

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 19310)
of Death Valley Onyx and Marble)
Corporation to appropriate from)
Two Unnamed Springs Tributary to)
Shepherd Canyon in Inyo County)

Decision D 1055

ADOPTED DEC 21 '61

DECISION APPROVING APPLICATION

Death Valley Onyx and Marble Corporation having been assigned Application 19310 for a permit to appropriate unappropriated water; protests having been received; the applicant 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 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 19310, as amended, is for a permit to appropriate a total of 15 gallons per minute by direct diversion year-round for industrial and domestic purposes from two unnamed springs tributary to Shepherd Canyon in Inyo County. The points of diversion are to be located in the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 14, T22S, R42E, MDB&M.

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2. The two unnamed springs lie approximately 500 feet apart on the south slope of Shepherd Canyon. They are connected by a pipe which leads approximately 3.5 miles to the applicant's place of use, a plant for the cutting and polishing of onyx and marble located in Section 6, T22S, R43E, MDB&M. The plant uses approximately 5,000 gallons per day, using temporary storage by steel tanks.

3. On May 4, 1961, the flow of one of the unnamed springs was one gallon per minute. There has been no flow from the other spring since an earthquake in March, 1960. It is now in the process of redevelopment. When this spring was first developed, its flow was approximately 3.0 gallons per minute.

4. Of the original protestants, Leota West and Thomas and Dorothy Burke remain, claiming rights to the waters of Shepherd Canyon for domestic and mining uses or mining claims located in the immediate area of the springs. The contribution to the flow of Shepherd Canyon by the two unnamed springs is negligible.

5. There is unappropriated water available to supply the applicant, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without prejudice to the rights of any lawful user of water.

6. The intended use is beneficial.

7. As the record is not clear as to the ownership of the property upon which the springs are located and as two of the protestants, their protest since withdrawn, objected to the

applicant's conduit crossing their property, the permit shall contain a special term stating that the issuance of the permit shall in no way be construed as conferring upon the permittee right of access to the point of diversion.

From the foregoing findings, the Board concludes that Application 19310 should be approved and that a permit should be issued to the applicant 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 19310 and all relevant information on file therewith, particularly the report of the field investigation made May 4 and 5, 1961, and U. S. Geological Survey "Maturango Peak" quadrangle, 15-minute series, dated 1951.

IT IS HEREBY ORDERED that Application 19310 be, and the same is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The amount of water to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed a total of 15 gallons per minute direct diversion to be diverted 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. The issuance of this permit shall in no way be construed as conferring upon permittee right of access to the point of diversion.

7. 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.

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 1961.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member