

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

ORDER

APPLICATION 13710 PERMIT 8181 LICENSE 5641

ORDER TO ADD TERM FOR PROTECTION OF FISHERY RESOURCE,
ADD TWO POINTS OF DIVERSION AND CORRECT
DESCRIPTION OF THE PLACE OF USE

WHEREAS:

1. License 5641 was issued to Letha C. Middleton, David C. Creps, Wilma Marie Creps LaPerle, Irene Creps and Ena Delco Creps.
2. License 5641 was subsequently assigned to David C. Creps, Ena Delco Creps, Wilma Marie Creps LaPerle, Irene Creps, Loretta Peacock, Larry Middletown and Dolores R. Thompson.
3. The California Department of Fish and Game and the licensee have agreed to the inclusion of a term relative to compliance with pumping operations and installation of fish screens.
4. A petition to add two point of diversion on the East Levee Borrow Pit and a correction of the description for the place of use have been filed with the State Water Resources Control Board and said Board has determined that good cause to correct the place of use has been shown.
5. The Board has determined that the petitioned change and correction does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. The licensed condition pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 22, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The following conditions relative to the protection of the fishery resource have been included:

"For the protection of the fishery resource, licensee shall not operate the pump located in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 2, T13N, R2E, MDB&M during the period of February 1 to May 15 of each year. In the event licensee uses the pump during the period of February 1 to May 15 of each year, licensee is required to install fish screens approved by California Department of Fish and Game prior to pumping."

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

South seven degrees thirty minutes East (S7°30'E) three thousand three hundred and eighty (3,380) feet from the NW corner of Section 35, T14N, R2E, MDB&M, being within the NW¼ of SW¼ of said Section 35, also described as California Coordinate System, Zone 2, N 491,700 and E 2,078,200.

North fifty-seven degrees thirty minutes East (N57°30'E) two thousand three hundred and sixty (2,360) feet from the SW corner of Section 2, T13N, R2E, MDB&M, being within the SE¼ of SW¼ of said Section 2, also described as California Coordinate System, Zone 2, N 485,700 and E 2,079,890.

3. The condition of the license regarding the place of use is corrected to read as follows:

226.6 acres within the following gross area as shown on map on file with the State Water Resources Control Board.

205.7 acres within Section 27, T14N, R2E, MDB&M
347.9 acres within Section 34, T14N, R2E, MDB&M
85.3 acres within Section 35, T14N, R2E, MDB&M
121.0 acres within Section 2, T13N, R2E, MDB&M
218.0 acres within Section 3, T13N, R2E, MDB&M
4.6 acres within Section 10, T13N, R2E, MDB&M

983.3 acres total

(0000004)

4. The continuing authority Condition in License 5641 be amended to read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, 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 permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit 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 permittee in order to protect public trust uses. No action will be taken pursuant to

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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. (0000012)

Dated: JUNE 27 1990

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Walter G. Pettit, Chief
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 13710

PERMIT 8181

LICENSE 5641

THIS IS TO CERTIFY, That

Letha C. Middleton, David C. Creps, Wilma Marie Creps
La Perle, Irene Creps, and Ena Delco Creps
P. O. Box 195
Wheatland, California

(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
East Levee Borrow Pit of Sutter By-Pass in Sutter County

tributary to Sacramento River

for the purpose of irrigation and recreational uses
under Permit 8181 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 April 28, 1950,
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 four and seven tenths (4.7)
cubic feet per second to be diverted from about April 15 to about December 15 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:

South sixty-one degrees twelve minutes west ($S61^{\circ}12'W$) two hundred ninety-six
and two tenths (296.2) feet from NE corner of Section 34, T14N, R2E, MDB&M,
being within $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of said Section 34.

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

77.5 acres within Section 27, T14N, R2E, MDB&M
72.4 acres within Section 34, T14N, R2E, MDB&M
15.2 acres within Section 35, T14N, R2E, MDB&M
40.7 acres within Section 2, T13N, R2E, MDB&M
20.8 acres within Section 3, T13N, R2E, MDB&M
226.6 acres total located as shown on map filed with State Water Rights Board.

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.

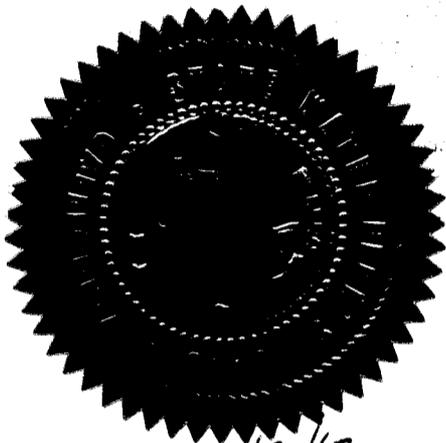
Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation (of the Water Code), or for 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, 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.

APR 9 '59

Dated:



L. K. Hill
L. K. Hill
Executive Officer

11/30/67 RECEIVED NOTICE OF ASSIGNMENT *of int. of Letha C. Middleton*
to Milton Middleton & Loretta Peacock;
1/17/89 Interest of Milton Middleton asgd to Larry C. Middleton
& Dolores R. Thompson 2/17/89 Name change from Loretta Peacock to
Loretta McLellan

LICENSE 5641 assigned to Denner Ranches, Inc.
1/6/96

LICENSE 5641
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

Letha C. Middleton, David C. Creps,
Wilma Marie Creps LaPerle,
Irene Creps, and Ena Delco Creps

APR 9 '59

DATED

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