

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 8801 Permit 4861 License 5063

**ORDER ALLOWING CORRECTION TO SOURCE,
ISSUANCE OF SEPARATE LICENSES, AND
REVOCATION OF ORIGINAL LICENSE**

WHEREAS:

1. License 5063 was issued to Dick R. Friesen on April 10, 1958 pursuant to Application 8801 and recorded with the County Recorder of Napa County on April 18, 1958.
2. License 5063 was subsequently assigned to Howell Mountain Mutual Water Company, Inc. on March 24, 1986.
3. By letter dated January 22, 1997, a request has been made for separate licenses to reflect the individual ownerships of licensees as the result of a land exchange between licensee and the Crains.
4. The State Water Resources Control Board (SWRCB) staff has determined a correction is needed to identify the source to be consistent with the current stream system identified on the U.S.G.S. St. Helena quadrangle.
5. The SWRCB has determined the correction to the source does not constitute the initiation of a new right nor operate to the injury of another lawful user of water, and that good and sufficient cause has been shown for the correction, and subsequent issuance of separate licenses.
6. The license condition pertaining to the SWRCB's continuing authority should be replaced with the current version to conform with the Section 780(a), Title 23 of the California Code of Regulations.

2. License 5063 be replaced by License 5063A issued to Howell Mountain Mutual Water Company, Inc. and License 5063B issued to Richard Crain and Lilly Crain.
3. Superseded License 5063 is hereby revoked upon issuance of License 5063A and 5063B.
4. Separate licenses be issued as follows

A. License: 5063A (Application 8801A)
Owner: Howell Mountain Mutual Water Company, Inc.
P.O. Box 9
Angwin, CA 94508

Source: Unnamed Streams and Angwin Creek tributary to
Conn Creek thence Napa River

Use: Irrigation, Domestic, Stockwatering and Recreational

Amount: 124 acre-feet

Season: October 1 of each year to May 1 of the succeeding year

Points of
Diversion

& Storage: Lake Newton: South 369 feet and West 834 feet from NE
corner of Section 36, T9N, R6W, MDB&M, being within
NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 36.

Deer Lake: North 974 feet and West 1,738 feet from NE
corner of Section 36, T9N, R6W, MDB&M, being within
SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 25, T9N, R6W, MDB&M.

Lake Whitehead: South 780 feet and East 535 feet from
NE corner of Section 36, T9N, R6W, MDB&M, being within
SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31, T9N, R5W, MDB&M.

Points of
Diversion
to Offstream

Storage: South 1,000 feet and East 200 feet from NE corner of
Section 36, T9N, R6W, MDB&M, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$
of Section 31, T9N, R5W, MDB&M.

Place of
Use:

Irrigation of 65 acres within regular, fractional
and/or projected Sections comprising of 50 acres
within NE $\frac{1}{4}$ of Section 36, T9N, R6W, MDB&M, and 15
acres within Section 31, T9N, R5W, MDB&M. Domestic,
stockwatering, and recreational uses within Sections
31, 32, 33, T9N, R5W; Sections 5, 6, 7, 8, 18, and 19,
T8N, R5W; Sections 1, 12, 13, and 24, T8N, R6W;
Sections 25 and 36, T9N, R6W, MDB&M, as shown on map
filed with State Water Resources Control Board.

B. License: 5063B (Application 8801B)
Owner: Richard Crain and Lilly Crain
850 Friessen Drive
Angwin, CA 94508

Source: Unnamed Stream tributary to Angwin Creek thence
Conn Creek thence Napa River

Use: Irrigation, Domestic, Stockwatering and Recreational

Amount: 12 acre-feet in Red Lake

Season: October 1 of each year to May 1 of the succeeding year

Points of
Diversion: Red Lake: South 990 feet and East 1,520 feet from the
NE corner of Section 36, T9N, R6W, MDB&M, being within
the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 31, T9N, R5W,
MDB&M.

Place of
Use: Domestic, Stockwatering, and Irrigation of 36 acres
within W $\frac{1}{2}$ of NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected
Section 31, T9N, R5W, MDB&M. Recreation at Red Lake
located within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 31,
T9N, R5W, MDB&M

5. The license condition pertaining to the continuing authority of the SWRCB is updated to conform to Section 780(a), Title 23 of the California Code of Regulations and reads as follows:

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:

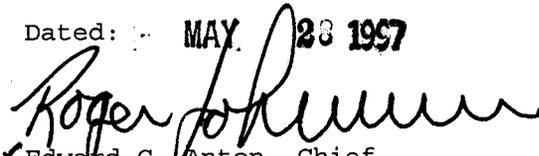
- (1) reusing or reclaiming the water allocated;
- (2) using water reclaimed by another entity instead of all or part of the water allocated;
- (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow;
- (4) suppressing evaporation losses from water surfaces;
- (5) 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 of 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. (0000012)

6. Licenses 5063A and 5063B shall contain all other terms and conditions presently in License 5064 or the updated versions for compliance with the SWRCB policy.

Dated: MAY 28 1957

for 
Edward C. Anton, Chief
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 8801

PERMIT 4861

LICENSE 5063

THIS IS TO CERTIFY, That

Dick R. Friesen
White Cottage Ranch ~~Notice of Change (Over)~~
Angwin, California

has made proof as of October 10, 1957
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
Angwin Creek and 2 unnamed tributaries in Napa County

tributary to Napa River

for the purpose of irrigation, domestic, stockwatering and recreational uses
under Permit 4861 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 September 26, 1936
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 thirty-six (136)
acre-feet per annum to be collected from about October 1 of each year to about
May 1 of the succeeding year and comprising from Pt (2) twelve (12) acre-feet per
annum, from Pt (3) forty (40) acre-feet per annum, from Pt (5) fourteen (14) acre-
feet per annum, and from Pt (6) seventy (70) acre-feet per annum.

The points of diversion of such water are located:

(2) South nine hundred ninety (990) feet and east one thousand five hundred twenty
(1520) feet from NE corner of Section 36, T9N, R6W, MDB&M being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$
of Section 31, T9N, R5W, MDB&M.

(3) South three hundred sixty-nine (369) feet and west eight hundred thirty-four
(834) feet from NE corner of Section 36, T9N, R6W, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said
Section 36.

(5) North nine hundred seventy-four (974) feet and west one thousand seven hundred
thirty-eight (1738) feet from NE corner of Section 36, T9N, R6W, MDB&M being within SW $\frac{1}{4}$
of SE $\frac{1}{4}$ of Section 25, T9N, R6W, MDB&M.

(6) South seven hundred eighty (780) feet and east five hundred thirty-five (535) feet
from NE corner of Section 36, T9N, R6W, MDB&M being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 31
T9N, R5W, MDB&M.

Point of diversion to storage from Angwin Creek for offstream storage in Reservoirs
(2) and (6) which are located on 2 unnamed tributaries is located south one thousand
(1000) feet and east two hundred (200) feet from NE corner of Section 36, T9N, R6W,
being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 31, T9N, R5W, MDB&M. The maximum rate of diversion
to offstream storage has been 2 cubic feet per second.

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

Irrigation of 65 acres within regular, fractional and/or projected Sections
comprising 50 acres within NE $\frac{1}{4}$ of Section 36, T9N, R6W, MDB&M, & 15 acres within Section
31, T9N, R5W, MDB&M. Domestic, stockwatering and recreational uses within Section 31,
32, 33, T9N, R5W; Sections 5, 6, 7, 8, 18, and 19, T8N, R5W; Sections 1, 12, 13, and
24, T8N, R6W; Sections 25 and 36, T9N, R6W, MDB&M, as shown on map filed with State
Water Rights Board.

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.

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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 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 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).

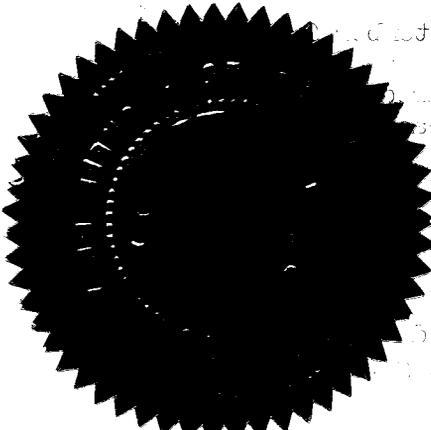
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied 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: APR 10 '58

STATE WATER RIGHTS BOARD

Leslie C. Jouson
Leslie C. Jouson
Chief Engineer



2-3-69 Name of Nick R. Friesen
changed to Estate of Nick R. Friesen

12-19-75 Recorded check to show
was Donald Nelson, & Mack, Inc. &
Murphy, Public Associates, Inc.

9-24-76 Asgd to Pearl Friesen

3-24-86 Asgd to Howell Mountain Mutual Water Co, Inc

LICENSE **5063**
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO **Dick R. Friesen**

DATED **APR 10 1958**

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