

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

ORDER

APPLICATION 14095

PERMIT 8523

LICENSE 4088

ORDER DIRECTING THE REDUCTION IN THE PLACE OF USE AND
THE AMOUNT OF WATER, CORRECTING THE DESCRIPTION OF THE POINT OF DIVERSION,
AND AMENDING LICENSE CONDITION

WHEREAS:

1. License 4088 was issued to Wendell W. Elzig and was filed with the County Recorder of Calaveras County on May 2, 1955.
2. License 4088 was subsequently assigned to Kenneth G. Marshall.
3. An inspection of the project by an engineer from the Board, revealed that the Place of Use has been reduced to two acres of irrigated land consisting of pasture and landscape around the house. Therefore, the Place of Use should be reduced from 10 acres to 2 acres and the amount of water reduced to 0.024 cubic foot per second, 1.8 acre-feet maximum annual amount.

The description of the Point of Diversion should be corrected to be the same as described in License 10509 (Application 19317).

4. The continuing authority provision in this license should be amended to contain Section 780(a), Title 23, California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The paragraph in this license pertaining to the place of use be amended to read:

1.5 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T5N, R13E, MDB&M
0.5 acre within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T5N, R13E, MDB&M
2.0 acres total
2. The paragraph in this license pertaining to the amount of water for beneficial use be amended as follows:

0.025 cubic foot per second to be diverted from May 1 to October 15 of each year. The maximum amount diverted under this license shall now exceed 1.8 acre-feet per year.
3. The point of diversion under this license shall be as follows:

South 550 feet and East 1,400 feet from NW corner of Section 31, T5N, R13E, MDB&M being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 31. Also described as California Coordinate System, Zone 3, North 636,500 and East 1,974,800.

4. The continuing authority provision in this license is amended to contain Section 780(a), Title 23, California Code of Regulations which 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.

(000012)

Dated: **JANUARY 04 1989**


Walter G. Pettit, Chief
Division of Water Rights

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

License for Diversion and Use of Water

APPLICATION 14095

PERMIT 8523

LICENSE 4088

THIS IS TO CERTIFY, That **Wendell W. Elzig**
Mountain Ranch
California

has made proof as of **June 25, 1953,**
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
an unnamed stream in Calaveras County

tributary to **Salamander Creek thence Jesus Maria Creek thence North Fork Calaveras River**

for the purpose of **irrigation use**
under Permit **8523** 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 **December 6, 1950;** 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 **one hundred twenty-five thousandths (0.125) cubic foot per second** to be diverted from about **May 1** to about **October 15** of each year.

The equivalent of such continuous flow allowance for any thirty day period may be diverted in a shorter time if there be no interference with other vested rights.

The total amount of water appropriated under this license shall not exceed **nine (9) acre-feet per annum.**

The point of diversion of such water is located **north one thousand eight hundred seventy (1870) feet and west four thousand twenty (4020) feet from E $\frac{1}{4}$ corner of Section 31, T 5 N, R 13 E, MDB&M, being within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 31.**

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

6 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T 5 N, R 13 E, MDB&M
4 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T 5 N, R 13 E, MDB&M
10 acres total

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

day of

April

25
1955

A. D. EDMONSTON, State Engineer

By

Harvey O. Banks
HARVEY O. BANKS
Assistant State Engineer



*3/30/89 Notice of Asg'd Kenneth A. Marshall
10-5-00 Asg'd to Nancy Kuchins*

LICENSE 4088

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

LICENSE
TO APPROPRIATE WATER

ISSUED TO Wendell W. Elzig

DATED APR 25 1955

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