



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 *W. B. Graves*  
**James McBrien**, Alturas, Modoc County, California,

of *2/13/34* **ha** made proof to the satisfaction of the Division  
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 **ates**  
**(85°** water per acre in any one year in the irrigation of uncultivated areas of land **ive**  
**degr** not devoted to cultivated crops. **25)**  
**feet** a the

(1) SE¼ NW¼ and (2) NE¼ SW¼ said Section 25. The point of redirection 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:

<b>Lands of Hillard Estes -</b>	<b>: Lands of James McBrien -</b>
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
<b>90 acres, total, all in T 41 N, R 11 E,</b>	<b>: 40 " " NW¼ SE¼</b>
<b>MDB&amp;M</b>	<b>: 35 " " SW¼ SE¼ Section 23, and</b>
	<b>: 30 " " NW¼ NE¼ " 26,</b>

Making a grand total of 335 acres.

245 acres, total, all in T 41 N, R 11 E, MDB&M

CONFORMING TO ORDER OF 11-26-51

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diver-  
sion 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 condi-  
tions 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 subdivision  
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.

BB:B (SAL)

H. A. KLUGEL

Chief of Division of Water Rights, Department of  
Public Works of the State of California

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

Licenses having established to the satisfaction of the State Engineer 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 SW $\frac{1}{4}$  NW $\frac{1}{4}$   
15 ACRES WITHIN SE $\frac{1}{4}$  NW $\frac{1}{4}$   
25 ACRES WITHIN NW $\frac{1}{4}$  SW $\frac{1}{4}$   
25 ACRES WITHIN NE $\frac{1}{4}$  SW $\frac{1}{4}$   
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 NW $\frac{1}{4}$  NE $\frac{1}{4}$   
32 ACRES WITHIN SE $\frac{1}{4}$  NE $\frac{1}{4}$   
40 ACRES WITHIN SW $\frac{1}{4}$  NE $\frac{1}{4}$   
35 ACRES WITHIN NE $\frac{1}{4}$  SE $\frac{1}{4}$   
40 ACRES WITHIN NW $\frac{1}{4}$  SE $\frac{1}{4}$   
35 ACRES WITHIN SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 23, AND  
30 ACRES WITHIN NW $\frac{1}{4}$  NE $\frac{1}{4}$ , 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

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 NW $\frac{1}{4}$  OF NE $\frac{1}{4}$   
32 ACRES WITHIN SE $\frac{1}{4}$  OF NE $\frac{1}{4}$   
40 ACRES WITHIN SW $\frac{1}{4}$  OF NE $\frac{1}{4}$   
35 ACRES WITHIN NE $\frac{1}{4}$  OF SE $\frac{1}{4}$   
40 ACRES WITHIN NW $\frac{1}{4}$  OF SE $\frac{1}{4}$   
35 ACRES WITHIN SW $\frac{1}{4}$  OF SE $\frac{1}{4}$ , ALL WITHIN SECTION 23,  
T41N, R11E, MDB&M  
30 ACRES WITHIN NW $\frac{1}{4}$  OF NE $\frac{1}{4}$ , 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

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

*for* *H. O. Johnson*  
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 E $\frac{1}{2}$  of Section 25 and NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 36, T41N, R11E, MDB&M and SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 30 and N $\frac{1}{2}$  of NW $\frac{1}{4}$  of Section 31, T41N, R12E, MDB&M.

Irrigation of 80 acres:

- 10 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 26, T41N, R11E, MDB&M
- 10 acres within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 23, T41N, R11E, MDB&M
- 30 acres within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 23, T41N, R11E, MDB&M
- 30 acres within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  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 Kirkade  
11/17/47 RECEIVED NOTICE OF ASSIGNMENT TO Richard C. Baldwin  
8/4/50 RECEIVED NOTICE OF ASSIGNMENT TO Fred A. & Irene E. Exner

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

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

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

12/7/55 RECEIVED NOTICE OF ASSIGNMENT TO L. 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 Aspd to Michael B. + Joyceline R. Pitken  
8/27/91 assigned to William C. Stephens

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