

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 21426  
of Edward G. and Marian Layne to  
Appropriate from an Unnamed Spring  
Tributary to Morro Creek in  
San Luis Obispo County

Decision D 1193

ADOPTED AUG 18 1964

DECISION APPROVING APPLICATION

Edward G. and Marian Layne having filed Application 21426 for a permit to appropriate unappropriated water; protest having been received; the applicants and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 21426 is for a permit to appropriate 310 gallons per day by direct diversion year-round for domestic purposes from an unnamed spring in San Luis Obispo County. The point of diversion is to be located within the  $SE\frac{1}{4}$  of  $SW\frac{1}{4}$  of Section 30, T28S, R12E, MDB&M.

2. The applicants have developed the unnamed spring by constructing a wooden collection box at the spring and installing a pipeline which conveys the water through two regulatory storage tanks to a home. The applicants have had this system in operation since the year 1955, and it is their only source of water. They have been unsuccessful in obtaining water by drilling wells.

3. The flow of the spring varies from approximately 4 gallons per hour during the summer months to approximately 20 gallons per hour during the winter months. On March 31, 1964, its flow was approximately 8 gallons per hour.

4. There is unappropriated water available to supply the applicants, 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.

5. The intended use is beneficial.

6. Protestant W. O. Fraser recently purchased 62.2 acres of land adjacent to the applicants' property from the applicants' grantor, T. W. Hendrix, and he is in the process of constructing roads and subdividing the property into 3 to 5-acre homesites. A recent survey shows the unnamed spring to be located on his property. The protestant objects to the use of his land and the spring by the applicants and is contemplating using water from the spring at a home to be constructed. The applicants state that their property was purchased from T. W. Hendrix upon a representation by him that the spring was located on their property,

and that their system was constructed with his approval and cooperation. This dispute is a matter over which the Board has no jurisdiction, and the permit should contain a term stating that the issuance of permit shall in no way be construed as conferring upon permittee right of access to the point of diversion.

From the foregoing findings, the Board concludes that Application 21426 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 21426 and all relevant information on file therewith, particularly the report of the field investigation made March 31, 1964.

#### ORDER

IT IS HEREBY ORDERED that Application 21426 be, and it is, approved, and that a permit be issued to the applicants 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 310 gallons per day by direct diversion year-round.

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

3. Complete application of the water to the proposed use shall be made on or before December 1, 1965.

4. 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.

5. 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.

6. 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.

7. The issuance of this permit shall in no way be construed as conferring upon permittee right of access to the point of diversion.

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