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

DIVISION OF WATER RIGHTS

In the Matter of Permit 19321 (Application 27663)

Peninsula Open Space Trust

ORDER REVOKING PERMIT

SOURCES: Two Unnamed Streams tributary to Butano Creek thence Pescadero Creek

COUNTY: San Mateo

WHEREAS:

1. Peninsula Open Space Trust is the sole owner of water right Permit 19321.

2. The original time to make full beneficial use of water under Permit 19321 elapsed on December 1, 1988.

3. A Petition for an Extension of Time was granted by Order dated January 16, 1990 extending the completion date to December 31, 1992.

4. A second Petition for an Extension of Time was granted by Order dated May 18, 1993 extending the completion date to December 31, 2003.

5. Peninsula Open Space Trust requested by letter received on December 29, 2008, that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), revoke Permit 19321.

6. Aerial photographs, file documents, and the Permittee's Agent confirm that the two reservoirs proposed under this permit, Reservoirs 5 and 6, have not been constructed.

7. By requesting voluntary revocation, the Permittee waived the right to the hearing and notice requirements set forth in Water Code sections 1410 and 1410.1.

THEREFORE:

It is ordered that Permit 19321 is hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JOHN O'HAGAN FOR:

Victoria A. Whitney, Chief
Division of Water Rights

Dated: FEB 04 2009

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 27663 PERMIT 19321 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 19321 was issued to Arroyo Ranch Company on September 25, 1984 pursuant to Application 27663.

2. Permit 19321 was subsequently assigned to Chase Trust Company of Arizona.

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 (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, 1997	(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, 2003	(0000009)

Dated: MAY 18 1993

for Edward C. Anton, Chief
Division of Water Rights

ORDER

(OVER)

APPLICATION 27663 PERMIT 19321 LICENSE

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
DELETION OF SOURCE AND ITS POINT OF DIVERSION
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 19321 was issued to Arroyo Ranch Company on September 25, 1984 pursuant to Application 27663.

2. Permit 19321 was subsequently assigned to City National Bank.

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 (Board).

4. Permittee, along with other Butano Creek diverters, have not installed measuring devices. On October 18, 1989, the Compliance Section informed permittee of permit condition violations. On December 2, 1989, permittee's agent made a written request for deletion of Butano Creek as a source for Permit 19321. Therefore, Butano Creek will be deleted as a source and permit conditions related to Butano Creek will be deleted under this order.

5. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

6. Permit Condition 12 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 1 of the permit be amended to read:

   Two Unnamed Streams tributary to Butano Creek thence Pescadero Creek thence Pacific Ocean. (0000001)

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

   a) Reservoir No. 5 - Storage, California Corrdinate System: Zone 3, North 272,500 and East 1,456,300, being within the NE¼ of SW¼ of projected Section 14, T8S, R5W, MDB&M.

   b) Reservoir No. 6 - Storage, California Corrdinate System: Zone 3, North 270,600 and East 1,457,500, being within the NW¼ of NE¼ of projected Section 23, T8S, R5W, MDB&M. (0000002)

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

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

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

   COMPLETE APPLICATION OF THE
   WATER TO THE PROPOSED USE

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)

6. Condition 14 of the permit, related to Butano Creek, is hereby deleted.

7. Condition 15 of the permit, related to Butano Creek, is hereby deleted.

8. Condition 16 of the permit, related to Butano Creek, is hereby deleted.

9. Condition 17 of the permit, related to Butano Creek, is hereby deleted.

Dated: JANUARY 16 1990

Roger Shumer

for Walter G. Pettit, Chief
Division of Water Rights

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19321

Application 27663 of Arroyo Ranch Company (owner)

500 Harbor Drive, Belmont, California 94002

filed on February 23, 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:	Tributary to:
~~Butano Creek~~ ORDER	Pescadero Creek thence
	Pacific Ocean
Two unnamed streams	Butano Creek

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town-ship	Range	Base and Meridan
See Addendum					

County of San Mateo

3. Purpose of use:	4. Place of use:	Section	Town-ship	Range	Base and Meridan	Acres
Stockwatering	Reservoir No. 5 In NE¼ of SW¼	14	8S	5W	MD	
	Reservoir No. 6 In NW¼ of NE¼	23	8S	5W	MD	
Irrigation		23	8S	5W	MD	250
		24	8S	5W	MD	

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town-ship	Range	Base and Meridan
~~Butano Creek Pump~~ Diversion to offsream storage in Reservoirs No. 5 and No. 6					
North 270,500 and East 1,457,900 California Coordinate System, Zone 3	NW¼ of NE¼	23	8S	5W	MD
Reservoir No. 5 -Storage					
North 272,500 and East 1,456,300 California Coordinate System, Zone 3	NE¼ of SW¼	14	8S	5W	MD
Reservoir No. 6 -Storage					
North 270,600 and East 1,457,500 California Coordinate System, Zone 3	NW¼ of NE¼	23	8S	5W	MD

follows: 15 acre-feet per annum in Reservoir No. 5, 10 acre-feet per annum in Reservoir No. 6. (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. (0000005)

The maximum rate of diversion to offstream storage shall not exceed 1 cubic foot per second. (0000005)

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

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 1, 1987. (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1988. (0000009)

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

11. 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)

12. 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)

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)

14. For the protection of fish and wildlife, permittee shall divert water under this permit from Butano Creek only when the flow below the Butano Creek pump (diversion point No. 1 in this permit) is at least 9.4 cubic feet per second plus and amount sufficient to satisfy downstream prior rights. (0140060)

15. In accordance with Section 1603 and/or Section 6100 of the Fish and Game Code, no water shall be diverted under this permit from Butano Creek 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 diversion. The construction, operation, or maintanance costs of any facility required pursuant to this provision shall be borne by the permittee. (0000063)

16. The State Water Resources Control Board reserves jurisdiction over this permit to change the fish bypass amounts to conform to the results of a comprehensive field-study to be completed by the Department of Fish and Game or the staff of the State Water Resources Control Board to determine minimum streamflows required to protect fishlife. Action to change the bypass amounts will be taken only after notice to interested parties and opportunity for hearing.

17. No water shall be diverted under this permit from Butano Creek until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required by the conditions of this permit. Said measuring device shall be properly maintained. However, a single measuring device, installed and maintained jointly by all water users in lower Butano Creek located at a position on the creek acceptable to the Department of Fish and Game and the Board may be substituted. (006G001)

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).

P19321

5/2/89 Asgd to City National Bank, Trustee for Roy E. Crummer & Hazel R. Crummer, Living Trust

1/23/91 assigned to Chase Trust Company of Arizona

3/19/1997 assigned to City National Bank

11/16/98 Asgd. to Peninsula Open Space Trust