STATE OF CALIFORNIA
~~THE RESOURCES AGENCY~~
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 16187B

Application 23333B of E. E. Trefethen, Jr.
1160 Oak Knoll Avenue, Napa, California 94558

filed on August 19, 1969, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source:	Tributary to:
(1) Dry Creek	Napa River
(2) Unnamed Creek	Terry Slough thence
	Dry Creek thence
	Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
(1) South 74° 45' West, 1,960 feet from NE corner of projected Section 17	NW¼ of NE¼	17	6N	4W	MD
(2) South 29° 10' East, 1,950 feet from NW corner of projected Section 18	SW¼ of NW¼	18	6N	4W	MD
Points of Rediversion					
(1) South 65° West, 2,000 feet from NE corner of Section 17	NW¼ of NE¼	17	6N	4W	MD
(2) South 81° West, 1,300 feet from NE corner of Section 20	NE¼ of NE¼	20	6N	4W	MD
(3) South 33° East, 2,850 feet from NW corner of Section 18	SE¼ of NW¼	18	6N	4W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
Frost Protection	W½	16	6N	4W	MD	
	Portion of	17	6N	4W	MD	
	E½ of SE¼	18	6N	4W	MD	
	N½	20	6N	4W	MD	
	E½	13	6N	5W	MD	
					Total	582

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4.45 cubic feet per second by direct diversion to be diverted from February 1 to May 15 of each year. The total quantity of water diverted under this permit, together with that diverted under Permit 16187A and Permit 16187C, shall not exceed 810 acre-feet per annum. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 1, 1995. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. 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 Resources Control 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 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) to 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 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 Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the 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)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the 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 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)

12. Upon a judicial determination that the place of use under this permit or a portion thereof is entitled to the use of water by riparian right, the right so determined and the direct diversion acquired under this permit shall not result in a combined right to the use of water in excess of that which could be claimed under the larger of the two rights. (0000021)

13. The permittee shall bypass the following flows past the point of diversion for maintenance of fishlife: (a) 5 cubic feet per second or the natural flow of the stream, whichever is less, during the period from March 15 to April 30 of each year; and (b) 3 cubic feet per second or the natural flow of the stream, whichever is less, during the period from May 1 through May 15 of each year. (0140060)

14. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

15. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee. (0000063)

16. This permit is subject to the terms and conditions of the agreement on file between applicant and Napaco Vineyards dated January 15, 1971, insofar as the agreement relates to matters under the Board's jurisdiction. (0000300)

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

A. Diversion after March 15 is contingent upon participation in the water distribution program by the permittee.

B. Diversion after March 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 after March 15, permittee shall install and maintain a device, satisfactory to the watermaster, which is capable of measuring the instantaneous rate of diversion and the total amount of water diverted during participation in the distribution program.

D. Permittee's participation in any water distribution program required under the terms of this permit 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.

(0000085)

E. The water distribution program required under this permit may be revised periodically by the Board provided that the program shall be substantially consisent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court. (0000085)

18. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

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.

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).

Dated: SEPTEMBER 6 1985

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh

Chief, Division of Water Rights

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