



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

Amended License for Diversion and Use of Water

APPLICATION 21778

PERMIT 15349

LICENSE 9990

Page 1 of 4

THIS IS TO CERTIFY, That Harold I. Moskowitz, Trustee
Moskowitz Family Trust
C/o James C. Hanson
444 North 3rd Street, Suite 400
Sacramento, CA 95814

Has the right to use waters of Oak Moss Creek in Napa County tributary to Capell Creek
thence Putah Creek thence Yolo By-Pass

for the following purposes: Irrigation, Stockwatering

Amended License 9990 supersedes the license originally issued 01/29/1973, which was perfected in accordance with the laws of California, the regulations of the SWRCB or its predecessor, and the terms of Permit 15349. The priority of this right dates from 05/19/1964. Proof of maximum beneficial use of water pursuant to Application 21778 was made as of 04/22/1971 and 04/27/1972 (the dates 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 25 acre-feet per annum to be collected from January 1 to April 30 of each year. The maximum rate of diversion to offstream storage shall not exceed 0.888 cubic feet per second. The maximum withdrawal in any one year shall not exceed 25 acre-feet.

Unless a change is approved by the State Water Resources Control Board (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:

North 450 feet and West 1200 feet from SE corner of Section 16, T7N, R3W, MDB&M, being within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 16.

THE POINT OF REDIVERSION OF SUCH WATER IS LOCATED:

North 805 feet and West 1200 feet from E $\frac{1}{4}$ corner of Section 16, T7N, R3W, MDB&M, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 16.

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

Stockwatering use at reservoir within NE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M, and irrigation as follows:

- 23 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;
- 22 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;
- 38 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;
- 22 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;
- 14 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;

8 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 16, T7N, R3W, MDB&M;
3 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 15, T7N, R3W, MDB&M;

130 acres total, as shown on map on file with the SWRCB

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.

Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this license.

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 the Agreement.
- (2) The Court has appointed a Watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the Watermaster costs in accordance with the terms of the Agreement.
- (3) Licensee shall measure reservoir storage at the beginning and end of the Accumulation Season. Contribution to Annual Depletion shall be determined to be the change in storage during the Accumulation Season. 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 or stored under this license. Measurements of direct diversions shall be made at the cost of the licensee or determined to the satisfaction of the watermaster and the licensee shall pay for the cost of installing and maintaining any water level measuring device required by the SWRCB. Measuring requirements for direct diversions shall be no more stringent than for comparable diversions of small licenses, as defined in the Agreement.
- (4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.
- (5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage at the beginning and end of the Accumulation Season as required by the watermaster and the amount of water directly diverted 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 to inspect measuring equipment and to observe compliance with the terms and conditions of the Agreement, upon 48-hour 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 set forth in the Agreement and that in those years no water may be available under this license.
- (8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance or shall curtail direct diversions of water during ensuing seasons until the amount of the exceedence is paid back consistent with the repayment

provisions of the Agreement. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversion (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. 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 of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct 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.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The State Water Resources Control Board (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.

(0000012)

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 State Water Resources Control 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 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.

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 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.

Dated:

SEP 8 2000

STATE WATER RESOURCES CONTROL SWRCB


For Harry M. Schueller
Chief, Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 21778 Permit 15359 License 9990

**ORDER AMENDING LICENSE
BY ADDITION OF TERMS AND CONDITIONS
TO CONFORM WITH ORDER WR 96-002**

WHEREAS:

1. License 9990 was issued to George Moskowitz on January 29, 1973 and recorded with the County Recorder of Napa County in Volume 900, Page 488 on February 8, 1973. It was subsequently assigned to Harold I. Moskowitz, Trustee of Moskowitz Family Trust on March 2, 1995.
2. Licensee is signatory to the March 10, 1995 Condition 12 Settlement Agreement (Agreement) between U.S. Bureau of Reclamation, Solano County Water Agency, and nearly all post-1945 appropriate water right holders in the Putah Creek watershed above Monticello Dam.
3. Order WR 96-002 was adopted by the State Water Resources Control Board on February 27, 1996.
4. Both the Agreement and the Order subject the license to the following conditions.

NOW, THEREFORE, IT IS ORDERED THAT THE FOLLOWING CONDITIONS BE ADDED TO THE LICENSE:

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 the Agreement.
- (2) Diversion of water under this license shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The licensee shall be responsible for partial payment of the Watermaster costs in accordance with the terms of the Agreement.
- (3) Licensee shall measure reservoir storage at the beginning and end of the Accumulation Season. Contribution to Annual Depletion shall be determined to be the change in storage during the Accumulation Season. The licensee shall pay for the cost of installing and maintaining any water level measuring device required by the SWRCB.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with paragraph 3.A.3 (Measuring Devices) of the Agreement.

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

(6) Licensee shall allow the watermaster reasonable access to the project covered by this license to inspect measuring equipment and to verify compliance to terms and conditions of the Agreement, upon 48-hour 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 set forth in the Agreement and that in those years no water may be available under this license.

(8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. 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 of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct 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.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license. (0000024)

The State Water Resources Control Board (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.

(0000012)

Dated:

APRIL 6 1998

for Roger Johnson
Edward C. Anton, Chief
Division of Water Rights



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

License for Diversion and Use of Water

APPLICATION 21778

PERMIT 15349

LICENSE 9990

THIS IS TO CERTIFY, That

HAROLD MOSKOWITE
6008 MONTICELLO ROAD, NAPA, CALIFORNIA 94558

HAS *made proof as of* APRIL 22, 1971 AND APRIL 27, 1972 *(the date of inspection)*
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
OAK MOSS CREEK IN NAPA COUNTY

tributary to CAPELL CREEK THENCE PUTAH CREEK THENCE YOLO BY-PASS

for the purpose of IRRIGATION AND STOCKWATERING USES
under Permit 15349 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 19, 1964 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 TWENTY-FIVE (25) ACRE-FEET PER ANNUM, TO BE COLLECTED
FROM JANUARY 1 TO APRIL 30 OF EACH YEAR. THE MAXIMUM RATE OF DIVERSION TO
OFFSTREAM STORAGE SHALL NOT EXCEED 0.888 CUBIC FOOT PER SECOND. THE MAXIMUM
WITHDRAWAL IN ANY ONE YEAR SHALL NOT EXCEED 25 ACRE-FEET.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

NORTH 450 FEET AND WEST 1,200 FEET FROM SE CORNER OF SECTION 16, T7N, R3W,
MDB&M, BEING WITHIN SE¹/₄ OF SE¹/₄ OF SAID SECTION 16.

THE POINT OF REDIVERSION OF SUCH WATER IS LOCATED:

NORTH 805 FEET AND WEST 1,200 FEET FROM E¹/₄ CORNER OF SECTION 16, T7N, R3W,
MDB&M, BEING WITHIN SE¹/₄ OF NE¹/₄ OF SAID SECTION 16.

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

STOCKWATERING USE AT RESERVOIR WITHIN NE¹/₄ OF SECTION 16, T7N, R3W, MDB&M,
AND IRRIGATION AS FOLLOWS:

23 ACRES WITHIN SE¹/₄ OF SE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
22 ACRES WITHIN SW¹/₄ OF SE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
38 ACRES WITHIN NW¹/₄ OF SE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
22 ACRES WITHIN NE¹/₄ OF SE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
14 ACRES WITHIN SW¹/₄ OF NE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
8 ACRES WITHIN SE¹/₄ OF NE¹/₄ OF SECTION 16, T7N, R3W, MDB&M
3 ACRES WITHIN NW¹/₄ OF SW¹/₄ OF SECTION 15, T7N, R3W, MDB&M

130 ACRES TOTAL

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.

WATER ENTERING THE RESERVOIR OR COLLECTED IN THE RESERVOIR DURING AND AFTER THE CURRENT STORAGE SEASON SHALL BE RELEASED INTO THE DOWNSTREAM CHANNEL TO THE EXTENT NECESSARY TO SATISFY DOWNSTREAM PRIOR RIGHTS AND/OR TO THE EXTENT THAT APPROPRIATION OF WATER IS NOT AUTHORIZED UNDER THIS LICENSE.

LICENSEE IS HEREBY PUT ON NOTICE THAT THERE MAY BE YEARS WHEN WATER COLLECTED TO STORAGE UNDER THIS LICENSE WILL NOT BE WITHIN THE RESERVATION OF WATER ESTABLISHED FOR THE WATERSHED UPSTREAM FROM MONTICELLO RESERVOIR IN DECISION D-869. 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 PRACTICABLE RATE TO FLOW INTO MONTICELLO RESERVOIR.

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: JAN 29 1973

STATE WATER RESOURCES CONTROL BOARD

K. L. Woodward
Chief, Division of Water Rights