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STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

LICENSE No. 254 PERMIT No. 405 APPLICATION No. 889

This is to certify, *That* **Alexander Swanson**

Notice of Assignment (Over)

of **1372 Masonic Avenue, San Francisco** *has made proof to the satisfaction of the Division of Water Rights of California of a right to the use of the waters of* **Noyo Vista Creek or Gulch**

Mendocino County *tributary of* **Noyo River**

for the purpose of **irrigation and domestic uses**

under Permit No. **405** *of the Division of Water Rights and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Rights and the terms of the said permit; that the priority of the right herein confirmed dates from* **January 14, 1918** *that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed* **one-tenth (0.10) cubic foot per second to be diverted from about March 1st to about December 1st of each season; water may be diverted throughout the remainder of the year as required for domestic purposes.** *The point of diversion of such water is located* **south one thousand seven hundred twenty-five feet and west one thousand eighty seven feet from the northeast corner of Section 18 T. 18 N. R. 15 W. M. D. M., being within the SE ¼ of the NE ¼ of said Section 18.**

A description of the lands or the place where such water is put to beneficial use is as follows:

A house and 7 acres within the NE ¼ of NE ¼ Section 18 T. 18 N. R. 15 W., M.D.M.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in section 20 of Chapter 586, Statutes 1913, which is as follows:

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided,* that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided,* that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accept such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivison of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however,* that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further,* that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further,* that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further,* that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness the signature of the Chief of the Division of Water Rights, Department of Public Works of the State of California, and the seal of said department this **18th** *day of* **April**, 19**23**.

(SEAL)

H. A. KLUEGEL
Chief of Division of Water Rights, Department of Public Works of the State of California

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FFB. JH

10/24/44 RECEIVED NOTICE OF ASSIGNMENT TO Ebon A. Lurline E. & Alice V. Swanson

2/4/48 RECEIVED NOTICE OF ASSIGNMENT TO A. V. Westerberg

12/14/50 RECEIVED NOTICE OF ASSIGNMENT TO Partial ~~Florence C. Westerberg~~

1-14-63 RECEIVED NOTICE OF ASSIGNMENT TO Robert ~~Bu and~~ Dorothy L. Ingraham

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L254

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 889 Permit 405 License 254

ORDER ISSUING AN AMENDED LICENSE THAT REDUCES THE AMOUNT AUTHORIZED BY THE LICENSE, DELETES A CHARACTER OF USE, CHANGES THE DESCRIPTION OF THE POINT OF DIVERSION AND ADDS UPDATED STANDARD LICENSE TERMS

WHEREAS:

1. License 254 was issued pursuant to Application 889 to Alexander Swanson on April 17, 1923, and recorded with the County Recorder of Mendocino County on November 27, 1925.

2. The Division of Water Rights (Division) record of ownership for License 254 was subsequently changed to Robert B. Ingraham and Dorothy L. Ingraham on January 14, 1963.

3. During a telephone conversation on August 21, 2000, with Mr. Robert Ingraham, Division staff was informed that irrigation use under License 254 discontinued in 1962. Mr. Ingraham stated that the orchard once irrigated under the license no longer exists.

4. The State Water Resources Control Board (SWRCB) has determined that the license should be amended by correcting the description of the point of diversion and by deleting irrigation as a purpose of use. The amended license will include the SWRCB's standard continuing authority, water quality objective and endangered species terms.

NOW, THEREFORE, IT IS ORDERED THAT:

The attached amended License 254 is issued, superceding former License 254 issued on April 17, 1923.

Harry M. Schueller
Division Chief

Dated: FEB 0 1 2001

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 889

PERMIT 405

LICENSE 254

THIS IS TO CERTIFY, That

Robert B. Ingraham and Dorothy L. Ingraham
P.O. Box 436
Earp, CA 92242

have the right to use waters of **Noyo Vista Creek in Mendocino County**

tributary to **Noyo River thence Pacific Ocean**

for purpose of **Domestic use**

Amended License **254** supersedes the license originally issued on **April 17, 1923**, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of Permit **405**. The priority of this right dates from **January 14, 1918.** Proof of maximum beneficial use of water pursuant to Application **889** was made as of **January 2, 1923** (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **one hundred sixty-five (165) gallons per day to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this license shall not exceed 0.1 acre-foot per year.**

The equivalent of such continuous flow allowance for any 7-day period may be diverted in a shorter time provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 1,400 feet and West 1,350 feet from the NE corner of projected Section 18, T18N, R15W, MDB&M, being within SE¼ of NE¼ of said Section 18.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

A residence within the NE¼ of NE¼ of projected Section 18, T18N, R15W, MDB&M, as shown on map on file with the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: FEB 0 1 2001

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights