

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 19100 (Application 27898)

Joseph G. Roche

**ORDER APPROVING PETITION FOR CHANGE, ADDING OR UPDATING
STANDARD LICENSE TERMS, AND ISSUING LICENSE**

SOURCE: an Unnamed Stream tributary to Tolay Creek thence San Pablo Bay

COUNTY: Sonoma

WHEREAS:

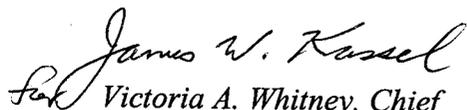
1. The Division of Water Rights (Division) issued Permit 19100 pursuant to Application 27898 on February 3, 1984.
2. On June 17, 1999, Division staff conducted a pre-license inspection of the project authorized by Permit 19100 and recommended that a license be issued for the permit based on a maximum beneficial use of water subject to approval of a petition for change in the place of use description.
3. A petition to change the place of use was filed with the State Water Resources Control Board (State Water Board) on October 29, 1999.
4. The State Water Board has determined that good cause for such change has been shown.
5. Public notice of the change was issued on February 18, 2000, and no protests were received.
6. On July 10, 2001, Division staff recommended that the standard discovery term should be included with any State Water Board order issued pursuant to Permits 19100 and 20669. 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 condition 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.
7. On November 8, 2002, the Division determined that the subject petition for change will not require a Negative Declaration or an Environmental Impact Report, and prepared a Declaration of Exemption in accordance with Section 15062 of the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq.
8. The State Water Board has determined that the petition for change in place of use 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 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 license.

THEREFORE, IT IS ORDERED:

The petition for change to the place of use, is hereby approved, and the attached license is issued pursuant to Permit 19100, Application 27898.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

JUL 11 2007



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

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 27898
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PERMIT 19100

LICENSE **13732**

THIS IS TO CERTIFY, That

Joseph G. Roche
27665 Arnold Drive
Sonoma, CA 95476

has made proof as of **June 17, 1999** (the date of inspection) to the satisfaction of the State Water Resources Control Board (State Water Board) of a right to the use of the waters of an **Unnamed Stream** in **Sonoma County**

tributary to **Tolay Creek** thence **San Pablo Bay**

for the purpose of **Irrigation, Stockwatering, Recreational, Wildlife Enhancement, and Fire Protection uses**

under Permit **19100** of the State Water Board; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the State Water Board, and the permit terms; that the priority of this right dates from **October 6, 1983**; and that 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 **forty (40) acre-feet per annum to be collected from October 1 of each year to March 31 of the succeeding year. The maximum withdrawal in any one year under this license shall not exceed 40 acre-feet.**

The maximum amount of water collected to storage under this license and the license issued pursuant to Application 29593 shall not exceed 49 acre-feet per year.

The capacity of the reservoir covered by this license and the license issued pursuant to Application 29593 shall not exceed 49 acre-feet.

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

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

By California Coordinate System of 1927, Zone 2, North 187,946 feet and East 1,868,484 feet, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M.

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

Recreational, Wildlife Enhancement and Fire Protection uses at reservoir within NW $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M, Stockwatering use at movable troughs within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M, and Irrigation as follows:

- 5 acres within NW $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M
- 1 acre within SW $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M
- 41 acres within SE $\frac{1}{4}$ of projected Section 19, T4N, R5W, MDB&M
- 1 acre within NE $\frac{1}{4}$ of projected Section 30, T4N, R5W, MDB&M
- 6 acres within SE $\frac{1}{4}$ of projected Section 13, T4N, R6W, MDB&M
- 12 acres within NW $\frac{1}{4}$ of projected Section 24, T4N, R6W, MDB&M
- 77 acres within NE $\frac{1}{4}$ of projected Section 24, T4N, R6W, MDB&M

143 acres total, as shown on map on file with the State Water Board.

Licensee 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 Chief of the Division of Water Rights, in order that water entering the reservoir which is not authorized for appropriation under this license may be released.

(0050043)

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 licensee 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.

(0380500)

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 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 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

**ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:**

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: JUL 11 2007

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

ORDER

APPLICATION 27898 PERMIT 19100 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 19100 was issued to Joseph G. Roche, on February 3, 1984, pursuant to Application 27898.
2. A petition for an extension of time to apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
3. The permittee has proceeded with diligence and good cause has been shown for said 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, 1994

(000009)

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.

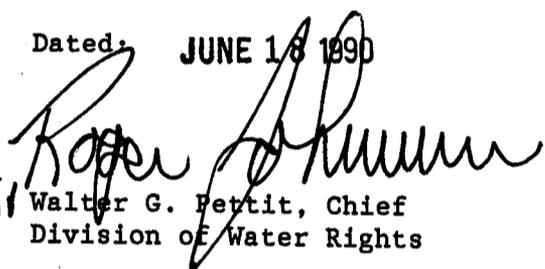
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required 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 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)

Dated: JUNE 18 1990


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 19100

Application 27898 of Joseph G. Roche
27665 Arnold Drive, Sonoma, California 95476

filed on October 6, 1983, 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: <u>Unnamed Stream</u> <hr/> <hr/> <hr/> <hr/>	Tributary to: <u>Tolay Creek thence</u> <hr/> <u>San Pablo Bay</u> <hr/> <hr/> <hr/>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Unnamed Reservoir</u> <u>South 1,800 feet and East 1,200 feet from NW corner of Projected Section 19</u>	<u>SW$\frac{1}{4}$ of NW$\frac{1}{4}$</u>	<u>19</u>	<u>4N</u>	<u>5W</u>	<u>MD</u>

County of Sonoma

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Irrigation</u>	<u>NW$\frac{1}{4}$ of SW$\frac{1}{4}$</u>	<u>19</u>	<u>4N</u>	<u>5W</u>	<u>MD</u>	<u>40</u>

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 40 acre-feet per annum to be collected from October 1 of each year to March 31 of the succeeding year.

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. (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, 1988. (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 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, 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) 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 takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (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 his 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 may be released. Before construction permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir permittee shall furnish evidence which substantiates that an outlet has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050044)

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: FEBRUARY 3 1984

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights