

State Water Resources Control Board

JUL 08 2016

In Reply Refer to:  
SGC: A024478

Tom Garban  
23821 Hwy 96  
Klamath River, CA 96050

Dear Mr. Garban:

ORDER REVOKING LICENSE 12260 (APPLICATION 24478), UNNAMED SPRING IN  
SISKIYOU COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has received Tom Garban's request for revocation of License 12260, dated February 12, 2016. By requesting revocation of License 12260, you waive your right to the hearing and notice requirements set forth in California Water Code sections 1675 and 1675.1. Accordingly, enclosed is an Order revoking License 12260.

It is your responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Unauthorized diversion and use of water is considered a trespass and is subject to enforcement action under California Water Code sections 1052 and 1831. Pursuant to California Water Code section 1052, any diversion of water from the point of diversion identified in this license may be subject to Administrative Civil Liability of up to \$500 per day without further notice. The State Water Board also may issue a Cease and Desist Order in response to an unauthorized diversion or threatened unauthorized diversion, pursuant to California Water Code section 1831.

Before initiating any work in a stream channel, you should consult with the Department of Fish and Wildlife and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. These agencies may require a permit or other approval prior to any construction activity.

Some diverters claim rights to divert independent of a permit, license, registration, or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, California Water Code section 5101 requires that a Statement of Water Diversion and Use (Statement) be filed for these diversions. California Water Code section 5107 (c)(1) provides that the State Water Board may impose a civil liability of \$1,000, plus \$500 per day for each additional day on which the violation continues if the person fails to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person.

These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right. This letter serves as your notice of the Statement requirement and potential penalty.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

JUL 08 2016

If you have any questions, please contact Mr. Samuel Cole, who is currently assigned to process your revocation, at (916) 341-5380 or by e-mail at Samuel.Cole@waterboards.ca.gov. Written requests for reinstatement should be mailed to: State Water Resources Control Board, Division of Water Rights, Attn: Samuel Cole, P.O. Box 2000 Sacramento, CA 95812-2000.

Sincerely,



Brian Coats, Supervisor  
Watershed Use Evaluation Unit  
Division of Water Rights

Enclosure:

- Order Revoking License

cc: County Recorder  
County of Siskiyou  
311 Fourth Street, Room 107  
Yreka, CA 96098

California Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Redding, CA 96001

North Coast Water Quality Control Board  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403-1072

Klamath National Forest  
Supervisor's Office  
1711 South Main Street  
Yreka, CA 96097-9549

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

**DIVISION OF WATER RIGHTS**

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In the Matter of License 12260 (Application 24478)

**Tom Garban**

**ORDER REVOKING LICENSE**

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SOURCE: Unnamed Spring

COUNTY: Siskiyou

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**WHEREAS:**

1. License 12260 was issued to Tom Garban on February 17, 1988, pursuant to Application 24478, and was filed with the County Recorder of Siskiyou County on February 22, 1988, in Document 88001881.
2. Tom Garban requested on February 12, 2016, that the license be revoked by the State Water Resources Control Board (State Water Board), Division of Water Rights (Division).
3. The Division interprets the licensee's request for revocation as a waiver of the notice and hearing requirements set forth in California Water Code sections 1675 through 1675.1.
4. The State Water Board has delegated the authority to revoke water rights to the Deputy Director for the Division, pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Directors, Program Managers, and Unit Seniors, pursuant to redelegation Order dated July 6, 2012.

**Therefore, it is ordered** that License 12260 is hereby revoked by the State Water Board, 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



*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: **JUL 08 2016**



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

## License for Diversion and Use of Water

APPLICATION 24478  
Page 1 of 2

PERMIT 16834

LICENSE **12260**

THIS IS TO CERTIFY, *That* Tom Garban  
23821 Highway 96  
Klamath River, California 96050

has made proof as of November 6, 1987 *(the date of inspection)*  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
an Unnamed Spring in Siskiyou County

*tributary to* an Unnamed Stream thence Klamath River

*for the purpose of* Domestic use

under Permit 16834 of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from September 27, 1973 and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed two hundred forty (240) gallons per day to be  
diverted from January 1 to December 31 of each year. The maximum amount  
diverted under this license shall not exceed 0.25 acre-foot per year.

The equivalent of such continuous flow allowance for any 7-day period may be  
diverted in a shorter time provided there be no interference with other vested  
rights and instream beneficial uses; and provided further that all terms or  
conditions protecting instream beneficial uses be observed. (0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 450 feet and West 700 feet from E $\frac{1}{2}$  corner of Section 8, T46N, R9W, MDB&M,  
being within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 8.

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

At residence and grounds within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 8, T46N, R9W, MDB&M, as  
shown on map on file with State Water Resources Control Board.

*Licensee 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 license.*

*The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee 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.*

*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 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.*

*This continuing authority of the Board 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 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 licensee 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, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

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

*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 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 Board.

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 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.

Dated: **FEBRUARY 17 1988**

STATE WATER RESOURCES CONTROL BOARD

*W. J. Johnson*  
for Chief, Division of Water Rights