

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 2394B Permit 1276 License 1313B

**ORDER CORRECTING THE PLACE OF USE AND
POINT OF DIVERSION AND ADDING CONTINUING AUTHORITY,
WATER QUALITY OBJECTIVE, AND ENDANGERED
OR THREATENED SPECIES TERMS**

WHEREAS:

1. License 1313B was issued to H.W. Mercer and Charlotte D. Mercer on January 29, 1969, pursuant to Application 2394 and was recorded with the County Recorder of Santa Barbara County in Book 7175, Page 841 on February 3, 1969.
2. An order allowing change in place of use and establishing an annual amount limitation was issued on February 22, 1971. This order established 50 acre-feet as the maximum annual diversion amount and increased the place of use from 24 acres to 32 acres.
3. License 1313B was subsequently assigned to Charlotte D. Mercer and Estate of H.W. Mercer on February 9, 1976; to Charlotte D. Mercer and Alan H. Mercer on February 25, 1981; and to Alan H. Mercer on January 13, 1987.
4. The Division of Water Rights (Division) conducted an inspection of the project covered by License 1313B on June 29, 1999. The inspection found that the descriptions of the point of diversion and place of use require correction.
5. The State Water Resources Control Board (SWRCB) will also add its standard continuing authority term, water quality objective term and a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

The following terms and conditions be added to License 1313B:

1. The description of the point of diversion covered under this license is corrected as follows:

By California Coordinates, Zone 5, North 412,488 and East 1,331,765, being within NW ¼ of SW ¼ of projected Section 11, T6N, R32W, SBB&M.

2. The description of the place where water is put to beneficial use is corrected as follows:

6 acres within NW¼ of SW¼ of projected Section 11, T6N, R32W, SBB&M.
25 acres within SW¼ of SW¼ of projected Section 11, T6N, R32W, SBB&M.

1 acre within NW¼ of NW¼ of Section 14, T6N, R32W, SBB&M.
32 acres total, as shown on map on file with the State Water Resources Control Board.

3. A water quality objectives term is added to this license as follows:

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 California 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.

4. The continuing authority condition is updated for this license as follows:

Pursuant to California 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

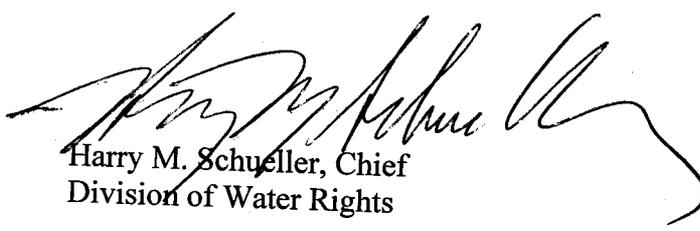
operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after 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.

5. An endangered species term is added to this license as follows:

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 (California 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.

Dated: FEB 9 2000



Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 2394B

PERMIT 1276

LICENSE 1313B

ORDER ALLOWING CHANGE IN PLACE OF USE AND
ORDER ESTABLISHING AN ACRE-FOOT LIMITATION

WHEREAS License 1313 was issued to Henry Doty and was filed with the County Recorder of Santa Barbara County on April 11, 1933, and

WHEREAS License 1313 was subsequently divided into two licenses numbered 1313A and 1313B, and

WHEREAS License 1313B was issued to H. W. Mercer and Charlotte D. Mercer, and

WHEREAS the State Water Resources Control Board has found that the change in place of use under said License 1313B for which petition was submitted on December 15, 1969, will not operate to the injury of any other legal user of water, and

WHEREAS the Board has approved and allowed said change and has directed that an order be issued to describe said place of use in accordance with said petition;

NOW THEREFORE IT IS ORDERED that permission be and the same is hereby granted to change the place of use under said License 1313B to a place of use described as follows, to wit:

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32 ACRES WITHIN SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ AND NW $\frac{1}{4}$ OF SW $\frac{1}{4}$
OF PROJECTED SECTION 11 AND NW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF
PROJECTED SECTION 14, T6N, R32W, SBB&M.

IT IS FURTHER ORDERED that the total annual
diversion allowed under said License 1313B be and the same
is hereby limited to 50 acre-feet.

Dated: FEB 22 1971

K. L. Woodward
K. L. Woodward, Chief
Division of Water Rights



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

Notice of Change (Over)

APPLICATION 2394

PERMIT 1276

LICENSE 1313B

THIS IS TO CERTIFY, That

H. W. MERCER AND CHARLOTTE D. MERCER (THROUGH
PREDECESSOR, HENRY DOTY)
ROUTE 1, BOX 158, SANTA ROSA ROAD,
BUELLTON, CALIFORNIA 93427

HAVE made proof as of APRIL 12, 1932 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
SANTA YNEZ RIVER IN SANTA BARBARA COUNTY

tributary to PACIFIC OCEAN

for the purpose of IRRIGATION USE
under Permit 1276 of the Board and that the right to the use of this water has been perfected in
accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of
this right dates from JUNE 17, 1921 and that the amount of water to which this right is
entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall
not exceed THIRTY-HUNDREDTHS (0.30) CUBIC FOOT PER SECOND TO BE DIVERTED FROM ABOUT
APRIL 1 TO ABOUT NOVEMBER 1 OF EACH 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 OTHER VESTED
RIGHTS.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

NORTH 2,150 FEET AND EAST 1,200 FEET FROM SW CORNER OF SECTION 11, T6N, R32W,
SBB&M, BEING WITHIN NW1/4 OF SW1/4 OF SAID SECTION 11.

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

24 ACRES WITHIN NW1/4 OF SW1/4 OF SECTION 11, T6N, R32W, SBB&M.

THIS LICENSE AND LICENSE 1313A SUPERSEDE LICENSE 1313.

ISSUANCE OF THIS LICENSE SHALL NOT BE CONSTRUED AS A DETERMINATION BY THE
BOARD THAT THE WATER RIGHT HAS NECESSARILY BEEN FULLY MAINTAINED BY CONTINUOUS
BENEFICIAL USE AND BY OBSERVANCE OF LAW AND THE PROVISIONS OF LICENSE 1313.

2-9-76 Name of H.W. Mercer
Estate of H.W. Mercer
2-25-81 Int of Est. of H.W. Mercer asst to Alan H. Mercer
1-13-87 Ownership Chge to Alan H. Mercer

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

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 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.

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

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 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 Board.

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 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: JAN 29 1969

STATE WATER RESOURCES CONTROL BOARD

K. L. Woodward

Chief, Division of Water Rights

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