

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Frost Protection						
Irrigation	NW¼ of SW¼	24	5N	5W	MD	20
	NE¼ of SW¼	24	5N	5W	MD	10
	SW¼ of SW¼	24	5N	5W	MD	25
	SE¼ of SW¼	24	5N	5W	MD	30
	NW¼ of NW¼	25	5N	5W	MD	20
	NE¼ of NW¼	25	5N	5W	MD	7
	NE¼ of NE¼	26	5N	5W	MD	20
	NE¼ of SE¼	23	5N	5W	MD	13
	SE¼ of SE¼	23	5N	5W	MD	15
					TOTAL	160

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 80 acre-feet per annum to be collected from November 15 of each year to April 30 of the succeeding year as follows:
 49 acre-feet per annum in Eastside Reservoir, and 31 acre-feet per annum in Westside Reservoir. (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)

The maximum rate of diversion to offstream storage shall not exceed 1.5 cubic feet per second at Point of Diversion No. 1 and Point of Diversion No. 2, the total combined rate shall not exceed 3 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 be prosecuted with reasonable diligence and shall be completed by December 31, 2002. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2006. (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. During the season specified in this permit, the total quantity and rate of water diverted, stored, and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion, storage, and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion, storage, and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

15. This permit shall not be construed as conferring upon permittee right of access to the point of diversion. (0000022)

16. 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, or provide other means satisfactory to the State Water Resources Control Board, 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 or alternative facilities 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 or alternative facilities have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

17. In accordance with Section 1601, 1603, and Section 6100 of the Fish and Game Code, no modification of any stream channel shall be commenced until permittee has entered into a stream alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the modification plans. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

18. This permit is specifically subject to the prior right of Beckstoffer Vineyard V under appropriation issued pursuant to Application 25630. (000T001)

19. Should Beckstoffer Vineyard V be unable to pump from Huichica Creek pursuant to Application 25630 because of insufficient flow, permittee shall, upon demand by Beckstoffer Vineyard V, cease diversion until such time as flows are sufficient for both diverters or the storage rights of Beckstoffer Vineyard V, pursuant to Application 25630 have been fulfilled. (0160800)

20. To minimize potential for erosion and resulting impacts on downstream fish and wildlife habitat, permittee shall, prior to any grading, obtain the required Napa County grading permit. Prior to any grading on slopes greater than 5 percent, permittee shall submit to the Chief of the Division of Water Rights, an Erosion Control Plan approved by the County of Napa. (0400500)

21. For the protection of California freshwater shrimp, all diversions from Points of Diversion No. 1, No. 2, No. 3, and No. 4 shall cease no later than April 30 and shall commence no earlier than November 15 of each year. Permittee shall not divert water under any claim of right from Points of Diversion No. 1, No. 2, No. 3, and No. 4 during the period of May 1 through November 14 of each year. (0400500)

22. For the protection of fish and wildlife in Huichica Creek, diversion under this permit from Points of Diversion No. 1, No. 2, No. 3, and No. 4 shall be subject to maintenance of the following minimum flows in Huichica Creek:

- (a) from November 15 through November 30, 2 cubic feet per second;
- (b) from December 1 through February 29, 10 cubic feet per second; and
- (c) from March 1 through April 30, 2 cubic feet per second.

No diversion from Points of Diversion No. 1, No. 2, No. 3, or No. 4 shall take place under this permit if the flow in Huichica Creek is, or would be reduced by such diversion, below the designated rates. To ensure compliance with this condition, by June 1 of each year permittee shall file a report with the Chief, Division of Water Rights containing the following information:

- a) dates during the previous period of November 15 through April 30 when water was diverted at Points of Diversion No. 1, No. 2, No. 3, and No. 4; and
- b) flows measured in Huichica Creek under this permit during the same dates when water diverted at Points of Diversion No. 1, No. 2, No. 3, and No. 4 (0140060)
(0400500)

23. No water shall be diverted under this permit from Points of Diversion No. 1, No. 2, No. 3, or No. 4 until a device has been installed in Huichica Creek, satisfactory to the State Water Resources Control Board, which is capable of measuring the minimum flows specified in this permit. Said measuring device shall be properly maintained. (0400500)

24. To prevent the "take" of California freshwater shrimp, Permittee shall install and maintain screening devices, satisfactory to the California Department of Fish and Game, to screen the intake facilities at Points of Diversion No. 1 and No. 2. Said intake structures shall not promote bank erosion and must be installed at an elevation above the streambed where no water pumping would be possible during normal low spring or winter outflows. No shrimp may be taken for any reason including impingement against the intake screens. Final site-specific water diversion structure size, and construction, installation, and operating specifications shall be submitted for review and approval to the U.S. Fish and Wildlife Service and the California Department of Fish and Game before construction work begins. (0400500)

25. For the purpose of determining quantity of water diverted and used from the Unnamed Streams tributary to Huichica Creek and from Huichica Creek under this permit, Permittee shall install and maintain:

- a) a device capable of measuring the instantaneous rate of diversion to offstream storage from Point of Diversion No. 1;
- b) a device capable of measuring the instantaneous rate of diversion to offstream storage from Point of Diversion No. 2;
- c) a totalling meter capable of measuring and recording the cumulative redirection from storage to beneficial use;
- d) a staff gage in Reservoir No. 1; and
- e) a staff gage in Reservoir No. 2.

All gages and measuring devices shall be satisfactory to the State Water Resources Control Board.

Permittee shall record the staff gage readings on or about October 1 of each year. Readings from the measuring devices and totalling meter shall be recorded as often as necessary to determine the maximum instantaneous rate of diversion to offstream storage, the cumulative quantity of diversion to storage, and the amount of redirection to use. A summary of measuring device readings and quantities diverted shall be maintained by permittee and made available to interested parties upon reasonable request and shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by the permittee. (0070047)
(0100047)
(0400500)

26. For the protection of riparian habitat, for stream bank stabilization, and to prevent impacts to water quality, permittee shall establish a minimum setback of 30 feet, measured from the top of each bank of Huichica Creek, and around the perimeter of Reservoirs No. 1 (Eastside Reservoir) and No. 2 (Westside Reservoir), as measured from the high water mark. (0400500)

27. For the protection of fish and wildlife and to control excessive erosion, a minimum of one tree and two shrubs shall be planted for every 15 feet of shoreline around Eastside Reservoir and Westside Reservoir, as measured at the high water mark. Such trees and shrubs must be consistent with those found within the area and shall be approved by the California Department of Fish and Game prior to furnishing and planting by Permittee. Trees and shrubs shall be of at least five gallon size and one gallon size respectively, and shall be planted within 100 yards of the shoreline. Woody vegetation shall be planted around the reservoir rims excluding areas of compacted dam surface, trees may be planted in groves to maximize wildlife benefits. Planting shall take place within one year after completing construction of the dams at Points of Diversion No. 3 and No. 4, and shall be maintained such that 75 percent of the trees have survived after 3 years. Vegetation buffer shall be maintained throughout the life of the project.

After completion of the tree planting program, photo documentation showing the trees and the reservoir shall be submitted to the Chief of the Division of Water Rights. (0400500)

28. Prior to construction of Eastside and Westside Reservoirs, permittee shall consult with the appropriate Regional Water Quality Control Board. If required by the Regional Board, permittee shall comply with requirements of the NPDES Storm Water Discharge Permitting Program. (0290800)

29. Permittee shall cooperate with the Napa County Resource Conversation District (NCRCD) in carrying out the Natural Resource Protection and Enhancement Plan for the Huichica Creek Watershed in accordance with NCRCD's May, 1993 document entitled: Huichica Creek Watershed: Natural Resource Protection and Enhancement Plan, or any appropriate amendments thereto. A copy of this document is on file with the State Water Resources Control Board. (0400500)

30. The archaeological sites identified as CA-Nap-189, CA-Nap-190, and CA-Nap-795, shall not be subject to any subsurface impacts other than those currently required for vineyard maintenance. The pipelines proposed from the direct diversions on Huichica Creek and the Unnamed Stream tributary to Huichica Creek shall be designed so that they do not impact any of the identified cultural resources. Future developments at these cultural resources (other than the aforementioned use as vineyards) may be allowed following the completion of a cultural resource testing and/or mitigation investigation approved by the Chief of the Division of Water Rights, State Water Resources Control Board. If any unrecorded cultural resources are discovered during future project activities, those activities shall cease within 100 feet of the discovery until the significance of the find can be evaluated by a professional archeologist and mitigation measures deemed necessary by the Chief of the Division of Water Rights, State Water Resources Control Board, are installed.
(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).

January 24, 1997

Dated:

STATE WATER RESOURCES CONTROL BOARD

Roger Phuen
101 Chief, Division of Water Rights