

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF APPLICATION 56756)
FILED TO APPROPRIATE THE WATERS OF LAKE)
TAHOE LOCATED WITHIN LAKE TAHOE BASIN,)
DOUGLAS COUNTY, NEVADA.)

RULING
4093

GENERAL

I.

Application 56756 was filed on September 18, 1991, by John E. Michelsen, Trustee, to appropriate 0.5 c.f.s. and 4.0 acre-feet per year from Lake Tahoe for irrigation, domestic and fire suppression purposes on a parcel of land located within a portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ (Lot 1) Section 9, T.13N., R.18E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T.13N., R.18E., M.D.B.&M.¹

Certificate No. 2935 was issued under Permit 8488 on March 11, 1946, with a priority date of March 22, 1928, to Gertrude S. Church and later assigned to Zephyr Cove Water Company to divert 0.5 c.f.s. from South Zephyr Cove Creek for irrigation and domestic purposes within the Zephyr Cove Subdivision located within Lots 1 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) and 2 (SE $\frac{1}{4}$ SE $\frac{1}{4}$), Section 9 and the SW $\frac{1}{4}$ Section 10, T.13N., R.18E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T.13N., R.18E., M.D.B.&M.¹

Certificate No. 5293 was issued under Permit 11855 on April 23, 1962, with a priority date of May 23, 1947, to Zephyr Cove Water Company to divert 0.25 c.f.s., but not to exceed 150,000 gallons per day between June first and September fifteenth and 50 gallons per day per capita during the non-summer season from Lake Tahoe for municipal and domestic purposes within the Zephyr Cove Subdivision located within Lots 1 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) and 2 (SE $\frac{1}{4}$ SE $\frac{1}{4}$), Section 9 and Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$), the E $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T.13N., R.18E., M.D.B.&M. The point of diversion is described as

¹ Public record in the Office of the State Engineer.

being located within Lot 2 (SE¼ SE¼) Section 9, T.13N., R.18E., M.D.B.&M.¹

II.

A field investigation was conducted by personnel from the Division of Water Resources on October 28, 1993 of the point of diversion and place of use proposed under Application 56756.²

FINDINGS OF FACT

I.

The State Engineer finds that water service from the Zephyr Cove Water Company is currently serving the property described under Application 56756.

The property is located at 680 Lakeview Blvd., Zephyr Cove, Nevada, and borders the shoreline of Lake Tahoe. Development on said parcel consists of a large single family dwelling and seven guest rooms/apartments associated with the garage on the estate. Also, included was lawn and garden area around the house and apartments.²

II.

The State Engineer finds that a diversion from Lake Tahoe consisting of a 2 inch pipeline located on the east side of the pier is currently in place. The pump is powered by a gasoline powered Briggs & Stratton engine. The water system from Lake Tahoe appears to be mainly for fire protection and irrigation of the lawn and garden areas.²

III.

The State Engineer finds that Application 56756 proposes as its place of use land included within the area served by Zephyr Cove Water Company as described under the place of use of Permit 8488, Certificate 2935 and Permit 11855, Certificate 5293.¹

IV.

The State Engineer finds that in the Lake Tahoe Basin, permits and certificates have been issued for more than 13,000 acre-feet

² Public record in the Office of the State Engineer, under Field Investigation Report Book XI, No. 936, dated January 12, 1994.

which exceeds that State of Nevada's allocation under the California-Nevada Interstate Compact of 11,000 acre-feet annually.³

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 and NRS 533.435.⁴

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:⁵

- A. There is no unappropriated water at the proposed source, or
- B. The proposed use or change conflicts with existing rights, or
- C. The proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes that it would not be in the public interest to approve an appropriation for a use that is being served under existing appropriations held by a publicly owned water purveyor.

IV.

The State Engineer concludes that water commitments from the Lake Tahoe Basin are in excess of the amount of water allowed to the State of Nevada under the California-Nevada Interstate Compact.

³ NRS Chapter 538.600, Article V.

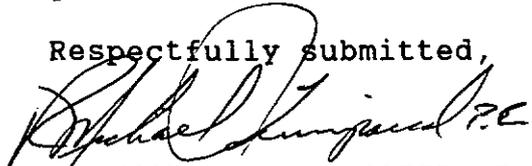
⁴ NRS Chapters 533 and 534.

⁵ NRS Chapter 533.370.

RULING

Application 56756 is hereby denied on the grounds that it would not be in the public interest to issue an additional or supplemental appropriation from Lake Tahoe to property which is currently being served by Zephyr Cove Water Co., under existing certificated water rights. Further, the applicant is ordered to remove the diversion within 30 days of the date of this ruling.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SW/ROM/pm

Dated this 16th day of

February, 1994.