

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

ORDER

IN THE MATTER OF PERMIT 23017 BY)  
KINGSBURY WATER CORPORATION TO )  
APPROPRIATE WATERS OF LAKE TAHOE)

GENERAL

Permit 23017 was issued on November 17, 1966, to the Kingsbury Water Corporation to appropriate 15 cubic feet per second, but not to exceed 613.2 million gallons annually for quasi-municipal purposes. The source of water is Lake Tahoe. This permit was issued to change the point of diversion and place of use of water previously appropriated under Application 21319. A portion of the place of use under Permit 23017 is located outside of the area naturally tributary to Lake Tahoe and the Lake Tahoe Basin. Conditions of the original Permit 21319 included, "this permit is issued subject to all existing rights on the source," and "this permit is subject to the final allocation of the State of Nevada under the Calif.-Nev. Interstate Compact Commission." Permit 23017 was issued subject to the terms and conditions imposed in Permit 21319.

Article II of the California-Nevada Interstate Compact defines the Lake Tahoe Basin as the drainage area naturally tributary to Lake Tahoe including said lake or to the Truckee River upstream from the Truckee River intersection with the western boundary of Section 12, T. 15 N., R. 16 E., M.D.B.&M.

Article V, Section D of said Compact states that upon construction of an overflow weir the total annual gross diversions for use within the Lake Tahoe Basin from all natural sources including ground water and under all water rights in said basin shall not exceed 34,000 acre-feet annually, of which 23,000 acre-feet annually is allocated to the State of California for use within said basin, and 11,000 acre-feet annually is allocated to the State of Nevada for use within said basin.

The Lake Tahoe water appropriated under Permit 23017 is a part of the 11,000 acre-feet annually allocated to the State of Nevada under said Compact which further expressly states that this allocation shall be used within the Lake Tahoe Basin, that is, the drainage area naturally tributary to Lake Tahoe.

The California-Nevada Interstate Compact was ratified by the Nevada State Legislature three separate times on three separate dates; February 28, 1969, April 28, 1969, March 5, 1971. The above provisions regarding the Lake Tahoe allocation were included in the Compact document on all of those ratifications.

There has been question raised as to the effectiveness of the Compact in its present status. Regardless of the legal status, the legislative intent and legislative direction is unquestionably clear. The State Engineer is responsible for

and required to administer the laws of the State within his jurisdiction and to follow the direction as provided by the Nevada State Legislature. There has in effect been a legislative determination or allocation regarding uses of waters of the Lake Tahoe Basin.

Mr. Donald Hall, President of the Kingsbury Water Corporation, was forwarded a copy of a letter, dated June 15, 1970, outlining the provisions of the California-Nevada Interstate Compact. This letter included a position that permits would not be granted to applications to appropriate water from natural sources within the Lake Tahoe Basin for use in areas situated outside said basin. The State Engineer, in a personal conversation with Mr. Donald Hall, President of the Kingsbury Water Corporation, on June 23, 1970, advised him that diversions of Lake Tahoe water for use outside the basin were precluded.

Nevada Revised Statutes 532.180 authorizes the State Engineer to cooperate with the United States Government and the State of California in making a study of the various problems pertaining to the future needs and uses of the waters of Lake Tahoe and the area adjacent thereto. Such a study has been made preparatory to and during the drafting of the California-Nevada Interstate Compact. The results of the study have been incorporated into said Compact. One result is the allocation to Nevada of 11,000 acre-feet annually of Lake Tahoe water to be used within the Lake Tahoe Basin.

Analyses, investigations, and negotiations indicate that under existing conditions and in the absence of a Compact approximately 19,000 acre-feet of water per year can be diverted for use within the Lake Tahoe Basin without adversely affecting downstream water rights. Current information indicates that the combined diversions of water from natural sources within the Lake Tahoe Basin by Nevada and California are approaching 19,000 acre-feet per year. Any additional diversion of water for use outside of the basin would therefore adversely affect prior downstream water rights.

It is the position of the State Engineer that by virtue of the conditions of Permit 23017 and that upon ratification by the Nevada legislature of the Compact, additional diversions for use outside the basin were prohibited. It is further the position of the State Engineer that his authority to review subdivisions and condominiums, in accordance with Chapters 216, 217, and 278 of Nevada Revised Statutes, was intended to assure that an adequate water supply would be available. In the absence of such assurances, the interest of developers, purchasers, and the general public is jeopardized.

It is determined that additional diversions of water under Permit 23017 for use outside the Lake Tahoe Basin cannot be allowed because (1) there is no source of supply for such diversion, (2) such diversion and use would adversely affect prior and existing water rights, and (3) such diversion and use is not in the public interest.

ORDER

It is hereby ordered that diversion and use of water under Permit 23017 for use outside of the Lake Tahoe Basin shall be restricted to those units for which building permits have been issued as of June 14, 1974.

It is further ordered that other provisions of Permit 23017 shall remain in force and effect including the provision that the permit is subject to the final allocation of the State of Nevada under the California-Nevada Interstate Compact.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

Dated this 14<sup>th</sup> day of  
June, 1974.