

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

DIVISION OF WATER RIGHTS

In the Matter of License 12598 (Application 25247)

Cal-Cel Marketing, Inc.

**ORDER APPROVING CHANGE IN AND
ISSUING AMENDED LICENSE**

SOURCE: Conejo Creek tributary to Calleguas Creek

COUNTY: Ventura County

WHEREAS:

1. License 12598 was issued pursuant to permitted Application 25247 on April 16, 1990, and was recorded with the County Recorder of Ventura County on May 2, 1990. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The Division of Water Rights (Division) record of ownership for License 12598 shows the current holder of the license as Cal-Cel Marketing, Inc.
3. On July 6, 2010, the licensee petitioned to change the place of use from 130 acres of golf course to 55 net acres within 69.4 total acres of farmland.
4. On July 27, 2010, the petition was noticed. No protests were filed.
5. The State Water Resources Control Board (State Water Board) has determined that the license shall be amended to include the following specific corrections or changes:

The place of use will be amended from 130.0 acres to irrigation of 55 net acres within 69.4 total acres as shown below:

0.1 acre within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
33.7 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
28.6 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
1.2 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 33, T2N, R20W, SBB&M
0.1 acre within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 5, T1N, R20W, SBB&M
0.5 acre within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 4, T1N, R20W, SBB&M
4.9 acres within NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
0.3 acre within NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M

69.4 acres total

6. Licensee's proposed new place of use was developed prior to 1990. The baseline for this project is July 6, 2010. Pursuant to the provisions of the California Environmental Quality Act (CEQA), the State Water Board issued a Notice of Exemption (NOE) based on an Existing Facilities Exemption, pursuant to Title 14, California Code of Regulations, section 15301, Class 1.

The project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts.

The project involves reducing the place of use to accurately reflect the change in area being irrigated: from 130 acres of golf course to 55 net acres within 69.4 total acres of farmland. No new facilities will be constructed beyond those existing prior to the start of the Lead Agency's environmental review and the project does not involve an expansion in use beyond that which existed at the time the Lead Agency began its environmental review.

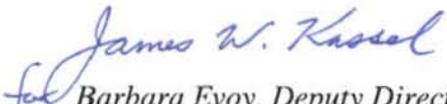
In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346].) There is no evidence that approval of the change petition will have any adverse impacts on public trust resources.

7. The State Water Board standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
8. The State Water Board has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.
9. The State Water Board has delegated the authority to act on change petitions to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2007-0057. (Resolution No. 2007-0057, section 4.2.4) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.

THEREFORE, IT IS ORDERED:

The attached Amended License 12598 is issued, superseding former License 12598 issued on April 16, 1990. The priority of Amended License 12598 is January 18, 1977.

STATE WATER RESOURCES CONTROL BOARD


for Barbara Evoy, Deputy Director
Division of Water Rights

Dated: **MAY 04 2011**



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 25247
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PERMIT 17547

LICENSE 12598

THIS IS TO CERTIFY, That

Cal-Cel Marketing, Inc.
c/o Jon Nishimori
771 Mountain View Avenue
Oxnard, CA 93030

has the right to the use of the waters of **Conejo Creek** in **Ventura County**
tributary to **Calleguas Creek thence Mugu Lagoon thence Pacific Ocean**
for the purpose of **Irrigation use**.

Amended License 12598 supersedes the license originally issued on **April 16, 1990**, 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 17547**. The priority of this right dates from **January 18, 1977**. Proof of maximum beneficial use of water under this license was made as of **June 14, 1989** (the date of license inspection and compliance 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 **eighty-two hundredths (0.82) cubic foot per second to be diverted from January 1 to December 31 of each year**. The maximum diverted under this license shall not exceed **306** acre-feet per year.

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1983, Zone 5, North 1,895,663 feet and East 6,259,349 feet, being within NW¼ of SE¼ of projected Section 5, T1N, R20W, SBB&M.

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

Irrigation of 55 net acres within 69.4 total acres:

- 0.1 acre within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
- 33.7 acres within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
- 28.6 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
- 1.2 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 33, T2N, R20W, SBB&M
- 0.1 acre within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 5, T1N, R20W, SBB&M
- 0.5 acre within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 4, T1N, R20W, SBB&M
- 4.9 acres within NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M
- 0.3 acre within NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of projected Section 32, T2N, R20W, SBB&M

69.4 acres total, as shown on map dated July 13, 2010, on file with the State Water Board.

Licensee shall not exercise any other existing right to the use of water named herein so long as this license remains in effect.

(0000021)

To the extent that water available for use under this license is return flow, imported water or wastewater, this license shall not be construed as giving any assurance that such supply will continue.

(0000025)

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 therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

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

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

STATE WATER RESOURCES CONTROL BOARD



*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: **MAY 04 2011**