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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20858

Application 29825A of Leighton R. Taylor and Linda P. Taylor,

1677 Sage Canyon Road, St. Helena, CA 94574

filed on September 18, 1990, 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:	Tributary to:
Unnamed Stream	Lake Hennessey thence
	Conn Creek thence
	Napa River thence
	San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 400 feet and East 1,200 feet from SW corner of Section 8	SW¼ of SW¼	8	7N	4W	MD

County of Napa

SWRCB 14 (6-94)

Application 29825A Permit 20858

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Recreational	Reservoir #1 in SW¼ of SW¼	8	7N	4W	MD	
Heat Control						
Frost Protection						
Irrigation	SE¼ of SW¼	8	7N	4W	MD	1
	SW¼ of SW¼	8	7N	4W	MD	20
	NW¼ of NW¼	17	7N	4W	MD	23
	NE¼ of NW¼	17	7N	4W	MD	1
					TOTAL	45

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 15 acre-feet per annum to be collected from November 1 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 be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

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

10. 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)

11. 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)

12. 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)

13. 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)

14. 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 can 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 the 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)

15. 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 November 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 November 1 of each year.

Permittee shall allow a designated representative of the City of Napa, Richard and Lynda Martin, and all successors in interest, reasonable access to each reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)
(0100047)

16. Whenever the prior storage rights of the City of Napa (under Permit 6960 issued pursuant to Application 10990)are not satisfied by May 31 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 November 1 staff gage reading unless permittee has withdrawn water from the reservoir(s) for consumptive purposes since November 1. (0000051)

17. Permittee or Licensee shall not impact or destroy populations of the sensitive plant species Hesperolinum serpentinum (Western Napa Dwarf Flax) within the designated "conservation areas" identified in the "Botanical Survey Report of the Taylor and Martin Properties" by Jake Rugyt and as shown ont he "Map Showing Conservation Areas for Application 29820, 29825A, and 29825B" dated August 1995, both of which are on file with the State Water Resources Control Board. If the Western Napa Dwarf Flax is placed on the California Native Plant Society List 4, or a functional equivalent, then the permittee or Licensee shall not be required to comply with the requirements of this condition. (0400500)

18. If at any time under this Permit or subsequent License, the Western Napa Dwarf Flax is formally listed under either the State or Federal Endangered Species Acts, then the Permittee or Licensee shall grant in perpetuity a conservation easement to a responsible resource agency or other responsible organization to those lands specified as "conservation areas" on the referenced map. Prior to recordation, said easement shall be submitted to the Chief, Division of Water Rights, for review and approval.

Said easement shall:

1. Donate an exclusive easement to the designated resource agency for the sole purpose of preserving in natural condition critical habitat for the plant species Hesperolinum serpentinum.

2. Grantee, and all persons having access to the property with grantees permission shall refrain from activities which would alter the natural condition of the land or critical habitat.

3. Be signed by the Permittee or Licensee and recorded with the County of Napa such that it runs with the land in favor of the easement holder.

4. Deny general public access.

5. Allow pre-arranged access to the easement holder, or their designated representative, for the purpose of monitoring current population status.

If a petition to list the Western Napa Dwarf Flax under either the State or Federal Endangered Species Acts has been denied, then the Permittee or Licensee shall not be required to donate the conservation easement. (0400500)

19. If any archeological remains are discovered within the place of use designated in this permit during project activities, such activities shall cease within one hundred feet of the discovery and the Division of Water Rights shall be notified immediately. After evaluation by a professional archeologist, the Division of Water Rights shall determine if the project may proceed, or if a program of mitigation (i.e. site avoidance or data recovery) shall be required. (0380500)

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: July 15, 1996

STATE WATER RESOURCES CONTROL BOARD

Roger Ramirez

for Chief, Division of Water Rights