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

SMALL DOMESTIC USE REGISTRATION

RENEWAL ORDER FOR CERTIFICATE NO. R 528

Application D31008R of Tim Burke and Dana Burke was filed with the State Water Resources Control Board (State Water Board) on January 21, 2000. The State Water Board issued Certificate No. R528 on June 5, 2000.

The subject appropriation meets the requirements for renewal specified in section 1228.5 of chapter 1, part 2, division 2 of the Water Code, and is hereby renewed for the next incremental five-year period to January 20, 2010, based on the above-stated date of first filing the completed registration.

The renewed appropriation is subject to the conditions of the original certificate and any previous amendments.

Yamilla K. Williams

for *Victoria A. Whitney, Chief*
Division of Water Rights

Dated: JUN 30 2006

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

DIVISION OF WATER RIGHTS

SMALL DOMESTIC USE REGISTRATION

CERTIFICATE NO. R 528

Application 31008R of **Tim and Dana Burke**
77 Omaikai PL
Lahaina, HI 96761

filed with the State Water Resources Control Board (SWRCB) on **January 21, 2000** meets the requirements for registration of small domestic use specified in Article 2.7 (commencing with section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code. The appropriation is subject to the following conditions.

1. Source:

(1) Unnamed Spring

(2) Unnamed Stream

Tributary to:

(1) Unnamed stream thence Rocky Creek thence Pacific Ocean.

(2) Rocky Creek

within the County of **Monterey**

2. Location of Point of Diversion: By California Coordinate System, Zone 4	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
(1) N: 397,200 E: 1,169,900	**SE 1/4 of SE 1/4**	**2**	**18S**	**1E**	**MDM**
(2) N: 396,700 E: 1,169,800	**SE 1/4 of SE 1/4**	**2**	**18S**	**1E**	**MDM**

3. Purpose of Use:	4. Place of Use:	Section	Township	Range	Base and Meridian	Acres
DOMESTIC	**NE ¼ of NE ¼**	**11**	**18S**	**1E**	**MDM**	

The place of use is shown on a map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity, which can be beneficially used and shall not exceed 2755 gallons per day to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this registration shall not exceed 3.1 acre-feet per year.

6. Appropriation of water pursuant to this registration shall be made in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, and quantity and season of diversion. This information is reproduced as conditions 1 through 5 of this certificate.

7. The appropriation registered herein shall be limited to the use of water in houses, resorts, motels, organization camps, campgrounds, and other similar facilities, including the incidental watering of domestic stock for family sustenance or enjoyment, the irrigation of not to exceed one-half acre of lawn, ornamental shrubbery, or gardens at any single establishment, and the human consumption, cooking, and sanitary needs at campgrounds or resorts.

8. Any storage of water registered herein may include impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

9. This appropriation is limited to the season of diversion specified in condition 5 herein. If such specified season is less than the actual season of need, an alternative supply of water, or other valid right, shall be utilized for all uses outside of the season registered herein.

10. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this registration, 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.

11. This appropriation is subject to prior rights. Registrant may be required to curtail diversion or release water stored during the most recent collection season should diversion under this registration result in injury to holders of legal downstream senior rights. If a reservoir is involved, registrant may be required to bypass or release water through, over, or around the dam. If release of stored water would not effectively satisfy downstream prior storage rights, registrant may be required to otherwise compensate the holders of such rights for injury caused.

12. Registrant shall allow representatives of the SWRCB, and other parties as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms and conditions of this registration.

13. If the registrant does not own the point of diversion, this registration shall not be construed as conferring upon the registrant right of access to the point of diversion.

14. To the extent that water available for use under this registration is return flow, imported water, or wastewater, this registration shall not be construed, as giving any assurance that such supply will continue.

15. Diversion works shall be constructed and water applied to beneficial use with due diligence.

16. In accordance with sections 1600 through 1607 and 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until registrant has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the registrant.

17. In compliance with section 5937 of the Fish and Game Code, if storage or diversion of water under this registration is by means of a dam, registrant shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.

18. The facilities for diversion under this registration shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Game.

19. No construction shall be commenced and no water shall be diverted under this registration until all necessary federal, state, and local approvals have been obtained, including obtaining and complying with any waste discharge requirements from the appropriate California Regional Water Quality Control Board.

20. This registration 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 registrant shall obtain an incidental take permit prior to construction or operation of the project. Registrant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this registration.

21. This registration is subject to the submittal of a report of water use and satisfactory renewal of the registration, on forms to be furnished by the SWRCB, including payment of the then-current renewal fees prior to the expiration of each five-year period following the date of first filing the completed registration.

22. The point or points of diversion and the place of use registered herein may be changed by filing a completed amended registration form with the SWRCB, including payment of the then-current registration fee. Such change shall not operate to the injury of any legal user of the water involved.

23. The appropriation registered herein shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.

24. The appropriation registered herein is subject to enforcement, including but not limited to revocation, by the SWRCB if 1) the SWRCB finds that the registrant knowingly made any false statement, or knowingly concealed any material fact, in the registration; 2) the registration is not renewed as required by the conditions of this certificate; or 3) the SWRCB finds that the registrant is in violation of the conditions of this registration.

25. In the event that water is to be collected to storage under this registration, the Registrant shall install and maintain an outlet pipe of adequate size and capacity through the dam, as near as practicable to the bottom of the natural stream channel so that water that is not authorized for collection to storage can be bypassed through the dam. In the event that the dam is already constructed, registrant shall provide other means satisfactory to the Chief of the Division of Water

Rights for bypassing water. Before storing water in the reservoir, registrant shall provide evidence that substantiates that the outlet pipe or other means of bypassing water has been installed. Evidence shall include photographs showing the completed works or a certification by a registered engineer. The facilities shall be maintained and operated to ensure compliance with the terms of this registration.

Dated: JUN 5 2000

STATE WATER RESOURCES CONTROL BOARD

Gerald E. Johns

For Harry M. Schueller, Chief
Division of Water Rights