

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

DIVISION OF WATER RIGHTS

In the Matter of License 12791 (Application 27364)

Richard E. Horan and Peggy Horan

ORDER REVOKING LICENSE

SOURCE: Unnamed Spring

COUNTY: Monterey

WHEREAS:

1. License 12791 was issued to Richard E. Horan and Peggy Horan on June 20, 1991, pursuant to Application 27364, and was filed with the County Recorder of Monterey County on June 27, 1991, in reel 2661, pages 657 - 660.
2. Richard E. Horan and Peggy Horan requested on February 19, 2016, and June 10, 2016, respectively, 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 12791 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

ORIGINAL SIGNED BY: BRIAN COATS (FOR)

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: JUL 14 2016

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

ORDER

Application 27364 Permit 19412 License 12791

**ORDER CORRECTING THE POINT OF DIVERSION DESCRIPTION,
ADDITION OF TWO POINTS OF DIVERSION, ADDITION OF NEW LICENSE
CONDITIONS, AND AMENDING THE LICENSE**

WHEREAS:

1. Permit 19412 was issued to Gorda Mountain Water Association on February 8, 1985. Permit was subsequently assigned to Richard E. Horan and Peggy Horan on September 26, 1990.

2. License 12791 was issued to Richard E. Horan and Peggy Horan on June 20, 1991. The License currently provides the follows information:

SOURCE: Unnamed Spring tributary to Unnamed Stream thence Pacific Ocean

PURPOSE OF USE: Irrigation

AMOUNT: 870 gallons per day for domestic use from January 1 to December 31

MAXIMUM ANNUAL AMOUNT: 0.5 acre-foot

POINT OF DIVERSION: South 2,300 feet and west 165 feet from NE corner of Section 14, T24S, R5E, MDB&M, being within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 14 the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 14

PLACE OF USE: 2.5 acres within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 14, T24S, R5E, MDB&M as shown on a map on file with the State Water Resources Control Board (SWRCB).

3. Licensee's pipeline for delivery of spring water to the place of use was destroyed by the Gorda wildfire in 1985.

4. Licensee received a U.S. Forest Service special use permit for a new 1-inch diameter pipeline including access to two additional springs on June 23, 1998.

5. A petition for change to add new points of diversion was filed with the (SWRCB) on February 2, 1998 and the SWRCB has determined that good cause for such change has been shown. Petition material indicates that the location of the original unnamed spring was described incorrectly and requires correction. Public notice of the change was issued on December 8, 1998 and no protests were received.

6. The SWRCB has determined that the addition of the two points of diversion do not constitute the initiation of a new right nor operate to the injury of any lawful user of water.
7. The conditions pertaining to the continuing authority of the SWRCB should be updated to conform to Section 780 (a), Title 23 of the California Code of Regulations.
8. Fish, wildlife, and plants have been or may be listed under Federal Endangered Species Act and/or 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:

1. The description for the source is amended to read as follows:

(1), (2) & (3) Unnamed Springs tributary to Unnamed Stream thence Pacific Ocean in Monterey County.

2. The description of the points of diversion shall read as follows:

Ties by California Coordinates, Zone 4

(1) North: 195,500 feet and East 1,292,250 feet, within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 14, T24S, R5E, MB&M

(2) North: 195,525 feet and East 1,292,575 feet, within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 14, T24S, R5E, MB&M

(3) North: 195,475 feet and East 1,291,600 feet, within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 14, T24S, R5E, MB&M

3. Addition of a priority condition to the license to read as follows:

The right acquired under this license for Points of Diversion (2) & (3) shall be junior to the right(s) issued prior to February 2, 1998 within the watershed.

(0000112)

4. The continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust, all rights and privileges under this 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. License 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 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.

(0000012)

5. Addition of a water quality term 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)

6. Addition of an endangered species term to read as follows:

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)

Dated: 3/7/2000


for Harry M. Schueller, Chief
Division of Water Rights



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

License for Diversion and Use of Water

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APPLICATION 27364

PERMIT 19412

LICENSE

12791

THIS IS TO CERTIFY, That

Richard E. Horan and Peggy Horan
P.O. Box 366
Big Sur, CA 93920

have made proof as of September 26, 1990 (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 Monterey County

tributary to an Unnamed Stream thence Pacific Ocean

for the purpose of Irrigation use

under Permit 19412 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 June 21, 1982 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 eight hundred seventy (870) 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 0.5 acre-foot per year.

The total quantity of water diverted under this license and License 11314 (Application 25692) shall not exceed 1.3 acre-feet per year.

(0000114)

The equivalent of such continuous flow allowance for any 30 day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 2.300 feet and West 165 feet from NE corner of projected Section 14, T24S, R5E, MDB&M, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 14.

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

2.5 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 14, T24S, R5E, MDB&M, as shown on map on file with State Water Resources Control Board.

This license shall not be construed as conferring upon the licensee right of access to the point of diversion.

(0000022)



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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: JUNE 20 1991

STATE WATER RESOURCES CONTROL BOARD

Roger L. Luman
Chief, Division of Water Rights