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

**DIVISION OF WATER RIGHTS**

# Amended License for Diversion and Use of Water

APPLICATION **15784** PERMIT **9885** LICENSE **5333**



**THIS IS TO CERTIFY, That** Sue Belcher
3-B Ranch
Middletown, CA 95461

has the right to the use of the waters of **Crazy Creek in Lake County**

tributary to **Putah Creek thence Yolo By-Pass**

for the purposes of **Irrigation, and Stockwatering uses.**

Amended **License 5333** supersedes the license originally issued **August 5, 1958,** which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of **Permit 9885**. The priority of this right dates from **March 18, 1954**. Proof of maximum beneficial use of water under this license was made as of **October 16, 1957** (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **0.67 cubic feet per second to be diverted from April 1 to October 31 of each year for irrigation purposes and throughout the year as required for stockwatering purposes.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time, if there be no interference with other vested rights.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below;

**THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:**

South 1700 feet from W¼ corner of Projected Section 29, T11N, R6W, MDB&M, being within SW¼ of SW¼ of said Projected Section 29.

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

30 acres within NW¼ of SW¼ of projected Section 29, T11N, R6W, MDB&M
20 acres within NE¼ of SW¼ of projected Section 29, T11N, R6W, MDB&M
20 acres within SW¼ of NW¼ of projected Section 29, T11N, R6W, MDB&M
10 acres within SE¼ of NW¼ of projected Section 29, T11N, R6W, MDB&M

80 acres total

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of this license and any order of the Court.

(2) The Court has appointed a watermaster to implement the provisions of the March 10, 1995, Condition 12 Settlement Agreement.

(3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water directly diverted for use to storage under this license.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual diversions, if the SWRCB at the request of the watermaster, determines that additional measures are necessary to effectively administer the diversion and use of water in upper Putah Creek under Condition 14 of Decision 869 and Order WR 96-002.

(5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water directly diverted and/or diverted to storage under this license. Such annual reports shall be made in writing on forms approved by the watermaster.

(6) The watermaster shall have the right to enter property to inspect measuring equipment and to observe compliance with this license's terms and conditions, upon 48-hours prior notice and upon such reasonable conditions as licensee may prescribe.

(7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as provided in Condition 14 of Decision 869 and Order WR 96-002, and that in such years no water may be available under this license.

(8) In the event Allowable Depletion as determined under the Condition 12 Settlement Agreement is exceeded in any year, licensee shall bypass/release water diverted to the extent necessary to bring Allowable Depletion into compliance as determined by the watermaster. Licensee's obligation to bypass/release water shall be governed by the following repayment provisions:

(9) Licensee is required to curtail direct diversion of water during years when water is not available under the reservation. Licensee's obligation to repay shall be in reverse order of the priority of the license in relation to all other permits and licenses affected by Condition 14 of Decision 869.

Licensee is required to curtail diversion of water to storage during years when water is not within the reservation. During such years, unless replacement water is provided on an exchange basis, licensee shall release water collected to storage under this license, during

the preceding collection season at the maximum practical rate to flow into Lake Berryessa. Licensee's obligation to repay shall be in reverse order of the priority of the license in relation of all other permitees and licensees affected by Condition 14 of Decision 869.

In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment.

(10) Licensee shall provide the watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of diversion, or by the provision of water from other sources.

(11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.

(12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

The SWRCB shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

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*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

James W. Kassel
for *Edward C. Anton, Chief*
*Division of Water Rights*

Dated: JUL 17 2002