STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 29682 Permit 20581 License _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 20581 was issued to E & J Gallo Winery on January 24, 1992 pursuant to Application 29682.

2. Permit 20581 was subsequently assigned to Gallo Vineyards, Inc.

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.

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 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: JANUARY 24 1997

David R Berringer
for Edward C. Anton, Chief
Division of Water Rights

3/11/94 Not. of asgd: App#29682 Per#20581
Gallo Vineyards, Inc

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20581

Application 29682 of E. & J. Gallo Winery

P.O. Box 1130, Modesto, CA 95353

filed on March 7, 1990, 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) Unnamed Stream	Barrelli Creek thence
	Russian River
(2) Unnamed Stream	Russian River thence
	Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town-ship	Range	Base and Meridian
(1) A-1 DAM NORTH 399,150 FEET AND EAST 1,717,200 FEET	SE¼ OF NE¼	32	11N	10W	MD
(2) A-4 DAM NORTH 395,300 FEET AND EAST 1,722,700 FEET	NW¼ OF NE¼	4	10N	10W	MD
BOTH BY CALIFORNIA COORDINATE SYSTEM, ZONE 2					

County of Sonoma

* Projected

3. Purpose of use:	4. Place of use:	Section *	Town-ship	Range	Base and Meridian	Acre
IRRIGATION	A NET AREA OF 667 ACRES WITHIN A GROSS AREA OF 800 ACRES	3	10N	10W	MD	72
		4	10N	10W	MD	155
		32	11N	10W	MD	130
		33	11N	10W	MD	310
					NET TOTAL	667

The place of use is shown on map on file with the State Water Resources Control Board.

WRCB 14 (6-90)

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 200 acre-feet per annum to be collected from October 15 of each year to May 15 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. 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, 1994. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1995. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a 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)

14. Permittee shall comply with the following provisions which are derived from the agreement between permittee and the Department of fish and Game executed on January 31, 1990 and filed with the State Water Resources Control Board:

Protection and restoration of vegetation and riparian habitat.

Inclusion in this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

15. Permittee shall comply with the following provisions which are derived from the agreement between permittee and Wine World Estates Company executed on March 15, 1991 and filed with the State Water Resources Control Board:

Comply with the operating criteria and schedules set forth in the agreement.

Inclusion in this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

16. This permit is specifically subject to the prior rights of Stuhlmuller Vineyards under appropriations issued pursuant to Applications 25344 and 29547. (000T001)

17. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

18. Permittee shall install and properly maintain in each reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow Wine World Estates Company and all successors in interest, or a designated representative, reasonable access to each reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)
(0100047)

19. If the storage dams are of such size as to be within the jurisdiction of the Department of Water Resources as to safety, storage of water under this permit shall not be commenced until the Department has approved the plans and specifications for the dams. (0360048)

20. 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)

21. Whenever the prior storage rights of Wine World Estates Company (under Permit 20485 and 20486 issued pursuant to Application 29419 and 29437) are not satisfied by February 28 or refilled by June 30 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir(s) below the previous October 1 staff gage reading unless permittee has withdrawn water from the reservoir(s) for consumptive purposes since October 1. (0000051)

22. Permittee shall keep records necessary to quantify the amount of water diverted and used under this permit. The storage right is based on the maximum amount of water collected to storage and withdrawn from storage in any one year. The following information shall be noted for each reservoir:

a. Record date ;and low water level prior to filling the reservoir,
b. Record date and high water level after filling the reservoir. If at spillway level, so indicate; and
c. Record date and low water level upon completion of withdrawal.

A summary of all these measurements shall be submitted to the State Board each year with the annual progress report. The measurements kept by the permittee shall be furnished to the State Board staff as and when required. (0090300)

23. For the protection of fish and wildlife, the permittee shall locate the dam on an unnamed stream tributary to Barrelli Creek so as to dam only the north or west forks of the unnamed stream and not dam the south or east forks of Barrelli Creek. All flow in the south or east forks of the creek shall be allowed to flow umimpeded in its natural channel. (0400900)

24. All native riparian vegetation in and along Barrelli Creek shall be preserved as habitat for wildlife. Where riparian vegetation has been removed, or is absent from Barrelli creek through the Gallo property, it shall be restored through the planting of native riparian tree and shrub species. Vineyards adjacent to the creek shall be designed and managed to avoid any encroachment, including tree or understory removal, on the riparian vegetation. A riparian preservation and restoration plan shall be prepared subject to review and approval by the Department of Fish and Game (DFG). (0390300)

25. To the maximum extent possible, existing trees shall be preserved around both the new reservoir on an unnamed stream tributary to Barrelli Creek and the enlarged reservoir on the unnamed stream tributary to the Russian River. Oak trees that would be inundated within the pool of either reservoir, except those in the immediate area of the dam, shall be left standing to provide snags for wildlife habitat. The perimeter of the reservoirs shall be planted with native tree and shrub species where natural vegetation has been removed or is absent. A preservation and restoration plan shall be prepared subject to review and approval by the DFG. (0390300)

26. Endangered plant species have been identified within the area of the project. A floristic survey shall be conducted by a qualified botanist to determine whether any endangered plants are on the Gallo property and whether they would be affected by the project. If any rare or endangered plants are found on the property, a plan must be prepared, with modification of the project if necessary, to ensure the preservation of these plants. This plan shall be subject to review and approval by the DFG. (0600300)
(0390300)

27. Prior to start of construction, Gallo shall submit for State Water Resources Control Board (State Board), Division of Water Rights approval on erosion and sediment control plan showing the proposed methods for minimizing water quality degradation during construction. The following measures are to be included in the plan at a minimum:

a. All disturbed areas will be covered with protective material such as mulch or reseeded with adaptive native plant species.

b. Strict onsite handling of construction and maintenance materials such as sanitary wastes and petroleum products will be enforced to avoid release.

c. Surface disturbance of soil and vegetation will be minimized as much as possible.

d. All graded areas and soil piles will be mounded to minimize erosion potential.

e. Grading will be conducted to ensure that rocks, boulders, and other soil material are not disposed of in any drainage ways.

f. Drainage outfalls, if required, will be designed and positioned so as to avoid erosion. Energy dissipaters will be installed where necessary. (04900500)

28. All construction operations shall be conducted so as to avoid stream sedimentation in accordance with the requirements of the State Board, Division of Water Rights, and DFG. (0400300)

29.The surface of all waste areas, including excess excavated materials and borrow excavation areas, will be seeded with native seed species for slope protection and to prevent erosion. (0400500)

30. No brush, roots, sod, or other comparable debris will be placed in drainage ways. Any debris inadvertently placed in drainage ways or accidentally side cast into drainage ways will be removed by hand. (0400500)

31. Preservation: Prior to start of construction, prepare an oak and riparian preservation plan. The preservation plan will be prepared by a qualified biologist or restoration specialist and will be subject to review and approval by the State Board, Division of Water Rights, and DFG. The preservation plan will require the following at a minimum:

A. Construction only within the minimum width of construction right-of-way.

B. Protection of vegetation not proposed for removal from inadvertent harm or mortality during the construction phase of the project.

The preservation plan will include the following guidelines to ensure that oak and riparian vegetation to be preserved would not suffer inadvertent damage during construction of the reservoirs and would be protected to the maximum extent feasible.

a. Before beginning any work on clearing the site, all oak and riparian plants to be preserved will be flagged.

b. No signs, ropes, cables, or other items will be attached to riparian and oak vegetation.

c. No equipment, construction trailers, or storage will be allowed in the dripline (dripline = tree canopy diameter) of any oak or riparian tree to be preserved.

d. No removal or disturbance of any of the soil surface will be allowed within the driplines of trees to be preserved.

e. No fill will be allowed within the driplines of trees to be preserved.

f. If accidental soil compaction occurs within the dripline of a tree to be preserved, measures to restore soil condition, including aeration and increasing permeability, will have to be done. (0390300) (0490500)

32. Restoration: Prior to start of construction, prepare an oak and riparian restoration plan. The restoration plan will be prepared by a qualified biologist or restoration specialist and will be subject to review and approval by the State Board, Division of Water Rights, and DFG. The restoration plan will require the following at a minimum:

a. A design that provides for retention of the continuity of the created habitat with adjacent communities in the project area;

b. The replacement of native vegetation at a minimum ratio of 2:1. For each native tree or shrub removed, plant a minimum of two as requested by DFG to fully mitigate for the resources eliminated by the project.

c. Specifications of native plant species to be planted, planting density, and cultivation practices to ensure survival and growth of species.

d. A monitoring plan that specifies monitoring frequency, success criteria, and remedial measures that will be enacted if criteria are not met. The monitoring effort will continue for 5 years following mitigation implementation. Gallo will fund the expense of the monitoring plan.

The restoration plan will comply with the following guidelines to ensure that, over the long term, the replaced oak habitat fully compensates for the habitat eliminated by the project. These replacement guidelines focus on the dominant canopy cover species for each habitat type to ensure that the habitats are quickly established. The understory and less dominant plant species, and wildlife using these habitat types, are likely to colonize the mitigation areas through natural colonization after the dominant species are established and grow to sufficient size.

For establishment to be considered successful, each plant must be self-sustaining for at least 5 years. If mortality causes the number of replacement plants to decline below the mitigation ratio, new plants will be planted until the minimum 2:1 ratio is obtained. All planting, maintenance, and monitoring of the plants will be supervised by a qualified biologist or restoration specialist familiar with propagating native oak and riparian vegetation and assessing their health and development, in accordance with the mitigation design and monitoring and reporting plan. Monitoring results stating the success of the restoration plan will be submitted annually to the State Board, Division of Water Rights. (0490500)

33. Oak Habitat:

a. Acorns will be collected from local trees and planted after they have rooted during the planting period of November through February. Rooted acorns will be used instead of container-grown oaks because rooted acorns are less likely to be planted with kinked root systems and are, therefore, able to quickly establish deep taproot systems and become self-sustaining.

b. All oak plantings sites will be augered as needed to promote deep root growth. Slow-release fertilizer will be added, if needed, and the holes will be back-filled and planted.

c. Seedlings will be irrigated during the growing season with a drip irrigation system. The irrigation system will apply at a minimum, the amount and frequency of water needed to promote adequate root growth, thus allowing the trees to survive and grow without supplemental water after 3 years.

d. Herbicides, weeds mats, browse repellents, and herbivore protection kits will be used, if necessary, to control competitive weeds, animal browse, or to maintain plant vigor.

34. Riparian Habitat:

a. Cuttings will be collected from local native trees during the winter dormant season and soaked in water within 48 hours or moved to cold storage.

b. Before planting, cuttings should be soaked in water (approximately 10 days) to promote swelling and rooting.

c. Cuttings will be planted in irregular spacings.

d. Herbicides, weeds mats, browse repellents, and herbivore protection kits will be used, if necessary, to control competitive weeds, animal browse, or to maintain plant vigor. (0400500)

35. Raptor Nest Survey: If construction does not occur until 1992, the entire area to be disturbed by construction activities will be surveyed by a qualified biologist for potential raptor nests. The preconstruction survey should be conducted between April and June. Consultation with DFG is required before any active nests are removed. (0400500)

36. Cultural Resources: If artifacts or stone, bone, or shell are uncovered during construction activities, all ground disturbance within 100 feet of the find will stop. No work will occur within this area until the State Board, Division of Water Rights, and a qualified archeologist evaluate the find. If bone is found and it appears to be human, Gallo will notify the Sonoma County coroner and the Native American Heritage Commission. (0390500)

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: JANUARY 24 1992

STATE WATER RESOURCES CONTROL BOARD

Roger Ramirez
for Chief, Division of Water Rights

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