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

DIVISION OF WATER RIGHTS

In the Matter of License 10423 (Application 21950)

H&W Vineyards

ORDER ISSUING AMENDED LICENSE

SOURCE: Unnamed Stream tributary to Russian River

COUNTY: Mendocino

WHEREAS:

1. License 10423 was issued pursuant to permitted Application 21950 on February 11, 1975, and was recorded with the County Recorder of Mendocino County on February 13, 1975, in Book 989, Pages 739 and 740. 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 10423 shows the current holder of the license as H&W Vineyards.

3. Division staff conducted an inspection on August 7, 2001. As a result of this inspection, Division staff determined that a staff gage is necessary to monitor the actual amounts of water diverted under this license. This inspection also found that corrections in the descriptions of the Point of Diversion and Place of Use are also needed.

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. Addition of a staff gage and monitoring requirement; and
   b. Correction in the descriptions of the Point of Diversion and Place of Use.

5. The SWRCB standard license terms pertaining to reservoir capacity, 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 10423 is issued, superseding former License 10423 issued on February 11, 1975. The priority of Amended License 10423 is October 29, 1964.

STATE WATER RESOURCES CONTROL BOARD

John O'Hagan, For

Victoria A. Whitney, Chief
Division of Water Rights

Dated: JAN 2 2004

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 21950 PERMIT 15104 LICENSE 10423

THIS IS TO CERTIFY, That

H&W Vineyards
P. O. Box 367
Redwood Valley, CA 95470

has the right to the use of the waters of **Unnamed Stream** in **Mendocino County**

tributary to **Russian River**

for the purpose of **Irrigation use.**

Amended License 10423 supersedes the license originally issued on **February 11, 1975**, 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 15104**. The priority of this right dates from **October 29, 1964**. Proof of maximum beneficial use of water under this license was made as of **September 26, 1973 and August 7, 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 **twenty-nine (29) acre-feet per annum, to be collected from November 1 of each year to May 31 of the succeeding year. The maximum withdrawal in any one year shall not exceed 29 acre-feet.**

The capacity of Reservoir #1 covered by this license and License 11059 (Application 23748) shall not exceed 42 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.

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 POINTS OF DIVERSION OF SUCH WATER IS LOCATED:

At Reservoir #1 - By California Coordinate System of 1927, Zone 2, North 592,475 feet and East 1,663,567 feet, being within SE¼ of NE¼ of projected Section 33, T17N, R12W, MDB&M.

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

20 acres within NE¼ of NE¼ of projected Section 33, T17N, R12W, MDB&M
17 acres within SE¼ of NE¼ of projected Section 33, T17N, R12W, MDB&M
5 acres within NE¼ of SE¼ of projected Section 33, T17N, R12W, MDB&M
1 acre within NE¼ of NW¼ of projected Section 34, T17N, R12W, MDB&M
7 acres within SW¼ of NW¼ of projected Section 34, T17N, R12W, MDB&M

70 acres total, as shown on map dated August 7, 2001 on file with the SWRCB.

Licensee shall maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Chief of the Division of Water Rights in order that water entering the reservoir which is not authorized for appropriation under this license may be released.

(0050043)

Licensee shall maintain in the reservoir a staff gage, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining water levels in the reservoir. Licensee shall maintain beginning-of-month staff gage readings throughout the year. Licensee shall submit these records with the triennial report of licensee, or whenever requested by the Chief of the Division of Water Rights.

(0070047)

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: JAN 2 2004