

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 24433B Permit 18119B License _____

**ORDER DIRECTING ISSUANCE OF SEPARATE PERMITS
AND REVOCATION OF ORIGINAL PERMIT**

WHEREAS:

1. Permit 18119B was issued to Connecticut Mutual Life Insurance Company on December 1, 1980 pursuant to Application 24433B.
2. Permit 18119B was subsequently assigned to Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust; Round Pond, A California Corporation; and Beckstoffer Vineyards.
3. A request to divide Permit 18119B has been filed with the State Water Resources Control Board (SWRCB).
4. The SWRCB has determined that such division of the permit does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Permit 18119B be replaced by Permit 18119B-1 issued to Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust; Permit 18119B-2 issued to Round Pond, A California Corporation; and Permit 18119B-3 issued to Beckstoffer Vineyards.
2. Permit 18119B is hereby revoked upon issuance of Permits 18119B-1, 18119B-2, and 18119B-3.

3. Separate permits be issued as follows:

Permit: 18119B-1 (Application 24433B-1)
Owner: Alfred S. Wilsey and Diane D.B. Wilsey, A Revocable Living Trust
c/o Drew Aspegren
Napa Valley Vineyard Engineering, Inc.
176 Main Street, Suite B
St. Helena, CA 94574

Source: Napa River tributary to San Pablo Bay in Napa County
Use: Frost Protection
Amount: 4.0 cubic feet per second
Season: March 15 to May 15

Point of
Diversion: South 16° 00' East 3,625 feet from NW corner of projected Section 15,
T7N, R5W, MDB&M, being within NW¼ of SW¼ of said Section.

Place of
Use: 1 acre within SW¼ of NW¼ of projected Section 15, T7N, R5W, MDB&M.
30 acres within SE¼ of NW¼ of projected Section 15, T7N, R5W, MDB&M.
4 acres within NE¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M.
32 acres within SW¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M.
39 acres within SE¼ of NE¼ of projected Section 15, T7N, R5W, MDB&M.
10 acres within NW¼ of SW¼ of projected Section 15, T7N, R5W, MDB&M.
37 acres within NE¼ of SW¼ of projected Section 15, T7N, R5W, MDB&M.
12 acres within SE¼ of SW¼ of projected Section 15, T7N, R5W, MDB&M.
39 acres within NW¼ of SE¼ of projected Section 15, T7N, R5W, MDB&M.
32 acres within NE¼ of SE¼ of projected Section 15, T7N, R5W, MDB&M.
5 acres within SW¼ of SE¼ of projected Section 15, T7N, R5W, MDB&M.
7 acres within SW¼ of NW¼ of projected Section 14, T7N, R5W, MDB&M.
4 acres within NW¼ of SW¼ of projected Section 14, T7N, R5W, MDB&M.

252 acres, as shown on map on file with the State Water Resources
Control Board.

Permit: 18119B-2 (Application 24433B-2)
Owner: Round Pond, A California Corporation
c/o Drew Aspegren
Napa Valley Vineyard Engineering, Inc.
176 Main Street, Suite B
St. Helena, CA 94574

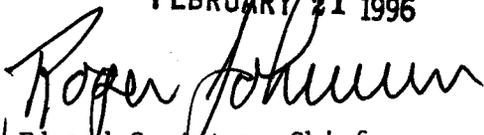
Source: Napa River tributary to San Pablo Bay in Napa County
Use: Frost Protection
Amount: 3.9 cubic feet per second
Season: March 15 to May 15

Point of
Diversion: South 16° 00' East 3,625 feet from NW corner of projected Section 15,
T7N, R5W, MDB&M, being within NW¼ of SW¼ of said Section.

4. Permits 18119B-1, 18119B-2 and 18119B-3 shall contain all other items and conditions presently in Permit 18119B or the updated version to comply with SWRCB policy.

Dated:

FEBRUARY 21 1996



Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 24433B PERMIT 18119B LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 18119B was issued to Connecticut Mutual Life Insurance Company on December 1, 1980 pursuant to Application 24433B.
2. 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.
3. The permittee has proceeded with diligence and good cause has been shown for the extension of time.
4. Permit Condition 10 pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

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

December 31, 1999

(0000009)

2. Condition 10 of the permit be amended to read:

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 tail 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.

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.

(000012)

Dated: MAY 20 1960


Walter G. Pettit, 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 18119 B

Application 24433b of CONNECTICUT MUTUAL LIFE INSURANCE COMPANY *(over)*
c/o NAPA VALLEY VINEYARD COMPANY, P. O. BOX 403, RUTHERFORD, CALIFORNIA 94573

filed on AUGUST 6, 1973, 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:
<u>(1) NAPA RIVER</u>	<u>SAN PABLO BAY</u>
<u>(2) CONN CREEK</u>	<u>NAPA RIVER THENCE</u>
_____	<u>SAN PABLO BAY</u>
_____	_____
_____	_____

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
<u>(1) SOUTH 16°00' EAST, 3,625 FEET FROM NW CORNER OF PROJECTED SECTION 15</u>	<u>NW1/4 OF SW1/4</u>	<u>15</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>
<u>(2) NORTH 28°40' WEST, 1,150 FEET FROM SE CORNER OF PROJECTED SECTION 10</u>	<u>SE1/4 OF SE1/4</u>	<u>10</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>

County of NAPA

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
FROST PROTECTION	s1/2	10	7N	5W	MD	137
		11	7N	5W	MD	115
	w1/2	14	7N	5W	MD	44
		15	7N	5W	MD	404
					TOTAL	700

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 11.4 CUBIC FEET PER SECOND TO BE DIVERTED FROM MARCH 15 TO MAY 15 OF EACH YEAR. THE MAXIMUM AMOUNT DIVERTED UNDER THIS PERMIT SHALL NOT EXCEED 626 ACRE-FEET PER YEAR. (000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)
- ~~7. Actual construction work shall begin on or before two years from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.~~
- ~~8. Said construction work shall be completed on or before~~
7. ~~X~~ Complete application of the water to the proposed use shall be made on or before DECEMBER 1, 1990. (000009)
8. ~~X~~ Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000010)
9. ~~X~~ 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)
10. ~~X~~ 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. (000012)
11. ~~X~~ 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)
12. THE STATE WATER RESOURCES CONTROL BOARD RESERVES JURISDICTION OVER THIS PERMIT TO IMPOSE ANY APPROPRIATE CONDITIONS AT SOME FUTURE DATE TO CONFORM THE 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. (000020)
13. THIS PERMIT IS SUBJECT TO THE AGREEMENT DATED MAY 26, 1978 BETWEEN PERMITTEE AND CITY OF NAPA, TO THE EXTENT SUCH AGREEMENT COVERS MATTERS WITHIN THE BOARD'S JURISDICTION. (0000300)
14. FOR THE PROTECTION OF FISH AND WILDLIFE, PERMITTEE SHALL DURING THE PERIOD FROM MARCH 15 THROUGH MAY 15 BYPASS A MINIMUM OF 3 CUBIC FEET PER SECOND IN CONN CREEK. THE TOTAL STREAMFLOW SHALL BE BYPASSED WHENEVER IT IS LESS THAN THE DESIGNATED AMOUNT FOR THAT PERIOD. (0140060)
15. FOR THE PROTECTION OF FISH AND WILDLIFE, PERMITTEE SHALL DURING THE PERIOD FROM MARCH 15 THROUGH MAY 15 BYPASS A MINIMUM OF 10.0 CUBIC FEET PER SECOND IN NAPA RIVER. THE TOTAL STREAMFLOW SHALL BE BYPASSED WHENEVER IT IS LESS THAN THE DESIGNATED AMOUNT FOR THAT PERIOD. STREAMFLOWS SHALL BE MEASURED AT THE NEAREST U.S.G.S. GAGING STATION ON THE RIVER OR AS MEASURED BY A DEVICE ACCEPTABLE TO THE BOARD AT ALTERNATIVE LOCATIONS WHICH MAY BE DESIGNATED BY THE WATERMASTER ADMINISTERING THE WATER DISTRIBUTION PROGRAM. (0140060)
16. NO WATER SHALL BE DIVERTED FROM CONN CREEK 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. THIS BYPASS SHALL BE MEASURED AT THE BRIDGE WITHIN THE SW1/4 OF SW1/4 OF SECTION 10, T7N, R5W, MDB&M. (0000400)

17. IN ACCORDANCE WITH SECTION 1603 AND/OR SECTION 6100 OF THE FISH AND GAME CODE, NO WATER SHALL BE DIVERTED UNDER THIS PERMIT UNTIL THE DEPARTMENT OF FISH AND GAME HAS DETERMINED THAT MEASURES NECESSARY TO PROTECT FISHLIFE HAVE BEEN INCORPORATED INTO THE PLANS AND CONSTRUCTION OF SUCH DIVERSIONS. THE CONSTRUCTION, OPERATION, OR MAINTENANCE COSTS OF ANY FACILITY REQUIRED PURSUANT TO THIS PROVISION SHALL BE BORNE BY THE PERMITTEE. (0000063)

18. DIVERSION OF WATER BETWEEN MARCH 15 AND MAY 15 SHALL BE SUBJECT TO CONTROL UNDER A WATER DISTRIBUTION PROGRAM ADMINISTERED BY THE STATE WATER RESOURCES CONTROL BOARD OR BY THE DEPARTMENT OF WATER RESOURCES AT ANY TIME SUCH A PROGRAM IS IN EFFECT AT THE PROJECT LOCATION.

- A. DIVERSION AFTER MARCH 15 IS CONTINGENT UPON PARTICIPATION IN THE WATER DISTRIBUTION PROGRAM BY THE PERMITTEE.
- B. NO DIVERSION IS ALLOWED AFTER MARCH 15, EXCEPT 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 ACCUMULATIVE 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.
- E. THE WATER DISTRIBUTION PROGRAM REQUIRED UNDER THIS PERMIT MAY BE REVISED PERIODICALLY BY THE 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. (0000085)

19. THE TOTAL QUANTITY OF WATER DIVERTED UNDER THIS PERMIT, TOGETHER WITH THAT DIVERTED UNDER PERMIT ISSUED PURSUANT TO APPLICATION 24433A, SHALL NOT EXCEED 626 ACRE-Feet PER YEAR. (0000114)

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: DECEMBER 1 1980

STATE WATER RESOURCES CONTROL BOARD

Walter Pettit
CHIEF, DIVISION OF WATER RIGHTS