



STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 26521
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PERMIT 19000

LICENSE **13440**

THIS IS TO CERTIFY, That

Peggy Sue Scott Brown
P.O. Box 307
Canby, CA 96015

has made proof as of **September 16, 1996** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of **Blacks Canyon in Modoc County**

tributary to Pit River thence Shasta Lake

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

under Permit 19000 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 **September 11, 1980** 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 hundred forty-two (142) acre-feet per annum to be collected from **November 1** of each year to April 30 of the succeeding year. The maximum withdrawal in any one year shall not exceed 139 acre-feet.

The capacity of the reservoir covered by this license shall not exceed 142 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.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

- (1) South 1.800 feet and West 850 feet from NE corner of Section 13, T42N, R9E, MDB&M, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 13.

THE POINTS OF REDIVERSION OF SUCH WATER ARE LOCATED:

- (2) South 2.050 feet and East 2.150 feet from NW corner of Section 19, T42N, R10E, MDB&M, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 19, and
- (3) North 1.250 feet and West 1.050 feet from SE corner of Section 19, T42N, R10E, MDB&M, being within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 19.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:
Stockwatering, recreational, and wildlife enhancement uses at Porter No. 2 Reservoir within NE¼ of Section 13, T42N, R9E, MDB&M, and irrigation as follows:

- 62 acres within E½ of E½ of Section 13, T42N, R9E, MDB&M
- 5 acres within NE¼ of NE¼ of Section 24, T42N, R9E, MDB&M
- 5 acres within SW¼ of SW¼ of Section 18, T42N, R10E, MDB&M
- 168 acres within S½ of Section 19, T42N, R10E, MDB&M
- 16 acres within NW¼ of NW¼ of Section 19, T42N, R10E, MDB&M
- 10 acres within NW¼ of SW¼ of Section 20, T42N, R10E, MDB&M
- 5 acres within W¼ of NW¼ of Section 29, T42N, R10E, MDB&M
- 152 acres within N½ of Section 30, T42N, R10E, MDB&M

423 acres total, as shown on map on file with State Water Resources Control Board.

Licensee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this license may be released.

(0050043)

Licensee shall maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board (SWRCB), for the purpose of determining water levels in the reservoir. Licensee shall record the staff gage readings on: (1) the first day of each month from November 1 to May 1; (2) immediately before diversion to storage begins; (3) immediately after diversion to storage ceases. Staff gage readings shall be made available to PG&E once a month upon request. Licensee shall allow a representative of PG&E reasonable access to the reservoir for the purpose of determining whether water should be released in accordance with the terms of this license. In no event shall licensee be obligated to release water below the previous November staff gage reading.

(0070047)

(0100047)

Licensee shall divert water to storage only after contacting Pit 3 Powerhouse and finding that the flow in Pit River at the Canby Gaging Station exceeds 300 cubic feet per second.

The frequency of contact to Pit 3 Powerhouse, when storing water, shall be according to the following levels of flow at the Canby Gaging Station.

300 - 350 cfs	Every Day
350 - 400 cfs	Every Second Day
400 - 500 cfs	Every Third Day
500 - 600 cfs	Every Fourth Day
over 600 cfs	Every Fifth Day

(0160400)

Prior to releasing and transferring any water before April 30 from Duncan and Williams Reservoirs into the reservoirs under Applications 26520 and 26521, Licensee shall notify PG&E of such intentions and both parties shall mutually agree on storage adjustments within the reservoirs under Applications 26520 and 26521 as may be necessary before such transferring of water occurs.

This does not and shall not encumber licensee's rights at Duncan and Williams Reservoirs.

(9990999)

Licensee shall allow representatives of the State Water Resources Control Board (Board) and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the 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.

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 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 requirement 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.

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 an incidental take permit prior to construction or operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

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 (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).

This license is subject to prior rights. Licensee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of the State Water Resources Control Board made after notice to interested parties and opportunity for hearing.

(0000090)

No diversion is authorized by this license when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- A. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board (SWRCB) for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- B. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The SWRCB shall notify the licensee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The SWRCB will advise the licensee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

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: SEP 13 1999

STATE WATER RESOURCES CONTROL BOARD

David R. Bevinger
for Chief, Division of Water Rights