

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

ORDER

APPLICATION 28794 PERMIT 20140 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 20140 was issued to Whitbread of California, Inc. on September 11, 1987 pursuant to Application 28794.
2. Permit 20140 was subsequently assigned to Atlas Peak Vineyards.
3. A petition for extension of time has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

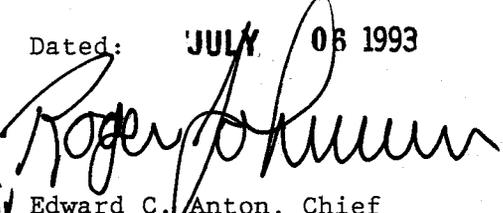
1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE December 31, 1997 (0000008)

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 (0000009)

Dated: JULY 08 1993


Edward C. Anton, Chief
Division of Water Rights

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

ORDER

APPLICATION 28794 PERMIT 20140 LICENSE _____

ORDER CORRECTING THE POINT OF DIVERSION, PLACE OF USE,
THE DISTRIBUTION OF STORAGE AND PERMIT CONDITION 20

WHEREAS:

1. Permit 20140 was issued to Whitbread of California, Inc. on September 11, 1987 pursuant to Application 28794.
2. The place of use described in the original permit should be corrected from SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M, to SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M for a 40 acres area.
3. The distribution of storage shown on the order issued July 15, 1988 should be corrected to read:

301 acre-feet to be stored at Foss Valley Reservoir

Middle Reservoir No. 2 is covered under Permit 19060 (Application 27295) and should be deleted from this permit.

4. Permit Condition 20 shown on the order issued July 15, 1988 should be corrected to read Veterans Home of California and not the City of Napa.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Place of Use under this permit be amended to read:

Irrigation, Frost Protection, Heat Control and Recreation:

37 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 22, T7N, R4W, MDB&M
14 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, T7N, R4W, MDB&M
37 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23, T7N, R4W, MDB&M
40 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 23, T7N, R4W, MDB&M
40 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 23, T7N, R4W, MDB&M
15 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 25, T7N, R4W, MDB&M
40 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
27 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
14 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
35 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
37 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
19 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 26, T7N, R4W, MDB&M
40 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 27, T7N, R4W, MDB&M
40 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 27, T7N, R4W, MDB&M
35 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 27, T7N, R4W, MDB&M, and
30 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 27, T7N, R4W, MDB&M

700 acres total.

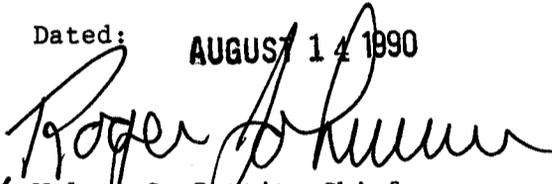
2. Storage and Point of Rediversion under this permit is amended to read:
301 acre-feet to be stored in Foss Valley Reservoir.
3. Permit Condition 20 be corrected to read:

Permittee shall keep accurate records of the amount of water collected to storage during each collection season under this permit, and by April 30 of each year shall notify the Veterans Home of California and the State Water Resources Control Board, Division of Water Rights, of the amount of water so collected. During years when permittee stores water which would have been required to satisfy the prior rights of the Veterans Home, permittee shall release water collected adverse to the prior rights of the Veterans Home during the preceding collection season at the highest practical rate to maximize the amount of the release which flows into Rector Reservoir.

Permittee shall allow a designated representative of the Veterans Home of California reasonable access to the project facilities for the purpose of verifying amounts of water collected to storage and determining water levels in the reservoir.

Dated:

AUGUST 14 1990

for 
Walter G. Pettit, Chief
Division of Water Rights

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

ORDER

APPLICATION 28794

PERMIT 20140

LICENSE _____

ORDER APPROVING A CHANGE IN DISTRIBUTION OF STORAGE,
AND CORRECT THE WORDING OF CONDITION 20 OF THIS PERMIT

WHEREAS:

1. Permit 20140 was issued to Whitbread of California, Inc. on September 11, 1987 pursuant to Application 28794.
2. A petition to change the distribution of storage has been filed with the State Water Resources Control Board.
3. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Permission is hereby granted under this permit to change the distribution of storage as follows:

252 ACRE-FEET TO BE STORED AT FOSS VALLEY RESERVOIR
49 ACRE-FEET TO BE STORED AT MIDDLE RESERVOIR

(000005)

2. Condition 20 of the permit be amended to read:

Permittee shall keep accurate records of the amount of water collected to storage during each collection season under this permit, and by April 30 of each year shall notify the City of Napa and the State Water Resources Control Board, Division of Water Rights of water so collected. During years when permittee stores water which would have been required to satisfy the City of Napa's prior rights and upon request of the City, permittee shall release water collected adverse to the City's prior rights during the preceding collection season at the highest practical rate to maximize the amount of the release which flows in to Milliken Reservoir.

(0090800)

Dated: **JULY 15 1988**

for 
Walter G. Pettit, Chief
Division of Water Rights

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20140

Application 28794 of Whitbread of California, Inc. (over)
c/o James C. Hanson, Consulting Civil Engineer
444 North Third Street, Suite 400, Sacramento, California 95814

filed on February 4, 1986, 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:

(5) & (6) Two Unnamed Streams

Rector Creek thence
Conn Creek thence
Napa River

Rediversion

(1) & (2) Unnamed Stream

MILLIKEN Creek thence
Napa River

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
See Addendum						

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

7-1793

asgd to

Atlas Red Vineyard

P20140

ADDENDUM

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation, Frost Protection, Heat Control, Recreation						
	SE $\frac{1}{2}$ of SE $\frac{1}{2}$	22	7N	4W	MD	37
	SE $\frac{1}{2}$ of SE $\frac{1}{2}$	23	7N	4W	MD	14
	SW $\frac{1}{2}$ of SE $\frac{1}{2}$	23	7N	4W	MD	37
	SE $\frac{1}{2}$ of SW $\frac{1}{2}$	23	7N	4W	MD	40
	SW $\frac{1}{2}$ of SW $\frac{1}{2}$	23	7N	4W	MD	40
	NW $\frac{1}{2}$ of SW $\frac{1}{2}$	25	7N	4W	MD	15
	NW $\frac{1}{2}$ of NW $\frac{1}{2}$	26	7N	4W	MD	40
	NE $\frac{1}{2}$ of NW $\frac{1}{2}$	26	7N	4W	MD	27
	SE $\frac{1}{2}$ of NW $\frac{1}{2}$	26	7N	4W	MD	40
	SW $\frac{1}{2}$ of NW $\frac{1}{2}$	26	7N	4W	MD	14
	NW $\frac{1}{2}$ of NE $\frac{1}{2}$	26	7N	4W	MD	40
	NE $\frac{1}{2}$ of NE $\frac{1}{2}$	26	7N	4W	MD	40
	SE $\frac{1}{2}$ of NE $\frac{1}{2}$	26	7N	4W	MD	35
	SW $\frac{1}{2}$ of SE $\frac{1}{2}$	26	7N	4W	MD	40
	NW $\frac{1}{2}$ of SE $\frac{1}{2}$	26	7N	4W	MD	40
	NE $\frac{1}{2}$ of SE $\frac{1}{2}$	26	7N	4W	MD	37
	NE $\frac{1}{2}$ of SW $\frac{1}{2}$	26	7N	4W	MD	19
	NW $\frac{1}{2}$ of NE $\frac{1}{2}$	27	7N	4W	MD	40
	NE $\frac{1}{2}$ of NE $\frac{1}{2}$	27	7N	4W	MD	40
	SW $\frac{1}{2}$ of NE $\frac{1}{2}$	27	7N	4W	MD	35
	SE $\frac{1}{2}$ of NE $\frac{1}{2}$	27	7N	4W	MD	30
						700

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 301 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year as follows: (1) 200 acre-feet per annum in Reservoir No. 1, (2) 52 acre-feet per annum in Reservoir No. 2, and (3) 49 acre-feet per annum in Reservoir No. 6. (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 20 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 31, 1990. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 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. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion. (0000022)
16. If the storage dams will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction shall not be commenced until the Department has approved the plans and specifications. (0360048)
17. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)
18. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning protection of beneficial uses of water in San Francisco Bay. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000094)
19. 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, or by the State Water Resources Control Board. (0000100)
20. Permittee shall keep accurate records of the amount of water collected to storage during each collection season under this permit, and by April 30 of each year shall notify the City of Napa and the State Water Resources Control Board, Division of Water Rights of water so collected. During years when permittee stores water which would have been required to satisfy the City of Napa's prior rights and upon request of the City, permittee shall release water collected adverse to the City's prior rights during the preceding collection season at the highest practical rate to maximize the amount of the release which flows into Rector Reservoir. (0090800)
21. Permittee shall install measuring devices, satisfactory to the City of Napa and the State Water Resources Control Board, to (1) measure diversion of water to storage and offstream storage under this permit sufficient to allow determination of the amount of water diverted under this permit from the Rector Creek watershed to the Milliken Creek watershed, and (2) the amount of water withdrawn from storage for beneficial use in the Milliken Creek watershed.
- Permittee shall allow a designated representative of the City of Napa reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0360800)

22. The total quantity of water diverted to storage in Reservoir No. 1 under this permit, together with that diverted to storage in the same reservoir under the permit issued pursuant to Application 27295, shall not exceed 600 acre-feet per annum. The total quantity of water diverted to storage in Reservoir No. 2 under this permit, together with that diverted to storage in the same reservoir under the permit issued pursuant to Application 27295, shall not exceed 150 acre-feet per annum.

(0000114)

23. The archeological sites identified as 80-22-10 and 80-22-11 in the report entitled, "An Assessment of Impacts of Cultural Resources Within the Foss Valley Wine Company Property, Foss Valley, Napa County, California" by Peter Banks and dated May 11, 1983, shall be excluded from the place of use. No impacts relating to water developments shall be allowed on these sites.

(0380500)

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: **SEPTEMBER 11 1987**

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh

Chief, Division of Water Rights