



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION 8801A

PERMIT 4861

LICENSE 5063A

Right Holder: Howell Mountain Mutual Water Company
P.O. Box 9
Angwin, CA 94508

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **September 26, 1936**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supersedes any previously issued right on **Application 8801A**. The right holder has made proof, to the satisfaction of the State Water Board, of the quantities of water put to beneficial use during the authorized development schedule.

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.

The State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

Right holder is hereby granted a right to divert and use water as follows:

- Source of water: **(1)(5) an Unnamed Stream (AKA Angwin Creek), (6) an Unnamed Stream and (2) Conn Creek**

tributary to: **(1)(5)(6) Conn Creek thence (2) Napa River thence San Pablo Bay**

within the County of **Napa**.

- Location of points of diversion and storage

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Deer Lake (1) North 1,979,000 feet and East 6,426,281 feet	SW ¼ of SE ¼	25	9N	6W	MD
Lake Henne (2) North 1,975,728 feet and East 6,429,907 feet	NE ¼ of SW ¼	31*	9N	5W	MD

Lake Newton (5) North 1,977,784 feet and East 6,427,273 feet	NE ¼ of NE ¼	36	9N	6W	MD
Lake Whitehead (6) North 1,977,457 feet and East 6,428,351 feet	SW ¼ of NW ¼	31*	9N	5W	MD

Location of points of rediversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Lake Henne (2) North 1,975,728 feet and East 6,429,907 feet	NE ¼ of SW ¼	31*	9N	5W	MD
Lake Orville (3) North 1,976,537 feet and East 6,428,831 feet	NW ¼ of SW ¼	31*	9N	5W	MD
Granite Lake (4) North 1,978,415 feet and East 6,427,267 feet	SE ¼ of SE ¼	25	9N	6W	MD
Lake Newton (5) North 1,977,784 feet and East 6,427,273 feet	NE ¼ of NE ¼	36	9N	6W	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	Within the Howell Mountain Mutual Water Company service area boundary within portions of Sections 25 and 36, T9N, R6W; portions of projected Sections 31 and 32, T9N, R5W; projected Sections 6 and 7, portions of projected Sections 5 and 8, and portions of Sections 18 and 19, T8N, R5W; and portion of Section 12, and portions of projected Sections 13 and 24, T8N, R6W; all within MDB&M, as shown on map					
Irrigation	65 acres within regular, fractional and/or projected Sections comprising 50 acres within NE ¼ of Section 36, T9N, R6W, MDB&M, and 15 acres within Section 31, T9N, R5W, MDB&M					

The place of use is shown on map filed on June 14, 2013 with the State Water Board.

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **1.783 cubic feet per second** by direct diversion and **124 acre-feet per annum** by storage from October 1 of each year to May 1 of the succeeding year. The total amount of water to be taken from the

source (direct diversion plus collection to storage) shall not exceed **124 acre-feet per year**. The total amount of water to be placed to beneficial use (direct diversion plus withdrawal from storage) shall not exceed **124 acre-feet per year**.

(0000005E)

6. No water shall be collected to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

7. The total quantity of water diverted under this water right and the water rights pursuant to Applications 8512A, 11275, 14006, 14490, 18055, and 29853 shall not exceed **739.1 acre-feet per year**. The total amount of water to be placed to beneficial use (direct diversion plus withdrawal from storage) under this right and the water rights pursuant to Applications 8512A, 11275, 14006, 14490, 18055, and 29853 shall not exceed **367 acre-feet per year**.

(0000005Q)

8. The maximum simultaneous rate of direct diversion under this right and the rights pursuant to Applications 8512A, 11275, 14006, 14490, 18055, and 29853 shall not exceed **1.783 cubic feet per second**.

(0000005S)

9. If it is determined after license issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, the right holder shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). The revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. The revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.

(0000030)

10. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right.

(0090031)

11. Right holder shall maintain outlet pipes of adequate capacity in the dams as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Deputy Director for Water Rights in order that water entering the reservoirs which is not authorized for appropriation under this license may be released.

(0050043)

12. No water shall be diverted under this right unless right holder is monitoring and reporting the water surface elevation in the reservoirs. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of monitoring water surface elevations from the maximum water line to the minimum water line known to exist for the reservoirs and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the devices have been installed and the mark or reading corresponding to the maximum water line of the reservoirs with the first annual

report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Right holder shall maintain a record of water surface elevations. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights. The State Water Board may require release of water held in storage that cannot be verified by monthly records. Failure to maintain or submit the required records may result in the requirement to release the entire content of the reservoir's storage.

(0100047)

13. No water shall be diverted under this right unless right holder is monitoring and reporting the withdrawal of water for beneficial use and the release of water from the reservoirs. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of continuous monitoring of the rate and quantity of water withdrawn for beneficial use or released to the stream channel from each reservoir and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the devices have been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Right holder shall maintain a record of all withdrawals of water for beneficial use or releases of water to the stream channel under this right that includes the date, time, rate of withdrawal or release at time intervals of one hour or less, and the amount of water withdrawn or released. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(0100052)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- E. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- F. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- G. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
 2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
 3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,

4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- H. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- I. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

- J. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

- K. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- L. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An "agricultural water supplier" means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a

supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

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

- N. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water 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 State Water 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)

- O. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

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 therefore 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

ORIGINAL SIGNED BY:
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JUL 15 2013



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

License for Diversion and Use of Water

Page 1 of 4

APPLICATION 8801A

PERMIT 4861

LICENSE 5063A ✓

THIS IS TO CERTIFY, That

Howell Mountain Mutual Water Company, Inc.

P.O. Box 9

Angwin, CA 94508

has made proof as of October 10, 1957 (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of

(1) Unnamed Streams and (2) Angwin Creek in Napa County

tributary to (1) Angwin Creek thence Conn Creek thence Napa River and (2) Conn Creek thence
Napa River

for the purpose of Irrigation, Domestic, Stockwatering, and Recreational uses

under Permit 4861 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 26, 1936 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 124 acre-feet per annum to be collected from October 1 of each year to May 1 of the succeeding year.

THE POINTS OF DIVERSION AND STORAGE OF SUCH WATER IS LOCATED:

- 1) Lake Newton: South 369 feet and West 834 feet from NE corner of Section 36, T9N, R6W, MDB&M; being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 36.

2) Deer Lake: North 974 feet and West 1,738 feet from NE corner of Section 36, T9N, R6W, MDB&M; being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 25, T9N, R6W, MDB&M.

3) Lake Whitehead: South 780 feet and East 535 feet from NE corner of Section 36, T9N, R6W, MDB&M; being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T9N, R5W, MDB&M.

THE POINTS OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER ARE LOCATED:

South 1,000 feet and East 200 feet from NE corner of Section 36, T9N, R6W, MDB&M; being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, T9N, R5W, MDB&M.

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

Irrigation of 65 acres within regular, fractional and/or projected Sections comprising 50 acres within NE $\frac{1}{4}$ of Section 36, T9N, R6W, MDB&M, and 15 acres within Section 31, T9N, R5W, MDB&M. Domestic, stockwatering, and recreational uses within Sections 31, 32, 33, T9N, R5W, MDB&M; Sections 5, 6, 7, 8, 18, and 19, T8N, R6W; Sections 25 and 36, T3N, R6W, MDB&M, as shown on maps on file with the SWRCB.

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 requirement for the authorized project. No action will be taken pursuant to this 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: - MAY 28 1997

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
for Chief, Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 8801 Permit 4861 License 5063

**ORDER ALLOWING CORRECTION TO SOURCE,
ISSUANCE OF SEPARATE LICENSES, AND
REVOCATION OF ORIGINAL LICENSE**

WHEREAS:

1. License 5063 was issued to Dick R. Friesen on April 10, 1958 pursuant to Application 8801 and recorded with the County Recorder of Napa County on April 18, 1958.
2. License 5063 was subsequently assigned to Howell Mountain Mutual Water Company, Inc. on March 24, 1986.
3. By letter dated January 22, 1997, a request has been made for separate licenses to reflect the individual ownerships of licensees as the result of a land exchange between licensee and the Crains.
4. The State Water Resources Control Board (SWRCB) staff has determined a correction is needed to identify the source to be consistent with the current stream system identified on the U.S.G.S. St. Helena quadrangle.
5. The SWRCB has determined the correction to the source does not constitute the initiation of a new right nor operate to the injury of another lawful user of water, and that good and sufficient cause has been shown for the correction, and subsequent issuance of separate licenses.
6. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with the Section 780(a), Title 23 of the California Code of Regulations.

2. License 5063 be replaced by License 5063A issued to Howell Mountain Mutual Water Company, Inc. and License 5063B issued to Richard Crain and Lilly Crain.
3. Superseded License 5063 is hereby revoked upon issuance of License 5063A and 5063B.
4. Separate licenses be issued as follows

A. License: 5063A (Application 8801A)
Owner: Howell Mountain Mutual Water Company, Inc.
P.O. Box 9
Angwin, CA 94508

Source: Unnamed Streams and Angwin Creek tributary to
Conn Creek thence Napa River

Use: Irrigation, Domestic, Stockwatering and Recreational

Amount: 124 acre-feet

Season: October 1 of each year to May 1 of the succeeding year

Points of
Diversion
& Storage: Lake Newton: South 369 feet and West 834 feet from NE
corner of Section 36, T9N, R6W, MDB&M, being within
NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 36.

Deer Lake: North 974 feet and West 1,738 feet from NE
corner of Section 36, T9N, R6W, MDB&M, being within
SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 25, T9N, R6W, MDB&M.

Lake Whitehead: South 780 feet and East 535 feet from
NE corner of Section 36, T9N, R6W, MDB&M, being within
SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T9N, R5W, MDB&M.

Points of
Diversion
to Offstream
Storage: South 1,000 feet and East 200 feet from NE corner of
Section 36, T9N, R6W, MDB&M, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$
of Section 31, T9N, R5W, MDB&M.

Place of
Use: Irrigation of 65 acres within regular, fractional
and/or projected Sections comprising of 50 acres
within NE $\frac{1}{4}$ of Section 36, T9N, R6W, MDB&M, and 15
acres within Section 31, T9N, R5W, MDB&M. Domestic,
stockwatering, and recreational uses within Sections
31, 32, 33, T9N, R5W; Sections 5, 6, 7, 8, 18, and 19,
T8N, R5W; Sections 1, 12, 13, and 24, T8N, R6W;
Sections 25 and 36, T9N, R6W, MDB&M, as shown on map
filed with State Water Resources Control Board.

B. License: 5063B (Application 8801B)
Owner: Richard Crain and Lilly Crain
850 Friessen Drive
Angwin, CA 94508

Source: Unnamed Stream tributary to Angwin Creek thence
Conn Creek thence Napa River

Use: Irrigation, Domestic, Stockwatering and Recreational

Amount: 12 acre-feet in Red Lake

Season: October 1 of each year to May 1 of the succeeding year

Points of
Diversion: Red Lake: South 990 feet and East 1,520 feet from the
NE corner of Section 36, T9N, R6W, MDB&M, being within
the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 31, T9N, R5W,
MDB&M.

Place of
Use: Domestic, Stockwatering, and Irrigation of 36 acres
within W $\frac{1}{2}$ of NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected
Section 31, T9N, R5W, MDB&M. Recreation at Red Lake
located within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 31,
T9N, R5W, MDB&M

5. The license condition pertaining to the continuing authority of the SWRCB is updated to conform to Section 780(a), Title 23 of the California Code of Regulations and reads 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 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 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:

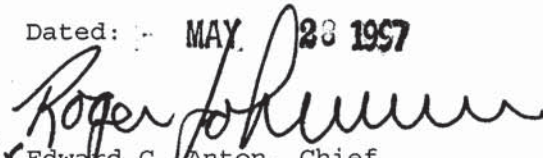
- (1) reusing or reclaiming the water allocated;
- (2) using water reclaimed by another entity instead of all or part of the water allocated;
- (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow;
- (4) suppressing evaporation losses from water surfaces;
- (5) 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 of 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, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

6. Licenses 5063A and 5063B shall contain all other terms and conditions presently in License 5064 or the updated versions for compliance with the SWRCB policy.

Dated: MAY 23 1957

for 
Edward C. Anton, Chief
Division of Water Rights