

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23731 )  
of Pharis B. and Margery De La Mare )  
to Appropriate from an Unnamed Spring )  
in Mariposa County. )

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Decision 1412

DECISION APPROVING APPLICATION

Pharis B. and Margery De La Mare having filed Application 23731 for a permit to appropriate unappropriated water; a protest having been received; the applicants and protestants 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 Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 23731 is for a permit to appropriate 1,484 gallons per day by direct diversion from January 1 to December 31 of each year and 29,700 gallons per annum by storage to be collected from January 1 to December 31 of each year for domestic and stockwatering purposes from an unnamed spring in Mariposa County. The point of diversion is to be located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 28, T4S, R18E, MDB&M.

Applicants' Project

2. Applicants convey water through a pipeline from a spring located approximately 250 feet beyond their property line

to two tanks located on their property. Water is withdrawn from the tanks for domestic purposes at applicants' residence and for watering a few head of livestock. Applicants claim that they have diverted from the spring since 1948.

3. Alfred J. and Patricia M. Maxian protested the application on the ground that they own the land upon which the spring is located and that diversion by the applicants will interfere with diversion and use of water the protestants intend to make in the future. Protestants have not and do not now divert from the spring. They are in a physical position to divert any water to which they are entitled; therefore, approval of the application will not injure them. Any permit issued to applicants will not confer on them a right of access to the spring and the permit will include a provision to that effect.

4. Unappropriated water is 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.

From the foregoing findings, the Board concludes that Application 23731 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Application 23731 and all relevant information on file therewith, particularly the report of field investigation made February 23, 1972.

ORDER

IT IS HEREBY ORDERED that Application 23731 be approved and that a permit be issued to the applicants 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 1,484 gallons per day by direct diversion from January 1 to December 31 of each year and 29,700 gallons per annum by storage to be collected from January 1 to December 31 of each year. The total amount of water to be taken from the source shall not exceed one acre-foot per water year of October 1 to September 30.
  2. The amount authorized for appropriation 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, 1973.
  4. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control 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 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.
- Permittee shall take all reasonable steps necessary to minimize waste of water, and may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate tailwater or to reduce return flow;

(3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. At any time after notice to affected parties and opportunity for hearing, the Board may impose specific requirements over and above those contained in this permit, with a view to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

6. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

7. 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.

8. 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 Sacramento, California.

Dated: January 4, 1973

### ABSENT

W. W. Adams, Chairman

RONALD B. ROBIE

Ronald B. Robie, Vice Chairman

E. F. DIBBLE

E. F. Dibble, Member

ROY E. DODSON

Roy E. Dodson, Member

MRS. CARL H. (JEAN) AUER

Mrs. Carl H. (Jean) Auer, Member