

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – DIVISION OF WATER RIGHTS
JUNE 17, 2008**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED ORDER GRANTING A CHANGE IN PLACE OF USE AND EXTENSION OF TIME TO PUT WATER TO FULL BENEFICIAL USE UNDER PERMIT OF SLEEPY HOLLOW PROPERTIES

DISCUSSION

The State Water Board issued Permit 20636 to Sleepy Hollow Properties (Permittee) on September 9, 1992. Permit 20636 allows for diversion of 104 acre-feet per annum to an onstream reservoir for purposes of irrigation and stockwatering. The permitted place of use (POU) is 60 acres of pasture. Under the terms of the permit, the water was to be applied to full beneficial use by December 31, 1996.

On June 1, 2001, Permittee filed a petition for change in the POU and a petition for extension of time. Permittee petitioned to convert the POU to a vineyard and increase the permitted acreage by 115 acres, to a total of 175 acres. Permittee also petitioned for a 20-year extension of time (until December 31, 2016) to expand the irrigated POU and make full beneficial use of the water authorized under Permit 20636.

On September 21, 2001, the Division of Water Rights (Division) issued a public notice of the petitions for change in POU and extension of time; no protests were received. On March 16, 2007, the Division issued a notice of intent to adopt a Mitigated Negative Declaration for the project. An Initial Study and proposed Mitigated Negative Declaration were subsequently circulated for public review; no comments were received.

Pursuant to State Water Board [Resolution No. 2007-0057](#), the State Water Board Deputy Director for Water Rights only has delegation authority to grant extensions when the period of extension, in combination with all extensions previously granted under delegated authority, does not exceed 15 years. The requested extension exceeds that delegated authority by five years and therefore requires Board approval.

POLICY ISSUE

Should the State Water Board adopt the proposed order?

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends adoption of the proposed order.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2008 - 00XX

In the Matter of Petition for Change of Place of Use and
Petition for Extension of Time

Sleepy Hollow Properties

Permit 20636 (Application 29698)

SOURCE: Unnamed Stream tributary to Petaluma River thence San Pablo Bay
COUNTY: Sonoma

**ORDER APPROVING PETITION FOR CHANGE OF PLACE OF USE AND
PETITION FOR EXTENSION OF TIME AND
APPROVING ISSUANCE OF AMENDED PERMIT**

BY THE BOARD:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 20636 to Sleepy Hollow Properties (Permittee) on September 9, 1992, pursuant to Application 29698.
2. The permit required complete application of water to the authorized use by December 31, 1996.
3. On June 1, 2001, Permittee filed petitions for change in the Place of Use (POU) and for an extension of time with the State Water Board. The permitted POU consists of 60 acres of pasture. Permittee requests to increase the POU by 115 acres, for a total of 175 acres. Between 2001 and 2002, the existing and proposed POU, which was historically used as pasture and dry farmed oat hay crops, was converted to vineyard. Concurrent with the petition for change, Permittee filed a petition for an extension of time, requesting an additional ten years within which to develop the project and apply the water to beneficial use. Permittee amended the petition for an extension of time on May 9, 2007 for an additional 10 years (20 years total) within which to develop the project.
4. Public notice of the petitions for change in POU and extension of time was issued on September 21, 2001 and no protests were received.
5. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398.) Permittee must show that (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (3) satisfactory progress will be

made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.

6. Permittee has shown that due diligence has been exercised. Information contained in Application 29698 and in the Division's files indicates that the dam and reservoir authorized by Permit 20636 were already constructed at the time the application was filed (March 23, 1990). Permittee has shown through yearly progress reports, submitted to the Division, that the permitted water project had been constructed and used to irrigate up to 60 acres of pasture and stockwatering of 700 animals during the development period specified in Permit 20636.
7. Permittee has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Permit 20636 allowed approximately 4.25 years from the date of permit issuance to put water to full beneficial use. On June 6, 2001, Permittee filed a petition for change in POU to expand the irrigated acreage from 60 acres to 175 acres. A companion petition for extension of time was also filed to provide Permittee with the additional time needed to develop the expanded place of use prior to licensing of the project. At the time the petition for extension of time was filed, Permittee was already irrigating 50 acres of pasture and stockwatering 700 animals. Additional time was needed to expand the irrigated POU and demonstrate water use consistent with Permit 20636 and the requested petition for change.
8. Permittee has shown that satisfactory progress will be made if a time extension is granted. Permittee has fully developed the proposed place of use and has requested an extension of time to document and authorize current water use. Therefore, it is likely that Permittee will be able to complete the project and request a license consistent with the revised development schedule.
9. The State Water Board has determined that Permittee has shown good cause for the petitions for change in POU and an extension of time, and that the former does not constitute the initiation of a new right nor operates to the injury of any other lawful user of water.
10. To ensure compliance with Water Code section 1605, a permit term should be added requiring Permittee to install a measuring device and maintain water diversion and use records.
11. The State Water Board, Division of Water Rights, as Lead Agency, prepared an Initial Study for this project pursuant to the California Environmental Quality Act. (Cal. Code Regs., tit. 14, § 15063.) The Initial Study identified potentially significant impacts to biological and cultural resources. The Division proposed the following mitigation measures to mitigate for the potential environmental impacts of the project, and Permittee agreed to incorporate these measures into the project:
 - a. Establishment of a 50-foot buffer area around the reservoir identified in Permit 20636 to protect potential habitat for California red-legged frog;
 - b. Protocols to protect protected animal species in the event that future ground disturbing activities occur within the POU;

- c. Setbacks to prevent encroachment on riparian habitat; and
- d. Conditions requiring notification of the Chief of the Division if project activities uncover any buried archeological deposits or human remains.

Conditions should be included in the permit requiring implementation of these mitigation measures.

- 12. On March 16, 2007, the Division issued a notice of intent to adopt a Mitigated Negative Declaration for the project (SCH No. 2007032089). (Cal. Code Regs., tit. 14, § 15072.)
- 13. The Mitigated Negative Declaration reflects the State Water Board's independent judgment and analysis. No comments were received during the public review process for the proposed Mitigated Negative Declaration. After considering the document, the State Water Board determined that the proposed project, with mitigation measures, will not have a significant effect on the environment. The documents or other material, which constitute the record, are located in the files held by the State Water Board, Division of Water Rights. The State Water Board will file a Notice of Determination for this project with the Governor's Office of Planning and Research within five days from the issuance of this order.
- 14. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making Permittee aware of obligations resulting from these laws.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT THE STATE WATER RESOURCES CONTROL BOARD APPROVES THE PETITIONS FOR CHANGE OF PLACE OF USE AND FOR EXTENSION OF TIME. PERMIT 20636 IS AMENDED AS FOLLOWS:

- 1. Condition 4 of the permit shall be amended to read as follows:

Purpose of use	Place of use	Section (Projected) *	Township	Range	Base and Meridian	Acres
Stockwatering	NE¹/₄ of SW¹/₄	26	4N	6W	MD	
Irrigation	NE¹/₄ of NW¹/₄	26	4N	6W	MD	4
	SW¹/₄ of NW¹/₄	26	4N	6W	MD	5
	SE¹/₄ of NW¹/₄	26	4N	6W	MD	19
	NW¹/₄ of SW¹/₄	26	4N	6W	MD	2
	NE¹/₄ of SW¹/₄	26	4N	6W	MD	4
	SW¹/₄ of SW¹/₄	26	4N	6W	MD	13
	SE¹/₄ of SW¹/₄	26	4N	6W	MD	4

	NE¹/₄ of SE¹/₄	27	4N	6W	MD	21
	SE¹/₄ of SE¹/₄	27	4N	6W	MD	18
	NW¹/₄ of NE¹/₄	34	4N	6W	MD	8
	NE¹/₄ of NE¹/₄	34	4N	6W	MD	33
	SW¹/₄ of NE¹/₄	34	4N	6W	MD	4
	SE¹/₄ of NE¹/₄	34	4N	6W	MD	6
	NW¹/₄ of NW¹/₄	35	4N	6W	MD	25
	NE¹/₄ of NW¹/₄	35	4N	6W	MD	9
	Total					175

2. Condition 7 of the permit shall be amended to read as follows:

Complete application of the water to the authorized use shall be made by December 31, 2016.

(00000006)

3. The following term shall be added to the Permit:

Permittee shall install and properly maintain a staff gage in Sleepy Hollow Reservoir, satisfactory to the State Water Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage readings on or about November 1 and March 31 of each year. Such readings shall be supplied to the State Water Board with the next progress report submitted by Permittee.

The State Water Board may require the release of water that cannot be verified as having been collected to storage prior to October 1 of each year.

(0070047, 0100047)

4. The following term shall be added to the Permit:

For the protection of potential habitat for California red-legged frog (*Rana aurora draytonii*) and to allow for the continued growth of riparian vegetation, Permittee shall:

- a. Maintain, undisturbed, a minimum of a 50 feet wide strip of natural upland vegetation around the water storage reservoir;
- b. Obtain approval of the United States Fish and Wildlife Service-Sacramento Endangered Species Office and the California Department of Fish and Game prior to any future reservoir dredging operations. Permittee shall submit to the Chief of the Division of Water Rights evidence of the above agencies' approval prior to any future reservoir dredging operations; and

- c. Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during any future dredging operations.

These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.

(0400205)

- 5. The following term shall be added to the Permit:

If ground disturbing activities, such as trenching, ripping or vine removal occur in the place of use, a qualified biologist shall conduct protocol level surveys for western burrowing owls (*Athene cunicularia*). If western burrowing owls are detected, mitigation shall follow the guidelines set forth in the California Department of Fish and Game's Staff Report on Burrowing Owl Mitigation (October 1995).

(0400600)

- 6. The following term shall be added to the Permit:

If ground disturbing activities such as trenching, ripping or vine removal occur in the place of use and if a qualified biologist detects pallid bat (*Antrozous pallidus*) species onsite roosting in rocky outcrops, cliffs, crevices, manmade structures and/or foraging within the project site boundaries, bat roosting areas shall be completely avoided and the United States Fish and Wildlife Service, Sacramento Endangered Species Office shall be contacted for further consultation and conservation requirements.

(0400601)

- 7. The following term shall be added to the Permit:

Permittee shall maintain riparian setbacks of a minimum of 25 feet from the top of the bank of both sides of the unnamed USGS blue-line stream located south of Lakeville Highway and setbacks of a minimum of 50 feet from the top of the bank on both sides of the unnamed streams located north of Lakeville Highway. No activity shall occur within the setback area, including, but not limited to, grading, roads, fencing, storage areas, and irrigation, with the exception of access roads and livestock access, unless the activity is approved in writing by the Chief of the Division of Water Rights.

These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.

(0400206)

- 8. The following term shall be added to the Permit:

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; ground stone implements (grinding slabs, mortars and pestles) 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; and

structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

9. The following term shall be added to the Permit:

If human remains are encountered, then Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Chief of the Division of Water Rights.

(0380500)

10. The following term shall be added to the Permit:

The area that contains the historic-period domestic refuse identified in the Tom Origer & Associates report dated October 2003 may continue to be cultivated with general vineyard maintenance activities. However, no ripping or grading shall be allowed in this area. If this area is ever replanted, the vines must be cut off with the root system remaining in the ground. Replanting of vines shall occur between the old rootstocks. If this is not possible, then techniques for removal of vines in this area shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe rather than excavation of vines). A qualified archeologist shall monitor these activities. If additional resources are discovered, then the archeologist shall halt work in the area of the find and notify the Chief of the Division of Water Rights. A professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0380501)

11. The following term shall be added to the Permit:

Permittee shall submit evidence of compliance with all applicable regulations from the Sonoma County Agricultural Commissioner's Office for the use of soil stabilizers, pesticides, herbicides, and other regulated chemicals on the place of use at the time the project authorized by this permit is inspected for license.

(0490300)

12. The following term shall be added to the Permit:

This permit does not authorize any act, which results in the taking of a threatened, endangered, or candidate 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 §§2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 to 1544). If a "take" will result from any act authorized under this water right, Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

13. All other terms and conditions of Permit 20636 (Application 29698) are still applicable and will be included in the amended permit issued in accordance with this Order.
14. The attached Amended Permit 20636 is issued, superseding former Permit 20636 issued on September 9, 1992.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 17, 2008.

Jeanine Townsend
Clerk to the Board

Attachment

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20636

Application 29698 of

Sleepy Hollow Properties
c/o Jim Ledbetter
7689 Lakeville Highway
Petaluma, CA 94954

filed on **March 23, 1990**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

- 1. Source of water

Source:

Unnamed Stream

Tributary to:

Petaluma River thence

San Pablo Bay

within the County of **Sonoma**

- 2. Location of point of diversion

By California Coordinate System of 1927 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 1,600 feet and East 1,750 feet from the SW corner of projected Section 26	NE¼ of SW¼	26	4N	6W	MD

3. Purpose of use	4. Place of use	Section (Projected) *	Township	Range	Base and Meridian	Acres
Stockwatering	NE$\frac{1}{4}$ of SW$\frac{1}{4}$	26	4N	6W	MD	
Irrigation	NE$\frac{1}{4}$ of NW$\frac{1}{4}$	26	4N	6W	MD	4
	SW$\frac{1}{4}$ of NW$\frac{1}{4}$	26	4N	6W	MD	5
	SE$\frac{1}{4}$ of NW$\frac{1}{4}$	26	4N	6W	MD	19
	NW$\frac{1}{4}$ of SW$\frac{1}{4}$	26	4N	6W	MD	2
	NE$\frac{1}{4}$ of SW$\frac{1}{4}$	26	4N	6W	MD	4
	SW$\frac{1}{4}$ of SW$\frac{1}{4}$	26	4N	6W	MD	13
	SE$\frac{1}{4}$ of SW$\frac{1}{4}$	26	4N	6W	MD	4
	NE$\frac{1}{4}$ of SE$\frac{1}{4}$	27	4N	6W	MD	21
	SE$\frac{1}{4}$ of SE$\frac{1}{4}$	27	4N	6W	MD	18
	NW$\frac{1}{4}$ of NE$\frac{1}{4}$	34	4N	6W	MD	8
	NE$\frac{1}{4}$ of NE$\frac{1}{4}$	34	4N	6W	MD	33
	SW$\frac{1}{4}$ of NE$\frac{1}{4}$	34	4N	6W	MD	4
	SE$\frac{1}{4}$ of NE$\frac{1}{4}$	34	4N	6W	MD	6
	NW$\frac{1}{4}$ of NW$\frac{1}{4}$	35	4N	6W	MD	25
	NE$\frac{1}{4}$ of NW$\frac{1}{4}$	35	4N	6W	MD	9
					Total	175

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **104** acre-feet per annum to be collected from **November 1** of each year to **March 31** of the succeeding year.

(0000005C)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

6. Complete application of the water to the authorized use shall be made by December 31, 2016.

(0000009)

7. Permittee shall maintain the existing outlet pipe through Sleepy Hollow Dam No. 2 in proper working order.

(000S001)

8. Permittee shall install and properly maintain a staff gage in Sleepy Hollow Reservoir, satisfactory to the State Water Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage readings on or about November 1 and March 31 of each year. Such readings shall be supplied to the State Water Board with the next progress report submitted by Permittee.

The State Water Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

(0070047, 0100047)

9. For the protection of potential habitat for California red-legged frog (*Rana aurora draytonii*) and to allow for the continued growth of riparian vegetation, Permittee shall:

- a. Maintain, undisturbed, a minimum of a 50-foot-wide strip of natural upland vegetation around the water storage reservoir;
- b. Obtain approval of the United States Fish and Wildlife Service-Sacramento Endangered Species Office and the California Department of Fish and Game prior to any future reservoir dredging operations. Permittee shall submit to the Chief of the Division of Water Rights evidence of agencies' approval prior to any future reservoir dredging operations; and
- c. Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during any future dredging operations.

These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.

(0400205)

10. If ground disturbing activities such as trenching, ripping or vine removal occur in the place of use, a qualified biologist shall conduct protocol level surveys for western burrowing owls (*Athene cunicularia*). If western burrowing owls are detected, mitigation shall follow the guidelines set forth in the California Department of Fish and Game's Staff Report on Burrowing Owl Mitigation (October 1995).

(0400600)

11. If ground disturbing activities such as trenching, ripping or vine removal occur in the place of use and if a qualified biologist detects pallid bat (*Antrozous pallidus*) species onsite roosting in rocky outcrops, cliffs, crevices, manmade structures and/or foraging within the project site boundaries, bat roosting areas shall be completely avoided and the United States Fish and Wildlife Service-Sacramento Endangered Species Office shall be contacted for further consultation and conservation requirements.

(0400601)

12. The Permittee shall maintain riparian setbacks of a minimum of 25 feet from the top of the bank of both sides of the unnamed USGS blue-line stream located south of Lakeville Highway and setbacks of a minimum of 50 feet from the top of the bank on both sides of the unnamed streams located north of Lakeville Highway. No activity shall occur within the setback area, including, but not limited to, grading, roads, fencing, storage areas, and irrigation, with the exception of access roads and livestock access, unless the activity is approved in writing by the Chief of the Division of Water Rights. These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.
(0400206)
13. 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; ground stone implements (grinding slabs, mortars and pestles) 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; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
(0000215)
14. If human remains are encountered, then Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Chief of the Division of Water Rights.
(0380500)
15. The area that contains the historic-period domestic refuse identified in the Tom Origer & Associates report dated October 2003 may continue to be cultivated with general vineyard maintenance activities. However, no ripping or grading shall be allowed in this area. If this area is ever replanted, the vines must be cut off with the root system remaining in the ground. Replanting of vines shall be between the old rootstock. If this is not possible then techniques for removal of vines in this area shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe rather than excavation of vines). A qualified archeologist shall monitor these activities. If additional resources are discovered, then the archeologist shall halt work in the area of the find and notify the Chief of the Division of Water Rights. A professional archeologist shall be retained by Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
(0380501)

16. Permittee shall submit evidence of compliance with all applicable regulations from the Sonoma County Agricultural Commissioner's Office for the use of soil stabilizers, pesticides, herbicides, and other regulated chemicals on the place of use at the time the project authorized by this permit is inspected for license.

(0400551)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD (STATE WATER BOARD) ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (0000006)
- B. Progress reports shall be submitted promptly by Permittee when requested by the State Water Board until a license is issued.
- (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.
- (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water 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.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee 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 permit 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 State Water 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 State Water Board also may be exercised by imposing further limitations on the diversion and use of water by Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board 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.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the Permittee and an opportunity for hearing, the State Water 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 State Water 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.
(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened, endangered, or candidate species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the California Department of Fish and Game and Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a stream or lake agreement is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the California Department of Fish and Game.
(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit 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 1391. Every permit 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 permit is issued takes it subject to the conditions therein expressed./

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Section 1392. Every Permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit 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 permittee 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 Permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: