



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Water Rights
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Division of Water Rights: <http://www.waterrights.ca.gov>

RECEIVED

Gray Davis
Governor

APR 17 2002

DFG
DIRECTOR'S OFFICE

In Reply Refer
to:333:AGG:15424, 17375,17376

done 4/12/02
Sacto Tucker
Mike
APR 15 2002
Red Bluff
Mat Brown
Sacto Guinane
Roger
- KC
- NMFS
- USTWS
- USTWS

United States Department of the Interior
Bureau of Reclamation, Region 2
2800 Cottage Way
Sacramento, CA 95825

Dear Sirs:

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Reetmald
Bratcher
Vorpagel

LICENSE 9957 AND PERMITS 12365 AND 12364 (APPLICATIONS 15424, 17375, AND 17376) CLEAR CREEK TRIBUTARY TO SACRAMENTO RIVER IN SHASTA COUNTY

Your request for modification of License 9957 and Permits 12365 and 12364 has been approved. Any new conditions are set forth in the enclosed orders and amended License. Please review the conditions of the orders and retain the orders with your permits and license.

Additionally, a threatened and endangered species term has been added

The amended license enclosed with this letter incorporates the terms and conditions that were added by the attached order. Additionally, the amended license also incorporates any previous orders of the SWRCB that apply to your license. As such, the enclosed license supercedes the license currently in your possession. The issuance of this amended license in no way changes the priority date of your right, and serves to clarify the existing conditions of your license. Please retain the enclosed license for your records.

If you have any questions, please contact Alana L. Gibbs, who is currently assigned to process your modification request at (916) 341-5324.

Sincerely,

Mark L. Stretars, Chief
Petition Unit

Enclosure

cc: See next page (with enclosure)

REFERRED TO: _____ # _____
TAKE ACTION: _____
ORIGINAL: _____
CC: *D. V. JACOBSON*
DATE: *4/16/02* BY: *pu*

APR 15 2002

United States Department of Interior
Page 2

Mr. Lee W. Salter, President
The McConell Goundation
Post Office Box 492050
Redding, CA 96049-2050

Mr. L.D. Whitehead, President
Centerville Community Services District
Post Office Box 990431
Redding, CA 96099-0431

Mr. Micheael Spear, Director
California / Nevada Office
United States Fish and Wildlife Service
Federal Building
2800 Cottage Way, Room 2606
Sacramento, CA 95825

Mr. Robert C. Hight, Director
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 12365 (Application 17375)
U. S. Bureau of Reclamation

ORDER APPROVING MODIFICATION OF THE PERMIT

SOURCE: Clear Creek
COUNTY: Shasta

WHEREAS:

1. Permit 12365 was issued to U. S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17375.
2. A request for modification of its water right permit was filed with the State Water Resources Control Board (SWRCB) on March 15, 2001, and the SWRCB has determined that good cause for such modification has been shown. Notice of the modification request was issued on October 24, 2001, and no protests were received.
3. The SWRCB has determined that the modification to the permit does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The permit conditions relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780(a) & (b), title 23 of the California Code of Regulations.
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 condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 12365 IS AMENDED TO READ AS FOLLOWS:

1. Condition 9 of the Permit is replaced with the following term:

Permittee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U. S. Bureau of Reclamation U.S. Fish and Wildlife Service and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the State Water Resources Control Board.

2. Condition 10 of the Permit is replaced with the following term:

This Permit is subject to "Agreement between the United States and G.E. Oaks" dated May 23, 1960, a copy of which is filed with the State Water Resources Control Board.

3. The continuing authority condition, shall be updated to read as follows:

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 SWRCB 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 SWRCB 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 requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB 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 SWRCB 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 SWRCB 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)

4. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

5. Permit 12365 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)

6. All other conditions of Permit 12365 are still applicable.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 15 2002**

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

DIVISION OF WATER RIGHTS

In the Matter of License 9957 (Application 15424)
U. S. Bureau of Reclamation

ORDER APPROVING MODIFICATION OF THE LICENSE

SOURCE: Clear Creek
COUNTY: Shasta

WHEREAS:

1. License 9957 was issued to U. S. Bureau of Reclamation on September 21, 1972, pursuant to Application 15424.
2. A request for modification of the License was filed with the State Water Resources Control Board (SWRCB) on March 15, 2001, and the SWRCB has determined that good cause for such modification has been shown. Notice of the modification request was issued on October 24, 2001, and no protests were received.
3. The SWRCB has determined that the modification to the License does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The license term relating to the continuing authority of the SWRCB should be updated to conform to section 780(a), title 23 of the California Code of Regulations.
5. The license term relating to the water quality objectives of the SWRCB should be updated to conform to section 780(b), title 23 of the California Code of Regulations.
6. 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 license making the licensee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT LICENSE 9957 IS AMENDED TO READ AS FOLLOWS:

1. The condition of the license regarding the by-pass be amended to read:

Licensee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the SWRCB.

2. The condition of the license regarding an agreement between the United States and G.E. Oaks and an agreement between the United States and the Townsend Flat Water Ditch Company is deleted and replaced with the following term:

This License is subject to "Agreement between the United States and G.E. Oaks" dated May 23, 1960, a copy of which is filed with the SWRCB.

3. The continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB 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 SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement 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 SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB 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)

4. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

5. License 9957 is amended to include the following Endangered Species condition:

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

(0000014)

6. All other terms and conditions of License 9957 are still applicable.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 15 2002**

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 12364 (Application 17376)
U. S. Bureau of Reclamation

ORDER APPROVING MODIFICATION OF THE PERMIT

SOURCE: Clear Creek
COUNTY: Shasta

WHEREAS:

1. Permit 12364 was issued to U. S. Bureau of Reclamation on July 28, 1960, pursuant to Application 17376.
2. A request for modification of it's water right permit was filed with the State Water Resources Control Board (SWRCB) on March 15, 2001, and the SWRCB has determined that good cause for such modification has been shown. Notice of the modification request was issued on October 24, 2001, and no protests were received.
3. The SWRCB has determined that the modification to the permit does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The permit condition relating to the water quality objectives of the SWRCB should be updated to conform to section 780 (b), title 23 of the California Code of Regulations.
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 condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 12364 IS AMENDED TO READ AS FOLLOWS:

1. Condition 9 of the Permit is replaced with the following term:

Permittee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U.S. Bureau of Reclamation, U. S. Fish and Wildlife Service, and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the State Water Resources Control Board.

2. Condition 10 of the Permit is replaced with the following term:

This Permit is subject to "Agreement between the United States and G.E. Oaks" dated May 23, 1960, a copy of which is filed with the State Water Resources Control Board.

3. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

4. Permit 12364 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)

5. All other conditions of Permit 12364 are still applicable.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 15 2002**



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

Amended License for Diversion and Use of Water

APPLICATION 15424
Page 1 of 4

PERMIT 12363

LICENSE 9957

THIS IS TO CERTIFY, That

United States Department of the Interior
Bureau of Reclamation, Region 2
2800 Cottage Way
Sacramento, CA 95825

Has the right to use waters of **Clear Creek in Shasta County**

tributary to **Sacramento River**

for the purpose of **Power use**

Amended License 9957 supersedes the license originally issued on **September 21, 1972**, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of **Permit 12363**. The priority of this right dates from **July 23, 1953**. Proof of maximum beneficial use of water pursuant to **Application 15424** was made as of November 4, 1971.

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **one thousand seven hundred (1,700) cubic feet per second**, to be diverted from **January 1 to December 31** of each year.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION IS LOCATED:

Whiskeytown Dam - North 16° East 2,760 feet from SW corner of section 27, T32N, R6W, MDB&M, being within NW¼ of SW¼ of said section 27.

THE POINT OF REDIVERSION IS LOCATED:

Keswick Dam - South 62° 38'15" East 1,567.15 feet from W ¼ corner of section 21, T32N, R5W, MDB&M, being within NW¼ of SW¼ of said section 21.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Spring Creek Powerplant within NE¼ of SE¼ of section 18, T32N, R5W, MDB&M, Keswick Powerplant within NW¼ of SW¼ of section 21, T32N, R5W, MDB&M, as shown on map dated October 30, 1956, on file with the SWRCB.

Licensee shall by-pass or release over, under, around, or through Whiskeytown Dam into the natural stream bed of Clear Creek immediately below said dam for the maintenance of fish and wildlife resource such flows as are provided for in Provision 2.1 of that certain document entitled "Instream Flow Preservation Agreement by and among U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service and California Department of Fish and Game", dated August 11, 2000, a copy of which is filed with the State Water Resources Control Board.

This License is subject to "Agreement between the United States and G.E. Oaks", dated May 23, 1960, a copy of which is filed with the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB 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 SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB 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 SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB 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.

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

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, 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 license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief
Division of Water Rights*

Dated: **APR 15 2002**