STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 29351 Permit 20428 License _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 20428 was issued to Kreuse Creek Premium Vineyard on February 26, 1990, pursuant to Application 29351.

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 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, 2000	(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, 2005	(0000009)

Dated: SEPTEMBER 5 1995

Roger Johnson

for Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20428

Application 29351 of Kreuse Creek Premium Vineyard

P.O. Box 3989, Napa, CA 94558

filed on October 11, 1988, 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:
(1) Kreuse Creek	Tulucay Creek thence
	Napa River
(3) Unnamed Stream	Tulucay Creek thence
	Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town-ship	Range	Base and Meridan
ONSTREAM STORAGE & DIVERSION TO OFFSTREAM STORAGE (1) SOUTH 1,100 FEET AND WEST 1,700 FEET FROM NE CORNER OF PROJECTED SECTION 13	NW¼ OF NE¼	13	5N	4W	MD
DIVERSION TO OFFSTREAM STORAGE (3) SOUTH 100 FEET AND WEST 800 FEET FROM NE CORNER OF PROJECTED SECTION 13	NE¼ OF NE¼	13	5N	4W	MD
OFFSTREAM STORAGE AND POINT OF REDIVERSION (4) SOUTH 200 FEET AND WEST 1,320 FEET FROM NE CORNER OF PROJECTED SECTION 13	NW¼ OF NE¼	13	5N	4W	MD

County of Napa *projected

3. Purpose of use:	4. Place of use:	Section *	Town-Ship	Range	Base and Meridan	Acre
RECREATIONAL	AT 2 RESERVOIRS WITHIN NW¼ OF NE¼	13	5N	4W	MD	
IRRIGATION AND FROST PROTECTION	NE¼ OF NE¼	13	5N	4W	MD	23
	SE¼ OF NE¼	13	5N	4W	MD	14
	SW¼ OF NE¼	13	5N	4W	MD	12
	NW¼ OF NE¼	13	5N	4W	MD	26
					TOTAL	75 ACRES

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 a total of 70 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year as follows: 35 acre-feet per annum in #1 reservoir, and 35 acre- feet per annum in #4 reservoir. (0000005)

The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second. (000005J)

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 31, 1993. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1994. (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 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)

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. (0000013)

Application 29351 Permit 20428

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this 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. (0000020)

15. 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 in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. Before starting 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 pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

16. Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure water diverted into the reservoir from Kreuse Creek and Unnamed Stream, and water released from or flowing out of the reservoir. (0060046)

17. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

18. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

19. For the protection of wildlife, permittee shall consult with the Department of Fish and Game and develop a mutually agreeable written plan for restoring and enhancing natural wildlife habitat in the vicinity of the water storage facilities. Permittee shall submit a copy of the written plan to the State Water Resources Control Board within six months after constructing the storage facility on Kreuse Creek and thereafter implement the plan as soon as reasonably possible. (0490500)

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 2 6 1990

STATE WATER RESOURCES CONTROL BOARD

Roger Ramirez

for Chief, Division of Water Rights