

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

ORDER

Application 23754 Permit 16518 License 11144

**ORDER DIRECTING ISSUANCE OF SEPARATE LICENSES,
REVOCATION OF ORIGINAL LICENSE,
CORRECTING DESCRIPTION OF POINT OF DIVERSION
AND PLACE OF USE**

WHEREAS:

1. License 11144 was issued to Connecticut Mutual Life Insurance Company on July 14, 1981 pursuant to Application 23754.
2. License 11144 was subsequently assigned to Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust and Round Pond, A California Corporation.
3. A review of the project area under License 11144 by the State Water Resources Control Board (SWRCB) staff determined the description of the point of diversion (POD) and place of use (POU) should be corrected.
4. A request to divide License 11144 has been filed with the SWRCB.
5. The SWRCB has determined that such division of the license does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description of the point of diversion under this license be corrected to read:

South 16° 00' East 3,625 feet from NW corner of projected Section 15, T7N, R5W, MDB&M, being within NW¼ of SW¼ of said Section 15.
2. The description of the place of use under this license be corrected to read:

500 acres within projected Sections 10, 14, and 15, T7N, R5W, MDB&M, as shown on a map on file with the SWRCB.
3. License 11144 be replaced by License 11144A issued to Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust and License 11144B issued to Round Pond, A California Corporation.
4. Superseded License 11144 is hereby revoked upon issuance of License 11144A and 11144B.
5. Separate licenses be issued as follows:

License: 11144A (Application 23754A)
Owner: Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust
c/o Drew Aspegren
Napa Valley Vineyard Engineering, Inc.
176 Main Street, Suite B
St. Helena, CA 94574

Source: Napa River tributary to San Pablo Bay in Napa County
Use: Frost Protection, Heat Control, and Irrigation
Amount: 49 acre-feet per annum of storage (Keig Reservoir). Maximum rate of diversion to offstream storage shall not exceed 3.4 cubic feet per second (cfs) or shall not exceed 6.7 cfs in combination with licensed Application 23754B
Season: November 1 to March 15

Point of
Diversion to
Offstream

Storage: South 16° 00' East 3,625 feet from NW corner of projected Section 15, T7N, R5W, MDB&M, being within NW¼ of SW¼ of said Section 15.

Place of
Use:

1 acre within SW¼ of NW¼ of projected Section 15, T7N, R5W, MDB&M;
30 acres within SE¼ of NW¼ of projected Section 15, T7N, R5W, MDB&M;
4 acres within NE¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M;
32 acres within SW¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M;
39 acres within SE¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M;
10 acres within NW¼ of SW¼ of projected Section 15, T7N, R5W, MDB&M;

37 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 12 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 39 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 32 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 5 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 7 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 14, T7N, R5W, MDB&M; and
 4 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 14, T7N, R5W, MDB&M;

252 acres, as shown on map on file with the State Water Resources Control Board.

License: 11144B (Application 23754B)
 Owner: Round Pond, A California Corporation
 c/o Drew Aspegren
 Napa Valley Vineyard Engineering, Inc.
 176 Main Street, Suite B
 St. Helena, CA 94574

Source: Napa River tributary to San Pablo Bay in Napa County
 Use: Frost Protection, Heat Control, and Irrigation
 Amount: 25 acre-feet per annum of storage (Keig Reservoir). Maximum Rate of Diversion to offstream storage shall not exceed 3.3 cfs or shall not exceed 6.7 cfs in combination with licensed Application 23754A.
 Season: November 1 to March 15

Point of
 Diversion to
 Offstream

Storage: South 16° 00' East 3,625 feet from NW corner of projected Section 15, T7N, R5W, MDB&M, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 15.

Place of

Use: 10 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
 32 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
 2 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
 36 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
 2 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
 34 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 35 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 30 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 8 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 32 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
 23 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M; and
 4 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;

248 acres, as shown on map on file with the State Water Resources Control Board.

6. License 11144A and 11144B shall contain all other items and conditions presently in License 11144 or the updated version to comply with SWRCB policy.

Dated: FEBRUARY 21 1996



for Edward C. Anton, Chief
Division of Water Rights



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

License for Diversion and Use of Water

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APPLICATION 23754B

PERMIT 16518

LICENSE 11144B

THIS IS TO CERTIFY, That

Round Pond, A California Corporation
c/o Drew Aspegren
Napa Valley Vineyard Engineering, Inc.
176 Main Street, Suite B
St. Helena, CA 94574

has made proof as of **June 17, 1980** (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
Napa River in Napa County

tributary to **San Pablo Bay**

for the purpose of **Frost Protection, Heat Control, and Irrigation uses**

under Permit **16518** 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 **April 8, 1971** 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 a **total of twenty-five (25) acre-feet per annum, to be collected from November 1 of each year to March 15 of the succeeding year. The maximum withdrawal in any one year shall not exceed 25 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 maximum rate of diversion to offstream storage shall not exceed 3.3 cubic feet per second (cfs) or shall not exceed 6.7 cfs in combination with licensed Application 23754A.

THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

South 16° East 3,625 feet from NW corner of projected Section 15, T7N, R5W, MDB&M, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 15.

THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:

Keig Reservoir being within N $\frac{1}{2}$ of projected Section 15, T7N, R5W, MDB&M.

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

10 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
32 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
2 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
36 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
2 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 10, T7N, R5W, MDB&M;
34 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
35 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
30 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
8 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
32 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M;
23 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M; and
4 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 15, T7N, R5W, MDB&M.

248 acres total as shown on map on file with the State Water Resources Control Board.

For the protection of fish and wildlife, licensee shall during the period: (A) from November 1 through November 14 bypass a minimum of 1.0 cubic foot per second, (B) from November 15 through February 29 bypass a minimum of 15.0 cubic feet per second, (C) from March 1 through March 15 bypass a minimum of 10.0 cubic feet per second.

The total stream flow shall be bypassed whenever it is less than the designated amount for that period. Streamflows shall be measured at the nearest U.S.G.S. Gaging Station on the river or as measured by a device acceptable to the Board at alternative locations which may be designated by the Watermaster administering the water distribution program.

This license is conditioned upon full compliance with Sections 1601, 1603, and/or Section 6100 of the Fish and Game Code.

This license is subject to the continuing authority of the State Water Resources Control Board to issue any appropriate order to insure that the appropriation of water for frost protection under the license does not result in waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

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

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board 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 Board 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.

Pursuant to California 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 Board 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.

This continuing authority of the Board 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 reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board 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 Board 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 Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

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: FEBRUARY 21 1996

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights