



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

License for Diversion and Use of Water

APPLICATION 23886A
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PERMIT 18097A

LICENSE **12435**

THIS IS TO CERTIFY, That Rigiwin A. G., a Swiss Corporation
5223 Big Ranch Road
Napa, CA 94558

has made proof as of May 21, 1986 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
Dry Creek in Napa County

tributary to Napa River thence San Pablo Bay

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

under Permit 18097A 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 October 6, 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 thirty-two (32) acre-feet per annum to be collected
from March 1 to May 15 of each year including 12 acre-feet for replenishment of
initial storage withdrawn for beneficial use. The total withdrawal shall not
exceed 32 acre-feet per year.

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.

(000005)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

North 30°30' East 1,450 feet from SW corner of projected Section 9, T6N, R4W,
MDB&M, being within SW¼ of SW¼ of said Section 9.

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

51 acres within SE¼ of projected Section 8, T6N, R4W, MDB&M
68 acres within S½ of projected Section 9, T6N, R4W, MDB&M
48 acres within N½ of projected Section 16, T6N, R4W, MDB&M
45 acres within NE¼ of projected Section 17, T6N, R4W, MDB&M

212 acres total, as shown on map filed with State Water Resources Control
Board.

This license is subject to the agreement dated November 2, 1979 between licensee and California Department of Fish and Game, to the extent such agreement covers matters within the Board's jurisdiction. Licensee shall be responsible for notifying the State Water Resources Control Board of any subsequent changes in the agreement.

(0000024)

For the protection of fish and wildlife, licensee shall during the period: (a) from March 1 through April 30 bypass a minimum of 5 cubic feet per second and (b) from May 1 through May 15 bypass a minimum of 3 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount for that period.

(0140060)

No water shall be diverted under this license until licensee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this license. Said measuring device shall be properly maintained. When the flashboards of the diversion dam are in place, the required bypass flows shall be discharged through the existing fishways on the dam and on the weir below, located within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 9, T6N, R4W, MDB&M.

(0060062)

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

(0000063)

Diversion of water between March 15 and May 15 is subject to control under a water distribution program administered by the State Water Resources Control Board or by the Department of Water Resources. Whenever such a program is in effect at the project location, licensee shall comply with the following:

- A. Diversion after March 15 is contingent upon participation in the water distribution program by the licensee.
- B. Diversion after March 15 shall be solely to replenish water stored prior to March 15 unless otherwise authorized by the watermaster in charge of the distribution program.
- C. Prior to making diversions after March 15, licensee shall install and maintain devices, satisfactory to the watermaster, which are capable of measuring the instantaneous rate of diversion and the total amount of water diverted during participation in the distribution program.
- D. Licensee's participation in any water distribution program required under the terms of this license shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.
- E. The water distribution program required under this license may be revised by the State Water Resources Control Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court.

(0000085)

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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 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: APRIL 24 1969

STATE WATER RESOURCES CONTROL BOARD

Walter H. Pettit
Chief, Division of Water Rights