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

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 14997A
Page 1 of 3

PERMIT 9295

LICENSE 4777A

THIS IS TO CERTIFY, That

Flight Rail Corporation
250 Henry Station Road
Ukiah, CA 95482

has made proof as of **August 10, 1955** and **July 18, 2001** (the dates of inspection) to the satisfaction of the State Water Resources Control Board (SWRCB) of a right to the use of the waters of **Russian River Underflow** in **Mendocino County**

tributary to **Pacific Ocean**

for the purpose of **Irrigation Use**

under Permit 9295 of the SWRCB; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the SWRCB, and the permit terms; that the priority of this right dates from **August 27, 1952**; and that 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 **forty-four hundredths (0.44) cubic foot per second to be diverted from May 1 to November 30 of each year. The maximum amount diverted under this license shall not exceed 70 acre-feet per year.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time for irrigation provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 2,400 feet and East 1,700 feet from SE corner of projected Section 25, T14N, R12W, MDB&M, being within NE¼ of SW¼ of said Section 25.

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

0.7 acre within SE¼ of NW¼ of projected Section 26, T14N, R12W, MDB&M
2.8 acres within SW¼ of NE¼ of projected Section 26, T14N, R12W, MDB&M
0.4 acre within NE¼ of SW¼ of projected Section 26, T14N, R12W, MDB&M
24.3 acres within NW¼ of SE¼ of projected Section 26, T14N, R12W, MDB&M
3.5 acres within NE¼ of SE¼ of projected Section 26, T14N, R12W, MDB&M
11.8 acres within SW¼ of SE¼ of projected Section 26, T14N, R12W, MDB&M
11.5 acres within SE¼ of SE¼ of projected Section 26, T14N, R12W, MDB&M
3.9 acres within NE¼ of NE¼ of projected Section 35, T14N, R12W, MDB&M

58.9 acres total, as shown on map dated October 25, 2002 on file with 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.

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 SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms 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 SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB 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 SWRCB 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 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the 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 SWRCB.

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 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 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

David R. Beringer

for *Harry M. Schueller*
Chief Deputy Director

Dated: NOV 27 2002

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

DIVISION OF WATER RIGHTS

In the Matter of License 4777 (Application 14997)

John E. Fetzer and Flight Rail Corporation

ORDER ISSUING SEPARATE LICENSES AND REVOKING ORIGINAL LICENSE 4777

SOURCE: Russian River underflow tributary to Pacific Ocean

COUNTY: Mendocino County

WHEREAS:

1. License 4777 (Application 14997) was issued to Ivan H. Crawford, Nellie M. Crawford and Charles L. Crawford on October 24, 1957, and recorded by the County Recorder of Mendocino County on October 25, 1957.

2. The Division of Water Rights (Division) record of ownership for License 4777 shows the current holders of the license as John E. Fetzer, Flight Rail Corporation and Omnium Estates. These parties were assigned ownership of the license on November 5, 1999.

3. The Division proposed partial revocation of License 4777 on August 20, 2002, by removal of the interests of John E. Fetzer and Omnium Estates due to non-use. Flight Rail Corporation was proposed to be sole owner of the license after the proposed partial revocation. All licensees were provided an opportunity to submit compelling reason why their interest in the license should not be revoked. John E. Fetzer provided evidence that he is pursuing installation of a new water pipeline under U.S. Highway 101 to replace the unusable original pipeline, so water from the Russian River can again be diverted to his portion of the authorized place of use. Omnium Estates provided no response or evidence to support its continued interest in License 4777.

4. Based on the above information, the Division has determined that License 4777 should be revoked and separate licenses should be issued to Flight Rail Corporation and to John E. Fetzer. The interest of Omnium Estates should be revoked. By letter dated March 28, 2002, John E. Fetzer and Flight Rail Corporation accepted partial interests of the license identified by the Division in a letter dated February 28, 2002. These partial interests include reduced amounts and reduced places of use.

5. An annual amount and the State Water Resources Control Board (SWRCB) standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for a State Department of Fish and Game stream alteration agreement shall be added or updated to each license.

6. The SWRCB has determined the separate licenses do not constitute initiation of new rights, and do not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

1. The interest in License 4777 of Omnium Estates is hereby revoked.

2. License 4777 is replaced and superceded with attached License 4777A issued to Flight Rail Corporation, and with attached License 4777B issued to John E. Fetzer. The priority of Licenses 4777A and 4777B is August 27,1952.

3. License 4777B will be revoked upon the records of the SWRCB if water from the source is incapable of being served to the authorized place of use by September 30, 2003.

STATE WATER RESOURCES CONTROL BOARD

David R. Bunger

for *Harry M. Schueller*
Chief Deputy Director

Dated: NOV 27 2002

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

ORDER

APPLICATION 14997 PERMIT 9295 LICENSE 4777

ORDER ALLOWING CHANGE IN POINT OF DIVERSION AND PLACE OF USE

WHEREAS License 4777 was issued to Ivan H., Nellie M. and Charles L. Crawford and was filed with the County Recorder of Mendocino County on October 25, 1957, and

WHEREAS said license was subsequently assigned to Ivan H. Crawford, Nellie M. Crawford and Dick W. Austin, and

WHEREAS the State Water Rights Board has found that the change in point of diversion and place of use under said license for which petitions were submitted on April 16, 1962, and January 16, 1964, 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 changes in accordance with said petitions;

NOW THEREFORE IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said License 4777 to a point of diversion described as follows, to wit:

NORTH TWO THOUSAND FOUR HUNDRED (2400) FEET AND EAST ONE THOUSAND SEVEN HUNDRED (1700) FEET FROM SE CORNER OF PROJECTED SECTION 25, T14N, R12W, MDB&M, BEING WITHIN THE NE$\frac{1}{4}$ OF SW$\frac{1}{4}$ OF SAID SECTION 25, and

IT IS FURTHER ORDERED that permission be and the same is hereby granted to change the place of use under said License 4777 to a place of use described as follows, to wit:

142 ACRES WITHIN PROJECTED SECTION 26, T14N, R12W, MDB&M.
8 ACRES WITHIN PROJECTED SECTION 35, T14N, R12W, MDB&M.
150 ACRES TOTAL AS SHOWN ON MAP FILED WITH STATE WATER RIGHTS BOARD.

ORDER

APPLICATION 14997 PERMIT 9295 LICENSE 4777

WITNESS my hand and the seal of the State Water Rights Board of the State of California this 22nd day of May, 1964

L. K. Hill
L. K. Hill
Executive Officer

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STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

Notice of Assignment (Over)

APPLICATION 14997 PERMIT 9295 LICENSE 4777

THIS IS TO CERTIFY, *That* Ivan H. Crawford, Nellie M. Crawford & Charles L. Crawford
Ukiah, California

have made proof as of August 10, 1955
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of Russian River in Mendocino County

tributary to Pacific Ocean

for the purpose of irrigation use
under Permit 9295 *of the State Water Rights Board 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 State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from* August 27, 1952;
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 (1) cubic foot per second to be diverted from about May 1 to about November 30 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 point of diversion of such water is *located* three thousand five hundred seventy-five (3,575) feet east of Station 287 plus 50 as shown on Plan and Profile of State Highway in Mendocino County between Hopland and Crawford Ranch (approved August 11, 1941), being within Rancho De Sanel in NE¼ of SW¼ of projected Section 25, T 14 N, R 12 W, MDB&M.

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

7 acres within NW¼ of SW¼ of projected Section 25, T 14 N, R 12 W, MDB&M.
16 acres within SW¼ of SW¼ of projected Section 25, T 14 N, R 12 W, MDB&M.
2 acres within SE¼ of NE¼ of projected Section 26, T 14 N, R 12 W, MDB&M.
27 acres within NW¼ of SE¼ of projected Section 26, T 14 N, R 12 W, MDB&M.
25 acres within NE¼ of SE¼ of projected Section 26, T 14 N, R 12 W, MDB&M.
20 acres within SW¼ of SE¼ of projected Section 26, T 14 N, R 12 W, MDB&M.
33 acres within SE¼ of SE¼ of projected Section 26, T 14 N, R 12 W, MDB&M.
20 acres within NE¼ of NE¼ of projected Section 35, T 14 N, R 12 W, MDB&M.
150 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 State Water Rights 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 State Water Rights Board.

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 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 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 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.

Dated: OCT 24 1957

STATE WATER RIGHTS BOARD

By Leslie C. Jopson
LESLIE C. JOPSON
Chief Engineer

1-16-64 RECEIVED NOTICE OF ASSIGNMENT ~~TO~~ of Int of Charles L. Crawford to Dick W. Austin

1-6-65 Int of Nellie M. Crawford transfered to Ivan H. Crawford & ~~Dick W. Austin~~

10/26/1999 ASGD TO JOHN E FETZER, OMINIUM ESTATES, RETECH, INC., PHILIPS AUSTIN, EXECUTOR

LICENSE 4777

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO Ivan H. Crawford, Nellie M. Crawford & Charles L. Crawford

DATED OCT 24 1957

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