REVOKED 313

REVOKED

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

LICENSE No. 317 PERMIT No. 1067 APPLICATION No. 2567

This is to certify, *That* E. J. Curran

of Sawyers Bar, Siskiyou County, California, *has made proof to the satisfaction of the Division of Water Rights of California of a right to the use of the waters of* Salmon River

in Siskiyou County *tributary of* Klamath River

for the purpose of mining use

under Permit No. 1067 *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* September 24th, 1921; *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* three (3) cubic feet per second from January 1st to December 31st of each season.

The point of diversion of such water is located South sixty two (62) degrees West eight hundred eighty (880) feet from the east one-quarter corner of Section 29, T 40 N, R 11 W, M.D.B.&.M., being within the NE¼ SE¼ of said Section 29.

A description of the lands or the place where such water is put to beneficial use is as follows: within the NE¼ SE¼, NW¼ SE¼, NE¼ SW¼ and NW¼ SW¼ of said Section 29.

The water is returned to Salmon River within the NW¼ SW¼ of said Section 29.

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 20th *day of* December *, 19* 23.

(SEAL) [illegible]:B

REVOKED

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

16835 2-22 250

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

ASSIGNMENT MADE

LICENSE No. 318 PERMIT No. 573 APPLICATION No. 1164

This is to certify, *That* ~~James McBrien,~~ W. B. Graves Alturas, Modoc County, California, 2/13/34 *of* *has made proof to the satisfaction of the Division* (Over)

of Water Rights of California of a right to the use of the waters of Rye Grass Swale drainage area in Modoc County *tributary of* Pit River

for the purpose of agricultural use

under Permit No. 573 *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* February 3rd, 1919; *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* four hundred (400) acre feet per annum to be collected for storage during the months of February, March and April of each year. provided, however, that in accordance with the provisions of Section 42 of the Water Commission Act, nothing herein shall be construed as confirming the use of more than two and one half (2½) acre feet of water per acre in any one year in the irrigation of uncultivated areas of land not devoted to cultivated crops.

(85° degr feet ates ive 925) n the

(1) SE¼ NW¼ and (2) NE¼ SW¼ said Section 25. The point of rediversion of stored waters is located North fifty one degrees fifteen minutes (51° 15') East six hundred ten (610) feet from the Southwest corner Section 24, T 41 N, R 11 E, MDB&M, being within the SW¼ SW¼ said section 24.

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

Lands of Hillard Estes -					Lands of James McBrien -				
35 acres within	SE¼	SE¼	Section	10	33 acres within	NW¼	NE¼		
25 " "	SW¼	SW¼	"	11	32 " "	SE¼	NE¼		
25 " "	NW¼	NW¼	"	14	40 " "	SW¼	NE¼		
5 " "	NE¼	NE¼	"	15,	35 " "	NE¼	SE¼		
90 acres, total, all in T 41 N, R 11 E, MDB&M					40 " "	NW¼	SE¼		
					35 " "	SW¼	SE¼	Section	23, and
					30 " "	NW¼	NE¼	"	26,
					245 acres, total, all in T 41 N, R 11 E, MDB&M				

* * * * * * * * * *

Making a grand total of 335 acres.

CONFORMING TO ORDER OF 11-26-57

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 21st *day of* December, 1923.

ASE:B (SEAL)

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

16835 2-22 250

FORM 100. 44182 3-26 3M

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RIGHTS

ORDER

APPLICATION No. 2567 PERMIT No. 1067 LICENSE No. 317

ORDER REVOKING LICENSE

Under date of December 24, 1927, there was received from licensee in the above entitled matter a statement that the project covered by his license had been abandoned.

IT IS THEREFORE ORDERED that said license be and the same is hereby revoked and cancelled upon the records of the Division of Water Rights without prejudice.

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 8th day of February, 1928.

Harold Conkling
(Harold Conkling)
CHIEF OF DIVISION OF WATER RIGHTS

KF:JR

Reg.

REVOKED

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 1164 PERMIT 573 LICENSE 318

ORDER ALLOWING CORRECTION OF DESCRIPTION OF PLACE OF USE

Licensees having established to the satisfaction of the State Engineer that the correction of description of place of use under Application 1164, Permit 573, License 318 for which petition was submitted on November 6, 1951 will not operate to the injury of any other legal user of water, the State Engineer so finds, and

IT IS ORDERED that permission be and the same is hereby granted to correct the description of place of use under said Application 1164, Permit 573, License 318 to read as follows, to wit:

LANDS OF CLARENCE AND MARY BEEMAN

25 ACRES WITHIN SW¼ NW¼
15 ACRES WITHIN SE¼ NW¼
25 ACRES WITHIN NW¼ SW¼
25 ACRES WITHIN NE¼ SW¼
90 ACRES TOTAL, ALL IN SECTION 14, T 41 N, R 11 E, M.D.B.&M.

LANDS OF R. N. BROOKS

33 ACRES WITHIN NW¼ NE¼
32 ACRES WITHIN SE¼ NE¼
40 ACRES WITHIN SW¼ NE¼
35 ACRES WITHIN NE¼ SE¼
40 ACRES WITHIN NW¼ SE¼
35 ACRES WITHIN SW¼ SE¼, SECTION 23, AND
30 ACRES WITHIN NW¼ NE¼, SECTION 26, OR A TOTAL OF
245 ACRES, ALL IN T 41 N, R 11 E, M.D.B.&M., MAKING A GRAND TOTAL OF 335 ACRES.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 26th day of November 1951.

A. D. Edmonston
A. D. Edmonston
State Engineer

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 1164 PERMIT 573 LICENSE 318

ORDER REDUCING PLACE OF USE

WHEREAS:

1. License 318 was issued to James McBrien on December 21, 1923, and was filed with the County Recorder of Modoc County on December 7, 1925.

2. An order correcting the description of the place of use was issued on November 26, 1931, and was filed with the County Recorder of Modoc County on November 27, 1931.

3. The State Water Resources Control Board was informed by the licensees on May 26, 1978, that the portions of the place of use located within Section 10, 11, 14 and 15, T41N, R11E, MDB&M had been abandoned, and requested that the place of use under License 318 be reduced accordingly.

4. License 318 was subsequently assigned to Michael B. Pitkin and Joyceline R. Pitkin, husband and wife as joint tenants.

5. The State Water Resources Control Board has found that this reduction in place of use will not operate to the injury of any legal user of water involved.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under License 318 be reduced to a place of use described as follows:

33 ACRES WITHIN NW¼ OF NE¼
32 ACRES WITHIN SE¼ OF NE¼
40 ACRES WITHIN SW¼ OF NE¼
35 ACRES WITHIN NE¼ OF SE¼
40 ACRES WITHIN NW¼ OF SE¼
35 ACRES WITHIN SW¼ OF SE¼, ALL WITHIN SECTION 23, T41N, R11E, MDB&M
30 ACRES WITHIN NW¼ OF NE¼, ALL WITHIN SECTION 26, T41N, R11E, MDB&M

245 ACRES, TOTAL

Dated: AUGUST 10 1979

M. A. Campos

Michael A. Campos, Chief
Division of Water Rights

WRCB
133 (12-67)

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2. Addition of the current continuing jurisdiction term.

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights privileges under this license 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 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 Board 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 permittee 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 requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board 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 Board 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 Board 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.

Dated: AUGUST 11 1986

L. O Johnson
for Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

(over)

ORDER

APPLICATION 1164 PERMIT 573 LICENSE 318

ORDER ALLOWING CORRECTION OF PURPOSE OF USE, POINT OF DIVERSION, PLACE OF USE AND AMENDING THE LICENSE

WHEREAS:

1. License 318 was issued to James McBrien and was filed with the County Recorder of Modoc County on December 7, 1925.

2. License 318 was subsequently assigned to Michael B. and Joyceline R. Pitkin.

3. An order allowing correction of description of place of use was granted on November 26, 1951 and has been filed with the County Recorder of Modoc County on November 27, 1951.

4. An order reducing the place of use was issued on August 10, 1979 and recorded with the County Recorder of Modoc County on August 15, 1979 in Volume 263, Page 525.

5. A request for correction of description of the use, the point of diversion and place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such corrections has been shown.

6. The Board has determined that the requested corrections do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purposes of use under this license shall be as follows:

   Irrigation and stockwatering

2. The point of diversion under this license shall be as follows:

   Only diversion point #1 as shown in the license.

3. The place of use under this license shall be as follows:

   Stockwatering at Rye Grass Swale Reservoir being within E½ of Section 25 and NE¼ of NE¼ of Section 36, T41N, R11E, MDB&M and SW¼ of SW¼ of Section 30 and N½ of NW¼ of Section 31, T41N, R12E, MDB&M.

   Irrigation of 80 acres:

   10 acres within NW¼ of NE¼ of Section 26, T41N, R11E, MDB&M
   10 acres within SW¼ of NE¼ of Section 23, T41N, R11E, MDB&M
   30 acres within NW¼ of SE¼ of Section 23, T41N, R11E, MDB&M
   30 acres within SW¼ of SE¼ of Section 23, T41N, R11E, MDB&M

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L 318

2/7/38 RECEIVED NOTICE OF ASSIGNMENT TO Mrs. Ida Graves

10/23/39 name changed to Ida Kinkade

11/17/47 RECEIVED NOTICE OF ASSIGNMENT TO Richard C. Baldwin

8/4/50 RECEIVED NOTICE OF Partial ASSIGNMENT TO ~~Fred A. & Irene E. Exner~~

9/13/50 RECEIVED NOTICE OF ASSIGNMENT TO ~~Int. of Richard C.~~ Baldwin to Jerry Geaney

5/31/51 RECEIVED NOTICE OF ASSIGNMENT TO ~~of Int of Fred A. & Irene~~ E. Exner to R. N. Brooks

9/21/51 RECEIVED NOTICE OF ASSIGNMENT TO ~~of Int of Jerry Geaney to~~ Clarence & Mary Beeman

12/7/55 RECEIVED NOTICE OF ASSIGNMENT TO ~~of Int of R. N. Brooks~~ to Hugh & Marion S. Gordon

2/2/60 RECEIVED NOTICE OF ASSIGNMENT TO ~~of Int. of Clarence & Mary Beeman~~ to Hugh Gordon & Marian S. Gordon.

4-26-78 Assigned to Robert H. Mackey & Sons Inc.

9-18-78 Assgd to Michael B. & Joycelin R. Pitkin

8/27/91 assigned to William C. Stephens