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

DIVISION OF WATER RIGHTS

In the Matter of License 8715 (Application 17607)

Carpenter Family Trust

ORDER ISSUING AMENDED LICENSE

SOURCE: Howell Creek (Bell Canyon Creek) tributary to Napa River

COUNTY: Napa

WHEREAS:

1. License 8715 was issued pursuant to permitted Application 17607 on July 24, 1968 and was recorded with the County Recorder of Napa County on August 1, 1968. 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 8715 shows the current holder of the license as the Carpenter Family Trust.

3. A petition to change in the point of diversion and purpose of use was filed with the State Water Resources Control Board (SWRCB) on February 16, 2001 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on March 16, 2001 and no protests were received.

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 Point of Diversion shall be deleted and amended to read:

      North 323,800 and East 1,862,300, California Coordinate System of 1927, Zone 2, being within SW¼ of SW¼ of said Section 12, T8N, R6W, MDB&M.

   b. The Purpose of Use shall be deleted and amended to read: Irrigation and Frost Protection uses.

5. The SWRCB standard license terms pertaining to continuing authority, cultural resources, water quality objectives and protection of endangered species 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 8715 is issued, superseding former License 8715 issued on July 24, 1968.

STATE WATER RESOURCES CONTROL BOARD

Steven Hinco for

Victoria A. Whitney, Chief
Division of Water Rights

Dated:

APR 19 2005

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 17607 PERMIT 11343 LICENSE 8715

THIS IS TO CERTIFY, That

Carpenter Family Trust
c/o Dr. Lewis G. Carpenter
701 Crystal Springs Road
St. Helena, CA 94574

has the right to the use of the waters of **Howell Creek (Bell Canyon Creek)**

tributary to **Napa River thence San Pablo Bay** in **Napa County**

for the purpose of **Irrigation and Frost Protection uses.**

Amended License 8715 supersedes the license originally issued on **July 24, 1968**, 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 11343**. The priority of this right dates from **May 17, 1957**. Proof of maximum beneficial use of water under this license was made as of **May 18, 1966 and June 8, 2000** (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 **fifteen-hundredths (0.15) cubic foot per second to be diverted from April 15 to November 15 of each year. The maximum amount diverted under this license shall not exceed 63.5 acre-feet per year.**

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

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:

By California Coordinate System of 1927, Zone 2, North 323,800 feet and East 1,862,300 feet, being within SW¼ of SW¼ of said Section 12, T8N, R6W, MDB&M.

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

10.5 acres within the SE¼ of SW¼ of Section 13, T8N, R6W, MDB&M.

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.

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously-listed items plus fragments of bone and fire-affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber, old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery, and a professional archeologist shall be retained by the licensee to evaluate the find and recommend appropriate mitigation. Project-related activities in the area of the find shall resume only after completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

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.

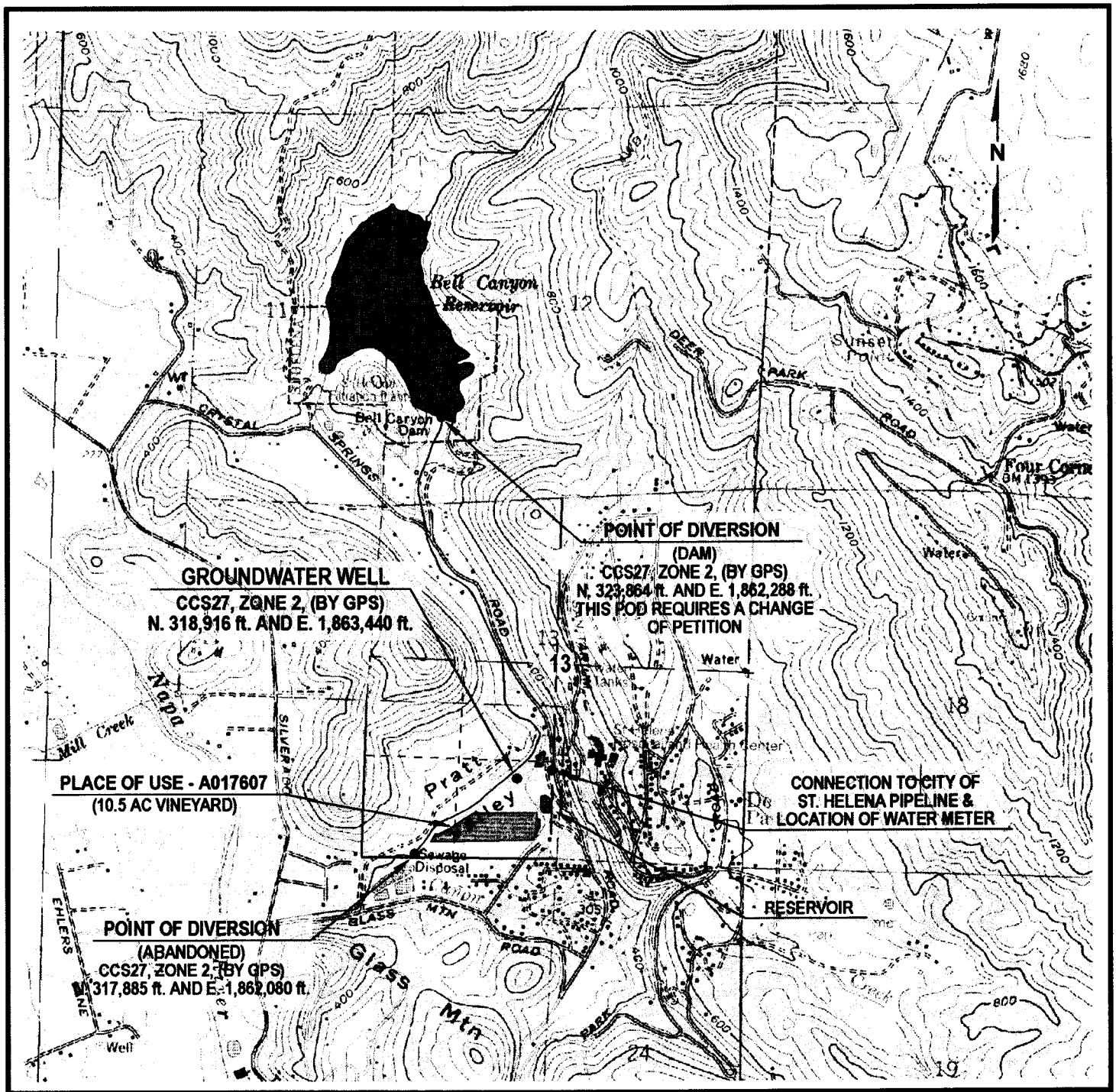
Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined 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

Steven Herrera for

Victoria A. Whitney, Chief
Division of Water Rights

Dated: APR 19 2005



OWNER **CARPENTER FAMILY TRUST**

SOURCE **HOWELL CREEK (BELL CANYON CREEK)**

POINT OF DIVERSION

WITHIN **SW 1/4 SW 1/4** OF PROJECTED

SECTION **13 T8N, R6W, MDB&M**

COUNTY OF **NAPA**

U.S.G.S.QUAD **ST. HELENA** DATE: SCALE: **1:24,000**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

APPLICATION NO. **17607**

PERMIT NO. **11343**

LICENSE
8715

DATE:	DRAWN:	CHECKED:
8/04	CWW	MM

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.

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

License for Diversion and Use of Water

APPLICATION 17607 PERMIT 11343 LICENSE 8715

THIS IS TO CERTIFY, *That* LEWIS G. CARPENTER, JR.
NAPA STATE HOSPITAL, IMOLA, CALIFORNIA 94558

HAS *made proof as of* MAY 18, 1966 *(the date of inspection)* *to the satisfaction of the State Water Resources Control Board of a right to the use of the water of* HOWELL CREEK (BELL CANYON CREEK) IN NAPA COUNTY

tributary to NAPA RIVER THENCE SAN PABLO BAY

for the purpose of IRRIGATION USE
under Permit 11343 *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* MAY 17, 1957 *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* FIFTEEN-HUNDREDTHS (0.15) CUBIC FOOT PER SECOND TO BE DIVERTED FROM ABOUT APRIL 15 TO ABOUT NOVEMBER 15 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:

SOUTH 2,000 FEET AND WEST 1,850 FEET FROM CENTER OF PROJECTED SECTION 13, T8N, R6W, MDB&M, BEING WITHIN SW1/4 OF SW1/4 OF SAID SECTION 13.

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

10.5 ACRES WITHIN SE1/4 OF SW1/4 OF PROJECTED SECTION 13, T8N, R6W, MDB&M.

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

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 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 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 2 4 1968

STATE WATER RESOURCES CONTROL BOARD

K. L. Woodward

Chief, Division of Water Rights

4/15/68 KHK

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