

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

In the Matter of Application 18919 )  
of Wilson S. and Zelda Z. Garey )  
to appropriate from Carter Creek )  
in Mariposa County )

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Decision D 1047

ADOPTED NOV 13 '61

DECISION APPROVING APPLICATION IN PART

Wilson S. and Zelda Z. Garey having filed Application 18919 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held in Mariposa, California, on June 6, 1961, by the State Water Rights Board, Ralph J. McGill, Member, presiding; the applicants and protestants having appeared; evidence having been received; and the Board, having considered the same and now being fully advised in the premises, finds as follows:

1. Application 18919 is for a permit to appropriate 0.031 cubic foot per second (cfs) by direct diversion, year-round, and 20 acre-feet per annum by storage from December 1 of each year to June 1 of the succeeding year for domestic, irrigation, stock-watering and fire protection purposes from Carter Creek in Mariposa County. The point of direct diversion and diversion to storage is to be located within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 8, T6S, R21E, MDB&M.
2. Carter Creek joins Peterson Creek at a point approximately 4.5 miles below the applicants' proposed point of diversion.

From this junction it flows approximately 0.5 mile to its confluence with Miami Creek. The point of diversion of the protestants Leland J. and Dorothy M. Davis is located on Miami Creek, also known at this point as North Fork Fresno River, approximately 0.5 mile above its junction with Fresno River.

3. The protestants divert from Miami Creek for the irrigation of approximately 195 acres of pasture and for stockwatering and domestic purposes under a claimed appropriative right to 3 cubic feet per second during the season from about April 1 to about October 30, dating prior to the year 1914.

4. Measurements of the flow of Miami Creek taken during the year 1961 at a point about 1/4 mile above protestants' point of diversion show that water occurred in excess of the amount necessary to satisfy the protestants' asserted rights from January 1 until April 30 and during a portion of the month of May. The year 1961 was one of below-normal precipitation. The supply of water in Miami Creek is normally more than that necessary to satisfy the protestants' needs until about June 1.

5. The flow of Carter Creek normally ceases at a point between the applicants' point of diversion and Miami Creek about July 1 of each year, resuming its flow during the winter months. Diversions by the applicants during the remainder of the summer months would not interfere with the protestants' uses during that period.

6. There is sufficient flow in Carter and Miami Creeks during the winter and spring months to satisfy the storage feature of the application without interference with protestants' uses.

7. There is unappropriated water available to supply the applicants as to the storage portion of Application 18919, and there is unappropriated water available to supply the applicants as to the direct diversion portion of the application during the periods from January 1 through May 31 of each year and from July 1 through December 31 of each year. There is no unappropriated water to supply the applicant during the month of June.

8. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 18919 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

IT IS HEREBY ORDERED that Application 18919 be, and the same 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 to be appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.031 cubic foot per second by direct diversion to be diverted between about January 1 and about May 31 and between about July 1 and about December 31 of each year and 20 acre-feet per annum by storage to be collected from about December 1 of each year to about May 31 of the succeeding year. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

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

3. Construction work shall be completed on or before December 1, 1964.

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

5. 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.

6. 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.

7. Permittees shall install and maintain an outlet pipe of adequate capacity in their dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Rights Board, in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this permit.

8. Permittees shall install and maintain suitable measuring devices (a) upstream from the high water elevation of

their reservoir and (b) immediately below their storage dam in order that accurate measurement can be made of the quantity of water flowing into and out of said reservoir.

9. This permit does not authorize collection of water to storage during the period from about June 1 to about November 30 to offset evaporation and seepage losses or for any other purpose.

10. Permittees 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.

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Kent Silverthorne, Chairman

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Ralph J. McGill, Member

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W. A. Alexander, Member