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

# PERMIT FOR DIVERSION AND USE OF WATER

## PERMIT 18737B

Application 26823B of Doug Shafer and Elizabeth Shafer Cafaro

c/o Napa Valley Vineyard Engineering, Inc., 176 Main Street, Suite B, St. Helena, CA 94574

filed on May 6, 1981, 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: |
|---|---|
| An Unnamed Stream | Mud Slough thence |
| | Napa River thence |
| | San Pablo Bay |

| 2. Location of point of diversion: | 40-acre subdivision of public land survey or projection thereof | * Section | Town-ship | Range | Base and Meridian |
|---|---|---|---|---|---|
| California Coordinate System, Zone 2, N 210,750 and E 1,900,950 | SE¼ of SW¼ | 30 | 5N | 4W | MD |
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County of Napa

* **Projected**

| 3. Purpose of use: | 4. Place of use: | * Section | Town-ship | Range | Base and Meridian | Acre |
|---|---|---|---|---|---|---|
| Wildlife Enhancement | | | | | | |
| Stockwatering | Reservoir in SE¼ of SW¼ | 30 | 5N | 4W | MD | |
| Irrigation | SE¼ of SE¼ | 25 | 5N | 5W | MD | 25 |
| | NE¼ of SE¼ | 25 | 5N | 5W | MD | 5 |
| | NE¼ of NE¼ | 36 | 5N | 5W | MD | 3 |
| | SW¼ of SW¼ | 30 | 5N | 4W | MD | 30 |
| | SE¼ of SW¼ | 30 | 5N | 4W | MD | 12 |
| | NW¼ of NW¼ | 31 | 5N | 4W | MD | 1 |
| | | | | | Total | 76 |

The place of use is shown on map on file 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 24 acre-feet per annum to be collected from October 31 of each year to May 31 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

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 31, 1998. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a 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) 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. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. (0050043)

13. For the protection of fish and wildlife, permittee shall plant a minimum of one tree and two shrubs for every 15 feet of shoreline of the existing storage reservoir as measured at the high water mark. Such trees and shrubs must be consistent with those found within the area and shall be approved by the California Department of Fish and Game prior to furnishing and planting by permittee. Trees and shrubs shall be of at least five-gallon size and one-gallon size respectively, and shall be planted within hundred yards of the shoreline.

The trees shall be planted within one year after the issuance of the change petition (issued May 20, 1992) and shall be maintained such that 75 percent of the trees will have survived after three years. Trees may be planted in groves to maximize wildlife benefits. Cattails and bulrushes, if established naturally, shall be retained by permittee along the perimeter of the reservoir to provide wildlife habitat.

After completion of the tree planting program, photo documentation showing the trees and the reservoir shall be submitted to the Chief of the Division of Water Rights. (0400500)

***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:* NOVEMBER 2 1993

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson

for Chief, Division of Water Rights