

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

DIVISION OF WATER RIGHTS

In the Matter of License 4822 (Application 12263)

U.S. FISH AND WILDLIFE SERVICE

ORDER ISSUING AMENDED LICENSE

SOURCE: Pine Creek tributary to Pit River

COUNTY: Modoc

WHEREAS:

1. License 4822 was issued pursuant to permitted Application 12263 on October 24, 1957 and was recorded with the County Recorder of Modoc County on October 28, 1957. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The State Water Resources Control Board (SWRCB) record of ownership for License 4822 shows the current holder of the license as the U.S. Fish and Wildlife Service.
3. Petitions to change the description of the purpose of use and correct the place of use were filed with the SWRCB on April 4, 1986. The petitions were subsequently noticed on April 10, 1987, protests were received and a hearing was held in 1992.
4. On January 19, 1995, the SWRCB adopted Order WR 95-1 which approved changes in the place of use and character use for this license and Licenses 466 and 4822 (Applications 1042 and 12263). Order WR 95-1 also required the Fish and Wildlife Service to develop a "Water Monitoring Plan" for Dorris Reservoir and Modoc National Wildlife Refuge. The SWRCB withheld issuance of the final Change Orders until compliance with the "Water Monitoring Plan" had been confirmed and the licensee had submitted a new map of the project place of use.
5. On September 7, 1995, the SWRCB conducted a field inspection of the U.S. Fish and Wildlife Service project to determine compliance with the "Water Monitoring Plan". The inspection evaluated the operation of storage at Dorris Reservoir, points of diversion, rediversion and distribution of water to the place of use within the Modoc National Wildlife Refuge. Based on the inspection, points of rediversion are added to the license and the place of use is reduced. The SWRCB concluded the "Water Monitoring Plan" satisfied the requirements of SWRCB Order WR 95-1.
6. On June 15, 1998, the licensee submitted the requested map.
7. The SWRCB has determined that an amended license shall be issued that will include the following specific corrections and changes:
 - a. The purpose of use shall include irrigation, stockwatering, recreation, and wildlife preservation and enhancement uses.

- b. The place of use shall include recreation, and wildlife preservation and enhancement uses at Dorris Reservoir, and irrigation, stockwatering, recreation, wildlife preservation and enhancement uses on 617.5 acres of wildlife ponds and 2,928.7 acres of habitat and fields for a total of 3,546.2 acres within the Modoc National Wildlife Refuge as shown on the map dated June 15, 1998 on file with the SWRCB.
8. The SWRCB standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species and the need for State Department of Fish and Game stream alteration agreements shall be updated or added to the amended license.
9. In Order WR 95-1, the SWRCB found that approval of the Change Petitions is categorically exempt from the preparation of an environmental document required by the California Environmental Quality Act. (Section 15301 of Title 14 of the California Code of Regulations).

THEREFORE, IT IS ORDERED:

The attached Amended License 4822 is issued, superseding former License 4822 issued on October 24, 1957. The priority of Amended License 4822 is January 26, 1948.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: DEC 29 2003



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 12263

PERMIT 7291

LICENSE 4822

Page 1 of 5

THIS IS TO CERTIFY, That

U.S. Fish and Wildlife Service
911 N.E. 11th Avenue
Portland, OR 97232-4181

has the right to the use of the waters of **Pine Creek** in **Modoc County**

tributary to **South Fork of Pit River**

for the purpose of **Irrigation, Stockwatering, Recreational, and Wildlife Preservation and Enhancement uses.**

Amended License 4822 supersedes the license originally issued on **October 24, 1957**, 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 7291**. The priority of this right dates from **January 26, 1948**. Proof of maximum beneficial use of water under this license was made as of **July 14, 1955** and **September 7, 1995** (the dates of inspection).

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 **1,100 acre-feet per annum to be collected from October 1 of each year to April 1 of the succeeding year.**

The maximum rate of diversion to offstream storage shall not exceed 30 cubic feet per second.

The total quantity of water collected to storage at Dorris Reservoir under this license and Licenses 465, 466 and 13528 (Applications 760, 1042 and 1321) shall not exceed 11,100 acre-feet per year.

The maximum withdrawal in any one year from Dorris Reservoir under this license and Licenses 465, 466 and 13528 (Applications 760, 1042 and 1321) shall not exceed 11,100 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

- (1) Pine Creek Diversion Dam – North 2,300 feet and East 200 feet from the SW corner of Section 12, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, T42N, R13E, MDB&M.

THE POINT OF REDIVERSION AND STORAGE OF SUCH WATER IS LOCATED:

- (2) Dorris Reservoir Dam – North 400 feet and West 850 feet from SE corner of Section 8, T42N, R13E, MDB&M, being within SE¼ of SE¼ of said Section 8.

THE POINTS OF REDIVERSION OF SUCH WATER ARE LOCATED:

- (3) Deer Pond Diversion Dam – North 1,100 feet and East 200 feet from SW corner of Section 29, T42N, R13E, MDB&M, being within SW¼ of SW¼ of said Section 29;
- (4) Pine Creek Overflow Dam – North 2,500 feet and East 100 feet from SW corner of Section 30, T42N, R13E, MDB&M, being within NW¼ of SW¼ of said Section 30; and
- (5) South Fork Diversion Dam – South 1,600 feet and East 2,000 feet from NW corner of Section 1, T41N, R12E, MDB&M, being within SE¼ of NW¼ of said Section 1.

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

Recreational and Wildlife Enhancement uses at Dorris Reservoir within Sections 8, 9, 10, 15, 16, 17, 21, and 22, T42N, R13E, MDB&M. Irrigation, Stockwatering, Recreational and Wildlife Preservation and Enhancement uses at 617.5 acres of wildlife ponds and 2,928.7 acres of habitat and fields, all within the Modoc National Wildlife Refuge as follows:

74.5 acres within Section 14, T42N, R12E, MDB&M
231.9 acres within Section 23, T42N, R12E, MDB&M
457.1 acres within Section 24, T42N, R12E, MDB&M
551.4 acres within Section 25, T42N, R12E, MDB&M
40.0 acres within Section 26, T42N, R12E, MDB&M
2.0 acres within Section 35, T42N, R12E, MDB&M
511.6 acres within Section 36, T42N, R12E, MDB&M
200.6 acres within Section 1, T41N, R12E, MDB&M
325.5 acres within Section 18, T42N, R13E, MDB&M
411.1 acres within Section 19, T42N, R13E, MDB&M
39.6 acres within Section 29, T42N, R13E, MDB&M
620.9 acres within Section 30, T42N, R13E, MDB&M
80.0 acres within Section 31, T42N, R13E, MDB&M

3,546.2 acres total as shown on map dated July 15, 1998, and filed with the SWRCB.

Licensee shall install and maintain the measuring devices identified in the Water Monitoring Plan for Dorris Reservoir, April 1995, satisfactory to the Chief of the Division of Water Rights to measure water diverted into Dorris Reservoir from Parker Creek and Pine Creek and water released from or flowing out of Dorris Reservoir. Licensee shall calculate the amount of water diverted into Dorris Reservoir from Stockdill Slough, as specified in the monitoring plan.

(0060046)

Licensee shall install and maintain the measuring devices identified in the Water Monitoring Plan for Dorris Reservoir, April 1995, satisfactory to the Chief of the Division of Water Rights to measure the water surface elevation of Dorris Reservoir. Using this measuring device and the stage capacity curve for Dorris Reservoir developed from a 1996 topographic survey, licensee shall maintain a daily record of the amount of water stored in Dorris Reservoir.

(0070047)

Licensee shall implement the monitoring plan approved by the Chief of the Division of Water Rights with the improvements recommended in the Report of Inspection dated September 7, 1995. The monitoring plan shall identify: (1) the amounts of water collected to storage at Dorris Reservoir from Pine Creek, Parker Creek, and Stockdill Slough Creek; (2) the estimated amount of evaporation loss at Dorris Reservoir; (3) the amount of water directly diverted at Dorris Reservoir; and (4) the total amount of water withdrawn from Dorris Reservoir. Licensee shall submit an Annual Report identifying these amounts on a weekly schedule. The monitoring frequency can be adjusted at that time, if deemed necessary by the Chief of the Division of Water Rights.

(0100900)

Licensee shall participate in any areawide mosquito abatement program instituted by the City of Alturas, Modoc County, or State health officials, provided that licensee's participation in the program is conditioned upon the program conforming with State and Federal pesticide laws, the U.S. Fish and Wildlife Service's Pest Control Policy, and the Department of the Interior's Pesticide Use Policy. Licensee's participation in the program may be limited to controlling the refuge's contribution to the mosquito problem in the Alturas area.

(0400500)

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.

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.

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.

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.

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.

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.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

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.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: **DEC 29 2003**

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

ORDER

APPLICATION 12263

PERMIT 7291

LICENSE 4822

ORDER ALLOWING CHANGE IN PURPOSE OF USE AND PLACE OF USE

WHEREAS:

1. License 4822 was issued to H. M. Dorris, A. D. Dorris and G. B. Dorris and was filed with the County Recorder of Modoc County on October 28, 1957.
2. License 4822 was subsequently assigned to U. S. Fish and Wildlife Service.
3. A petition for change in purpose of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
4. The Board has determined that the petitioned changes 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, recreation, and stockwatering

2. The following shall be added to the place of use under this license:

Stockwatering and Recreation use at the Reservoir within Sections 8, 9, 10, 15, 16, 17, 21 and 22, T42N, R13E, MDB&M.

Dated: MARCH 1 1985

Raymond Walsh
Raymond Walsh, Chief
Division of Water Rights

SUPERSEDED



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 12263

PERMIT 7291

LICENSE 4822

THIS IS TO CERTIFY, That H. M. Dorris, A. D. Dorris and G. B. Dorris ^{Notice of Assignment (Over)}
Alturas, California

have made proof as of July 14, 1955
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
Pine Creek in Modoc County

tributary to South Fork of Pit River

for the purpose of irrigation use
under Permit 7291 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 January 26, 1948;
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 one thousand one hundred
(1100) acre-feet per annum to be collected from about October 1 of each year to
about April 1 of the succeeding year. Maximum rate of diversion to storage is
thirty (30) cubic feet per second.

The point of diversion of such water is located north seventy-three degrees fifty
minutes west (N73° 50' W) one thousand three hundred thirty (1330) feet from E $\frac{1}{4}$
corner Section 34, T42N, R13E, MDB&M, being within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 34.

SUPERSEDED

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

196.0 acres in Section 1, T41N, R12E, MDB&M
84.2 acres in Section 14, T42N, R12E, MDB&M
77.5 acres in Section 15, T42N, R12E, MDB&M
1.2 acres in Section 22, T42N, R12E, MDB&M
231.9 acres in Section 23, T42N, R12E, MDB&M
452.6 acres in Section 24, T42N, R12E, MDB&M
547.1 acres in Section 25, T42N, R12E, MDB&M
40.0 acres in Section 26, T42N, R12E, MDB&M
507.4 acres in Section 36, T42N, R12E, MDB&M
325.5 acres in Section 18, T42N, R13E, MDB&M
411.1 acres in Section 19, T42N, R13E, MDB&M
36.7 acres in Section 29, T42N, R13E, MDB&M
620.9 acres in Section 30, T42N, R13E, MDB&M
80.0 acres in Section 31, T42N, R13E, MDB&M
3612.1 acres total

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.

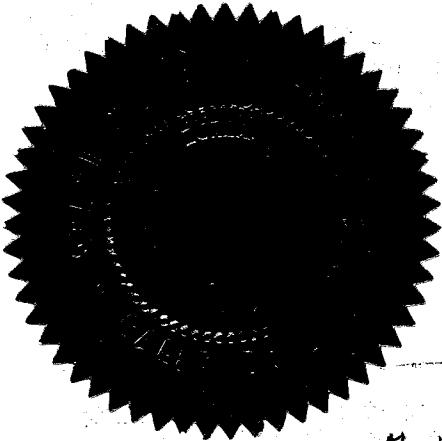
Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined 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: OCT 24 1957

STATE WATER RIGHTS BOARD

SUPERSEDED

By Leslie C. Jopson
LESLIE C. JOPSON
Chief Engineer



11/12/57

RECEIVED NOTICE OF ASSIGNMENT TO Partial Carol Davis

7-12-61 RECEIVED NOTICE OF ASSIGNMENT TO U.S. Fish & Wildlife Service

LICENSE 4822

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO H.M. Dorris, A. D. Dorris
and G. B. Dorris (OC) 24 1957
DATED

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