



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 11633  
Page 1 of 6

PERMIT 6810

LICENSE 3220

**THIS IS TO CERTIFY, That**

Branscomb Farm, LLC  
780 Frenchmans Creek Road  
Half Moon Bay, CA 94019

has the right to the use of the waters of **Frenchmans Creek** in **San Mateo County**

tributary to **Pacific Ocean**

for the purpose of **Irrigation and Stockwatering uses.**

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

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

This amended license is being issued in accordance with the redelegations of authority (Resolution No. 2012-0029). Therefore, this amended license on **Application 11633** filed on **November 15, 1946** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions herein.

**Amended License 3220** supersedes the license originally issued on **June 30, 1951**, which was perfected in accordance with the laws of California, the Regulations of the State Water Board, or its predecessor, and the terms of **Permit 6810**. The priority of this right dates from **November 25, 1946**. Proof of maximum beneficial use of water under this license was made as of **July 30, 1949** (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 **7.5 acre-feet per year to be collected from November 1 of each year to April 30 of the succeeding year**. The maximum diverted under this license shall not exceed **7.5 acre-feet per year**.

This license does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purposes.

The maximum rate of diversion to offstream storage shall not exceed 1.4 cubic feet per second at Point of Diversion 1 and 0.11 cubic foot per second at Point of Diversion 2. The combined maximum rate of diversion to offstream storage at both Points of Diversion shall not exceed 1.4 cubic feet per second.

**THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:**

- (1) By California Coordinate System of 1983, Zone 3, North 2,007,709 feet and East 6,000,364 feet, being within SE¼ of SW¼ of projected Section 17, T5S, R5W, MDB&M.
- (2) By California Coordinate System of 1983, Zone 3, North 2,005,595 feet and East 5,999,504 feet, being within NW¼ of NW¼ of projected Section 20, T5S, R5W, MDB&M.

**THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:**

At reservoir within S½ of NW¼ of Section 20, T5S, R5W, MDB&M

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

For Irrigation and Stockwatering uses as follows:

- 3.0 acres within NE¼ of NW¼ of projected Section 20, T5S, R5W, MDB&M
- 3.1 acres within SW¼ of NW¼ of projected Section 20, T5S, R5W, MDB&M
- 39.0 acres within SE¼ of NW¼ of projected Section 20, T5S, R5W, MDB&M
- 0.8 acres within SW¼ of NE¼ of projected Section 20, T5S, R5W, MDB&M
- 3.1 acres within NW¼ of SW¼ of projected Section 20, T5S, R5W, MDB&M
- 13.7 acres within NE¼ of SW¼ of projected Section 20, T5S, R5W, MDB&M
- 8.3 acres within SW¼ of SW¼ of projected Section 20, T5S, R5W, MDB&M
- 0.3 acres within SE¼ of SW¼ of projected Section 20, T5S, R5W, MDB&M

71.3 acres total, as shown on map on file with the State Water Board.

If the claimed existing prior right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the total quantity of water diverted and/or collected to storage, the rate of diversion, and the amount beneficially used under this license shall be reduced by the net of the face value specified in this license less the respective amounts recognized under the quantified existing prior right during the season specified in this license. No water shall be diverted to the place of use during the season authorized by this license, whenever the amounts diverted can be covered by the quantified existing prior right.

Licensee shall forfeit this license if he/she transfers all or any part of the claimed existing right for the place of use covered by this license to another place of use without the prior approval of the State Water Board.

Licensee shall divert water under the claimed existing right only in accordance with the law.

(0000021A)

This license shall not be construed as conferring upon the Licensee the right of access to Point of Diversion 1.

(0000022)

Licensee shall comply with the following provisions which are derived from the Streambed Alteration Agreement (#1600-2004-0917-3) between the Licensee and the Department of Fish and Game, executed on October 30, 2008 and filed with the State Water Board:

1. The maximum rate of diversion to offstream storage at Point of Diversion 1 shall not exceed the lesser of either 1.4 cubic feet per second or 20 percent of the flow in Frenchmans Creek, as measured at Point of Diversion 1.

Inclusion in this license of certain provisions of the 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 consistent with the terms of this license.

(0000024)

No water shall be diverted to offstream storage under this license unless Licensee is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring the rate and quantity of water diverted and shall be properly maintained.

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

Licensee shall maintain a record of all diversions under this license that includes the date, time, rate of diversion, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(0060046)

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

Licensee shall provide the Division of Water Rights with evidence that the device has been installed and the mark or reading corresponding to the maximum water line of the reservoir with the first annual report submitted after device installation. Licensee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

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

(0100047)

No water shall be diverted at Point of Diversion 2 under this license unless the flow in Frenchmans Creek is at or above 1 cubic foot per second, as determined at Point of Diversion 2.

(0140060)

No water shall be diverted under this license unless Licensee is bypassing the flow required by this license by use of a passive bypass device.

Licensee shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Licensee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by this condition shall include current photographs of the system in place and a statement, signed by the Licensee, certifying that the system is still operating as designed.

(0050062C)

No water shall be diverted under this license unless Licensee is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how Licensee will comply with the terms and conditions of this license. Licensee shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan.

(0000070)

At Point of Diversion 2, no debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

No water shall be diverted under this license unless Licensee is operating the water diversion facilities for the Point of Diversions with fish screens satisfactory to the Deputy Director for Water Rights. The fish screens shall be designed and maintained in accordance with the screening criteria of the Department of Fish and Game. Licensee shall provide evidence that demonstrates that the fish screens are in good condition with the annual report and whenever requested by the Division of Water Rights.

(0000213)

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*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 candidate 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 state or federal Endangered Species Acts 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:  
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: FEB 07 2013



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

## License for Diversion and Use of Water

APPLICATION 11693

PERMIT 6810

LICENSE 3220

THIS IS TO CERTIFY, That **E. W. McLellan Company**  
Route 1, Box 289  
Colma, California

has made proof as of **July 30, 1949**  
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of  
**Frenchman's Creek in San Mateo County**

tributary to **Pacific Ocean**

for the purpose of **irrigation use**  
under Permit **6810** of the Department of Public Works and that said right to the use of said water has  
been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works  
and the terms of the said permit; that the priority of the right herein confirmed dates from **November 25, 1946; and**

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 **seven and five tenths (7.5)**  
**acre-feet per annum to be collected from about November 1 of each year to**  
**about April 30 of the succeeding year.**

The maximum rate of diversion to storage shall not exceed **1.4 cubic feet**  
per second.

The point \* of diversion of such water is located **South one thousand seven hundred**  
**fifty (1750) feet and West eight thousand seven hundred (8700) feet from**  
**W $\frac{1}{2}$  corner of Section 15, T 5 S, R 5 W, M.D.B. & M., being within SE $\frac{1}{4}$  of**  
**SW $\frac{1}{4}$  of Projected Section 17, T 5 S, R 5 W, M.D.B. & M.**

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

30 acres in SW $\frac{1}{4}$  of NW $\frac{1}{4}$   
17.1 acres in SE $\frac{1}{4}$  of NW $\frac{1}{4}$   
12.1 acres in NE $\frac{1}{4}$  of SW $\frac{1}{4}$   
12.1 acres in SW $\frac{1}{4}$  of SW $\frac{1}{4}$

**71.3 acres total, all in Projected Section 20, T 5 S, R 5 W, M.D.B. & M.**

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 Department acting through the State Engineer 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 State Engineer.

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

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not 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.

Witness my hand and the seal of the Department of Public Works of the State of California, this 30th day of June, 1951.



*A. D. Edmonston*  
A. D. EDMONSTON  
State Engineer

LICENSE 3220

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS  
DIVISION OF WATER RESOURCES  
STATE ENGINEER

LICENSE  
TO APPROPRIATE WATER

ISSUED TO E. W. McLellan Company

DATED JUN 30 1951