

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 9610 (Application 22821)

Ivan Thorpe Branson  
Mrs. S. Linnea Branson

**ORDER DIRECTING ISSUANCE OF SEPARATE LICENSES,  
AND AMENDING THE LICENSE**

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SOURCE: TWO UNNAMED STREAMS TRIBUTARY TO INDIAN SPRINGS CREEK THENCE  
DRY CREEK THENCE BEAR RIVER

COUNTY: NEVADA

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**WHEREAS:**

1. License 9610 was issued to Ivan Thorpe Branson on March 8, 1971, pursuant to Application 22821 and was recorded with the County Recorder of Nevada on March 16, 1971.
2. License 9610 was subsequently assigned to Mrs. S. Linnea Branson on March 12, 1986.
3. On September 29, 1998, a "Notice of Partial Assignment" was received by the State Water Resources Control Board (SWRCB) from the licensee. The "Notice" indicated that a portion of the place of use (POU) containing a small reservoir (a.k.a. Reservoir #2) had been sold to the Indian Springs Vineyards on August 16, 1982. The SWRCB determined from correspondence with the present and past owners and an engineering consulting firm that Assessor's Parcel 02-121-63 contained three (3) acres of the irrigated lands identified in the original POU for License 9610. This acreage is located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of section 11, T15N, R7E, MDB&M.
4. The remaining portion of the licensed POU was subsequently determined to have been sold to Lewis Bartolucci and Cheryl Bartolucci on July 24, 1996. The POU is identified as APN 02-121-64 and consists of Reservoir #1 (a.k.a. Linnea Lake) and 15 acres of irrigated land within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  and SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of section 11, T15N, R7E, MDB&M.
5. The SWRCB staff reviewed the projects and recommended that corrections be made to accurately describe the points of diversion (POD) and POU's as they presently exist under License 9610. The SWRCB determined the corrections to the POD's and POU's do not constitute the initiation of a new right nor operate to the injury of any other lawful water user.
6. The license terms relating to continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780, Title 23, of the California Code of Regulations.
7. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and /or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The description for the points of diversion for License 9610 be corrected as follows:

Reservoir #1 (a.k.a. Linnea lake), South 1,600 feet and West 3,100 feet from the NE corner of section 11, T15N, R7E, MDB&M, being within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said section 11, also described by California Coordinate System of 1927 as Zone 2, North 548,243 and East 2,236,707.

Reservoir #2, South 2,400 feet and West 3,150 feet from the NE corner of section 11, T15N, R7E, MDB&M, being within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said section 11, also described by California Coordinate System of 1927 as Zone 2, North 547,946 and East 2,236,114.

2. The description of the place of use be corrected as follows:

Stockwatering, recreational, and fire protection uses at Reservoir #1(a.k.a. Linnea lake), located within the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , NW $\frac{1}{4}$  of NE $\frac{1}{4}$  and SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , and at Reservoir #2, located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , and irrigation of 18 acres of land within the SW $\frac{1}{4}$  of NE $\frac{1}{4}$  and SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , all within section 11, T15N, R7E, MDB& M.

3. License 9610 is hereby replaced and superseded upon issuance of License 9610A to Lewis Bartolucci & Cheryl Bartolucci and License 9610B issued to Indian Springs Vineyards.

4. Separate Licenses be issued as follows:

A.	License	9610A (Application 22821A)
	Owner:	Lewis Bartolucci and Cheryl Bartolucci P.O. Box 606 Penn Valley, CA 95946
	Source:	Unnamed Stream tributary to Indian Springs Creek thence Dry Creek thence Bear River
	Use:	Stockwatering, Recreational, and Fire Protection at Linnea Lake and Irrigation
	Storage: Maximum Amount:	21 acre-feet  21 acre-feet per annum
	Season:	October 15 to March 1
	Point(s) of Diversion:	Reservoir #1 (AKA Linnea Lake) South 1,600 feet and West 3,100 feet from NE corner of section 11, T15N, R7E, MDB&M, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of section 11, also described by the California Coordinate System of 1927 as Zone 2, North 548,243 and East 2,236,707.
	Place of Use:	Stockwatering, recreational, and fire protection uses at Reservoir #1 (Linnea Lake) within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ , SW $\frac{1}{4}$ of NE $\frac{1}{4}$ , NW $\frac{1}{4}$ of NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of section 11, and irrigation of 15 acres

within Assessor's Parcel No. 02-121-64, being within the SE $\frac{1}{4}$  and NW $\frac{1}{4}$ , and SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of section 11, all within T15N, R7E, MDB&M, as shown on a map dated September 2001 on file with the SWRCB.

B. License 9610B (Application 22821B)

Owner: Indian Springs Vineyards  
c/o: Dennis Ball  
16110 Indian Springs Road  
Penn Valley, CA 95946

Source: Unnamed Stream tributary to  
Indian Springs Creek thence Dry Creek  
thence Bear River

Use: Stockwatering, Recreational, Fire Protection  
at Reservoir #2 and Irrigation

Storage: 3 acre-feet  
Maximum  
Amount: 3 acre-feet per annum

Season: October 15 to March 1  
Point of  
Diversion: Reservoir #2, South 2,400 feet and West 3,150 feet from the NE  
corner of section 11, T15N, R7E, MDB&M, being within SE $\frac{1}{4}$  of  
NW $\frac{1}{4}$  of said section 11, also described by the California  
Coordinate System of 1927 as Zone 2, North 547,946 and East  
2,236,114.

Place of Use: Stockwatering, Recreational, and Fire protection uses at  
Reservoir #2 and irrigation of 3 acres within County Assessor  
Parcel No.02-121-63 being within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said section  
11, T15N, R7E, MDB&M, as shown on a map dated September  
2001, on file with the SWRCB.

5. License 9610A and 9610B shall contain all other terms and conditions presently in License 9610.
6. The continuing authority condition shall be updated to read as follows:

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 the licensee without unreasonable draft o 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.

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7. The water quality objectives condition shall be updated to read 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 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.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all right 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.

(0000013)

8. The license amended to include the following Endangered Species condition:

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.

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STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief  
Division of Water Rights*

Dated: MAY - 6 2002