

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

ORDER

APPLICATION 28151 PERMIT 2007 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 2007 was issued to Dr. Bassett Brown and Marcella Brown pursuant to Application 28151.
2. 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 (Board).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

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, 1996 (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, 1998 (000009)

Dated: NOV 17 1992


10/ Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20007

Application 28151 of Dr. Bassett Brown and Marcella Brown
840 Cameron Drive, Pasadena, California 91106

filed on June 6, 1984, 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>(1) (3) Unnamed Stream</u> | <u>Sage Creek thence</u> |
| | <u>Lake Hennessey</u> |
| <u>(2) (4) Unnamed Stream</u> | <u>Sage Creek thence</u> |
| | <u>Lake Hennessey</u> |

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
SEE ADDENDUM					

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Fire Protection						
Recreational	Brown Reservoir # 1, 2 and within Sections 34 and 35	3	8N	4W	MD	
Frost Protection						
Heat Control						
Irrigation	Sections 34 and 35		8N	4W	MD	90

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 100 acre-feet per annum to be collected from October 15 of each year to May 15 of the succeeding year as follows: (1) 30 acre-feet per annum in Brown Reservoir #1, and (2) 30 acre-feet per annum in Brown Reservoir #2, and (3) 40 acre-feet per annum in Brown Reservoir #3. (0000005)

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. (0000005)

The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

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. (0000007)

8. Construction work shall be completed by December 1, 1990. (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1991. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

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. (0000011)

12. 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)

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. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this 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. (0000020)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in each onstream 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 reservoirs which is not authorized for appropriation under this permit may be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes or alternative facilities to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes or alternative facilities have been installed. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and properly maintain in all reservoirs staff gages, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about November 1 of each year. Such readings shall be supplied to the State Water Resources Control Board and to the City of Napa.

Permittee shall allow the City of Napa, or a designated representative, reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)
(0100047)

17. Permittee shall install and maintain a pumping and pipeline system of adequate capacity at the offstream reservoir, or provide other means satisfactory to the State Water Resources Control Board in order that water entering such reservoir which is not authorized for appropriation under this permit may be released back into the Sage Creek stream system. Before starting construction, permittee shall submit plans and specifications of the pumping and pipeline system or other alternative to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence to the Chief of the Division of Water Rights which substantiates that the system or other alternative has been installed. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0360800)

18. Permittee shall not withdraw or use water impounded under this permit in any reservoir from November 1 to May 1 of the current storage season until the City of Napa prior vested rights under Permit 6990 (Lake Hennessey) are satisfied. In the event that the City of Napa's prior rights are not satisfied by May 1 of any year, permittee shall, on request by the City of Napa or its designated representative, immediately released from each reservoir, at the maximum practicable rate to maximize the amount of the release an amount of water necessary to satisfy the City of Napa's prior right, up to the total amount of water which permittees have impounded in each reservoir under this permit since November 1 of that storage year. In no event shall permittee be obligated to reading. Permittee shall allow the City of Napa or its designated representative reasonable access to each reservoir for the purpose of determining compliance with this condition. Any request by the City of Napa or its designated representative for a release pursuant to this term shall be made on or before May 5. (0350800)

19. The archeological site identified as Brown-1 in the cultural resources report prepared by the Division of Water Rights shall not be impacted by any developments related to or resulting from the proposed water diversion, storage, or use. Such developments would include all subsurface disturbances related to construction of the pipeline from Point of Diversion #3 to Brown Reservoir #1.

Developments of this type at the aforementioned site shall only be permitted following investigations by a qualified archeologist, approved by the Division of Water Rights, and the implementation of any recommendations from such investigations.

(0380500)

20. 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 all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region (2) Region, or by the State Water Resources Control Board.

(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, city and 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: FEBRUARY 3 1987

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh

Chief, Division of Water Rights