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

License for Diversion and Use of Water

APPLICATION 13308 PERMIT 7856 LICENSE 4017

THIS IS TO CERTIFY, *That* Don McMillan and John McMillan
Klamath, California

ha ve *made proof as of* September 28, 1953, *(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of* Spruce Creek in Del Norte County

tributary to Klamath River

for the purpose of domestic use
under Permit 7856 *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* August 22, 1949; *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* two thousand seven hundred (2700) gallons per day to be diverted from January 1 to December 31 of each year.

The point of diversion of such water is *located* south fifty-four degrees twenty minutes forty seconds east (S54°20'40"E) four thousand one hundred four and twelve hundredths (4104.12) feet from W¼ corner of Section 3, T 13 N, R 1 E, HB&M, being within SW¼ of SE¼ of said Section 3.

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

Within SW¼ of SW¼ of Section 3, T 13 N, R 1 E, HB&M.

The right under this license is of equal priority with the right initiated by Application 13066.

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.

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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 19th *day of* November, *19* 54

A. D. EDMONSTON, *State Engineer*

By Harvey O. Banks

HARVEY O. BANKS
Assistant State Engineer

5/14/96 Not of asgd: App#13308 Lic#4017
McMillan Family Trust

1-8-99 Asdg. to Eleanor J. McMillan Revocable trust

LICENSE 4017

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

LICENSE
TO APPROPRIATE WATER

ISSUED TO Don McMillan and John McMillan

DATED

85397 8-53 3M SPO

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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

over

ORDER

APPLICATION 13308 PERMIT 7856 LICENSE 4017

ORDER ALLOWING CHANGE IN THE SOURCE, THE POINT OF DIVERSION, PLACE OF USE AND AMENDING THE LICENSE

WHEREAS:

1. License 4017 was issued to Don McMillan and John McMillan and was filed with the County Recorder of Del Norte County on November 24, 1954.

2. A petition for change in the source, point of diversion, and place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such changes have been shown.

3. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

4. The license condition pertaining to the Board's continuing authority of the Board should be revised to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The point of diversion and source under this license be amended to read:

   New point of diversion is located on an Unnamed Stream tributary to Spruce Creek thence Klamath River and described as follows: South 2,850 feet and West 3,100 feet from NE corner of Section 3, T13N, R1E, HB&M, being within NE¼ of SE¼ of said Section 3. Also described by California Coordinate System, Zone 1, N 812,500 and E 1,441,000.

2. The place of use under this license be amended to read:

   Within the W½ of SW¼ of Section 3 and the E½ of SE¼ of Section 4, T13N, R1E, HB&M.

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Application 13308 (License 4017)

3. The license condition pertaining to the Board's continuing authority be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

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Dated: DECEMBER 04 1990

Roger Johnson

for Walter G. Pettit, Chief
Division of Water Rights

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