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

DIVISION OF WATER RIGHTS

In the Matter of License 5787 (Application 16072)

Massimo DeSimoni and Theresa DeSimoni

ORDER ISSUING AMENDED LICENSE

SOURCE: Unnamed Stream tributary to Spencer Creek

COUNTY: Napa

WHEREAS:

1. License 5787 was issued pursuant to permitted Application 16072 on July 30, 1959, and was recorded with the County Recorder of Napa County on July 31, 1959. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.

2. The Division of Water Rights (Division) record of ownership for License 5787 shows the current holder of the license as Massimo DeSimoni and Theresa DeSimoni.

3. Division staff conducted an inspection on October 18, 2001. As a result of this inspection, Division staff determined that corrections to the source of water, the description of the place of use, and the description of the point of diversion are needed. A maximum amount of withdrawal should also be added.

4. The State Water Resources Control Board (SWRCB) has determined that the license shall be amended to include the following specific corrections or changes:

   a. The description of the place of use is corrected by placing all 20 of the authorized acres in the same fractional section and changing B.J. Robinson Reservior to B.J. Robinson Dam No. 2410.
   b. The description of the point of diversion is corrected to the location determined by measurement with the Global Positioning System, which is west of the originally licensed location.
   c. The source of water is corrected to add Spencer Creek as the first named stream in the tributary description and San Pablo Bay as the last named stream.
   d. A maximum annual amount of withdrawal is added to conform with current policy for describing the amount of a water right.

5. The 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 updated or added to the amended license.

6. The SWRCB has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

The attached Amended License 5787 is issued, superseding former License 5787 issued on July 30, 1959. The priority of Amended License 5787 is September 30, 1954.

STATE WATER RESOURCES CONTROL BOARD

John O'Hagan, For

Victoria A. Whitney, Chief
Division of Water Rights

Dated: MAR 2 8 2007

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 16072 PERMIT 10058 LICENSE 5787

THIS IS TO CERTIFY, That

Massimo DeSimoni and
Theresa DeSimoni
5295 Wild Horse Valley Road
Napa, CA 94558

have the right to the use of the waters of **an Unnamed Stream** in **Napa County**

tributary to **Spencer Creek thence Tulucay Creek thence Napa River thence San Pablo Bay**

for the purpose of **Irrigation uses.**

Amended License 5787 supersedes the license originally issued on **July 30, 1959**, 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 10058**. The priority of this right dates from **September 30, 1954**. Proof of maximum beneficial use of water under this license was made as of **May 7, 1959 and October 18, 2001** (the dates of inspection).

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 **fifty (50) acre-feet per annum to be collected from November 1 of each year to June 1 of the succeeding year. The maximum withdrawal in any one year shall not exceed 50 acre-feet.**

The capacity of the reservoir covered by this license shall not exceed 50 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

B.J. Robinson Dam No. 2410 - By California Coordinate System of 1927, Zone 2, North 227,237 feet and East 1,937,105 feet, being within SE¼ of SW¼ of projected Section 8, T5N, R3W, MDB&M.

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

20 acres within NW¼ of SW¼ of projected Section 8, T5N, R3W, MDB&M, as shown on map dated June 20, 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

John O'Hagan, For

Victoria A. Whitney, Chief
Division of Water Rights

Dated: MAR 2 8 2007

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 16072 PERMIT 10058 LICENSE 5787

(over)

THIS IS TO CERTIFY, *That* Beebe J. Robinson and Mildred C. Robinson
5925 Wild Horse Valley Road,
Napa, California

have made proof as of May 7, 1959
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of an unnamed stream in Napa County

tributary to Tulucay Creek thence Napa River

for the purpose of irrigation use
under Permit 10058 *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 30, 1954
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 fifty (50) acre-feet per annum to be collected from about November 1 of each year to about June 1 of the succeeding year.

The point of diversion of such water is *located:*

North seven hundred ninety (790) feet and west two thousand three hundred eighty (2380) feet from SE corner of Section 8, T5N, R3W, MDB&M, being within SW¼ of SE¼ of said Section 8.

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

10 acres within NW¼ of SW¼ of Section 8, T5N, R3W, MDB&M.
10 acres within NE¼ of SW¼ of Section 8, T5N, R3W, MDB&M.

20 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: JUL 30 '59

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

7-10-80 Augusto Massimo + Theresa E. De Simoni

LICENSE 5787

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE TO APPROPRIATE WATER

ISSUED TO Beebe J and Mildred C Robinson

DATED JUL 30 '59

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