



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

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 12492
Page 1 of 5

PERMIT 7325

LICENSE 3746

THIS IS TO CERTIFY, That

Saintsbury Vineyards, LLC
1500 Los Carneros Avenue
Napa, CA 94559

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

tributary to **Carneros Creek thence Napa River thence San Pablo Bay**

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

Amended License 3746 supersedes the license originally issued on **May 20, 1953**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (State Water Board), or its predecessor, and the terms of **Permit 7325**. The priority of this right dates from **April 29, 1948**. Proof of maximum beneficial use of water under this license was made as of **June 4, 1952** (the date of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **forty-four (44) acre-feet per annum to be collected from November 1 of each year to June 1 of the succeeding year. The maximum withdrawal in any one year under this license shall not exceed 44 acre-feet.**

The total quantity of water collected to storage under this license and License 4709 (Application 12950) shall not exceed 59 acre-feet per year.

The capacity of the reservoir covered by this license and License 4709 (Application 12950) shall not exceed 59 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 POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1983, Zone 2, North 1,870,173 feet and East 6,457,733 feet, being within NW¼ of NE¼ of projected Section 12, T5N, R5W, MDB&M.

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

Stockwatering and Fire Protection uses at the reservoir located within $W\frac{1}{2}$ of $NE\frac{1}{4}$ and $NE\frac{1}{4}$ of $NW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M, and Irrigation, Frost Protection and Heat Control as follows:

7 acres within $NE\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 11, T5N, R5W, MDB&M
5 acres within $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 11, T5N, R5W, MDB&M
3 acres within $SW\frac{1}{4}$ of $NW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
11 acres within $NW\frac{1}{4}$ of $SW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
18 acres within $NE\frac{1}{4}$ of $SW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
1 acre within $NW\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
11 acres within $NE\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
9 acres within $SW\frac{1}{4}$ of $SW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
9 acres within $SE\frac{1}{4}$ of $SW\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
8 acres within $SW\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
1 acre within $SE\frac{1}{4}$ of $SE\frac{1}{4}$ of projected Section 12, T5N, R5W, MDB&M
1 acre within $NE\frac{1}{4}$ of $NW\frac{1}{4}$ of projected Section 13, T5N, R5W, MDB&M
1 acre within $NW\frac{1}{4}$ of $NE\frac{1}{4}$ of projected Section 13, T5N, R5W, MDB&M

85 acres total, as shown on map on file with the State Water Board.

Licensee shall install and properly maintain a staff gage in the reservoir, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining water levels in the reservoir.

Licensee shall record the staff gage readings at the end of each month. Such readings shall be supplied to the State Water Board with the triennial Report of Licensee submitted to the Board by licensee.

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

(0070047)

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

- A. Diversion from March 15 to May 15 is contingent upon participation in the water distribution program by the licensee.
- B. Diversion from March 15 to May 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 from March 15 to May 15, the 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 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.

(00000085)

Based on the information in the Division's files, riparian water has not been used on the place of use. Therefore, consistent with this term, licensee may not divert any additional riparian water for use on the place of use authorized by this license under basis of riparian right. With the Chief of the Division of Water Rights's approval, this information may be updated, and licensee may use water under basis of riparian right on the authorized place of use, provided that licensee submits reliable evidence to the Chief of the Division of Water Rights quantifying the amount of water that licensee likely would have used under the basis of riparian right absent the appropriation authorized by this license. The Chief of the Division of Water Rights is hereby authorized to approve or reject any proposal by licensee to use water under the basis of riparian right on the place of use authorized by this license.

(0560300B)

Licensee shall implement the mitigation measures, monitoring, and reporting actions identified in the "Mitigation Monitoring and Reporting Plan" on file with the Division of Water Rights. Licensee shall submit reporting documents, including but not limited to copies of all letters of compliance, regulatory permits, and survey reports, with the triennial Report of Licensee, or whenever requested by the Chief of the Division of Water Rights.

(0400500)

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the State Water Board.

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

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the 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 the licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

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

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the State Water 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 (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:**

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

Dated: NOV 13 2008