particularly in the dry months of dry years.

3. The District's manager estimated that 2,000 persons were being served in the entire District in 1967, and that by 1975 this number will be doubled. The Gateway System represents nearly 40 percent of the population of the entire District, and is expected to have a proportionate rate of growth. The District's manager also expects the rate of consumption per person to more than double between 1967 and 1975. Even if these estimates are high, district growth will undoubtedly require additional supplies of water

in the future. The District has many possible sources to meet its present and future water requirements.

4. At present, the principal source of water for the Gateway System is the Donner Creek Well, which is located near the crossing of Donner Creek and State Highway 89 (RT 21-22). The District estimates that the well is capable of a continuous production of 115 gpm, which is equivalent to approximately 5 million gallons per month (RT 78). Applicant's Exhibit 5 shows that in July of 1966, which was a very dry year, Donner Creek Well produced a little over 6 million gallons. A very minor present source of water for the Gateway System is McGlashen Spring, which is located in the Gateway area, but is now used as the primary source of water for the McGlashen System, serving the community of Truckee.

5. Anticipated integration of the McGlashen System and the Gateway System will make the combined system capable of transferring large quantities of water from either system to the other (RT 71, 84-85). An earthquake increased the flow of Tonini Spring, within the Tonini System, by 30 percent (RT 124), and the spring was wasting by spill 0.25 cfs (112 gpm) in the relatively wet summer of 1967. The District is now considering the possibility of increasing its capacity to transfer this spill to the

McGlashen System for beneficial use. The District expects within five years to develop its Sawtooth Springs project, located five miles south of Truckee, pursuant to Permit 13815 (Application 20443), which authorizes diversion year-round at a rate of 0.25 cfs for municipal purposes. Of indirect benefit to the Gateway System is the Tahoe-Truckee High School's newly developed spring. This supply is used to irrigate the athletic fields and makes available to the District the 75,000 gallons per day formerly delivered by the District to the school for this purpose (RT 204; applicant's letter dated 8/18/67).

6. Possible additional sources of water include ground water and water from either Donner Creek or the Truckee River. The Donner Creek Well was installed at a cost of less than one-third that estimated for the Hofert Springs project (RT 88, 41). These possibilities are not being pursued at present because of uncertainties or anticipated expense (RT 31).

7. Hofert Springs are located just off Trout Creek, at a point about two-thirds of a mile from the upper of two water tanks which serve the Gateway System. Flow from the larger spring is joined by flow from a smaller spring and courses north 250 feet via an unnamed stream to its confluence with Trout Creek. The District's

manager has made some measurements of the larger spring which he referred to, and we will refer to, in the singular as Hofert Spring. Based on his measurements in the dry year 1966, he believed the reliable yield of the spring to be between 120 and 125 gpm. The applicant seeks appropriation at a constant year-round rate of 112 gpm, with the production of Donner Creek Well to be cut back year-round, except to the extent needed to supplement the Hofert Spring supply (RT 70).

8. The flow of Hofert Spring and several other small springs in the general area contribute about 50 percent of the low-flow water in Trout Creek during dry years. If it were not for the supply from these springs it is believed that, during dry years, Trout Creek would not have sufficient water to flow the full 3.7 miles to the Truckee River. Considerable losses would occur just downstream from Hofert Spring in Bennett Flat along the stream channel due to transpiration and evaporation (RT 181). The flow in Trout Creek below Bennett Flat was estimated to be 0.5 cfs in September, 1966. This was the smallest flow observed in the general area for a number of years (RT 145, 156).

9. Trout Creek contains a natural fishery of rainbow trout and brown trout. The trout population is

estimated to be about 50 pounds per surface acre, which on a unit-acre basis is probably as great or greater than most of the streams on the east slope of the Sierra (RT 173-174). Because of the close proximity of the stream to the community of Truckee, the relatively small size of the creek, and the nonexistence of poison oak and rattlesnakes, parents consider the stream safe to be fished by children unattended (RT 144). The stream is also fished by adults, particularly on weekends. It is a valuable economic asset of the area. Protestant Department of Fish and Game introduced evidence, and the Board finds, that a bypass of 0.5 cfs, to be measured at a point below the confluence of Trout Creek and the unnamed stream into which Hofert Spring flows, would be necessary for the protection of fishlife. Protestant Spillner is the game warden of the Department of Fish and Game for the Truckee area. He owns property on Trout Creek downstream from Bennett Flat, and his testimony supported the bypass requirement proposed by the Department of Fish and Game.

10. Hofert Spring is located on a large acreage owned by the protestant J. Hofert Company. No access or right-of-way arrangements have yet been made by the District with this protestant. The District intends to rely on its power of eminent domain for this purpose if

negotiations are unsuccessful. Water from Trout Creek downstream from Hofert Creek is presently being used by a lessee of the Hofert Company for the watering of 150 head of cattle in the Bennett Flat area. The principal business of the Hofert Company is the raising of Christmas trees.

11. Water is available to the District from other sources, but the native trout fishery requires for its existence the low flows of Trout Creek in low-flow years. The Board finds, pursuant to Water Code Section 1257, that the public interest requires that the permit to be issued on this application be made subject to the low-flow restriction proposed by the Department of Fish and Game. This clause will also help protect the interests and rights of the other protestants.

12. 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.

13. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22573 should be approved and that a 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 22573 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.25 cubic foot per second by direct diversion to be diverted year-round.

2. Permittee shall allow sufficient water to pass the point of diversion to maintain a flow of 0.5 cubic foot per second or the full natural flow, whichever is less, in Trout Creek to maintain fishlife. This flow is to be measured immediately below the confluence of the stream leading from Hofert Spring and Trout Creek.

3. Permittee shall install and maintain a measuring weir in Trout Creek at the designated point. The weir shall be calibrated at the 0.5 cubic-foot-per-second overflow level.

4. The maximum quantity herein stated may be reduced in the license if investigation warrants.

5. Actual construction work shall begin on or before December 1, 1968, and shall thereafter be prosecuted



with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

6. Said construction work shall be completed on or before December 1, 1970.

7. Complete application of the water to the proposed use shall be made on or before December 1, 1971.

8. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

9. 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.

10. 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.

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

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Costa Mesa, California.

Dated: **MAY 16 1968**

/s/ George B. Maul  
George B. Maul, Chairman

/s/ W. A. Alexander  
W. A. Alexander, Vice Chairman

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

/s/ Norman B. Hume  
Norman B. Hume, Member

/s/ E. F. Dibble  
E. F. Dibble, Member