

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

ORDER

APPLICATION 23631

PERMIT 16192

LICENSE 10444

ORDER ALLOWING CHANGE IN POINT OF DIVERSION
AND AMENDING THE LICENSE

WHEREAS:

1. License 10444 was issued to Gene Mathew Cunningham, Francis Jean Cunningham, Delbert James Fox and Marilyn Jane Fox and was recorded with the County Recorder of Siskiyou County on April 4, 1975 in Volume 730, Page 160.
2. License 10444 was subsequently assigned to Robert L. and Louise V. McNeil.
3. A petition for change in point of diversion, 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 change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The licensee has shown good cause for the said change.
6. The license condition pertaining to the continuing authority of the Board should be updated to conform this term to the current language as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The license description of the point of diversion be amended to read:

The Point of Diversion of Such Water is Located:

North 1,200 feet and East 600 feet from the SW corner of projected Section 26, T44N, R11W, MDB&M; being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section. Also described as California Coordinate System, Zone 1, North 838,700 and East 1,703,100.

(0000002)

2. Condition related to the continuing authority of the license be amended to read:

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 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 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 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 licensee in order to protect public trust uses. No action will be taken pursuant to 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: OCTOBER 06 1988

for 
Walter G. Pettit, Chief
Division of Water Rights

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

License for Diversion and Use of Water

APPLICATION 23631

PERMIT 16192

LICENSE 10444

THIS IS TO CERTIFY, That

GENE MATTHEW CUNNINGHAM, FRANCES JEAN CUNNINGHAM, *over*
DELBERT JAMES FOX AND MARILYN JANE FOX
c/o GENE MATTHEW CUNNINGHAM,
1263 SOUTH MAIN STREET, YREKA, CALIFORNIA 96097

HAVE *made proof as of* OCTOBER 30, 1974 *(the date of inspection)*
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
DRY CREEK IN SISKIYOU COUNTY

tributary to SCOTT RIVER THENCE KLAMATH RIVER

for the purpose of DOMESTIC USE
under Permit 16192 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 OCTOBER 19, 1970 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 ONE THOUSAND FIVE HUNDRED (1,500) GALLONS PER DAY, TO BE
DIVERTED FROM APRIL 1 TO NOVEMBER 1 OF EACH YEAR AND FOUR HUNDRED (400) GALLONS
PER DAY, TO BE DIVERTED FROM NOVEMBER 1 OF EACH YEAR TO APRIL 1 OF THE SUCCEEDING
YEAR. SO LONG AS THERE IS NO INTERFERENCE WITH OTHER RIGHTS, JUNIOR, AS WELL AS
SENIOR, LICENSEE MAY INCREASE HIS RATE OF DIVERSION TO A MAXIMUM OF 20 GALLONS PER
MINUTE; PROVIDED THAT THE TOTAL QUANTITY DIVERTED IN ANY 7-DAY PERIOD DOES NOT
EXCEED 10,500 GALLONS.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

SOUTH 1,100 FEET AND EAST 480 FEET FROM W1/4 CORNER OF SECTION 26, T44N, R11W,
MDB&M, BEING WITHIN NW1/4 OF SW1/4 OF SAID SECTION 26.

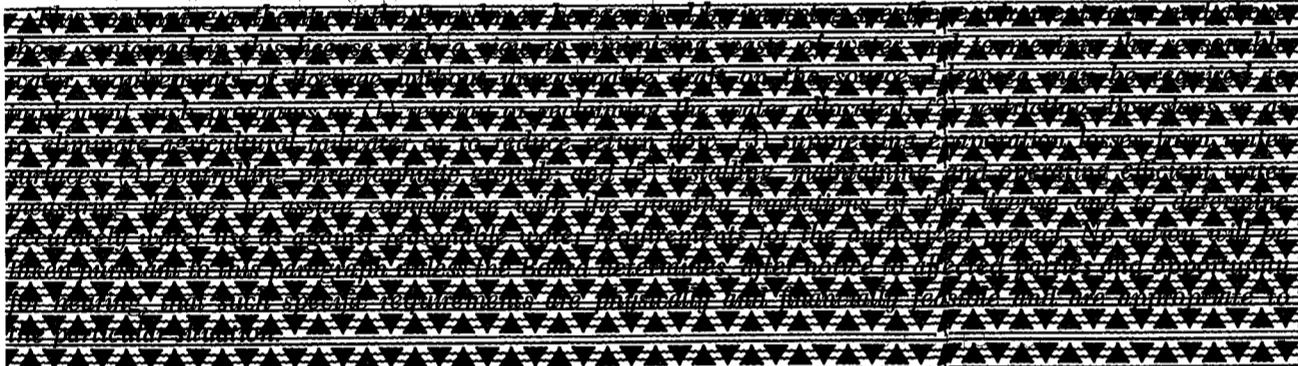
A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

WITHIN NW1/4 OF SW1/4 OF SECTION 26, T44N, R11W, MDB&M.

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION
BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND
AN OPPORTUNITY FOR HEARING, THE BOARD 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 BOARD 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.

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: APR 2 1975

STATE WATER RESOURCES CONTROL BOARD

R. J. Rowledge
Chief, Division of Water Rights

7-17-44

3-21-79 asgd to David L. & Peggy Bennett

6-24-85 asgd to Robert L. & Ruise V. McNeil