

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 18976 (Application 27215)  
**Jack Galante**

**ORDER REVOKING PERMIT**

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SOURCE: Two Unnamed Streams tributary to Carmel River and Carmel River

COUNTY: Monterey

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You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is revoking Permit 18976 because the Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18976 and has not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

The revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 18976 on September 14, 1983. The permit authorizes Jack Galante (Permittee) to collect 40 acre-feet per annum to storage in two reservoirs from November 1 of each year to April 15 of the succeeding year. Water would be used for domestic, heat and frost protection, irrigation, recreational and wildlife enhancement. The permit requires that construction work be completed by December 1, 1986 and that the water be applied to the authorized use by December 1, 1987.

**A. PERMITTEE HAS FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT**

1. Permittee has consistently indicated that construction work has not commenced. The most recent documentation that the project facilities have not been built is the 2010 Progress Report by Permittee (2010 Report) which states that construction work has not commenced, beneficial use of water has not commenced and the exact locations for the reservoirs needs to be determined. The 2010 Report estimates that construction will be completed on January 1, 2016. The 2010 Report is the latest report on file.
2. Permittee requested, and on August 19, 1988 the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use. The time extension order required construction to be complete by December 31, 1991, and that water be fully used by December 31, 1993.
3. Permittee failed to complete application of water to beneficial use, and therefore has not made full beneficial use of the water as contemplated in the permit and in accordance with the Water Code and rules and regulations of the State Water Board.

4. Permittee petitioned for an extension of time on September 13, 1999. The petition has not been acted upon due to unresolved protests and the lack of a California Environmental Quality Act (CEQA) document. Therefore, the 1991 deadline to complete construction and the 1993 deadline to make full beneficial use of water remain in effect.
  5. On August 11, 2011, the Division advised Permittee that a Memorandum of Understanding (MOU) was required for preparation of the CEQA document for the time extension petition. An executed MOU was required to be submitted by February 7, 2012. In addition, Permittee was required to identify the consultants or persons that will prepare the CEQA document. The MOU and list of consultants was requested pursuant to Water Code section 1701.3. The requested information was not received. Consequently, the petition is canceled pursuant to Water Code section 1701.4.
- B. BASED ON THE ABOVE FACTS AND INFORMATION, THE DIVISION CONCLUDES THAT CAUSE EXISTS FOR THE REVOCATION OF PERMIT 18976 PURSUANT TO WATER CODE SECTION 1410, SUBDIVISION (a) BECAUSE:
6. Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18976 and has failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.
  7. On May 13, 2013, Permittee was provided notice by certified mail of the proposed revocation. The notice provided the Permittee the opportunity to object to the proposed revocation and request a hearing. The Permittee did not submit a request for a hearing to the Division.
  8. The State Water Board has found that Permittee failed to apply the water to beneficial use under the terms and conditions of this permit.

**Therefore, it is ordered** that Permit 18976 is hereby revoked by the State Water Board pursuant to Water Code section 1410.1, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: JUN 17 2013

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

**ORDER**

APPLICATION 27215

PERMIT 18976

LICENSE \_\_\_\_\_

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE  
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 18976 was issued to Jane H. Galante on September 14, 1983 pursuant to Application 27215.
2. A petition for 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.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time.
4. Permit Condition 12 pertaining to the continuing authority of the Board should be updated to conform to standard permit term 12 as contained in Title 23, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE

December 31, 1991 (000008)

2. Condition 9 of the permit be amended to read:

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

December 31, 1993 (000009)

3. Condition 12 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.

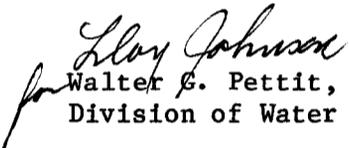
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required 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: AUGUST 19 1988

  
Walter G. Pettit, 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 18976

Application 27215 of Jane H. Galante  
8 Sea Cliff Avenue, San Francisco, California 94121

filed on February 18, 1982, 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>(D-1, D-2) Unnamed Streams (2)</u>	<u>Carmel River</u>
<u>(D-3, D-4) Carmel River</u>	<u>Pacific Ocean</u>

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Diversions to Offstream Storage					
(D-1) South 2,350 feet and East 5,000 feet from NW corner of Section 32	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	32	17S	3E	MD
(D-2) South 1,750 feet and East 2,680 feet from NW corner of Section 32	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	32	17S	3E	MD
(D-3) South 2,850 feet and East 1,700 feet from NW corner of Section 32	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	32	17S	3E	MD
(D-4) South 3,100 feet and East 2,300 feet from NW corner of Section 32	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	32	17S	3E	MD

County of Monterey

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Wildlife Enhancement						
Recreational						
Stockwatering	Reservoir R-1 in NE $\frac{1}{4}$ of SE $\frac{1}{4}$	32	17S	3E	MD	
	Reservoir R-2 in SE $\frac{1}{4}$ of NW $\frac{1}{4}$	32	17S	3E	MD	
Domestic						
Heat & Frost Protection						
Irrigation	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	32	17S	3E	MD	18
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	32	17S	3E	MD	9
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	32	17S	3E	MD	4
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	32	17S	3E	MD	15
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	32	17S	3E	MD	9
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	32	17S	3E	MD	6
Total						61

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 a total of 40 acre-feet per annum to be collected from November 1 of each year to April 15 of the succeeding year as follows: 20 acre-feet per annum in R-1 reservoir, 20 acre-feet per annum in R-2 reservoir.

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.

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second. (000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (000007)

8. Construction work shall be completed by December 1, 1986. — → (000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1987. (000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000010)

11. 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. (000011)

12. 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. (000012)

13. 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. (000013)

14. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (000020)

15. Permittee shall not divert water under this permit if the flow in the Carmel River measured at permittee's gage is less than 5 cubic feet per second. (0140400)
16. If the flow in the Carmel River measured at permittee's gage is between 5 and 10 cubic feet per second, the minimum bypass under this permit shall be 5 cubic feet per second or the flow being released from storage by California-American Water Company from Los Padres Reservoir, whichever is greater. (0140400)
17. At all flows in the Carmel River above 10 cubic feet per second as measured at permittee's gage, permittee shall bypass a minimum of 10 cubic feet per second before diverting water under this permit. (0140400)
18. Permittee shall maintain records of diversions and staff gage measurements during the period of November 1 of each year to April 15 of the following year, and such records shall be made available to California-American Water Company and/or the State Water Resources Control Board upon reasonable request. (0100047)  
(0070047)
19. Whenever California-American Water Company is releasing water from storage in Los Padres Reservoir during the period from November 1 of each year to April 15 of the following year, permittee's rate of diversion shall be limited to a maximum rate of 150 gallons per minute, unless permittee can demonstrate that there are natural flows arriving at her point of diversion in excess of this rate. (0160999)
20. No water shall be diverted under this permit until permittee has installed devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the flows required by the conditions of this permit. Said measuring devices shall be properly maintained. (0060062)
21. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee. (0000063)
22. In the event the Monterey Peninsula Water Management District declares a District-wide water shortage emergency, permittee will reduce or cease all diversions of water in an equitable or proportionate manner as required pursuant to Section 332 of the Monterey Peninsula Water Management District Law. (0160999)
23. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Coast Region, or by the State Water Resources Control Board.
- Failure of permittee to comply with this term will subject the permit to revocation, after opportunity for hearing. (0000100)

**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).

Dated: SEPTEMBER 14 1983

STATE WATER RESOURCES CONTROL BOARD

*L. D. Johnson*  
Chief, Division of Water Rights