

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 22475  
of John W. and Frances J. Margis  
to Appropriate from Unnamed Spring  
in Riverside County

Decision D 1272

DECISION APPROVING APPLICATION

Application 22475 of John W. and Frances J. Margis having been filed; protests having been received; a public hearing having been held before the State Water Rights Board on February 8, 1967, conducted by Board Chairman Kent Silverthorne and Board Member W. A. Alexander; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 22475 is for a permit to appropriate 7,200 gallons per day by direct diversion year round for domestic, irrigation and stockwatering purposes from an unnamed spring in Riverside County. The point of diversion is to be located within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 25, T5S, R6W, SBB&M.

2. The spring is within the Cow Canyon creek bed in Cleveland National Forest. It is located approximately one-half mile below the head of Cow Canyon at an elevation of

about 3,000 feet. From the spring, Cow Canyon courses in a general northeasterly direction about two miles to the confluence with Horsethief Canyon, which then continues in a general northerly direction about one and a half miles to Temescal Wash. Temescal Wash extends from that point about 17 miles to the Santa Ana River.

3. Applicants propose to convey water from the spring by gravity through a pipe for a distance of about one mile to their residence. They own 80 acres in Cow Canyon on both sides of the creek channel. Because the quantity applied for will only be sufficient to irrigate about one acre, applicants have agreed to amend their application by reducing the area proposed for irrigation from 26 acres to one acre.

4. The minimum flow of the spring is about five gallons per minute. Cow Canyon usually has no surface flow beyond applicants' property after June 1, and during the dry season water from the spring disappears within a few feet. In two of the past four years the canyon has had no flow at all through applicants' property. On February 3, 1967, the flow amounted to 50 gallons per minute at a point about three-quarters of a mile above where Cow Canyon joins Horsethief Canyon, yet both canyons were dry at the junction. A heavy growth of brush and trees exists in Cow Canyon below the spring, and flow from the spring during most of the year is either consumed by this vegetation or is lost by evaporation. The

spring does not have hydraulic continuity with Temescal Wash except possibly during, and immediately after, periods of heavy rainfall.

5. All of the flow in Temescal Wash is intercepted by Lee Lake. This lake is formed by an artificial dam across Temescal Wash a short distance below Horsethief Canyon. It is owned by Temescal Water Company, which supplies water in the lake to its customers. The Company did not protest this application.

6. Protests against Application 22475 were filed by the Department of Fish and Game, Orange County Water District, Santa Ana Valley Irrigation Company, and Santa Ana River Development Company. Applicants and the Department of Fish and Game have entered into an agreement which calls for applicants to construct a watering trough for wildlife near the spring and which provides that the protest of the Department may be dismissed if the agreement is included in any permit issued to the applicants. The other protestants are dependent upon the Santa Ana River below Temescal Wash, but because of lack of hydraulic continuity between the spring and the river they will not be affected by applicants' appropriation. Their representative expressed doubt that excess water from Lee Lake reaches these protestants, but believes that Temescal Water Company would make up from other sources tributary to the Santa Ana River any decrease in supply to the lake caused by the proposed appropriation (RT 24-26). No evidence to substantiate this theory was offered.

7. 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.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22475 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.

#### ORDER

IT IS HEREBY ORDERED that Application 22475 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 water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 7,200 gallons per day by direct diversion to be diverted from January 1 to December 31 of each year. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Actual construction work shall begin on or before December 1, 1967 and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and

prosecuted, this permit may be revoked.

4. Construction work shall be completed on or before December 1, 1969.

5. Complete application of the water to the proposed use shall be made on or before December 1, 1970.

6. 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.

7. 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.

8. 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.

9. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the right acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights.

10. This permit is subject to the stipulation between John W. Margis, Frances Jean Margis, and the Department of Fish and Game, State of California, dated February 8, 1967, filed with the State Water Rights Board in the matter of Application 22475.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California.

Dated:

MAY 11 1967

/s/ George B. Maul  
George B. Maul, Chairman

/s/ Ralph J. McGill  
Ralph J. McGill, Member

/s/ W. A. Alexander  
W. A. Alexander, Member