P 20802

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

In the Matter of Permit 20802 (Application 30212)

Jerry D. Comingdeer

ORDER APPROVING EXTENSION OF TIME AND AMENDING THE PERMIT

SOURCE: Unnamed Stream tributary to Middle Creek thence Sacramento River

COUNTY: Shasta

WHEREAS:

1. Permit 20802 was issued to Jerry D. Comingdeer and Lois Comingdeer on July 28, 1995, and subsequently assigned to Jerry D. Comingdeer.

2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on September 1, 1999.

3. The permittee has proceeded with diligence and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on November 19, 1999, and protest issues have been resolved.

4. The SWRCB has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water

5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20802 IS AMENDED TO READ AS FOLLOWS:

1. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2011.

(0000009)

2. Permit 20802 is amended to include the following Endangered Species condition

   This permit 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 permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

3. All other terms and conditions of Permit 20802 are still applicable.

Dated: JAN - 4 2002

STATE WATER RESOURCES CONTROL BOARD

David R. Buringer

for Chief, Division of Water Rights

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20802

Application 30212 of Jerry D. Comingdeer and Lois Comingdeer,

dba Crystal Creek Aggregate, 10936 Iron Mt. Road, Redding, CA 96001

filed on January 25, 1993, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR 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:
Unnamed Stream	Middle Creek thence
	Sacramento River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
South 1,800 feet and West 250 feet from NE corner of Section 30	SE¼ of NE¼	30	32N	5W	MD

County of Shasta

SWRCB 14 (6-94)

Application 30212 Permit 20802

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Fire Protection						
Fish and Wildlife Protection and Enhancement	Unnamed Reservoir within SE¼ of NE¼	30	32N	5W	MD	
Incidental Industrial						
Dust Control	NE¼ of NE¼	30	32N	5W	MD	
	SE¼ of NE¼	30	32N	5W	MD	
	NW¼ of NW¼	29	32N	5W	MD	
	SW¼ of NW¼	29	32N	5W	MD	

The place of use is shown on map on file 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 30 acre-feet per annum to be collected from December 1 of each year to June 1 of the succeeding year. (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. (000005I)

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, 1998. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a 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. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water beneficially used and water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000041)

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15. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

16. Permittee, when required by the State Water Resources Control Board, shall provide a bypass facility satisfactory to the Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Permittee shall submit plans of the bypass facility to the Chief of the Division of Water Rights for approval within six months of the date upon which the Board issues notice that such a facility is required. Permittee shall furnish evidence which substantiates that the facility has been installed. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050044)

17. 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. (0000090)

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: JULY 28 1995

STATE WATER RESOURCES CONTROL BOARD

for Chief, Division of Water Rights

WR 14-2 (6-94)