

P 16288

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

---

In the Matter of Permit 16288      (Application 23720)

**John F. Roscoe and Marilyn J. Roscoe**

ORDER APPROVING CHANGE IN POINT OF DIVERSION, PLACE OF USE, PURPOSE  
OF USE, REDISTRIBUTION OF STORED WATER, ISSUING A NEW DEVELOPMENT  
SCHEDULE, AND AMENDING THE PERMIT

---

SOURCE:      Unnamed Stream Tributary to Suisun Creek  
COUNTY:      Solano

---

**WHEREAS:**

1.      Permit 16288 was issued to Fred W. Rush and Dorothy C. Rush on September 20, 1971, pursuant to Application 23720, and subsequently assigned to John F. Roscoe and Marilyn J. Roscoe.
2.      A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on September 14, 1998.
3.      A petition to change the point of diversion, place of use, purpose of use and redistribute stored water was filed with the SWRCB on September 22, 1998.
4.      The permittee has proceeded with diligence, and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on March 17, 1999, and no protests were received.
5.      Public notice of the change was issued on March 17, 1999, and no protests were received.
6.      The SWRCB has determined that the petitions for change and extension of time do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

7. The permit term relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to Section 780 (a & b), Title 23 of the California Code of Regulations.
8. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
9. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a term should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

**NOW, THEREFORE, IT IS ORDERED THAT PERMIT 16288 IS AMENDED TO READ AS FOLLOWS:**

1. The designation of points of diversion in the permit shall be changed to read:  

Reservoir 7 – 700 Feet North and 1,900 Feet West of SE Corner of  
Section 2, being within the SW ¼ of SE ¼ of Section 2,  
T5N, R3W, MDB&M

Reservoir 8 – 500 feet North and 2,650 Feet East of SW corner of  
Section 2, being within the SE ¼ of SW ¼ of Section 2,  
T5N, R3W, MDB&M
2. The purposes of use shall be changed to read: Stockwatering, Recreational, Domestic, and Fire Protection.
3. The designation of the place of use shall be changed to read SW ¼ of SE ¼ of Section 2, T5N, R3W, MDB&M, and SE ¼ of SW ¼ of Section 2, T5N, R3W, MDB&M.
4. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 34 acre-feet per annum to be collected from October 1 of each year to May 1 of the succeeding year as follows: 7 acre-feet in Reservoir 7 and 27 acre-feet in Reservoir 8.

5. Condition 8 of the permit shall be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2011.

(0000009)

6. The continuing authority condition, shall be updated to read as follows:

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 SWRCB 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 SWRCB 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) 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 requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB 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 SWRCB 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 SWRCB 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)

7. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

8. Permit 16288 is amended to include the following Endangered Species condition:

This permit 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 permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

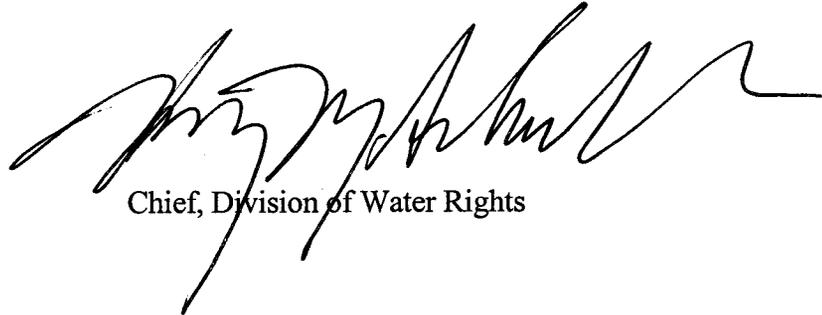
10. Permit 16288 is amended to include the following standard cultural resources term:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend

appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

Dated: JUL 24 2001

STATE WATER RESOURCES CONTROL BOARD

A large, stylized handwritten signature in black ink, written over the printed name of the Chief of the Division of Water Rights.

Chief, Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

APPLICATION 23720 PERMIT 16288 LICENSE \_\_\_\_\_

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE**

**WHEREAS:**

1. Permit 16288 was issued to Fred W. Rush and Dorothy C. Rush on September 20, 1971 pursuant to Application 23720.
2. Permit 16288 was subsequently assigned to Alan Percy and Vera Percy.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE December 31, 1991 (0000008)

2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE December 31, 1995 (0000009)

Dated: MARCH 08 1991

*Jesse M. Diaz*  
for Jesse M. Diaz, Chief  
Division of Water Quality  
And Water Rights

(over)

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**ORDER**

APPLICATION 23720

PERMIT 16288

LICENSE \_\_\_\_\_

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE

December 1, 1986 000008

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 1, 1987 000009

2. Paragraph 11 of this permit is deleted. A new Paragraph 11 is added as follows:

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) installing, maintaining, and

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)

Dated:       MAY    8   1985

*Raymond Walsh*

Raymond Walsh, Chief  
Division of Water Rights

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

**ORDER**

APPLICATION 23720

PERMIT 16288

LICENSE \_\_\_\_\_

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE  
AND AMENDING PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. It appears that the permittee has proceeded with diligence and that good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

CONSTRUCTION WORK SHALL BE COMPLETED  
ON OR BEFORE

DECEMBER 1, 1980 (0000008)

APPLICATION OF THE WATER TO THE PROPOSED  
USE SHALL BE COMPLETED ON OR BEFORE

DECEMBER 1, 1981 (0000009)

2. Paragraph 11 of the permit be amended to read as follows:

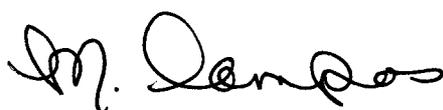
Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to 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 minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (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 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.

(0000012)

Dated: MAY 15 1979



Michael A. Campos, Chief  
Division of Water Rights

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

## PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 16288

Application 23720 of FRED W. RUSH AND DOROTHY C. RUSH (over)

TWIN SISTERS RANCH, SUISUN, CALIFORNIA 94585

filed on MARCH 8, 1971, 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:

UNNAMED STREAM

Tributary to:

SUISUN CREEK THENCE CHADBOURNE SLOUGH

THENCE WELLS SLOUGH THENCE SUISUN SLOUGH

THENCE SUISUN BAY

2. Location of point of diversion:

	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(6) NORTH 84° EAST 1,300 FEET FROM SW CORNER OF SECTION 1, T5N, R3W, MDB&M	SW ¼ of SW ¼	1	5N	3W	MD
(7) NORTH 65° WEST 2,200 FEET FROM SW CORNER OF SECTION 1, T5N, R3W, MDB&M	SW ¼ of SE ¼	2	5N	3W	MD
(8) NORTH 53° WEST 2,550 FEET FROM SW CORNER OF SECTION 1, T5N, R3W, MDB&M	NW ¼ of SE ¼	2	5N	3W	MD
	¼ of ¼				
	¼ of ¼				
	¼ of ¼				

County of SOLANO

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
STOCKWATERING						
RECREATIONAL	6 SW1/4 OF SW1/4	1	5N	3W	MD	
DOMESTIC	7 SW1/4 OF SE1/4	2	5N	3W	MD	
	8 NW1/4 OF SE1/4	2	5N	3W	MD	

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 34 ACRE-FEET PER ANNUM TO BE COLLECTED FROM OCTOBER 1 OF EACH YEAR TO MAY 1 OF THE SUCCEEDING YEAR IN THREE RESERVOIRS AS MORE SPECIFICALLY SET FORTH IN PARAGRAPH 7 OF APPLICATION 23720.

(000005)

6. The maximum quantity herein stated may be reduced in the license if investigation warrants. (000006)

7. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked. (000007)

8. Said construction work shall be completed on or before DECEMBER 1, 1974 (000008)

9. Complete application of the water to the proposed use shall be made on or before DECEMBER 1, 1975. (000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000010)

11. All rights and privileges under this permit 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 prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water. (000012)

12. 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. (000011)

13. 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. (000013)

14. NO WATER MAY BE DIVERTED UNDER THIS PERMIT FOR DOMESTIC, STOCKWATERING AND RECREATIONAL PURPOSES UNTIL THE PERMITTEE HAS FILED A REPORT OF WASTE DISCHARGE WITH THE SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD PURSUANT TO WATER CODE SECTION 13260 AND THE REGIONAL BOARD OR STATE BOARD HAS PRESCRIBED WASTE DISCHARGE REQUIREMENTS (UNLESS A WAIVER HAS BEEN ISSUED BY THE REGIONAL BOARD OR THE REGIONAL BOARD FAILS TO ACT WITHIN 120 DAYS AFTER THE REPORT HAS BEEN FILED). THEREAFTER, WATER MAY BE DIVERTED ONLY DURING SUCH TIMES AS ALL REQUIREMENTS PRESCRIBED BY THE REGIONAL BOARD OR STATE BOARD ARE BEING MET. (0290101)

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: SEP 20 1971

STATE WATER RESOURCES CONTROL BOARD

*K. L. Woodward*  
Chief, Division of Water Rights

P16.288

11-6.84 Ownership Chgd to Alvaro H. + Maija A. Helmutz;  
Dorothy C. Rush

2/15/94 Acgd to: John F + Marilyn J. Loscol;