

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 20699 (Application 30132)
Deridere Aper Vinea, L.P. c/o Seaver T. Page

**ORDER APPROVING CHANGE IN PLACE OF
USE AND EXTENSION OF TIME
AND AMENDING THE PERMIT**

SOURCE: Unnamed stream tributary to Russian River
COUNTY: Sonoma

WHEREAS:

1. Permit 20699 was issued to Seaver T. Page on January 12, 1994, pursuant to Application 30132.
2. A petition for change in place of use and a petition for extension of time were filed with the State Water Resources Control Board (State Water Board) on July 21, 2009.
3. Approval of the petition for change and petition for extension of time will not result in any physical changes to the environment relative to the California Environmental Quality Act (CEQA) baseline conditions because all project features associated with the petitions existed in their current configuration prior to the date the Division began its environmental review under CEQA. Thus, the petition for change and petition for extension of time are categorically exempt under CEQA in accordance with Title 14, California Code of Regulation, section 15301.
4. In addition to any obligation the State Water Board may have under CEQA, the Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. Division staff completed an evaluation of impacts to public trust resources for Permit 21219 (Application 30815) which authorized use of water on the same place of use requested by the petition. Per the evaluation, dated March 14, 2008, Division staff concluded that approval of Permit 21219 would not result in impacts to anadromous fish or aquatic resources. The proposed changes do not request a change in the amount or timing of the permitted diversion, and therefore do not have the potential to impair instream beneficial uses.
5. The State Water Board has determined that the petition for change and the petition for extension of time do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The State Water Board has also determined that good cause for such change has been shown.
6. The State Water Board does not ordinarily require that notice be given or published in cases where the proposed change do not have the potential to impair the water supply of other legal users of water or instream beneficial uses, except that in all cases the petitioner shall notify the Department of Fish and Game in writing of the proposed change.

7. The State Water Board has determined the permit shall be amended to include the following changes:

- The Place of Use shall be updated as follows:

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

10 acres within SW¼ of SE¼ of projected Section 5, T9N, R8W, MDB&M
9 acres within SE¼ of SE¼ of projected Section 5, T9N, R8W, MDB&M
4 acres within NW¼ of NE¼ of projected Section 5, T9N, R8W, MDB&M
6 acres within NE¼ of NE¼ of projected Section 5, T9N, R8W, MDB&M

29 acres total.

- The permit development period shall be updated as follows:

Complete application of the water to the authorized use shall be made by December 31, 2001.

8. Division staff recommends that a staff gage be installed for the purpose of determining water levels in the reservoir at the end of each month to ensure that water is not diverted in excess of the amount allotted in the permit. Permittee shall maintain monthly records of water withdrawal from storage and use. Permittee shall submit the monthly records with the annual Report of Permittee, or whenever requested by the Deputy Director for Water Rights.
9. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition will be placed in the permit making the permittee aware of possible obligations resulting from these acts.
10. The State Water Board currently places standard terms in all new permits and licenses and, when acting on petitions, adds these standard terms to existing permits and licenses.
11. The State Water Board will file a Notice of Exemption for this project with the Governor's Office of Planning and Research after issuance of this order, in accordance with the California Code of Regulations, title 14, section 15062.
12. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Deputy Director to administer the duties required under the California Environmental Quality Act (CEQA). (Resolution No. 2007-0057, section 4.10.) Resolution No. 2007-0057 authorizes the Deputy Director to redelegate this authority to the Assistant Deputy Director for Water Rights. This authority has been so redelegated.

THEREFORE, IT IS ORDERED:

The attached Amended Permit 20699 is issued, superseding former Permit 20699 issued on January 12, 1994. The priority of Amended Permit 20699 is May 21, 1992.

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Barbara Evoy, Deputy Director
Division of Water Rights

Dated: **AUG 11 2011**

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20699

Application 30132 of

Deridere Aper Vinea, L.P.
c/o Seaver T. Page
5577 Maacama Ridge Road
Healdsburg, CA 95448

filed on **May 21, 1992**, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Unnamed Stream

Tributary to:

Russian River

within the County of Sonoma

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 1,999,293 feet and East 6,343,557 feet	SE ¼ of SE ¼	5*	9N	8W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	SW ¼ of SE ¼	5	9N	8W	MD	10
	SE ¼ of SE ¼	5	9N	8W	MD	9
	NW ¼ of NE ¼	8	9N	8W	MD	4
	NE ¼ of NE ¼	8	9N	8W	MD	6
					Total	29

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 **15** acre-feet per annum to be collected from **December 15** of each year to **April 30** of the succeeding year. (0000005C)
6. 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. (0000005I)
7. The capacity of the reservoir covered under this permit shall not exceed 15 acre-feet. (0000005N)
8. Construction work shall begin within two years of the original issue date of this permit (January 12, 1994) and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
9. Construction work shall be completed by December 31, 2001. (0000008)
10. Complete application of the water to the authorized use shall be made by December 31, 2001. (0000009)
11. Before storing water after April 30, 2011, in the reservoir, Permittee shall install a staff gage in the reservoir, satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in the reservoir. This staff gage must be maintained in operating condition as long as water is being diverted or used under this permit.

Permittee shall record the staff gage readings on the last day of each month and on December 15 annually. Permittee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

The State Water Resources Control Board may require the release of water that cannot be verified as having been collected under a valid basis of right. (0070500)
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. Before starting construction, Permittee shall submit plans and specifications of the outlet pipe to the Deputy Director for Water Rights for approval. Before storing water in the reservoir, Permittee shall furnish evidence which substantiates that the outlet pipe, or alternative facility, has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043B)
13. Permittee shall ensure that all underground outlet pipes are maintained for optimal efficiency, including the use of inlet screens, protected outlets, and rock slope protection.

Permittee shall plant the entire vineyard and surroundings to a cover crop. The crop shall be replanted each year, as needed, to insure a sufficient soil conservation effect. The seed shall be a Zorro crop with a composition as follows:

Lbs. per acre:	Annual Ryegrass	30
	Blando Brome	10
	Zorro Fescue	8
	Rose Clover	5
	Crimson Clover	5
	Mustard	10

All efforts shall be used to maximize all the cover crops and use a minimum of herbicide along the planted vine rows.

A cover of straw mulch shall be used in steep areas to protect the soil and seed. This treatment shall continue each year until the permanent cover crop is completely established or is no longer required. Where necessary, jute mesh shall be used.

Water exit sites for runoff shall be protected by silt traps. This shall be accomplished by using rock, hay bale, or filter fabric silt fences and the planting of permanent native cover plants.

(0400505)

14. During reservoir construction, removal of trees and other vegetation shall be minimized or reduced to the greatest possible extent in an effort to retain a maximum amount of shoreline and natural adjoining habitat. Removal shall be kept to that absolutely necessary to complete the project.
(0400506)
15. The water storage reservoir shall be isolated from conflicting activities and allowed to regenerate to a natural area.
 - a) Any fencing installed around those portions of the property designated as the place of use under this permit that have been or will be converted to vineyard shall be satisfactory to the California Department of Fish and Game. In order to maximize available wildlife habitat, Permittee shall not fence non-vineyard areas.
 - b) Livestock grazing shall be restricted from the natural area.
(0400507)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by Permittee when requested by the State Water Resources Control Board until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said State Water Resources Control Board, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)

- D. 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 State Water Resources Control 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 State Water Resources Control 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 Resources Control 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 State Water Resources Control 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)

- E. 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 State Water Resources Control 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 Resources Control 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)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a Lake and Streambed Alteration Agreement between the California Department of Fish and Game and the Permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a Lake and Streambed Alteration Agreement is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the California Department of Fish and Game.

(0000063)

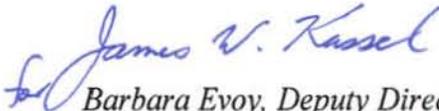
This permit is issued and Permittee takes it subject to the following provisions of the Water Code:

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 therefore 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).

STATE WATER RESOURCES CONTROL BOARD


Barbara Evoy, Deputy Director
Division of Water Rights

Dated: AUG 11 2011