

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 18029 (Application 25656)

California Department of Parks and Recreation

ORDER REVOKING PERMIT

SOURCE: An Unnamed Stream and White House Creek

COUNTY: San Mateo

You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is revoking Permit 18029 because California Department of Parks and Recreation (permittee) has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18029 and has not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

The revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 18029 on September 12, 1980. The permit authorizes the permittee to divert 49 acre-feet per annum to storage. The permit requires that construction work be completed by December 1, 1983, and that the water be applied to the authorized use by December 1, 1984.

PERMITTEE HAS FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT.

1. Permittee requested, and on April 22, 1985 the Division granted, an extension of time to commence or complete construction work or apply the water to full beneficial use. The time extension order required construction to be complete by December 1, 1987, and that water be fully used by December 1, 1989.
2. Permittee requested, and on August 15, 1990 the Division granted, a second extension of time to commence or complete construction work or apply the water to full beneficial use. The time extension order required construction to be complete by December 31, 1993, and that water be fully used by December 31, 1994.
3. Permittee indicated in the most recent Progress Report by Permittee, submitted on June 15, 1994, that construction work had not commenced.
4. Aerial photographs of the project site show no evidence of a reservoir being constructed. Phone conversations between Division staff and Department of Parks and Recreation District Superintendent on March 30, 1998 and July 2, 1998, confirmed that the reservoir has not been built.
5. Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18029.

Based on the above facts, the Division concludes that:

1. Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 18029 and has failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.
2. On May 8, 2009, permittee was provided notice by mail of the Division's recommendation of proposed revocation. The notice provided the permittee the opportunity to object to the proposed revocation.
3. The permittee did not submit a request for a hearing to the Division.
4. The State Water Board has found that permittee failed to apply the water to beneficial use under the terms and conditions of this permit.

THEREFORE, IT IS ORDERED that Permit 18029 is hereby revoked by the State Water Board pursuant to Water Code section 1675, 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
JAMES W. KASSEL FOR:

Victoria A. Whitney
Deputy Director for Water Rights

Dated: JUL 07 2009

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

ORDER

APPLICATION 25656 PERMIT 18029 LICENSE _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18029 was issued to Theodore Char, Chuck Shima, Richard Lum, and Albert Yonashi, A Partnership on September 12, 1980 pursuant to Application 25656.
2. Permit 18029 was subsequently assigned to California Department of Parks and Recreation.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
4. The permittee has proceeded with diligence and good cause has been shown for the extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE December 31, 1993 (0000008)

2. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE December 31, 1994 (0000009)

Dated: **AUGUST 15 1990**

Roger Pettit

for Walter G. Pettit, Chief
Division of Water Rights

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

ORDER

APPLICATION 25656

PERMIT 18029

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 7 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1987

2. Paragraph 8 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1989

3. Paragraph 11 of this permit is deleted. A new Paragraph 11 is added 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 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) to 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.

(000 0012)

Dated: APRIL 22 1985

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18029

Application 25656 of Theodore Char, Chuck Shima, Richard Lum, and Albert Yonashi,
(over) A Partnership
Suite 800 AMFAC Building, Honolulu, Hawaii 96813

filed on January 26, 1978, has been approved by the State Water Resources Control Board SUBJECT TO VESTED 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:

(1) Whitehouse Creek	Pacific Ocean
(2) Unnamed Stream	Whitehouse Creek thence
	Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
Diversion to Offstream Storage (1) N248,300 and E1,470,000, California Coordinate System, Zone 3	SE 1/4 of NE 1/4	8	9S	4W	MD
Storage and Rediversion (2) N247,000 and E1,467,800 California Coordinate System, Zone 3	NE 1/4 of SW 1/4	8	9S	4W	MD

County of San Mateo

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
Fire Protection						
Recreational						
Stockwatering	Reservoir B in NE 1/4 of SW 1/4	8	9S	4W	MD	
Irrigation	NE 1/4 of SW 1/4	8	9S	4W	MD	10
	NW 1/4 of SW 1/4	8	9S	4W	MD	20
	NE 1/4 of SE 1/4	7	9S	4W	MD	10
					TOTAL	40

The place of use is shown on map filed 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 49 acre-feet per annum to be collected from December 1 of each year to May 1 of the succeeding year.

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.

The maximum rate of diversion to offstream storage shall not exceed 1 cubic foot per second. (000 000 5)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000 000 6)

7. Construction work shall be completed on or before December 1, 1983. (000 000 8)

8. Complete application of the water to the proposed use shall be made on or before December 1, 1984. (000 000 9)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000 001 0)

10. 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. (000 001 1)

11. Pursuant to California Water Code Sections 100 and 275, 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 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 minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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. (000 001 2)

12. 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. (000 001 3)

13. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. (005 004 3)

14. For the protection of fish and wildlife, permittee shall at all times bypass a minimum of 1 cubic foot per second at the point of diversion from Whitehouse Creek. The total streamflow shall be bypassed whenever it is less than the designated amount for that period. (0140060)

15. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

16. In accordance with Section 1603 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife and the San Francisco garter snake have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee. (0000063)

17. For the protection of archeological resources permittee shall protect by fencing or other means, identified archeological sites CR-1 (4-SMA-113) and CR-9. Permittee shall prevent these sites from being impacted by construction or operation of reservoirs, pipelines, diversion of water or other activities related to use of water authorized by this permit. (0380500)

18. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board. (0000100)

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 12 1980

STATE WATER RESOURCES CONTROL BOARD

L. C. Spencer, for
Chief, Division of Water Rights

P18.029

3-31-82 Asgd to Cascade Ranch Associates, Ltd

2-24-86 Asgd to The Trust for Public Land

4-21-87 Asgd to Calif State Coastal Conservancy

4-11-89 asgd to California Department
of Parks and Recreation