



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 13322
Page 1 of 4

PERMIT 7889

LICENSE 3800

THIS IS TO CERTIFY, That

US National Park Service
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes, CA 94956

has the right to the use of the waters of **Olema Creek** in **Marin County**

tributary to **Lagunitas Creek** thence **Tomales Bay** thence the **Pacific Ocean**

for the purpose of **Domestic, Stockwatering, Fish and Wildlife Preservation and Enhancement, and Recreational uses.**

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.

Additionally, the State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346], 658 P.2d 709.)

The amended license is being issued in accordance with the redelegations of authority (Resolution No. 2007-0057.) Therefore, an amended license on **Application 13322** filed on **August 31, 1949** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this amended license.

Amended License 3800 supersedes the license originally issued on **August 17, 1953**, which was perfected in accordance with the laws of California, the Regulations of the State Water Board, or its predecessor, and the terms of **Permit 7889**. The priority of this right dates from **August 31, 1949**. Proof of maximum beneficial use of water under this license was made as of **June 24, 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 **a total of thirteen thousand (13,000) gallons per day by direct diversion from January 1 to December 31 of each year as follows: (1) two thousand (2,000) gallons per day by direct diversion for Domestic and Stockwatering uses; and (2) eleven thousand (11,000) gallons per day for instream flow for Fish and Wildlife Preservation and Enhancement and Recreational uses. The maximum diverted under this license shall not exceed fourteen and six-tenths (14.6) acre-feet per year.**

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1983, Zone 3, North 2,192,925 feet and East 5,911,620 feet, being within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 28, T2N, R8W, MDB&M.

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

For Domestic and Stockwatering use at residence and grounds located within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 28, T2N, R8W, MDB&M; and for Fish and Wildlife Preservation and Enhancement and Recreational use at stream segment between the Point of Diversion located by California Coordinate System of 1983, Zone 3, North 2,192,925 feet and East 5,911,620 feet, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 28, T2N, R8W, MDB&M (upstream limit), and the confluence of Lagunitas Creek and Tomales Bay (downstream limit), as shown on map on file with the State Water Board.

No water shall be diverted under this license except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, to protect Central California Coast Coho salmon (*Oncorhynchus kisutch*), Central Coast steelhead (*Oncorhynchus mykiss irideus*) and Chinook salmon (*Oncorhynchus tshawytscha*), listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code sections 2050 to 2098 and the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). Construction, operation and maintenance costs of the required facility are the responsibility of the licensee.

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Licensee shall install and maintain devices, satisfactory to the Deputy Director for Water Rights, to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this license. A record of such measurements shall be maintained by the licensee for ten years from the date of collection, and made available to the Deputy Director for Water Rights, upon request.

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Licensee shall not use more water under the basis of riparian right on the Place of Use authorized by this license than licensee would have used absent the appropriation authorized by this license. Based on the information in the Division of Water Right'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 Deputy Director for Water Rights' 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 Deputy Director for 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 Deputy Director for 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. Licensee shall report any non-compliance with the terms of the permit to the Deputy Director for Water Rights within three days of identification of the violation.

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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 2089) 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:

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: NOV 18 2011