



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

APPLICATION A032881

DRAFT PERMIT

Right Holder: Pajaro Valley Water Management Agency
36 Brennan St.
Watsonville, CA 95076

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **November 14, 2017**.

Right holder is hereby granted a right to divert and use water as follows. No water shall be diverted or used under this water right unless right holder is in compliance with the terms and conditions herein.

1. Source of water: **(1) Salsipuedes Creek and College Lake**

tributary to: **Pajaro River thence the Pacific Ocean**

within the County of **Santa Cruz**.

2. Location of point of diversion, withdrawal from storage, and place of storage

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
College Lake (1) North 1,803,300 feet and East 6,198,200 feet	NE ¼ of NW ¼	34	11S	2E	MD

3. Purpose of use	4. Place of use				
Irrigation	Within the Pajaro Valley Water Management Agency service area boundary as shown on map.	Township	Range	Base and Meridian	Acres
		11S to 13S	1E to 2E	MD	9,331
Fish and Wildlife Preservation and Enhancement	Salsipuedes Creek	From Point of Diversion (1) to the confluence of Salsipuedes Creek and Pajaro River			

The place of use is shown on map filed on October 2, 2017, with the State Water Board, and attached to this permit.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **30 cubic feet per second** (cfs) by direct diversion to be diverted from January 1 to December 31 of each year and **1,764 acre-feet per year** by storage to be collected from September 1 of each year to June 30 of the succeeding year. The total amount of water to be taken from the source (direct diversion plus collection to storage) for all uses shall not exceed **3,000 acre-feet per year**.
(0000005F)
6. No water shall be collected to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
(0000005I)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2035.
(0000009)
8. No water shall be directly diverted, diverted to storage, or withdrawn from storage under this right unless:
 - a. Right holder has prepared and obtained written approval from the Deputy Director for the Division of Water Rights (Deputy Director for Water Rights or Deputy Director) and California Department of Fish and Wildlife (CDFW) for design plans of a fish screen at right holder’s water-supply intake in College Lake and a structure for fish passage at the College Lake weir. The fish screen shall be designed and maintained in accordance with CDFW and National Marine Fisheries Service (NMFS) criteria.
 - b. Right holder has installed and is operating the water-supply intake in College Lake with the fish screen and the structure for fish passage at College Lake weir as approved.

Right holder shall provide evidence that demonstrates that the fish screen and fish passage structure are in good condition with the annual report and whenever requested by the Division of Water Rights.

9. Between December 15 of each year through March 31 of the following year, if the College Lake water-surface elevation is greater than 59.5 feet (North American Vertical Datum of 1988 (NAVD 88)), no diversion or withdrawal from storage under this right is authorized unless:
 - a. The flows in Salsipuedes Creek downstream of the College Lake weir to the confluence with Corralitos Creek exceed 1.8 cfs; and
 - b. The flows in Salsipuedes Creek downstream of the confluence with Corralitos Creek to the confluence with the Pajaro River exceed 21.0 cfs.
10. Between April 1 through April 30 of each year, if the College Lake water-surface elevation is greater than 59.5 feet (NAVD 88), no diversion or withdrawal from storage under this right is authorized unless:
 - a. The flows in Salsipuedes Creek downstream of the College Lake weir to the confluence with Corralitos Creek exceed 1.8 cfs; and
 - b. The following flow criteria in Salsipuedes Creek downstream of the confluence with Corralitos Creek to the confluence with the Pajaro River are met:
 - i. When the flow is greater than or equal to 8.0 cfs but less than 18.0 cfs, the right holder bypasses sufficient flow at College Lake to maintain the flow at a minimum of 8.0 cfs;
 - ii. When the flow is greater than or equal to 21.0 cfs, the right holder bypasses sufficient flow at College Lake to maintain the flow at a minimum of 21.0 cfs.
 - iii. When the flow is less than 8.0 cfs, or greater than or equal to 18.0 cfs but less than 21.0 cfs, no water is diverted to storage.
11. Between May 1 through May 31 of each year, if the College Lake water-surface elevation is greater than 59.3 feet (NAVD 88), no diversion or withdrawal from storage under this right is authorized unless:
 - a. The flows in Salsipuedes Creek downstream of the College Lake weir to the confluence with Corralitos Creek exceed 1.0 cfs; and
 - b. The flows in Salsipuedes Creek downstream of the confluence with Corralitos Creek to the confluence with the Pajaro River exceed 8.0 cfs.
12. Right holder shall install, operate, and maintain streamflow gages on 1) Casserly Creek upstream of College Lake, on 2) Salsipuedes Creek downstream of the College Lake weir but upstream of the confluence with Corralitos Creek, and 3) on Salsipuedes Creek downstream of the confluence with Corralitos Creek but upstream of the confluence with the Pajaro River, for measuring compliance with the terms and conditions in this permit. Right holder shall submit a plan for the design, installation, and maintenance of the

gages for approval by the Deputy Director for Water Rights and shall implement the approved plan and any updates and revisions to the plan directed by the Deputy Director. No diversion is authorized under this permit unless right holder is implementing the approved plan.

13. Right holder shall prepare a steelhead monitoring plan¹ acceptable to CDFW and NMFS, to identify impacts to steelhead from the diversion of water under this right and any corresponding mitigation measures for those impacts. Right holder shall submit the plan to the Deputy Director for approval and shall implement the approved plan and any updates and revisions to the plan directed by the Deputy Director. No diversion is authorized under this permit unless right holder is implementing the approved plan.
14. Prior to conducting any maintenance work (e.g., vegetation management, sediment removal) within College Lake, right holder shall develop and implement guidelines for conducting maintenance acceptable to CDFW and provide those guidelines to the Deputy Director.
15. Right holder shall develop a vector control and invasive species management plan for College Lake acceptable to CDFW and NMFS. Right holder shall submit the plan to the Deputy Director for approval and shall implement the approved plan and any updates and revisions to the plan directed by the Deputy Director. No diversion is authorized under this permit unless right holder is implementing the approved plan. The vector control and invasive species management plan shall include, at a minimum, an annual survey for bullfrogs and non-native piscivorous fishes. If bullfrogs and/or non-native piscivorous fishes are identified, the plan shall provide potential actions to eradicate those species from the reservoir. Actions may include direct removal, such as seining and/or other lawful capture methods. The plan shall also include measures to be implemented should the above actions prove ineffective.
16. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder is in compliance with Fish & Game Code section 1602.

¹ Unless otherwise specified all plans required by this permit must be submitted electronically to the Deputy Director for the Division of Water Rights and any other staff the Deputy Director identifies. Plans shall comply with State Accessibility requirements for web posting.

17. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other water rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.
(0000027)
18. If it is determined that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, right holder shall, at their expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in California Code of Regulations, title 23, section 715 et seq. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.
(0000030)
19. Right holder shall install and 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 State Water Board, in order that water entering the reservoir which is not authorized for appropriation under this right can be released. Before storing water in the reservoir, right holder shall furnish evidence which substantiates that the outlet pipe, or alternative facility, has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
(0050043B)
20. Right holder shall comply with the measuring and monitoring requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is a conflict or inconsistency between the requirements. Right holder shall comply with the measuring and monitoring requirements of chapter 2.8, title 23, California Code of Regulations.
(0000052)
21. No water shall be diverted under this water right unless right holder is bypassing the flow required by this water right by use of a passive bypass device. Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by this condition shall include current photographs of the system in place and a statement, signed by the right holder, certifying that the system is still operating as designed.
(0050062C)

22. Before making any change in the project determined by the State Water Board to be substantial, right holder shall submit such change to the Board for its approval in compliance with Water Code Section 10504.5(a).

(0000119)
23. No water shall be diverted or used under this right for commercial and applicable personal medical use cannabis cultivation unless the water right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*, which is available online at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy.pdf

(0000120)
24. An erosion control/revegetation plan and implementation schedule, prepared by a licensed civil engineer, shall be submitted to and approved by the Deputy Director for Water Rights, prior to the construction of the point of diversion and associated infrastructure. Right holder shall furnish evidence which substantiates that the erosion control/revegetation plan has been implemented prior to diversion of water. Evidence includes photographs showing the project area slopes, vegetation, and other erosion control measures in place.

(0000207)
25. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)
26. Right holder shall obtain and comply with the terms and conditions of a 401 water quality certification or waste discharge requirements issued by the State Water Board or the Central Coast Regional Water Quality Control Board for the construction of the facilities necessary for diversion and use of water under this right.
27. No water shall be diverted under this right unless right holder has obtained a right of access through condemnation proceedings or other means to occupy the property that will be inundated by water stored in College Lake under this right or where infrastructure necessary for the diversion and use of water will be located, and has obtained a right to use existing infrastructure and provided electronic documentation of such right to the Deputy Director.
28. Right holder shall develop a monitoring and reporting plan for water quality in College Lake and downstream waterbodies acceptable to the Central Coast Regional Water Quality Control Board and CDFW. Right holder shall submit the plan to the Deputy Director for approval and shall implement the approved plan and any updates and revisions to the plan directed by the Deputy Director. No diversion is authorized under this permit unless right holder is implementing the approved plan. The plan shall

address the growth of aquatic vegetation, algae, and the formation of toxic cyanobacterial blooms and include appropriate lake water quality treatment measures, parameters, and water quality monitoring methodologies.

29. This right is subject to existing riparian rights to water from the same source, including Salsipuedes Creek and College Lake and its tributaries. If the diversion or use of water under this right interferes with the exercise of a riparian right, the permittee shall provide a substitute supply of water to the riparian parcel of equivalent quantity and adequate quality for the intended use.
30. The State Water Board reserves jurisdiction to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, to prevent injury to senior right holders, including overlying users of groundwater from the Pajaro Valley Groundwater Basin. Board action will be taken only after notice to interested parties and an opportunity for hearing.
31. Right holder shall comply with the mitigation measures set forth in the Mitigation and Monitoring Reporting Plan² adopted by the State Water Board.

(0400500)

² (Please note: A draft Mitigation and Monitoring Reporting Plan (MMRP) will be circulated to the Service List following the hearing and prior to the State Water Board's consideration of any order regarding Application A032881. The MMRP adopted by the State Water Board will include mitigation and monitoring requirements identified in the MMRP adopted by Pajaro Valley Water Management Agency and within the jurisdiction of the Board. The MMRP adopted by Pajaro Valley Water Management Agency is available here: https://www.pvwater.org/images/Resources/CollegeLake_Consolidated_Final_EIR-web.pdf.)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.)
(0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) Civil liability may be imposed administratively by the State Water Board pursuant to Wat. Code, § 1055, or may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. (Wat. Code, § 1846.)
(0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board.
(0000018)
- D. Once the time to develop beneficial use of water ends under this right, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board.
(0000019)
- E. The amount of water for consideration when issuing a license shall be limited to only the amount of water diverted and applied to beneficial use in compliance with the terms and conditions of this right, as determined by the State Water Board. (Wat. Code, § 1610.)
(0000006)
- F. Right holder shall measure the amount of water beneficially used under this right using devices and/or methods satisfactory to the Deputy Director for Water Rights.

In order to demonstrate compliance with the beneficial use monitoring requirements of this right, right holder shall provide evidence that the devices and/or methods are functioning properly, in a manner satisfactory to the Deputy Director of Water Rights, within thirty days of first use of the device and/or method, with the reports required by chapter 2.7, title 23, California Code of Regulations, and whenever requested by the Division of Water Rights.

(0000015)

- G. Right holder shall comply with the reporting requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is conflict or inconsistency between the requirements.

Right holder shall comply with the reporting requirements of chapter 2.7, title 23, California Code of Regulations.

Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and beneficial use under this right, and documentation of compliance with the terms and conditions of this right.

(0000010)

- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan.

(0000070)

- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:

1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An "urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a right from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An “agricultural water supplier” means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, 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 right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 right holder 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)

P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder 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)

Q. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(0000014)

This right is issued and right holder 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 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 therefor 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

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated:

