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

License for Diversion and Use of Water

APPLICATION 8801B PERMIT 4861 LICENSE 5063B

THIS IS TO CERTIFY, That

Richard Crain and Lilly Crain
850 Friessen Drive
Angwin, CA 94508

have made proof as of **October 10, 1957** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of **an Unnamed Stream in Napa County**

tributary to **Angwin Creek thence Conn Creek thence Napa River**

for the purpose of **Irrigation, Domestic, Stockwatering, and Recreational uses**

under Permit **4861** of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from **September 26, 1936** 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 **12 acre-feet per annum to be diverted from October 1 of each year to May 1 of the succeeding year.**

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 990 feet and East 1,520 feet from the NE corner of Section 36, T9N, R6W, MDB&M; being within SE¼ of NW¼ of projected Section 31, T9N, R5W, MDB&M.

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

Domestic, Stockwatering, and Irrigation of 36 acres within W½ of NW¼ and SE¼ of NW¼ of projected Section 31, T9N, R5W, MDB&M.

Recreational at Red Lake within SE¼ of NW¼ of projected Section 31, T9N, R5W, MDB&M.

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: MAY 28 1997

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson

for *Chief, Division of Water Rights*

Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the 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 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.

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 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.

This 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 requirement for the authorized project. No action will be taken pursuant to this 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, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the 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.

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 NE¼ of NE¼ 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 SW¼ of SE¼ 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 SW¼ of NW¼ 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 NW¼ of SW¼ 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 NE¼ 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 SE¼ of NW¼ of projected Section 31, T9N, R5W, MDB&M.
Place of Use: Domestic, Stockwatering, and Irrigation of 36 acres within W½ of NW¼ and SE¼ of NW¼ of projected Section 31, T9N, R5W, MDB&M. Recreation at Red Lake located within the SE¼ of NW¼ 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 1997

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights