

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26239 PERMIT 18761 LICENSE _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18761 was issued to David Guy Eatchel on February 22, 1983 pursuant to Application 26239.
2. Permit 18761 was subsequently assigned to Gary L. Johns and Lloyd Lochra.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (State Water Board).
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Permit Condition 10 pertaining to the continuing authority of the State Water Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1998

(000009)

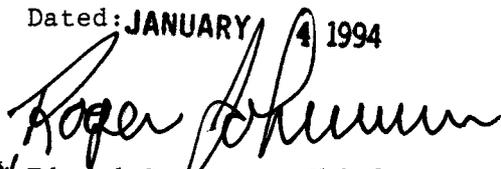
2. Condition 10 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this 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 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: JANUARY 4 1994


for Edward C. Anton, Chief
Division of Water Rights

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

ORDER

APPLICATION 26239

PERMIT 18761

LICENSE _____

ORDER APPROVING A CHANGE IN PERMIT TERMS

WHEREAS:

1. Decision 1594 was adopted by the State Water Resources Control Board on November 17, 1983.
2. Order WR 84-2 Amending Decision 1594 was adopted by the State Water Resources Control Board on February 1, 1984.
3. The Decision and the Order set forth changes to be made in permits containing Standard Water Right Permit Term 80.

NOW, THEREFORE, IT IS ORDERED:

1. Standard Water Right Permit Term 80 is deleted from the permit.

Standard Water Right Permit Term 80 is worded as one of the following:

"The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing."

or

"The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the [name of river basin or watershed]. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing."

2. Standard Water Right Permit Term 91 is deleted from the permit.

Standard Water Right Permit Term 91 reads as follows:

"No diversion is authorized by this permit 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 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 Board 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 Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee 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."

JULY 25 1984

Dated:

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18761

Application 26239 of David Guy Eatchel
P. O. Box 24, Lookout, California 96054

filed on February 28, 1980, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

- | | |
|---------------------|-------------------------|
| 1. Source: | Tributary to: |
| <u>Halls Canyon</u> | <u>Pit River thence</u> |
| | <u>Sacramento River</u> |
| | |
| | |
| | |

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
South 1,000 feet and West 1,900 feet from NE corner of Section 24	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	40N	7E	MD

County of Modoc

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Wildlife Enhancement						
Fire Protection						
Recreational						
Stockwatering	Unnamed Reservoir in NW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	40N	7E	MD	
Irrigation	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	13	40N	7E	MD	42
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	13	40N	7E	MD	42
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	40N	7E	MD	3
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	24	40N	7E	MD	7
					Total	94

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 35 acre-feet per annum to be collected from November 1 of each year to April 1 of the succeeding year.

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

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

7. Complete application of the water to the authorized use shall be made by December 1, 1987.

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

9. Permittee shall allow representatives of the State Water Resources Control 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 permit.

10. Pursuant to California Water Code Sections 100 and 275, 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 prevent waste, unreasonable use, unreasonable methods 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 minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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.

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee 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.

12. Rights under this permit are, and shall be, subject to existing rights determined by the Pit River in Big Valley Adjudication, Superior Court, Modoc County, No. 6395 insofar as said adjudicated rights are maintained and such other rights as may presently exist.

13. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board, to measure the quantities of water entering and leaving the reservoir.

14. Permittee shall, during the period of November 1 to April 1 of each year divert only when PG&E's rights at Pit 5 Powerhouse are satisfied.

15. Permittee shall, during the period of November 1 to April 1 of each year, bypass 0.5 cfs or the natural streamflow, whichever is less, for the purpose of satisfying prior downstream rights on Halls Canyon.
16. Permittee shall, during the period of April 1 to November 1 of each year, bypass all natural flow entering the reservoir.
17. Permittee shall install and maintain in his reservoir a staff gage meeting the approval of the State Water Resources Control Board for the purpose of determining water levels in the reservoir. Permittee shall record staff gage readings; (1) the first of each month from November 1 to April 1; (2) on the day diversion to storage begin and on the day diversions to storage stop. This record shall be made available to PG&E after the end of each month.
18. Permittee shall maintain the existing outlet pipe in the dam in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.
19. Permittee shall install and maintain meters and maintain pumping records sufficient to determine the quantities of water pumped from the reservoir and supplied to the reservoir from wells. Meter readings or pumping records satisfactory to the Board shall be provided to PG&E after the end of each month and supplied to the Board on or about November 1 of each year.
20. Permittee shall allow protestants or their designated representative reasonable access to the reservoir for the purpose of determining whether water should be released in accordance with this permit.
21. Regulation of the reservoir shall be subject to control by the watermaster.
22. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the Sacramento River Basin. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing.
23. This permit is subject to prior rights. Permittee 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 this Board made after notice to interested parties and opportunity for hearing.
24. No diversion is authorized by this permit 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 Board 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 Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee 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.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit 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 1391. Every permit 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 permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, 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 permit 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 permittee 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, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

FEBRUARY 22 1983

Dated:

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights

18781

1992

1/29/92 Not. of asgd: App#26239 Per#18761
Gary L. Johns & Lloyd Lochra

12/30/1999 ASGD TO ROGER G. & NANCY L. FIDDLER