

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

DIVISION OF WATER RIGHTS

In the Matter of Water Right Permit 20934 (Application 29631)

Suzanne Carter and Laura Hope

ORDER REVOKING WATER RIGHT

SOURCES: (1) Humbug Creek tributary to West Fork Chowchilla River
(2) an Unnamed Stream tributary to Humbug Creek

COUNTY: Mariposa

WHEREAS:

1. Suzanne Carter is the right holder of Water Right Permit 20934 .
2. On December 28, 2015, the right holder requested that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), revoke Water Right Permit 2934.
3. By signing the voluntary request for revocation, the right holder waived the right to the hearing and notice requirements set forth in Water Code sections 1410 et seq.
4. The State Water Board has delegated the authority to revoke water rights to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Unit Seniors, pursuant to redelegation order dated July 6, 2012.

THEREFORE, IT IS ORDERED THAT WATER RIGHT PERMIT 20934 IS HEREBY REVOKED, 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.

Before initiating any work in a stream channel, right holder 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. Right holder must also consult with the Department of Water Resources, Division of Safety of Dams, if a jurisdictional size dam will be removed or breached (dam height 25 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

Right holder shall document any diversions made under claim of right 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, Water Code section 5101 requires that a Statement of Water Diversion and Use be filed for these diversions. 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 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.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

SCOTT MCFARLAND (FOR)

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **JAN 11 2016**

bcc: Field Files

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20934

Application 29631 of John Boldroff, Jr.

P.O. Box 2045, Mariposa, CA 95338-2045

filed on December 19, 1989, 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:

1) <u>Humbug Creek</u>

2) <u>Unnamed Stream</u>

_____ | Tributary to:

<u>West Fork Chowchilla River thence</u>

<u>Chowchilla River</u>

<u>Humbug Creek thence</u>

<u>West Fork Chowchilla River</u>

_____ |
|--|---|

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Dam #1 - S 1,950 feet and E 1,750 feet from NW corner of Section 5	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	5	6S	19E	MD
Dam #2 - S 2,150 feet and East 1,850 feet from NW corner of Section 5	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	5	6S	19E	MD
Dam #3 - N 1,900 feet and East 1,050 feet from SW corner of Section 5					

County of Mariposa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Recreational						
Stockwatering	At reservoirs within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ and NW $\frac{1}{4}$ of SW $\frac{1}{4}$	5	6S	19E	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 a total of 0.7 acre-feet per annum to be collected from January 1 to April 15 of each year as follows: 0.3 acre-feet per annum in Reservoir #1, 0.3 acre-feet per annum in Reservoir #2, and 0.1 acre-feet per annum in Reservoir #3.

(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. Complete application of the water to the authorized use shall be made by December 31, 2002.

(0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(0000010)

9. 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)

10. 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)

11. 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)

12. No water shall be diverted to storage under this permit until the downstream prior rights granted under License 4219 (Application 13118) to Mr. Gene Bower and License 7192 (Application 18438) to Mr. Otho Spence have been fully satisfied. Such satisfaction of prior rights shall be deemed to have occurred when, and if, the storage reservoirs of Mr. Bower and Mr. Spence fill and spill anytime during the collection season authorized under Licenses 4219 and 7192.

(0160400)

13. Permittee shall install and maintain a 3-inch outlet pipe in each dam as near as practical to the bottom of the natural stream channel, or provide other means satisfactory to the SWRCB, in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Permittee shall submit plans and specifications of the outlet pipes or the alternative facilities to the Chief of the Division of Water Rights for approval within six months. Permittee shall furnish evidence which substantiates that the outlet pipes or alternative facilities have been installed in the dams. Evidence shall include photographs showing completed work or certification by a registered Civil or Agricultural Engineer.

(0050044)

14. Permittee shall install and properly maintain in the reservoirs a staff gage, satisfactory to the SWRCB, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage reading(s) on or about January 1 of each year. Such readings shall be supplied to the SWRCB with the next progress report submitted to the SWRCB by permittee.

The SWRCB may require the release of water which cannot be verified as having been collected to storage prior to January 1 of each year.

Permittee shall allow Mr. Bower and Mr. Spence and all successors in interest, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs.

(0000047)

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 19 1997**

STATE WATER RESOURCES CONTROL BOARD

Roger Shuman
for Chief, Division of Water Rights