

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

DIVISION OF WATER RIGHTS

Order WR 2009-0021-DWR

In the Matter of Licenses 2141, 2142, 6334, 9939, 10421, 10422 and 13414 (Applications 3069, 4889, 15706, 20876, 19890, 20877 and 24296B)

Langtry Farms LLC and Guenoc Winery, Inc.

**ORDER APPROVING CHANGES IN PLACE OF USE AND
ISSUING AMENDED LICENSES**

SOURCES: Putah Creek, Bucksnot Creek, Unnamed Streams

COUNTY: Napa and Lake Counties

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

WHEREAS:

1. The following table identifies the licenses subject to this change petition, together with information on the licenses.

Application Number	License Number	License Issue Date	Storage Amount Afa*	Direct Diversion Amount cfs*	Existing Place of Use acres
3069	2141	January 14, 1941	1,100	5.35	1,538
4889	2142	January 14, 1941	100	n/a	1,538
15706	6334	June 5, 1961	1,222	n/a	1,538
19890	10421	January 16, 1975	1,380.5	n/a	1,538
20876	9939	June 30, 1972	1,310	n/a	281
20877	10422	January 16, 1975	1,287	n/a	1,538
24296B	13414	January 21, 1977	200	n/a	31

* acre-feet per annum (afa); cubic feet per second (cfs)

Recording of these licenses, and subsequent orders issued thereto, is prescribed by Water Code section 1650.

2. The Division of Water Rights (Division) record shows ownership for the licenses as Magoon Estate Limited (Licensee).
3. Under Licenses 2141, 2142, 6334, 10421, and 10422, the Licensee petitioned to expand the place of use to 6,847 acres. Under Licenses 9939 and 13414, the Licensee petitioned to expand the place of use to 4,611 acres.

4. The petitions were noticed on March 16, 2001. The Department of Fish and Game (DFG) protested. On June 15, 2001, the Division informed DFG that the protest on Licenses 9939 and 13414 was not accepted. On June 19, 2001, the Division informed DFG that the protest on Licenses 2141, 2142, 6334, 10421 and 10422 was not accepted. There are no accepted protests on these petitions.
5. In accordance with the provisions of the California Environmental Quality Act (CEQA), the State Water Resources Control Board (State Water Board) prepared an Environmental Impact Report (EIR), SCH #2003042171 that includes the mitigation measures listed below. The EIR evaluated five alternatives. Reduced Intensity Alternative A was the environmentally superior alternative. Pursuant to this alternative, the acreage in the proposed place of use would be reduced to the following. The revised place of use for Licenses 2141, 2142, 6334, 10421 and 10422 is 5,139 net acres within a gross area of 6,847 acres. The revised place of use for Licenses 9939 and 13414 is 2,773 net acres within a gross area of 4,611 acres. The place of use is shown on engineered maps dated March 2000 on file with the Division, but does not include the mitigation areas shown on EIR Figure 2-4. The Division proposes to issue a Notice of Determination within five days of issuance of this Order. The Division proposes to issue amended licenses reflecting these changes in place of use.
6. The mitigation measures are based on the Mitigation Monitoring Plan from the EIR shall be included in the amended licenses. These measures are listed in the Order below.
7. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be included in the licenses.
8. The State Water Board has determined approval of the change petitions does not constitute initiation of a new right, and does not injure prior rights or the public trust resources of the State.
9. The State Water Board shall add a term requiring submittal of new license maps if it is determined after license issuance that the as-built conditions of the project are not correctly represented by the map(s).
10. Decision 869 established separate reservations of water for Napa and Lake counties. A term shall be added requiring Licensee to comply with any limitations on the place of use established by the Watermaster to comply with the Condition 12 Settlement Agreement.

THEREFORE, IT IS ORDERED:

- The attached Amended License 2141 is issued, superseding former License 2141 issued on January 14, 1941. The priority date for Amended License 2141 is October 7, 1922.
- The attached Amended License 2142 is issued, superseding former License 2142 issued on January 14, 1941. The priority date for Amended License 2142 is January 15, 1926.
- The attached Amended License 6334 is issued, superseding former License 6334 issued on June 5, 1961. The priority date for Amended License 6334 is January 28, 1954.
- The attached Amended License 9939 is issued, superseding former License 9939 issued on June 30, 1972. The priority date for Amended License 9939 is July 27, 1962.
- The attached Amended License 10421 is issued, superseding former License 10421 issued on January 16, 1975. The priority date for Amended License 10421 is December 21, 1960.

- The attached Amended License 10422 is issued, superseding former License 10422 issued on January 16, 1975. The priority date for Amended License 10422 is July 27, 1962.
- The attached Amended License 13414 is issued, superseding former License 13414 issued on December 14, 1998. The priority date for Amended License 13414 is February 1, 1973.

The amended licenses are issued in accordance with the provisions of this Order and existing license conditions. The following terms shall be included in the amended licenses.

The following acronyms are used in the license terms, and a list of acronyms shall be provided in the licenses.

- Department of Fish and Game – DFG
- Division of Water Rights – Division
- Regional Water Quality Control Board – RWQCB
- State Water Resources Control Board – State Water Board
- U.S. Army Corps of Engineers – ACOE
- U.S. Fish and Wildlife Service – USFWS
- Water Rights Modification Project Final Environmental Impact Report - FEIR

1. Prior to commencement of construction activities, the Licensee shall obtain grading permits and approval of Erosion and Sedimentation Control Plans prepared in accordance with Napa County's Conservation Regulations from the County of Napa. The Napa County Erosion Control Plans shall be consistent with the Napa County use requirements in areas with greater than 5% slope. The Licensee shall also obtain grading permits and approval of Erosion and Sedimentation Control Plans from the County of Lake. The grading permits and Erosion Control Plans for Lake and Napa counties shall include all areas proposed for vineyard conversion. The project shall not develop on hillsides with slopes greater than 30%. Copies of the approved grading permits and Erosion Control Plans from the counties of Lake and Napa shall be submitted to the Deputy Director of the Division for approval, prior to starting construction.

The project shall incorporate DFG fencing standards, which shall be reflected in the final plans for the grading permit and Erosion Control Plan approved by Lake and Napa counties. DFG fencing standards are listed in the 2009 Mitigation Monitoring and Reporting Plan. Wildlife corridors and streams shall not be fenced.

(0400500)

2. A minimum 50-foot stream buffer along all intermittent and perennial drainages measured from the top of the bank on both sides of the stream shall be maintained within the place of use. Napa County Stream Setbacks may require an additional buffer beyond the 50-foot stream buffer. The buffers are reflected in the boundaries of the place of use (FEIR Figure 2-4) and shall be formally incorporated in the Erosion Control Plans for the project. The buffers shall be staked prior to construction by a biologist, whose qualifications are acceptable to Deputy Director of the Division, maintained throughout construction, and permanently avoided. No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements. Copies of the approved grading permits and Erosion Control Plans from the County of Napa, which incorporate the stream setbacks, shall be submitted to the Deputy Director of the Division, prior to starting construction.

A copy of the formal wetland delineation map verified by the ACOE shall be submitted to the Deputy Director of the Division and DFG within 30 days of verification by ACOE. No work shall commence and no discharge of any dredged or fill material within waters of the U.S. shall occur until the appropriate Department of the Army permit is obtained from ACOE and a Streambed

Alteration Agreement is obtained from DFG. Stream impacts shall be mitigated by preservation and enhancement of existing streams at a ratio of 2:1 preserved and enhanced versus impacted streams, mitigation would occur onsite adjacent to the area of impact, to the extent feasible, contingent on final approval from the ACOE. Copies of all permits issued by ACOE and DFG shall be submitted to the Division within 180 days of issuance.

(0400500)

3. No work shall commence on vegetation removal, soil disturbance, or other construction activities until State Water Quality Certification (Clean Water Act section 401) and a General Construction National Pollution Discharge Elimination System (NPDES) Permit is obtained from the RWQCB or State Water Board and filed with the Deputy Director of the Division. Compliance with the terms and conditions of the certification is the responsibility of the Licensee. If agreements are not necessary for the project, the Licensee shall provide a copy of any waiver issued for the NPDES permit to the Deputy Director of the Division.

(0400500)

4. Construction activities within 100 feet of drainages shall occur between April and October to minimize the potential for rainfall events to mobilize and transport sediment to aquatic resources. In addition, Best Management Practices (BMPs) to control erosion shall be implemented during construction activities. The BMPs may include, but are not limited to the following: placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) shall be prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The project operator shall be responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually the first growing season). Upon DFG determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation would be halted until effective DFG approved control devices are installed, or abatement procedures are initiated. Licensee shall submit a copy of DFG approved changes to sediment control devices.

All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of construction activities shall be restored to their natural state by seeding with a blend of native and non-native erosion control grass seeds. Revegetation shall be completed as soon as possible after construction activities in those areas cease. Seeded areas shall be covered with broadcast straw, anchored jute netting, coconut fiber blanket, or similar erosion control blanket. Supplemental watering may be required to establish plant growth. Licensee shall provide documentation that re-vegetation has been completed, seeded areas have been covered with straw, and anchored jute netting, coconut fiber blanket, or similar erosion control blanket within 180 days after construction of each vineyard block has been completed.

Sediment control measures shall be in place prior to the onset of construction and shall be monitored by a construction superintendent and/or inspector and maintained until construction activities have ceased.

(0400500)

5. The Licensee shall implement the following dust control practices during construction:
 - All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover;
 - Replace ground cover in disturbed areas quickly;

- Cover all stock piles with tarps;
- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled for fugitive dust emissions utilizing application of water or by presoaking.
- When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained.
- Limit traffic speeds on unpaved roads to 15 mph.

(0400500)

6. Licensee shall avoid adverse impacts to special-status plant species. Prior to construction activities, the perimeters of the special-status plant locations, including the northern interior cypress forest sensitive habitat, shall be marked off with posts and construction fencing by a qualified biologist approved by the Deputy Director of the Division to avoid direct or indirect impacts to the species. A 100-foot no-disturbance buffer shall be established around all special-status species. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. All special-status plant locations and buffers shall be permanently avoided. No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements. Borrow sites and staging areas shall be located within the place of use, outside of buffer areas established to protect sensitive resources.

A biologist, whose qualifications are acceptable to the Division, shall conduct pre -construction surveys for small-flowered calycadenia and Jepson's leptosiphon during their bloom period, April to May and June to September, respectively, prior to any ground moving or construction activities. The results of the surveys shall be submitted for approval of the Deputy Director of the Division and DFG. If any small-flowered calycadenia or Jepson's leptosiphon are found during the pre-construction surveys, the above measures shall apply. This includes the establishment of a 100-foot no-disturbance buffer around the species' locations to avoid direct or indirect impacts. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. In addition, the buffers shall be permanently avoided and no activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements.

Licensee shall document compliance with this condition, subject to the approval of the Deputy Director of the Division, prior to construction and within 180 days of completion of construction of each vineyard block.

(0400500)

7. Grubbing and grading activities should be conducted outside of the nesting season. The nesting season for resident and migratory birds is considered to be mid-February through mid-September. If grubbing or grading activities are to occur during the nesting season, a biologist, whose qualifications are acceptable to the Deputy Director of the Division, shall conduct a pre-construction survey for the purpose of identifying nesting bird species within proposed vegetation removal areas, including a 500-foot buffer from construction activities. The survey

shall be conducted no more than two to ten days prior to grubbing or grading activities. If more than ten days occur between performance of the pre-construction survey and the start of vegetation removal, the survey shall be re-conducted. The results of the pre-construction surveys shall be submitted to the Deputy Director of the Division prior to construction.

If an active raptor or migratory bird nest is found during the pre-construction survey, the Licensee shall notify DFG and a 500-foot no disturbance buffer shall be established and maintained around the nest until all young have fledged. If a bald eagle is determined to be nesting within 500 feet of the project areas, the USFWS and DFG shall be consulted on impact avoidance measures; mitigation will involve having a biological monitor present during clearing activities to assure no impact to nesting behavior. No active nests shall be disturbed without a permit or other authorization from USFWS and DFG, with a copy provided to the Deputy Director of the Division. If active nests are identified during the survey, a minimum 500-foot buffer shall be established around the nests to prevent abandonment of the nests and nest failure. If more than two weeks take place between completion of grubbing activities and start of construction during the time period of mid-February through mid-September, a pre-construction survey shall be conducted within the adjacent areas for nesting birds.

A biologist, whose qualifications are acceptable to the Division, shall conduct a pre-construction survey for the purpose of identifying burrowing owls during both the wintering and nesting season (unless the species is detected on the first survey) prior to issuance of grading permits to establish the status of this species on the project site. If possible, the winter survey shall be conducted between December 1 and January 31 (when wintering owls are most likely to be present) and the nesting season survey should be conducted between April 15 and July 15 (peak breeding seasons). If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction survey, the site shall be resurveyed. Surveys conducted from two hours before sunset to one hour after, or from one hour before to two hours after sunrise, are preferable. The survey techniques shall be consistent with the *Burrowing Owl Survey Protocol and Mitigation Guidelines* prepared by the California Burrowing Owl Consortium in April 1993 and shall include a 250-foot-wide buffer zone surrounding the project site. If no burrowing owls are detected during pre-construction surveys, then no further mitigation is required. The results of the pre-construction survey shall be submitted to the Division for review and approval.

The DFG burrowing owl specialist for the area shall be contacted for specific guidance regarding any activities affecting active burrowing owl burrows identified within 500 feet of the construction site. Documentation that DFG has been contacted and all required mitigations have been implemented shall be submitted to the Deputy Director of the Division within 30 days of identification of any active burrows.

If active burrowing owl burrows are identified within 500 feet of the construction site, project activities shall not disturb the burrow during the nesting season, February 1 to August 31 or until a qualified biologist has determined that the young have fledged or the burrow has been abandoned. A no-disturbance buffer zone of 160 feet is required to be established around each burrow with an active nest until the young have fledged the burrow as monitored by a qualified biologist.

If destruction of the occupied burrow is unavoidable during the non-breeding season, September 1 to January 31, passive relocation of the burrowing owl may be conducted. Passive relocation involves installing a one-way door at the burrow entrance, encouraging owls to move from the occupied burrow. No permit is required to conduct passive relocation; however, this process shall be conducted by a qualified biologist and in accordance with DFG mitigation measures. To offset the loss of foraging habitat (calculated as a 300 foot foraging radius around the burrow - per pair or unpaired resident bird), additional land shall be preserved on site and permanently protected at a location acceptable to DFG.

(0400500)

8. Licensee shall conduct construction activities near intermittent drainages during non-rainy or no-flow periods to reduce the likelihood of the presence of special status reptiles and amphibians and the associated impacts. If a special-status reptile or amphibian is encountered during construction, Licensee shall cease construction and ground-disturbing activities in the area until a biologist whose qualifications are acceptable to the Division, has been consulted and appropriate corrective measures have been implemented or it has been determined that the animal will not be harmed. In the event that any species with State or Federal status are injured or harmed, DFG or the USFWS, respectively, and the Deputy Director of the Division shall be contacted immediately. (0400500)
9. A biologist, whose qualifications are acceptable to the Division shall conduct a pre-construction survey for American badger dens within the project areas. The results of the pre-construction surveys shall be submitted to the Deputy Director of the Division and DFG prior to construction. If found, dens should be avoided with a minimum of a 500-foot no-disturbance buffer and DFG should be contacted for guidance. (0400500)
10. A biologist, whose qualifications are acceptable to the Division, shall conduct pre-construction surveys for elderberry shrubs (*Sambucus* spp.) prior to any ground moving or construction activities in order to avoid any elderberry shrubs that may have sprouted since the previous biological surveys. Surveys should include the proposed disturbance area and all areas within 100 feet of the disturbance area. The results of the surveys shall be submitted to the Deputy Director of the Division and USFWS. A permanent 100-foot no-disturbance buffer shall be established around all identified shrubs for complete avoidance of potential impacts to the federally listed valley elderberry longhorn beetle. Construction avoidance measures shall be incorporated into final plans, with copies to the Deputy Director of the Division, to avoid all elderberry shrubs according to the USFWS guidelines. The buffer shall consist of fencing and flagging; contractors and construction crews shall be briefed on the purpose of the buffer, the need for protection, areas to avoid and reporting measures to carry out if an impact occurs. Buffer areas shall be maintained during the duration of construction. At the discretion of the USFWS, permanent fencing may be installed around the elderberry shrubs. If construction-related disturbance will occur within 100-feet of elderberry shrubs, the USFWS shall be consulted to determine if an impact will occur. If Valley Elderberry Longhorn beetles are determined to occupy the site, no activities determined to have a potential to adversely affect the shrubs or beetles shall be conducted without a Biological Opinion, Incidental Take Permit, or other authorization from the USFWS, and findings and compliance plan shall be submitted for the approval of the Deputy Director of the Division. Weeds and other invasive plants shall be removed at least once a year, or at the discretion of the USFWS and DFG (USFWS, 1999). Mechanical removal of the plants shall be used; herbicides will not be used. (0000209)
11. The boundaries of the mitigated place of use that avoid adverse impacts to wetlands and waters of the U.S are shown on FEIR Figure 2-4. The boundaries of the proposed vineyard were reduced to remove all acreage of intermittent and perennial drainages, vernal pools and other wetlands from vineyard development. Additionally, the boundaries reflect a minimum 50-foot no-disturbance buffer along all intermittent and perennial drainages measured from the top of the bank on both sides of the stream, and around all wetlands, that shall be permanently maintained. Napa County Stream Setbacks could require an additional buffer and uses permitted in the stream setbacks in both Lake and Napa counties shall be consistent with the Napa County Stream Setback requirements (see Table 4.2-1 in the Draft EIR for a list of Napa County required setbacks based on slope). No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements. The buffers are shown on FEIR Figure 2-4 and shall be formally incorporated into the Erosion Control Plans, staked prior to construction by a biologist, whose qualifications are acceptable to the Division, maintained

throughout construction, and permanently avoided. Copies of the approved grading permits and Erosion Control Plans from Lake and Napa counties shall be submitted to the Deputy Director of the Division, prior to starting construction. Work shall proceed according to the approved documents; modifications shall be approved by Lake and Napa counties as appropriate, and the Deputy Director of the Division shall be copied on all correspondence.

(0400500)

12. Development of the mitigated place of use requires the construction of 15 new road segments or the extension of existing roads outside of the mitigated proposed place of use. New roads shall be constructed to minimize grading and disturbance to trees and the areas have been selected to avoid impacts to wetlands, waters of the U.S. and other sensitive areas. No work shall commence on any project-related vegetation removal, soil disturbance, or other construction activities until a Streambed Alteration Agreement is approved by DFG and filed with the Deputy Director of the Division. Compliance with the terms and conditions of the agreement is the responsibility of the Licensee. If an agreement is not necessary for this project, the Licensee shall provide the Deputy Director of the Division with a copy of a waiver signed by DFG.

Construction activities should occur during non-rainy or no-flow periods and follow Best Management Practices and approved Erosion Control Plans from Lake and Napa counties to minimize project-related impacts to water resources.

Impacts to wetlands/waters of the U.S. outside of the place of use (those inside the place of use shall be avoided) that result from development of the stream crossings, shall be mitigated through wetland creation and riparian enhancement onsite. Improving the access roads will require installation of culverts or bridge sections at stream crossings and gravel-topping of the road surface on an as-needed basis throughout the project development. It is anticipated that seven existing road-stream crossings would require improvements to enable development of the place of use. Each stream crossing would require about 400 square feet of disturbance, for a total of about 2,800 square feet of disturbance.

(0400500)

13. This term shall only be included on licenses listing Routan Creek as a source. For the protection of fish and wildlife, Licensee shall bypass 10 percent of the total flow from the watershed upstream of the dam. The bypass flow shall be continuously released from Upper Bohn Reservoir using the North Dam to release water to the Unnamed Stream and the South Dam to release water to Routan Creek. Releases to Unnamed Stream and Routan Creek shall be based on proportion of inflow from each source. Upon documentation of method of measurement and approval of the Deputy Director of the Division, seepage through the dam embankments may be credited toward this requirement. Runoff accruing to Upper Bohn Reservoir and bypass flows shall be metered and recorded. Bypass amounts released from the dam shall be determined and adjusted on a weekly basis throughout the diversion period of October 1 to April 30. Flows for the following week shall be based on the previous weeks gaging. All inflows outside of the diversion period shall be bypassed.

(0000060)

14. Areas of high oak tree density, as shown in FEIR Figure 2-4, shall not be developed.

A count and identification of the trees in the proposed vineyard area shall be conducted by a biologist, whose qualifications are acceptable to the Division, prior to commencement of any construction activities. The tree count and identification shall be provided to the Division for review and approval within 30 days of completion. Direct impacts to native oak trees shall be mitigated by the following. An oak tree replacement program shall be implemented, which shall include the planting, irrigation, monitoring, and maintenance of replacement native oak trees at a 1 for 1 ratio on the Guenoc Ranch in areas not included in the place of use. Tree replacement shall be conducted consistent with the Oak Tree Replacement Plan that has been submitted to the Division of Water Rights and tree mitigation shall occur in the areas depicted in FEIR,

Figure 4-19 (Appendix G). A permit for removal of trees greater than six inches in diameter shall be obtained from Napa County prior to any tree removal activities, unless specifically waived by Napa County. A copy of the Napa County permit or waiver shall be submitted to the Deputy Director of the Division prior to the commencement of any construction activities or any oak tree removal. Pursuant to Napa County requirements, vegetation identified by Napa County for preservation that is removed (either advertently or inadvertently) or vegetation that is removed before any required permit from Napa County has been issued, shall be replaced with fifteen-gallon trees at a ratio of 2 to 1 at locations approved by Napa County, or replaced with smaller trees at a higher ratio to be determined by Napa County. Failed plantings shall be replaced to achieve net success criteria of 80% tree survival after 5 years. Trees surviving 5 years shall be maintained in perpetuity. Photo documentation showing the results of the tree replacement shall be submitted to the Deputy Director of the Division after the 5 years. All photos shall be dated and the location of the photos shown on a drawing.

To protect oak trees intended to remain undisturbed from construction-related disturbance, construction fencing shall be installed as far as feasible outside of the driplines of oak trees within the vicinity of construction areas. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. Where encroachment is necessary past the driplines, a certified arborist shall document compliance with the following. At least 12 inches of mulch will be temporarily placed to protect roots from compaction. Any tree roots to be severed shall be the maximum feasible distance from the trunk. Any roots over one-inch in diameter that are damaged as a result of construction activities shall be traced back and cleanly cut behind any damaged area, and exposed roots shall be kept moist or covered immediately.

Documentation that this mitigation measure has been completed shall be submitted to the Division within 180 days of installation of each vineyard block.

(0400500)

15. A total of up to 2,765 acres shall be preserved consistent with the Open Space Preservation Plan in the FEIR (Appendix H).

(0400500)
16. If contaminated soil and/or groundwater are encountered or if suspected contamination is encountered during construction, work should be halted in the area, and the type and extent of the contamination shall be determined. A qualified professional, in consultation with appropriate regulatory agencies, should then develop an appropriate method to remediate the contamination. A copy of the remediation plan shall be submitted to the Deputy Director of the Division.

(0400500)
17. The cultural resource sites, identified in the letter report dated October 1, 2008 signed by Mike Taggart of Analytical Environmental Services and in the attached letter report to Jennifer Aranda dated September 12, 2008 signed by Tom Origer of Tom Origer & Associates, that may be impacted by the proposed project shall be protected via avoidance. These sites include and are identified as CA-LAK-231/408,-232,-397,-406, 411, CA-NAP-240, -319, GR-2, -4, -6 -8, GR2000-4, -5, -6, -7, -8, -9, -10, -12, -13, -14, -16, -19, -20, -22, -26, TOA-10. All of the sites shall be avoided during project construction, development, and operation activities. The sites shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage reservoirs, and distribution facilities, including installation of pipelines; stream crossings, roads or road improvements; and ripping, trenching, grading or planting related to both conversion of land to agricultural use and maintenance of the place of use). This shall be accomplished by establishing a buffer of 15 feet around the perimeter of the site and erecting a permanent fence and/or expanding nearby adjacent wetland and/or slope buffers to incorporate the site areas. The site boundaries, inclusive of buffer zones, shall be delineated by a qualified archaeologist. The fence shall be installed, with the Licensee's archeologist present, prior to any ground disturbance in the proximity of the sites. The fencing shall remain in place for as long as water is being

diverted pursuant to this license. Avoidance by incorporation into proposed buffer zones for wetlands or oak woodlands would apply to sites CA-LAK-413H, GR-6, and GR2000-13. Any future project-related activities or developments at the location of any of the above listed sites may be allowed only if an archaeologist that has been approved by the California Historical Information System to work in the area, and that is acceptable to the Deputy Director of the Division is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall design an appropriate mitigation plan and submit the plan for approval by the Deputy Director of the Division. After the plan has been approved, the mitigation must be completed to the satisfaction of the Deputy Director of the Division prior to activities in the area of the site. Licensee shall be responsible for all costs associated with the cultural resource related work.

(0380500)

18. The thirteen prehistoric archaeological resources characterized as sparse lithic scatters, including twelve sites (GR2000-4, GR2000-5, GR2000-6, GR2000-7, GR2000-11, GR2000-12, GR2000-16, GR2000-19, GR-4, PA-88-5, PA-88-6, PA-88-7) and one additional site, GR-8 a lithic scatter with a stone alignment, are likely eligible for treatment under the California Archaeological Resource Identification and Data Acquisition Program for Sparse Lithic Scatters (CARIDAP). PA-88-5, PA-88-6, PA-88-7, GR2000-6 and -11 can be avoided by incorporating them into oak woodland or wetland buffer zones. If avoidance of the above listed sites is not feasible, then the above listed sites shall be treated under the CARIDAP program. In addition, the rock alignment associated with GR-8 must be formally recorded with measurements and photo documentation if the site cannot be avoided. An archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division shall be present during installation of the fencing to prevent any inadvertent damage to the sites. The fencing shall remain in place for as long as water is being diverted pursuant to this license. If this is not feasible then any of the sites not treated under the CARIDAP program shall be further evaluated in accordance with the criteria of the California Environmental Quality Act (CEQA) and the California Register of Historical Resources (CRHR) by an archaeologist. Any proposed mitigation measures shall be submitted to the Deputy Director of the Division for review and approval, prior to implementation of the measures. Any future project-related activities or developments at the location of the above listed sites that were not treated under the CARIDAP program may be allowed only if an archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the Deputy Director of the Division is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall design, conduct, and complete an appropriate mitigation plan that must be approved by the Deputy Director of the Division prior to any activities related to any new developments. There will be no further treatment required for any sites that have been dealt with under the CARIDAP program. Licensee shall be responsible for all costs associated with the cultural resource related work. This mitigation measure shall be implemented prior to any ground disturbance in proximity to the applicable sites.

(0380500)

19. The prehistoric resource identified as GR-2 has been previously impacted by placement of a pipeline and a road that cause ongoing impacts to the site. In order to limit any additional project related impacts a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division shall provide recommendations and a plan for relocation of the pipeline and road. If this is not feasible, then the archaeologist shall conduct limited testing to provide information evaluating the areas impacted, the past impacts and the current status of the site. If it is determined necessary to continue using the road, then after the limited testing has been completed the Licensee shall use gravel to provide a protective cap on the site in the locations of the road and pipeline. An archeologist shall be present when the protective gravel is being positioned and shall determine the placement and depth of the gravel.

(0380500)

20. Five sites identified as (CA-LAK-394, CA-LAK-404, CA-NAP-241, GR2000-27, and GR-3) that may be subject to project-related impacts are located in vineyards that have previously been planted. These sites shall be avoided by all ground-disturbing activities that are beyond the historic layer of disturbance (i.e., the plow or disc zone). Maintenance shall be limited to the existing disk zone (~25cm below surface), and not include deep ground disturbance such as ripping. If vines are to be removed for replanting or changing to another crop then techniques for removal of vines in areas of the sites shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe, rather than excavation of vines) or cutting off the old vines at the surface level, leaving them in place and replanting in between the old vines. Vine removal shall be monitored by a qualified archeologist. In addition, maintenance work within the archaeological site boundaries shall be accomplished with hand tools; in cases where heavy equipment is necessary, such equipment shall be fitted with rubber tracks or tires to limit the amount of disturbance to the resources. If the use of heavy equipment is necessary it shall be accomplished when the soils are not muddy and would not be excessively disturbed using heavy equipment.
- (0380500)
21. Five cultural resource sites identified as (CA-LAK-230, -391, -392, -409, and CA-NAP 318) are potentially located within the expanded place of use, and thus subject to impacts. However, in the report dated June 8, 2000 titled *A Cultural Resources Survey of Selected Portions of Guenoc Ranch Lake and Napa Counties, California*, Origer and Schroder and in the subsequent letter reports dated October 1, 2008 signed by Mike Taggart of Analytical Environmental Services and in the attached letter report to Jennifer Aranda dated September 12, 2008 signed by Tom Origer of Tom Origer & Associates, the archeologists were unable to identify any manifestation of the sites during their survey. Accordingly, all ground disturbance proposed in areas where these sites have been previously plotted shall be monitored by a qualified archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the Deputy Director of the Division. In the event that site indicators are encountered, project-related activities shall cease and shall not resume within 100 feet of the find until an appropriate inadvertent discovery treatment plan has been completed and executed to the satisfaction of the Deputy Director of the Division.
- (0380500)
22. The areas of isolated artifacts identified as IF-4 (A-E) and IF-5 (A-B), in the letter report to Jennifer Aranda dated September 12, 2008 documenting supplemental survey work signed by Tom Origer of Tom Origer & Associates, shall be monitored by a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division, during any project related road improvements. If additional archeological specimens are uncovered, and if either of the locations is found to contain an archeological site, then an archeologist shall complete additional investigations to determine the significance of the site. If the site is determined to be significant, then any avoidance measures or mitigation measures deemed necessary shall be submitted to the Deputy Director of the Division for approval. If mitigation is determined to be necessary, then the archeologist shall design an appropriate mitigation plan that must be approved by the Deputy Director of the Division, and then conduct and complete mitigation prior to any activities in the areas. Licensee shall be responsible for all costs associated with the cultural resource related work.
- (0380500)
23. The area recorded as IF-1, characterized as "historic stone fences/corrals", shall be protected by avoidance. IF-1 shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage reservoirs, and distribution facilities, including installation of pipelines; stream crossings, roads or road improvements; and ripping, trenching, grading or planting related to both conversion and maintenance of the place of use). This shall be accomplished by establishing a buffer of 15 feet around the perimeter of the feature and erecting a permanent fence. If the feature cannot be avoided, then the rock alignments/corrals shall be formally recorded with

measurements and photo documentation as determined appropriate by a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division.

(0380500)

24. The vineyard manager and the laborers that actually cause, direct, or are responsible for earth disturbing activities shall complete a training session conducted by a qualified archeologist in both English and Spanish that shall be designed to enable them to recognize possible archaeological site indicators, prior to any earth disturbing activities. The training session shall take place within one to two weeks of the commencement of ground disturbing activities.

(0380500)

25. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders w/mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director of the Division shall be notified of the discovery and a professional archeologist shall be retained by the Licensee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director of the Division for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director of the Division.

(0000215)

26. If human remains are encountered, then the Licensee shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission within 24 hours to identify the most-likely descendants of the deceased Native Americans. The most-likely descendant may make recommendations regarding the means of treating or disposing of the remains with appropriate dignity. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director of the Division.

(0380500)

27. Decision 869 established a reservation of water in the upper Putah Creek watershed upstream of Lake Berryessa. Pursuant to the Condition 12 Settlement Agreement (Settlement Agreement), the remaining reservation of water was apportioned between Napa and Lake Counties. The Licensee is a signatory of the Settlement Agreement. Nothing in this Order or the license authorizes re-distribution of water in a manner that affects the remaining depletions established for Napa and Lake Counties. Prior to serving the expanded place of use, Licensee shall comply with any limitations on the place of use established by the Watermaster to comply with the Settlement Agreement.

Licensee is not authorized to serve any area outside the place of use specified in Permit 16861 until all construction related license terms are complied with. Licensee shall submit documentation with the triennial Report of Licensee of annual compliance with license requirements. Said documentation shall include a description of the mitigation measures employed for each license condition, date of compliance with the mitigation measures, and shall identify the start and end dates for any monitoring requirements. Licensee is not required to

continue submitting construction compliance reports once full compliance with all construction related license conditions is achieved.

(0000063)

28. 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, licensee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said 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. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director of the Division.

(0000030)

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JAMES W. KASSEL for

*Victoria A. Whitney
Deputy Director for Water Rights*

Dated: March 20, 2009



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 3069
Page 1 of 15

PERMIT 1747

LICENSE 2141

THIS IS TO CERTIFY, That

Langtry Farms LLC
Guenoc Winery, Inc.
21000 Butts Canyon Road
Middletown, CA 95461

has the right to the use of the waters of **(1) Bucksnot Creek, (2) Unnamed Stream and (3) Unnamed Stream** in **Napa County**

tributary to **(1) Putah Creek thence Yolo Bypass (Points of Diversion (POD) 1, 4, 5 & 6), (2) Bucksnot Creek (POD 2) and (3) Bucksnot Creek (POD 3)**

for the purpose of **Irrigation, Stockwatering, Frost Protection (Storage Only), and Heat Control (Storage Only) uses.**

Amended License 2141 supersedes the license originally issued on **January 14, 1941**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 1747**. The priority of this right dates from **October 7, 1922**. Proof of maximum beneficial use of water under this license was made as of **January 14, 1941** (the date of inspection).

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 **five and thirty-five hundredths (5.35) cubic feet per second by direct diversion from POD (1) Detert Dam, and PODs (4), (5) and (6) to be diverted from April 1 to June 15 of each season. One thousand one hundred (1,100) acre-feet per annum in any combination of storage from PODs (1) Detert Dam, (2) Foley Dam No. 1, (3) Foley Dam No. 2, and (5) McCreary Dam to be collected from September 15 of each year to May 1 of the succeeding year.**

The total amount of water collected to storage under this license together with that stored under License 2142 (Application 4889), License 6334 (Application 15706), License 10421 (Application 19890), and License 10422 (Application 20877) shall not exceed 5,089.5 acre-feet per year.

This license 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 POINTS OF DIVERSION OF SUCH WATER ARE LOCATED:

- (1) Detert Dam, Bucksnot Creek, Point of Direct Diversion and Diversion to Storage, North 1,700 feet and West 600 feet from SE corner of projected Section 9, T10N, R6W, MDB&M, being within NE¼ of SE¼ of said Section 9.

- (2) Foley Dam No. 1, Unnamed Stream, POD to storage and Point of Rediversion for water stored at point (1), North 2,450 feet and East 1,000 feet from SW corner of projected Section 4, T10N, R6W, MDB&M, being within SW¼ of NW¼ of said Section 4.
- (3) Foley Dam No. 2, Unnamed Stream, POD to storage, South 1,450 feet and West 1,000 feet from NE corner of projected Section 4, T10N, R6W, MDB&M, being within NE¼ of NE¼ of said Section 4.
- (4) Bucksnot Creek Ditch Pump, Bucksnot Creek, Point of Direct Diversion and Point of Rediversion for water stored at points (1), (2) and (3), South 1,900 feet and East 1,500 feet from NW corner of projected Section 3, T10N, R6W, MDB&M, being within SW¼ of NW¼ of said Section 3.
- (5) McCreary Dam, Bucksnot Creek, Point of Direct Diversion, Diversion to Storage, and Point of Rediversion for water stored at points (1), (2) and (3), North 1,500 feet and West 1,000 feet from SE corner of projected Section 34, T11N, R6W, MDB&M, being within NE¼ of SE¼ of said Section 34.
- (6) Bucksnot Creek Diversion Dam, Bucksnot Creek, Point of Direct Diversion and Point of Rediversion for water stored at points (1), (2), (3), and (5), South 1,250 feet and East 2,700 feet from NW corner of Section 2, T10N, R5W, MDB&M, being within NE¼ of NW¼ of said Section 2.
- (7) Putah Creek Pump No. 1, Point of Rediversion for water stored at points (1), (2), (3), and (5), South 300 feet and East 2,500 feet from NW corner of Section 4, T10N, R5W, MDB&M, being within Lot 5 of said Section 4.
- (8) Putah Creek Pump No. 2, Point of Rediversion for water stored at points (1), (2), (3), and (5), South 1,100 feet and West 800 feet from NE corner of Section 4, T10N, R5W, MDB&M, being within Lot 3 of said Section 4.

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

Stockwatering, Irrigation, Frost Protection, and Heat Control of 5,139 acres net within a gross area of 6,847 acres being within surveyed or projected Sections 24, 25, 26, 27, 33, 34, 35, and 36, T11N, R6W, MDB&M; Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 22, T10N, R6W, MDB&M; Sections 19, 27, 28, 29, 30, 31, 32, 33, 34, 35, T11N, R5W, MDB&M; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 14, T10N, R5W, MDB&M, all within Guenoc Ranch boundary as shown on map dated March 2000, and filed with the State Water Board.

This license does not authorize use of water within the mitigation areas shown on Water Rights Modification Project Final Environmental Impact Report Figure 2-4 that lie within the above-described place of use.

The following acronyms are used in the license terms.

- Department of Fish and Game – DFG
- Division of Water Rights – Division
- Regional Water Quality Control Board – RWQCB
- State Water Resources Control Board – State Water Board
- U.S. Army Corps of Engineers – ACOE
- U.S. Fish and Wildlife Service – USFWS
- Water Rights Modification Project Final Environmental Impact Report - FEIR

This license is conditioned upon full compliance with sections 1600 et seq. of the Fish and Game Code.
(0000063)

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

- (1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.
- (2) The Court has appointed a watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.
- (3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the State Water Board in its administration of appropriative water rights) for determining the amount of water directly diverted and diverted to storage under this license, unless otherwise specified by the Agreement.
- (4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with section 3.A.3 (Measuring Devices) of the Agreement.
- (5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage at the beginning and end of the Accumulation Season as required by the watermaster and the amount of water directly diverted under this license. Such annual reports shall be made in writing on forms approved by the watermaster.
- (6) The watermaster shall have the right to enter property to inspect measuring equipment and to observe compliance with the terms and conditions of this license, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.
- (7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.
- (8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance or shall curtail direct diversions of water during ensuing seasons until the amount of the exceedence is paid back consistent with the repayment provisions of the Agreement. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10 and 11.)
- (9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.

- (10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.
- (11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.
- (12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The State Water Board shall have continuing authority under article X, section 2 of the California Constitution, Water Code sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the State Water Board provides notice to affected parties and provides an opportunity for a hearing.

Nothing in the amended licenses authorizes re-distribution of water under any of the rights in a manner that affects the remaining depletions established for Napa and Lake Counties. Prior to serving the expanded place of use, licensee shall comply with any limitations on the place of use established by the watermaster to comply with the Settlement Agreement.

(0000012)
(0220088)

Prior to commencement of construction activities, the Licensee shall obtain grading permits and approval of Erosion and Sedimentation Control Plans prepared in accordance with Napa County's Conservation Regulations from the County of Napa. The Napa County Erosion Control Plans shall be consistent with the Napa County use requirements in areas with greater than 5% slope. The Licensee shall also obtain grading permits and approval of Erosion and Sedimentation Control Plans from the County of Lake. The grading permits and Erosion Control Plans for Lake and Napa counties shall include all areas proposed for vineyard conversion. The project shall not develop on hillsides with slopes greater than 30%. Copies of the approved grading permits and Erosion Control Plans from the counties of Lake and Napa shall be submitted to the Deputy Director of the Division for approval, prior to starting construction.

The project shall incorporate DFG fencing standards, which shall be reflected in the final plans for the grading permit and Erosion Control Plan approved by Lake and Napa counties. DFG fencing standards are listed in the 2009 Mitigation Monitoring and Reporting Plan. Wildlife corridors and streams shall not be fenced.

(0400500)

A minimum 50-foot stream buffer along all intermittent and perennial drainages measured from the top of the bank on both sides of the stream shall be maintained within the place of use. Napa County Stream Setbacks may require an additional buffer beyond the 50-foot stream buffer. The buffers are reflected in the boundaries of the place of use (FEIR Figure 2-4) and shall be formally incorporated in the Erosion Control Plans for the project. The buffers shall be staked prior to construction by a biologist, whose qualifications are acceptable to Deputy Director of the Division, maintained throughout construction, and permanently avoided. No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code

1600 et seq.) requirements. Copies of the approved grading permits and Erosion Control Plans from the County of Napa, which incorporate the stream setbacks, shall be submitted to the Deputy Director of the Division, prior to starting construction.

A copy of the formal wetland delineation map verified by the ACOE shall be submitted to the Deputy Director of the Division and DFG within 30 days of verification by ACOE. No work shall commence and no discharge of any dredged or fill material within waters of the U.S. shall occur until the appropriate Department of the Army permit is obtained from ACOE and a Streambed Alteration Agreement is obtained from DFG. Stream impacts shall be mitigated by preservation and enhancement of existing streams at a ratio of 2:1 preserved and enhanced versus impacted streams, mitigation would occur onsite adjacent to the area of impact, to the extent feasible, contingent on final approval from the ACOE. Copies of all permits issued by ACOE and DFG shall be submitted to the Division within 180 days of issuance.

(0400500)

No work shall commence on vegetation removal, soil disturbance, or other construction activities until State Water Quality Certification (Clean Water Act section 401) and a General Construction National Pollution Discharge Elimination System (NPDES) Permit is obtained from the RWQCB or State Water Board and filed with the Deputy Director of the Division. Compliance with the terms and conditions of the certification is the responsibility of the Licensee. If agreements are not necessary for the project, the Licensee shall provide a copy of any waiver issued for the certification or the NPDES permit to the Deputy Director of the Division.

(0400500)

Construction activities within 100 feet of drainages shall occur between April and October to minimize the potential for rainfall events to mobilize and transport sediment to aquatic resources. In addition, Best Management Practices (BMPs) to control erosion shall be implemented during construction activities. The BMPs may include, but are not limited to the following: placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) shall be prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The project operator shall be responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually the first growing season). Upon DFG determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation would be halted until effective DFG approved control devices are installed, or abatement procedures are initiated. Licensee shall submit a copy of DFG approved changes to sediment control devices.

All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of construction activities shall be restored to their natural state by seeding with a blend of native and non-native erosion control grass seeds. Revegetation shall be completed as soon as possible after construction activities in those areas cease. Seeded areas shall be covered with broadcast straw, anchored jute netting, coconut fiber blanket, or similar erosion control blanket. Supplemental watering may be required to establish plant growth. Licensee shall provide documentation that re-vegetation has been completed, seeded areas have been covered with straw, and anchored jute netting, coconut fiber blanket, or similar erosion control blanket within 180 days after construction of each vineyard block has been completed.

Sediment control measures shall be in place prior to the onset of construction and shall be monitored by a construction superintendent and/or inspector and maintained until construction activities have ceased.

(0400500)

The Licensee shall implement the following dust control practices during construction:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover;
- Replace ground cover in disturbed areas quickly;
- Cover all stock piles with tarps;
- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled for fugitive dust emissions utilizing application of water or by presoaking.
- When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained.
- Limit traffic speeds on unpaved roads to 15 mph.

(0400500)

Licensee shall avoid adverse impacts to special-status plant species. Prior to construction activities, the perimeters of the special-status plant locations, including the northern interior cypress forest sensitive habitat, shall be marked off with posts and construction fencing by a qualified biologist approved by the Deputy Director of the Division to avoid direct or indirect impacts to the species. A 100-foot no-disturbance buffer shall be established around all special-status species. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. All special-status plant locations and buffers shall be permanently avoided. No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements. Borrow sites and staging areas shall be located within the place of use, outside of buffer areas established to protect sensitive resources.

A biologist, whose qualifications are acceptable to the Division, shall conduct pre -construction surveys for small-flowered calycadenia and Jepson's leptosiphon during their bloom period, April to May and June to September, respectively, prior to any ground moving or construction activities. The results of the surveys shall be submitted for approval of the Deputy Director of the Division and DFG. If any small-flowered calycadenia or Jepson's leptosiphon are found during the pre-construction surveys, the above measures shall apply. This includes the establishment of a 100-foot no-disturbance buffer around the species' locations to avoid direct or indirect impacts. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. In addition, the buffers shall be permanently avoided and no activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements.

Licensee shall document compliance with this condition, subject to the approval of the Deputy Director of the Division, prior to construction and within 180 days of completion of construction of each vineyard block.

(0400500)

Grubbing and grading activities should be conducted outside of the nesting season. The nesting season for resident and migratory birds is considered to be mid-February through mid-September. If grubbing or grading activities are to occur during the nesting season, a biologist, whose qualifications are acceptable to the Deputy Director of the Division, shall conduct a pre-construction survey for the purpose of identifying nesting bird species within proposed vegetation removal areas, including a 500-foot buffer from construction activities. The survey shall be conducted no more than two to ten days prior to grubbing or grading activities. If more than ten days occur between performance of the pre-construction survey and the start of vegetation removal, the survey shall be re-conducted. The results of the pre-construction surveys shall be submitted to the Deputy Director of the Division prior to construction.

If an active raptor or migratory bird nest is found during the pre-construction survey, the Licensee shall notify DFG and a 500-foot no disturbance buffer shall be established and maintained around the nest until all young have fledged. If a bald eagle is determined to be nesting within 500 feet of the project areas, the USFWS and DFG shall be consulted on impact avoidance measures; mitigation will involve having a biological monitor present during clearing activities to assure no impact to nesting behavior. No active nests shall be disturbed without a permit or other authorization from USFWS and DFG, with a copy provided to the Deputy Director of the Division. If active nests are identified during the survey, a minimum 500-foot buffer shall be established around the nests to prevent abandonment of the nests and nest failure. If more than two weeks take place between completion of grubbing activities and start of construction during the time period of mid-February through mid-September, a pre-construction survey shall be conducted within the adjacent areas for nesting birds.

A biologist, whose qualifications are acceptable to the Division, shall conduct a pre-construction survey for the purpose of identifying burrowing owls during both the wintering and nesting season (unless the species is detected on the first survey) prior to issuance of grading permits to establish the status of this species on the project site. If possible, the winter survey shall be conducted between December 1 and January 31 (when wintering owls are most likely to be present) and the nesting season survey should be conducted between April 15 and July 15 (peak breeding seasons). If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction survey, the site shall be resurveyed. Surveys conducted from two hours before sunset to one hour after, or from one hour before to two hours after sunrise, are preferable. The survey techniques shall be consistent with the *Burrowing Owl Survey Protocol and Mitigation Guidelines* prepared by the California Burrowing Owl Consortium in April 1993 and shall include a 250-foot-wide buffer zone surrounding the project site. If no burrowing owls are detected during pre-construction surveys, then no further mitigation is required. The results of the pre-construction survey shall be submitted to the Division for review and approval.

The DFG burrowing owl specialist for the area shall be contacted for specific guidance regarding any activities affecting active burrowing owl burrows identified within 500 feet of the construction site. Documentation that DFG has been contacted and all required mitigations have been implemented shall be submitted to the Deputy Director of the Division within 30 days of identification of any active burrows.

If active burrowing owl burrows are identified within 500 feet of the construction site, project activities shall not disturb the burrow during the nesting season, February 1 to August 31 or until a qualified biologist has determined that the young have fledged or the burrow has been abandoned. A no-disturbance buffer zone of 160 feet is required to be established around each burrow with an active nest until the young have fledged the burrow as monitored by a qualified biologist.

If destruction of the occupied burrow is unavoidable during the non-breeding season, September 1 to January 31, passive relocation of the burrowing owl may be conducted. Passive relocation involves installing a one-way door at the burrow entrance, encouraging owls to move from the occupied burrow. No permit is required to conduct passive relocation; however, this process shall be conducted by a qualified biologist and in accordance with DFG mitigation measures. To offset the loss of foraging habitat (calculated as a 300 foot foraging radius around the burrow - per pair or unpaired resident bird), additional land shall be preserved on site and permanently protected at a location acceptable to DFG.

(0400500)

Licensee shall conduct construction activities near intermittent drainages during non-rainy or no-flow periods to reduce the likelihood of the presence of special status reptiles and amphibians and the associated impacts. If a special-status reptile or amphibian is encountered during construction, Licensee shall cease construction and ground-disturbing activities in the area until a biologist whose qualifications are acceptable to the Division, has been consulted and appropriate corrective measures have been implemented or it has been determined that the animal will not be harmed. In the event that any species with State or Federal status are injured or harmed, DFG or the USFWS, respectively, and the Deputy Director of the Division shall be contacted immediately.

(0400500)

A biologist, whose qualifications are acceptable to the Division shall conduct a pre-construction survey for American badger dens within the project areas. The results of the pre-construction surveys shall be submitted to the Deputy Director of the Division and DFG prior to construction. If found, dens should be avoided with a minimum of a 500-foot no-disturbance buffer and DFG should be contacted for guidance.

(0400500)

A biologist, whose qualifications are acceptable to the Division, shall conduct pre-construction surveys for elderberry shrubs (*Sambucus* spp.) prior to any ground moving or construction activities in order to avoid any elderberry shrubs that may have sprouted since the previous biological surveys. Surveys should include the proposed disturbance area and all areas within 100 feet of the disturbance area. The results of the surveys shall be submitted to the Deputy Director of the Division and USFWS. A permanent 100-foot no-disturbance buffer shall be established around all identified shrubs for complete avoidance of potential impacts to the federally listed valley elderberry longhorn beetle. Construction avoidance measures shall be incorporated into final plans, with copies to the Deputy Director of the Division, to avoid all elderberry shrubs according to the USFWS guidelines. The buffer shall consist of fencing and flagging; contractors and construction crews shall be briefed on the purpose of the buffer, the need for protection, areas to avoid and reporting measures to carry out if an impact occurs. Buffer areas shall be maintained during the duration of construction. At the discretion of the USFWS, permanent fencing may be installed around the elderberry shrubs. If construction-related disturbance will occur within 100-feet of elderberry shrubs, the USFWS shall be consulted to determine if an impact will occur. If Valley Elderberry Longhorn beetles are determined to occupy the site, no activities determined to have a potential to adversely affect the shrubs or beetles shall be conducted without a Biological Opinion, Incidental Take Permit, or other authorization from the USFWS, and findings and a compliance plan shall be provided for approval of the Deputy Director of the Division. Weeds and other invasive plants shall be removed at least once a year, or at the discretion of the USFWS and DFG (USFWS, 1999). Mechanical removal of the plants shall be used; herbicides will not be used.

(0000209)

The boundaries of the mitigated place of use that avoid adverse impacts to wetlands and waters of the U.S are shown on EIR Figure 2-4. The boundaries of the proposed vineyard were reduced to remove all acreage of intermittent and perennial drainages, vernal pools and other wetlands from vineyard development. Additionally, the boundaries reflect a minimum 50-foot no-disturbance buffer along all intermittent and perennial drainages measured from the top of the bank on both sides of the stream, and around all wetlands, that shall be permanently maintained. Napa County Stream Setbacks could require an additional buffer and uses permitted in the stream setbacks in both Lake and Napa counties shall be consistent with the Napa County Stream Setback requirements (see Table 4.2-1 in the Draft EIR for a list of Napa County required setbacks based on slope). No activity shall occur within the buffer zones, including, but not limited to grading, road construction, fencing, storage areas, and irrigation, except permitted crossings consistent with ACOE, section 404 permit (33 U.S. C. § 1344.) and DFG Streambed Alteration Agreement (DFG Code 1600 et seq.) requirements. The buffers are shown on FEIR Figure 2-4 and shall be formally incorporated into the Erosion Control Plans, staked prior to construction by a biologist, whose qualifications are acceptable to the Division, maintained throughout construction, and permanently avoided. Copies of the approved grading permits and Erosion Control Plans from Lake and Napa counties shall be submitted to the Deputy Director of the Division, prior to starting construction.

Work shall proceed according to the approved documents; modifications shall be approved by Lake and Napa counties as appropriate, and the Deputy Director of the Division shall be copied on all correspondence.

(0400500)

Development of the mitigated place of use requires the construction of 15 new road segments or the extension of existing roads outside of the mitigated proposed place of use. New roads shall be constructed to minimize grading and disturbance to trees and the areas have been selected to avoid impacts to wetlands, waters of the U.S. and other sensitive areas. No work shall commence on any project-related vegetation removal, soil disturbance, or other construction activities until a Streambed Alteration Agreement is approved by DFG and filed with the Deputy Director of the Division. Compliance with the terms and conditions of the agreement is the responsibility of the Licensee. If an agreement is not necessary for this project, the Licensee shall provide the Deputy Director of the Division with a copy of a waiver signed by DFG.

Construction activities should occur during non-rainy or no-flow periods and follow Best Management Practices and approved Erosion Control Plans from Lake and Napa counties to minimize project-related impacts to water resources.

Impacts to wetlands/waters of the U.S. outside of the place of use (those inside the place of use shall be avoided) that result from development of the stream crossings, shall be mitigated through wetland creation and riparian enhancement onsite. Improving the access roads will require installation of culverts or bridge sections at stream crossings and gravel-topping of the road surface on an as-needed basis throughout the project development. It is anticipated that seven existing road-stream crossings would require improvements to enable development of the place of use. Each stream crossing would require about 400 square feet of disturbance, for a total of about 2,800 square feet of disturbance.

(0400500)

Areas of high oak tree density, as shown in EIR Figure 2-4, shall not be developed.

A count and identification of the trees in the proposed vineyard area shall be conducted by a biologist, whose qualifications are acceptable to the Division, prior to commencement of any construction activities. The tree count and identification shall be provided to the Division for review and approval within 30 days of completion. Direct impacts to native oak trees shall be mitigated by the following. An oak tree replacement program shall be implemented, which shall include the planting, irrigation, monitoring, and maintenance of replacement native oak trees at a 1 for 1 ratio on the Guenoc Ranch in areas not included in the place of use. Tree replacement shall be conducted consistent with the Oak Tree Replacement Plan that has been submitted to the Division of Water Rights and tree mitigation shall occur in the areas depicted in FEIR, Figure 4-19 (Appendix G). A permit for removal of trees greater than six inches in diameter shall be obtained from Napa County prior to any tree removal activities, unless specifically waived by Napa County. A copy of the Napa County permit or waiver shall be submitted to the Deputy Director of the Division prior to the commencement of any construction activities or any oak tree removal. Pursuant to Napa County requirements, vegetation identified by Napa County for preservation that is removed (either advertently or inadvertently) or vegetation that is removed before any required permit from Napa County has been issued, shall be replaced with fifteen-gallon trees at a ratio of 2 to 1 at locations approved by Napa County, or replaced with smaller trees at a higher ratio to be determined by Napa County. Failed plantings shall be replaced to achieve net success criteria of 80% tree survival after 5 years. Trees surviving 5 years shall be maintained in perpetuity. Photo documentation showing the results of the tree replacement shall be submitted to the Deputy Director of the Division after the 5 years. All photos shall be dated and the location of the photos shown on a drawing.

To protect oak trees intended to remain undisturbed from construction-related disturbance, construction fencing shall be installed as far as feasible outside of the driplines of oak trees within the vicinity of construction areas. No encroachment into the fenced areas shall be permitted and fencing shall remain in place until all construction activities have ceased. Where encroachment is necessary past the

driplines, a certified arborist shall document compliance with the following. At least 12 inches of mulch will be temporarily placed to protect roots from compaction. Any tree roots to be severed shall be the maximum feasible distance from the trunk. Any roots over one-inch in diameter that are damaged as a result of construction activities shall be traced back and cleanly cut behind any damaged area, and exposed roots shall be kept moist or covered immediately.

Documentation that this mitigation measure has been completed shall be submitted to the Division within 180 days of installation of each vineyard block.

(0400500)

A total of up to 2,765 acres shall be preserved consistent with the Open Space Preservation Plan in the FEIR (Appendix H).

(0400500)

If contaminated soil and/or groundwater are encountered or if suspected contamination is encountered during construction, work should be halted in the area, and the type and extent of the contamination shall be determined. A qualified professional, in consultation with appropriate regulatory agencies, should then develop an appropriate method to remediate the contamination. A copy of the remediation plan shall be submitted to the Deputy Director of the Division.

(0400500)

The cultural resource sites, identified in the letter report dated October 1, 2008 signed by Mike Taggart of Analytical Environmental Services and in the attached letter report to Jennifer Aranda dated September 12, 2008 signed by Tom Origer of Tom Origer & Associates, that may be impacted by the proposed project shall be protected via avoidance. These sites include and are identified as CA-LAK-231/408,-232,-397,-406, 411, CA-NAP-240, -319, GR-2, -4, -6 -8, GR2000-4, -5, -6, -7, -8, -9, -10, -12, -13, -14, -16, -19, -20, -22, -26, TOA-10. All of the sites shall be avoided during project construction, development, and operation activities. The sites shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage reservoirs, and distribution facilities, including installation of pipelines; stream crossings, roads or road improvements; and ripping, trenching, grading or planting related to both conversion of land to agricultural use and maintenance of the place of use). This shall be accomplished by establishing a buffer of 15 feet around the perimeter of the site and erecting a permanent fence and/or expanding nearby adjacent wetland and/or slope buffers to incorporate the site areas. The site boundaries, inclusive of buffer zones, shall be delineated by a qualified archaeologist. The fence shall be installed, with the Licensee's archeologist present, prior to any ground disturbance in the proximity of the sites. The fencing shall remain in place for as long as water is being diverted pursuant to this license. Avoidance by incorporation into proposed buffer zones for wetlands or oak woodlands would apply to sites CA-LAK-413H, GR-6, and GR2000-13. Any future project-related activities or developments at the location of any of the above listed sites may be allowed only if an archaeologist that has been approved by the California Historical Information System to work in the area, and that is acceptable to the Deputy Director of the Division is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall design an appropriate mitigation plan and submit the plan for approval by the Deputy Director of the Division. After the plan has been approved, the mitigation must be completed to the satisfaction of the Deputy Director of the Division prior to activities in the area of the site. Licensee shall be responsible for all costs associated with the cultural resource related work.

(0380500)

The thirteen prehistoric archaeological resources characterized as sparse lithic scatters, including twelve sites (GR2000-4, GR2000-5, GR2000-6, GR2000-7, GR2000-11, GR2000-12, GR2000-16, GR2000-19, GR-4, PA-88-5, PA-88-6, PA-88-7) and one additional site, GR-8 a lithic scatter with a stone alignment, are likely eligible for treatment under the California Archaeological Resource Identification and Data Acquisition Program for Sparse Lithic Scatters (CARIDAP). PA-88-5, PA-88-6, PA-88-7, GR2000-6

and -11 can be avoided by incorporating them into oak woodland or wetland buffer zones. If avoidance of the above listed sites is not feasible, then the above listed sites shall be treated under the CARIDAP program. In addition, the rock alignment associated with GR-8 must be formally recorded with measurements and photo documentation if the site cannot be avoided. An archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division shall be present during installation of the fencing to prevent any inadvertent damage to the sites. The fencing shall remain in place for as long as water is being diverted pursuant to this license. If this is not feasible then any of the sites not treated under the CARIDAP program shall be further evaluated in accordance with the criteria of the California Environmental Quality Act (CEQA) and the California Register of Historical Resources (CRHR) by an archaeologist. Any proposed mitigation measures shall be submitted to the Deputy Director of the Division for review and approval, prior to implementation of the measures. Any future project-related activities or developments at the location of the above listed sites that were not treated under the CARIDAP program may be allowed only if an archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the Deputy Director of the Division is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall design, conduct, and complete an appropriate mitigation plan that must be approved by the Deputy Director of the Division prior to any activities related to any new developments. There will be no further treatment required for any sites that have been dealt with under the CARIDAP program. Licensee shall be responsible for all costs associated with the cultural resource related work. This mitigation measure shall be implemented prior to any ground disturbance in proximity to the applicable sites.

(0380500)

The prehistoric resource identified as GR-2 has been previously impacted by placement of a pipeline and a road that cause ongoing impacts to the site. In order to limit any additional project related impacts a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division shall provide recommendations and a plan for relocation of the pipeline and road. If this is not feasible, then the archaeologist shall conduct limited testing to provide information evaluating the areas impacted, the past impacts and the current status of the site. If it is determined necessary to continue using the road, then after the limited testing has been completed the Licensee shall use gravel to provide a protective cap on the site in the locations of the road and pipeline. An archeologist shall be present when the protective gravel is being positioned and shall determine the placement and depth of the gravel.

(0380500)

Five sites identified as (CA-LAK-394, CA-LAK-404, CA-NAP-241, GR2000-27, and GR-3) that may be subject to project-related impacts are located in vineyards that have previously been planted. These sites shall be avoided by all ground-disturbing activities that are beyond the historic layer of disturbance (i.e., the plow or disc zone). Maintenance shall be limited to the existing disk zone (~25cm below surface), and not include deep ground disturbance such as ripping. If vines are to be removed for replanting or changing to another crop then techniques for removal of vines in areas of the sites shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe, rather than excavation of vines) or cutting off the old vines at the surface level, leaving them in place and replanting in between the old vines. Vine removal shall be monitored by a qualified archeologist. In addition, maintenance work within the archaeological site boundaries shall be accomplished with hand tools; in cases where heavy equipment is necessary, such equipment shall be fitted with rubber tracks or tires to limit the amount of disturbance to the resources. If the use of heavy equipment is necessary it shall be accomplished when the soils are not muddy and would not be excessively disturbed using heavy equipment.

(0380500)

Five cultural resource sites identified as (CA-LAK-230, -391, -392, -409, and CA-NAP 318) are potentially located within the expanded place of use, and thus subject to impacts. However, in the report dated June 8, 2000 titled *A Cultural Resources Survey of Selected Portions of Guenoc Ranch Lake and Napa Counties, California*, Origer and Schroder and in the subsequent letter reports dated October 1, 2008 signed by Mike Taggart of Analytical Environmental Services and in the attached letter report to Jennifer Aranda dated September 12, 2008 signed by Tom Origer of Tom Origer & Associates, the archeologists were unable to identify any manifestation of the sites during their survey. Accordingly, all ground disturbance proposed in areas where these sites have been previously plotted shall be monitored by a qualified archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the Deputy Director of the Division. In the event that site indicators are encountered, project-related activities shall cease and shall not resume within 100 feet of the find until an appropriate inadvertent discovery treatment plan has been completed and executed to the satisfaction of the Deputy Director of the Division.

(0380500)

The areas of isolated artifacts identified as IF-4 (A-E) and IF-5 (A-B), in the letter report to Jennifer Aranda dated September 12, 2008 documenting supplemental survey work signed by Tom Origer of Tom Origer & Associates, shall be monitored by a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division, during any project related road improvements. If additional archeological specimens are uncovered, and if either of the locations is found to contain an archeological site, then an archeologist shall complete additional investigations to determine the significance of the site. If the site is determined to be significant, then any avoidance measures or mitigation measures deemed necessary shall be submitted to the Deputy Director of the Division for approval. If mitigation is determined to be necessary, then the archeologist shall design an appropriate mitigation plan that must be approved by the Deputy Director of the Division, and then conduct and complete mitigation prior to any activities in the areas. Licensee shall be responsible for all costs associated with the cultural resource related work.

(0380500)

The area recorded as IF-1, characterized as "historic stone fences/corrals", shall be protected by avoidance. IF-1 shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage reservoirs, and distribution facilities, including installation of pipelines; stream crossings, roads or road improvements; and ripping, trenching, grading or planting related to both conversion and maintenance of the place of use). This shall be accomplished by establishing a buffer of 15 feet around the perimeter of the feature and erecting a permanent fence. If the feature cannot be avoided, then the rock alignments/corrals shall be formally recorded with measurements and photo documentation as determined appropriate by a qualified archaeologist that has been approved by the California Historical Information System to work in the area and that is acceptable to the Deputy Director of the Division.

(0380500)

The vineyard manager and the laborers that actually cause, direct, or are responsible for earth disturbing activities shall complete a training session conducted by a qualified archeologist in both English and Spanish that shall be designed to enable them to recognize possible archaeological site indicators, prior to any earth disturbing activities. The training session shall take place within one to two weeks of the commencement of ground disturbing activities.

(0380500)

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders w/mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally

include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director of the Division shall be notified of the discovery and a professional archeologist shall be retained by the Licensee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director of the Division for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director of the Division.

(0000215)

If human remains are encountered, then the Licensee shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission within 24 hours to identify the most-likely descendants of the deceased Native Americans. The most-likely descendant may make recommendations regarding the means of treating or disposing of the remains with appropriate dignity. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director of the Division.

(0380500)

Decision 869 established a reservation of water in the upper Putah Creek watershed upstream of Lake Berryessa. Pursuant to the Condition 12 Settlement Agreement (Settlement Agreement), the remaining reservation of water was apportioned between Napa and Lake Counties. The Licensee is a signatory of the Settlement Agreement. Nothing in this Order or the license authorizes re-distribution of water in a manner that affects the remaining depletions established for Napa and Lake Counties. Prior to serving the expanded place of use, Licensee shall comply with any limitations on the place of use established by the Watermaster to comply with the Settlement Agreement.

(0000063)

Licensee is not authorized to serve any area outside the place of use specified in Permit 16861 until all construction related license terms are complied with. Licensee shall submit documentation with the triennial Report of Licensee of annual compliance with license requirements. Said documentation shall include a description of the mitigation measures employed for each license condition, date of compliance with the mitigation measures, and shall identify the start and end dates for any monitoring requirements. Licensee is not required to continue submitting construction compliance reports once full compliance with all construction related license conditions is achieved.

(0000063)

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, licensee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said 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. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director of the Division.

(0000030)

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.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

Licensee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to 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 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 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 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 the licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

This license 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 2089) 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 licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the 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 State Water 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 (of the Water Code) 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 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
JAMES W. KASSEL FOR:

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

Dated: MAR 20 2009



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

Amended License for Diversion and Use of Water

APPLICATION 3069

PERMIT 1747

LICENSE 2141

Page 1 of 4

THIS IS TO CERTIFY, That Magoon Estate Limited
c/o James C. Hanson
444 North 3rd Street, Suite 400
Sacramento, CA 95814

Has the right to use waters of (1) Bucksnot Creek (2) Unnamed Stream (3) Unnamed Stream in Napa County tributary to (1) Putah Creek thence Yolo By-Pass (Points of Diversion 1, 4, 5 & 6) (2) Bucksnot Creek (Point of Diversion 2) (3) Bucksnot Creek (Point of Diversion 3)

for the following purposes: Irrigation, Stockwatering, Frost Protection (Storage Only), Heat Control (Storage Only)

Amended License 2141 supersedes the license originally issued 01/14/1941, which was perfected in accordance with the laws of California, the regulations of the SWRCB or its predecessor, and the terms of Permit 1747. The priority of this right dates from 10/07/1922. Proof of maximum beneficial use of water pursuant to Application 3069 was made as of 01/14/1941 (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed 5.35 cubic feet per second by direct diversion from Point of Diversion (1) Detert Dam, and points of diversion (4), (5) and (6) to be diverted from April 1 to June 15 of each season. 1,100 acre-feet per annum in any combination of storage from Points of Diversion (1) Detert Dam, (2) Foley Dam No. 1, (3) Foley Dam No. 2 and (5) McCreary Dam to be collected from September 15 of each year to May 1 of the succeeding year, and the total amount of water collected to storage under this license together with that stored under rights initiated under Applications 4889, 15706, 19890 and 20877 shall not exceed 5,089.5 acre-feet per year.

Unless a change is approved by the State Water Resources Control Board (SWRCB), water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

- (1) Detert Dam, Bucksnot Creek, Point of Direct Diversion and Diversion to Storage, North 1,700 feet and West 600 feet from SE corner of projected Section 9, T10N, R6W, MDB&M, being within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 9.
- (2) Foley Dam No. 1, Unnamed Stream, Point of Diversion to storage and point of rediversion for water stored at point (1), North 2,450 feet and East 1,000 feet from SW corner of projected Section 4, T10N, R6W, MDB&M, being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 4.
- (3) Foley Dam No. 2, Unnamed Stream, Point of Diversion to storage, South 1,450 feet

- and West 1,000 feet from NE corner of projected Section 4, T10N, R6W, MDB&M, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 4.
- (4) Bucksnort Creek Ditch Pump, Bucksnort Creek, Point of Direct Diversion and Point of Rediversion for water stored at points (1), (2), and (3), South 1,900 feet and East 1,500 feet from NW corner of projected Section 3, T10N, R6W, MDB&M, being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 3.
 - (5) Mc Creary Dam, Bucksnort Creek, Point of Direct Diversion, Diversion to Storage, and Point of Rediversion for water stored at points (1), (2) and (3), North 1,500 feet and West 1,000 feet from SE corner of projected Section 34, T11N, R6W, MDB&M, being within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 34.
 - (6) Bucksnort Creek Diversion Dam, Bucksnort Creek, Point of Direct Diversion and Point of Rediversion for water stored at points (1), (2), (3) and (5), South 1,250 feet and East 2,700 feet from NW corner of Section 2, T10N, R6W, MDB&M, being within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 2.
 - (7) Putah Creek Pump No. 1, Point of Rediversion for water stored at points (1), (2), (3) and (5), South 300 feet and East 2,500 feet from NW corner of Section 4, T10N, R5W, MDB&M, being within Lot 5 of said Section 4.
 - (8) Putah Creek Pump No. 2, Point of Rediversion for water stored at points (1), (2), (3) and (5), South 1,100 feet and West 800 feet from NE corner of Section 4, T10N, R5W, MDB&M, being within Lot 3 of said Section 4.

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

Stockwatering and Irrigation of 1,538 acres net within a gross area of 23,000 acres being within surveyed or projected Sections 24, 25, 26, 27, 33, 34, 35 and 36, T11N, R6W; Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 22, T10N, R6W; Sections 19, 27, 28, 30, 31, 32, 33, 34, 35, T11N, R5W; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 and 18, T10N, R5W, MDB&M, all being within Guenoc Ranch boundary as shown on map filed with the SWRCB.

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.

(2) The Court has appointed a Watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water directly diverted and diverted to storage under this license, unless otherwise specified by the Agreement.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.

(5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage at the beginning and end of the Accumulation Season as required by the watermaster and the amount of water directly diverted under this license. Such annual reports shall be made in writing on forms approved by the watermaster.

(6) The watermaster shall have the right to enter property to inspect measuring equipment and to observe compliance with the terms and conditions of this license, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.

(7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.

(8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance or shall curtail direct diversions of water during ensuing seasons until the amount of the exceedence is paid back consistent with the repayment provisions of the Agreement. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversion (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.

(12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995 Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

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 prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the SWRCB.

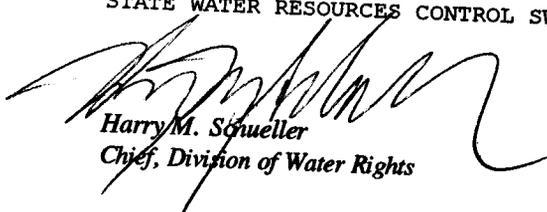
The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes of 1913, as amended, which is as follows:

Sec. 20 All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit and license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that 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 said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors, or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, 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 licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water by said for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are in first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for the quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and provided, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Dated: 1 DEC 19 2000

STATE WATER RESOURCES CONTROL SWRCB


Harry M. Schueller
Chief, Division of Water Rights

2141

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

ORDER

APPLICATION 3069
4889
15706
19890
20876
20877

PERMIT _____

LICENSE 2141
2142
6334
10421
9939
10422

ORDER ALLOWING CHANGES IN
PURPOSES OF USE

WHEREAS:

1. License 2141 (Application 3069) was issued to Estate of W. F. Detert, deceased and was filed with the County Recorder of Lake County on January 27, 1941; and an order allowing changes in License 2141 was recorded with the County Recorder of Lake County on July 3, 1973 in Book 732, Page 681.
2. License 2142 (Application 4889) was issued to Estate of W. F. Detert, deceased and was filed with the County Recorder of Lake County on January 27, 1941; and an order allowing changes in License 2142 was recorded with the County Recorder of Lake County on July 3, 1973 in Book 732, Page 684.
3. License 6334 (Application 15706) was issued to Investment Operating Corporation and was recorded with the County Recorder of Lake County on June 6, 1961 in Book 352, Page 575; and an order allowing changes in License 6334 was recorded with the County Recorder of Lake County on July 3, 1973 in Book 732, Page 687.
4. Licenses 2141, 2142 and 6334 were subsequently assigned to Magoon Estate, Limited.
5. License 10421 (Application 19890) was issued to Magoon Estate, Limited and was recorded with the County Recorder of Lake County on January 30, 1975 in Book 784, Page 488.
6. License 9939 (Application 20876) was issued to Magoon Estate, Limited and was recorded with the County Recorder of Napa County on July 3, 1972 in Book 702, Page 143.
7. License 10422 (Application 20877) was issued to Magoon Estate, Limited and was recorded with the County Recorder of Lake County on January 20, 1975 in Book 784, Page 484.

6

License 2141 (Application 3069)
License 2142 (Application 4889)
License 6334 (Application 15706)
License 10421 (Application 19890)
License 9939 (Application 20876)
License 10422 (Application 20877)
Page 2

8. Petitions to change the purposes of use under these licenses have been filed with the State Water Resources Control Board and good cause for such change has been shown.
9. The Board has determined that the petitioned changes and the corrections do not constitute the initiation of any new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purposes of use under Licenses 2142, 6334, 10421, 9939 and 10422; and the storage portion under License 2141 shall be as follows:

Irrigation, stockwatering, frost protection and heat control

2. The purposes of use for the direct diversion portion under License 2141 shall remain as follows:

Irrigation and stockwatering

Dated: **APRIL 23 1980**


Walter G. Pettit, Chief
Division of Water Rights

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

ORDER

APPLICATION 3069

PERMIT 1747

LICENSE 2141

ORDER ALLOWING CHANGES IN DESCRIPTION OF SOURCE, DISTRIBUTION
OF STORAGE, POINTS OF DIVERSION, POINTS OF REDIVERSION,
CHARACTER OF USE, AND PLACE OF USE

WHEREAS, the State Water Resources Control Board has found that the changes in description of source, distribution of storage, points of diversion, points of rediversion, character of use, and place of use under License 2141 for which petitions were submitted on September 20, 1972 will not operate to the injury of any other legal user of water; and

WHEREAS, the Board has approved and allowed said changes and has directed that an order be issued to describe said sources, distribution of storage, points of diversion and rediversion, character of use, and place of use in accordance with said petitions;

NOW, THEREFORE, IT IS ORDERED that permission is hereby granted to: (A) change the description of the source to:

- (1) BUCKSNORT CREEK TRIBUTARY TO PUTAH CREEK THENCE YOLO BYPASS (POINTS OF DIVERSION 1, 4, 5 AND 6)
- (2) UNNAMED STREAM TRIBUTARY TO BUCKSNORT CREEK (POINT OF DIVERSION 2)
- (3) UNNAMED STREAM TRIBUTARY TO BUCKSNORT CREEK (POINT OF DIVERSION 3)

(B) retain existing point and add other points of direct diversion and change the distribution of storage under said License 2141 as follows:

- (1) 5.35 CUBIC FEET PER SECOND BY DIRECT DIVERSION FROM POINT OF DIVERSION (1) DETERT DAM, AND POINTS OF DIVERSION (4), (5) AND (6) TO BE DIVERTED FROM APRIL 1 TO JUNE 15 OF EACH SEASON

3

- (2) 1,100 ACRE-FEET PER ANNUM IN ANY COMBINATION OF STORAGE FROM POINTS OF DIVERSION (1) DETERT DAM, (2) FOLEY DAM NO. 1, (3) FOLEY DAM NO. 2 AND (5) MC CREARY DAM TO BE COLLECTED FROM SEPTEMBER 15 OF EACH YEAR TO MAY 1 OF THE SUCCEEDING YEAR, AND THE TOTAL AMOUNT OF WATER COLLECTED TO STORAGE UNDER THIS LICENSE TOGETHER WITH THAT STORED UNDER RIGHTS INITIATED UNDER APPLICATIONS 4889, 15706, 19890, AND 20877, SHALL NOT EXCEED 5,089.5 ACRE-FEET PER YEAR

(C) change the points of diversion and rediversion as numbered and shown on the map filed with the State Water Resources Control Board to be described as follows:

- (1) DETERT DAM, BUCKSNORT CREEK, POINT OF DIRECT DIVERSION AND DIVERSION TO STORAGE, NORTH 1,875 FEET AND WEST 850 FEET FROM SE CORNER OF PROJECTED SECTION 9, T10N, R6W, MDB&M, BEING WITHIN NE $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SAID SECTION 9
- (2) FOLEY DAM NO. 1, UNNAMED STREAM, POINT OF DIVERSION TO STORAGE AND POINT OF REDIVERSION FOR WATER STORED AT POINT (1), NORTH 2,450 FEET AND EAST 1,000 FEET FROM SW CORNER OF PROJECTED SECTION 4, T10N, R6W, MDB&M, BEING WITHIN SW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 4
- (3) FOLEY DAM NO. 2, UNNAMED STREAM, POINT OF DIVERSION TO STORAGE, SOUTH 1,450 FEET AND WEST 1,000 FEET FROM NE CORNER OF PROJECTED SECTION 4, T10N, R6W, MDB&M, BEING WITHIN NE $\frac{1}{4}$ OF NE $\frac{1}{4}$ OF SAID SECTION 4
- (4) BUCKSNORT CREEK DITCH PUMP, BUCKSNORT CREEK, POINT OF DIRECT DIVERSION AND POINT OF REDIVERSION FOR WATER STORED AT POINTS (1), (2), AND (3), SOUTH 1,755 FEET AND EAST 1,133 FEET FROM NW CORNER OF PROJECTED SECTION 3, T10N, R6W, MDB&M, BEING WITHIN SW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 3
- (5) MC CREARY DAM, BUCKSNORT CREEK, POINT OF DIRECT DIVERSION, DIVERSION TO STORAGE, AND POINT OF REDIVERSION FOR WATER STORED AT POINTS (1), (2), AND (3), NORTH 1,920 FEET AND WEST 650 FEET FROM SE CORNER OF PROJECTED SECTION 34, T11N, R6W, MDB&M, BEING WITHIN NE $\frac{1}{4}$ OF SE $\frac{1}{4}$ OF SAID SECTION 34
- (6) BUCKSNORT CREEK DIVERSION DAM, BUCKSNORT CREEK, POINT OF DIRECT DIVERSION AND POINT OF REDIVERSION FOR WATER STORED AT POINTS (1), (2), (3), AND (5), SOUTH 930 FEET AND EAST 2,750 FEET FROM NW CORNER OF SECTION 2, T10N, R6W, MDB&M, BEING WITHIN NE $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SAID SECTION 2
- (7) PUTAH CREEK PUMP NO. 1, POINT OF REDIVERSION FOR WATER STORED AT POINTS (1), (2), (3), AND (5), SOUTH 300 FEET AND EAST 2,500 FEET FROM NW CORNER OF SECTION 4, T10N, R5W, MDB&M, BEING WITHIN LOT 5 OF SAID SECTION 4

(8) PUTAH CREEK PUMP NO. 2, POINT OF REDIVERSION FOR WATER STORED AT POINTS (1), (2), (3) AND (5), SOUTH 1,100 FEET AND WEST 800 FEET FROM NE CORNER OF SECTION 4, T10N, R5W, MDB&M, BEING WITHIN LOT 3 OF SAID SECTION 4.

(D) change the character of use under said License 2141 to
IRRIGATION AND STOCKWATERING PURPOSES

(E) change the place of use under said License 2141 to be described as follows:

STOCKWATERING AND IRRIGATION OF 1,538 ACRES NET WITHIN A GROSS AREA OF 23,000 ACRES BEING WITHIN SURVEYED OR PROJECTED SECTIONS 24, 25, 26, 27, 33, 34, 35, AND 36, T11N, R6W; SECTIONS 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, AND 22, T10N, R6W; SECTIONS 19, 27, 28, 30, 31, 32, 33, 34, 35, T11N, R5W; AND SECTIONS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, AND 18, T10N, R5W, MDB&M, ALL BEING WITHIN GUENOC RANCH BOUNDARY AS SHOWN ON MAP FILED WITH THE STATE WATER RESOURCES CONTROL BOARD.

Dated: JUN 29 1973

K. L. Woodward
K. L. Woodward, Chief
Division of Water Rights



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 2141

PERMIT 1747

APPLICATION 2089

THIS IS TO CERTIFY, That

Estate of W. F. Detert, deceased
1507 Mills Tower
San Francisco, California,

Notice of Assignment (Over)

has made proof to the satisfaction of the Division
of Water Resources of California of a right to the use of the waters of **Backenort Creek in**
Lake County
tributary of **Putah Creek**

for the purpose of **irrigation use**
under Permit **1747** of the Division of Water Resources and that said right to the use of said waters has
been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources
and the terms of the said permit; that the priority of the right herein confirmed dates from

October 7, 1922;
that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed **five and thirty five**
hundredths (5.35) cubic feet per second by direct diversion from about April 1
to about June 15 of each season and eleven hundred (1100) acre feet per annum
by storage to be collected from about September 15 to about May 1 of each season.

The point of diversion of such water is located **North thirty five degrees thirty**
minutes West (N. 35° 30' W.) sixty five hundred (6500) feet from the common
corner of courses 18 and 19 of the United States Government Survey of Guenoc
Rancho, being within the S $\frac{1}{2}$ of projected Section 9, T. 10 N., R. 6 W., M.D.B. & M.

A description of the lands or the place where such water is put to beneficial use is as follows:

823 acres within Guenoc Rancho as shown on map on file with the
Division of Water Resources.

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 Division of Water Resources in accordance with law and in the
interest of the public welfare to prevent waste of water by any unreasonable method of use or unreasonable method of
diversion of said water.

Reports shall be filed
time to time by the Division

and hereby confirmed is restricted to the point of

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes of 1913, as amended, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such term as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that 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 said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same 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 or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, 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 licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs thereof, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and providing, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purpose, to the person, firm or corporation which constructed said facilities for the temporary use of said excess water, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public

Works of the State of California, this 14th

day of January, 1953.

EDWARD HYATT

State Engineer

By Harold Conkelung
Deputy



2/24/53 RECEIVED NOTICE OF ASSIGNMENT TO Investment Operating Corporation

10-18-63 RECEIVED NOTICE OF ASSIGNMENT TO Hirotoshi Yamamoto

10-18-63 RECEIVED NOTICE OF ASSIGNMENT TO Magoon Estate, Limited

LICENSE 2141

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

ISSUED TO Estate of W. F. Detert, deceased

ISSUED January 14, 1941.

69760 3-50 1950 STATE PRINTING OFFICE

2