

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

**DIVISION OF WATER RIGHTS**

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In the Matter of License 4494 (Application 8996) and License 7821 (Application 17303)

**Freelander Trust**

**ORDER REVOKING LICENSE**

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SOURCE: Clear Creek and Owl Creek

COUNTY: Plumas

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**WHEREAS:**

1. The State Water Board issued License 4494 pursuant to Permit 5022 (Application 8996) on January 7, 1957, to Henry W. Struckman and Irene Struckman (Struckman). This license was recorded by the County Recorder of Plumas County on January 11, 1957. The license authorized Struckman to divert fifty-seven hundredths (0.57) cubic foot per second (cfs) from the source streams from January 1 to December 31 of each year for mining and domestic uses. The place where water is put to beneficial use is located within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 19, and SW $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 20, T26N, R8E, MDB&M.
2. The State Water Board issued License 7821 pursuant to Permit 12796 (Application 17303) on August 3, 1966, to Henry W. Struckman and Irene Struckman (Struckman). This license was recorded by the County Recorder of Plumas County on August 4, 1966, in Volume 173, page 1396. The license authorized Struckman to divert ninety-seven hundredths (0.97) cfs from about November 1 to about July 1 of the succeeding year from the source streams not to exceed five-tenths (0.5) cfs from Owl Creek for mining, domestic and fire protection uses. The place where water is put to beneficial use is located within NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , and SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 19, T26N, R8E, MDB&M.
3. A term on both License 4494 and 7821 states: "Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Resources Board." Division records show that Report of Licensee forms were mailed to the owner of record for the licenses with the last report for 2010 available online for completion.
4. State Water Board records show that from 1958 through 1968 Struckman reported continuous water use under the License 4494 and use from 1966 through 1968 under License 7821.
5. The licenses were assigned to Mr. J. L. Gould (Gould) on December 14, 1971. State Water Board records show that from 1969 through 1971 Gould reported continuous water use under the licenses.

6. The licenses were reassigned to Mrs. Irene Struckman on August 14, 1972.
7. The licenses were assigned to Mr. Stan Buchanan (Buchanan) on November 21, 1972. From 1972 through 1974 and from 1984 through 1989, Buchanan reported continued diversion and use of water under License 4494 and no use under License 7821.
8. The licenses were assigned to Ms. Helen S. Buchanan on April 2, 1993. State Water Board records do not show any water use from 1993 to 2003 during Helen Buchanan's ownership of these licenses.
9. License 4494 was assigned to Freeland Trust (Freeland) on November 23, 2004. From 2004 to the present time, State Water Board records show no reported water use during Freeland's ownership of this license.
10. License 7821 was assigned to Freeland on February 23, 2005. From 2005 to the present time, State Water Board records show no reported water use during Freeland's ownership of this license except for the period of June and July 2008, when Mr. Harvey Marlin noted that 180,000 gallons were used for placer testing. The Plumas County Assessor's records confirm that Freeland is the current owner of the parcels served by these licenses.
11. The State Water Board's records also show that the annual water right fees assessed for both licenses for fiscal years 2003 and 2007 through 2011 have not been paid. California Water Code section 1539 provides that if a permit or license holder fails to pay an annual fee imposed pursuant to subdivision (a) of section 1525 of the California Water Code for a period of five years, the State Water Board may revoke the permit or license in accordance with the procedures for revocation specified in section 1241 of the California Water Code.
12. On December 23, 2011, the State Water Board mailed the licensee a Notice of Proposed Revocation of Licenses 4494 and 7821, consistent with requirements of California Water Code section 1675.1. The licensee requested a hearing regarding the proposed revocation of both licenses on January 4, 2011, but then withdrew the request and agreed to the proposed revocation of the licenses on July 10, 2012.
13. The July 10, 2012 correspondence is a waiver of the hearing requirements set forth in California Water Code section 1675.1.
14. Section 1675 (a) of the California Water Code provides: "If at any time after a license is issued, the State Water Board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division, or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the State Water Board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part."

**Therefore, it is ordered** that Licenses 4494 and 7821 are hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
John O'Hagan For:

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: AUGUST 03 2012



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 8996

PERMIT 5022

LICENSE 4494

THIS IS TO CERTIFY, That Henry W. Struckman and Irene Struckman <sup>Notice of Change (Over)</sup>  
P. O. Box 67, Livingston, California

have made proof as of August 13, 1954  
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of  
(a) Clear Creek and (b) Owl Creek in Plumas County

tributary to North Fork Feather River

for the purpose of mining and domestic uses

under Permit 5022 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from June 14, 1937; and 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 fifty-seven hundredths (0.57) cubic foot per second to be diverted from January 1 to December 31 of each year.

Maximum diversion from Clear Creek shall not exceed fifty-seven hundredths (0.57) cubic foot per second and maximum diversion from Owl Creek shall not exceed five tenths (0.5) cubic foot per second. Maximum diversion from both sources shall not exceed fifty-seven hundredths (0.57) cubic foot per second.

The points of diversion of such water are located as follows: (a) due east five hundred twenty (520) feet from center of Section 18, T 26 N, R 8 E, MDB&M, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 18 and (b) south one thousand one hundred ten (1110) feet and east nine hundred forty (940) feet from center of Section 18, T 26 N, R 8 E, MDB&M, being within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 18.

A description of the lands or the place where such water is put to beneficial use is as follows:  
within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 19, and SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 20, T 26 N, R 8 E, MDB&M.

Water used for mining purposes is returned to North Fork Feather River within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 20 and SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 19, T 26 N, R 8 E, MDB&M.

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 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.

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

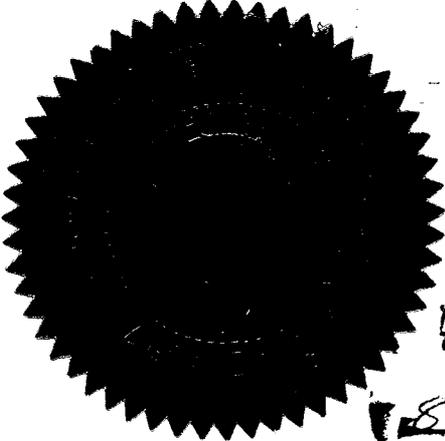
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied 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 7 1957

STATE WATER RIGHTS BOARD

By Leslie C. Jopson  
Leslie C. Jopson  
Chief Engineer



12-14-71 RECEIVED NOTICE OF ASSIGNMENT TO J. S. Gould

8-8-72 RECEIVED NOTICE OF ASSIGNMENT TO Irene Struckman

11-15-72 RECEIVED NOTICE OF ASSIGNMENT TO Stan Buchanan

4-3-93. Issued to Helen Buchanan & Stan Buchanan's

LICENSE 4494  
STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

LICENSE  
TO APPROPRIATE WATER  
Henry W. Struckman  
Irene Struckman  
ISSUED TO  
DATED JAN 7 1957

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