

(7) North 208,100 feet and East 1,897,300 feet	SW ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD
OFFSTREAM STORAGE Dutra No. 6 Reservoir	SW ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD

County of Sonoma (Point of Diversion #1)
Napa (Point of Diversion #4, 6 & 7)

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation	SW ¹ / ₄ of NW ¹ / ₄	25	5N	5W	MD	5
	SE ¹ / ₄ of NW ¹ / ₄	25	5N	5W	MD	8
	SW ¹ / ₄ of NE ¹ / ₄	25	5N	5W	MD	4
	NW ¹ / ₄ of SW ¹ / ₄	25	5N	5W	MD	36
	NE ¹ / ₄ of SW ¹ / ₄	25	5N	5W	MD	40
	NW ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD	25
	NE ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD	4
	SW ¹ / ₄ of SW ¹ / ₄	25	5N	5W	MD	39
	SE ¹ / ₄ of SW ¹ / ₄	25	5N	5W	MD	36
	SW ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD	31
	SE ¹ / ₄ of SE ¹ / ₄	25	5N	5W	MD	28
	NW ¹ / ₄ of NW ¹ / ₄	36	5N	5W	MD	35
	NE ¹ / ₄ of NW ¹ / ₄	36	5N	5W	MD	35
	NW ¹ / ₄ of NE ¹ / ₄	36	5N	5W	MD	35
	NE ¹ / ₄ of NE ¹ / ₄	36	5N	5W	MD	36
	SW ¹ / ₄ of NW ¹ / ₄	36	5N	5W	MD	12
	SE ¹ / ₄ of NW ¹ / ₄	36	5N	5W	MD	11
	SW ¹ / ₄ of NE ¹ / ₄	36	5N	5W	MD	13
	SE ¹ / ₄ of NE ¹ / ₄	36	5N	5W	MD	12
					TOTAL	445

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 49 acre-feet per annum in Dutra No. 1 Reservoir, 41 acre-feet per annum in Dutra No. 4 Reservoir, and 60 acre-feet per annum in Dutra No. 6 Reservoir, to be collected from October 15 of each year to May 15 of the succeeding year at Point of Diversion No. 1 and from November 15 of each year to April 30 of the succeeding year at Points of Diversion No. 4, No. 6, and No. 7. The maximum amount diverted under this permit shall not exceed 150 acre-feet per annum. (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 Diversion No. 6 and Diversion No. 7, the total combined rate from Huichica Creek 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. Permittee shall comply with the following provisions which are derived from the agreement between Fred and Mary Heller executed on April 27, 1995 and filed with the State Water Resources Control Board:

- 1) Permittee shall install facilities capable of bypassing the first 10 cubic feet per second (cfs) of natural runoff past the Mondavi Vineyards dam (Dutra No. 4) into the drop inlet/outlet structure which serves Heller's Reservoir. Permittee shall operate those facilities each diversion/storage season, in such a manner that the first runoff, up to 10 cfs, will be bypassed into the Heller Reservoir until the storage rights pursuant to License 12577 have been satisfied.

Before starting construction, permittee shall submit plans and specifications, and obtain written approval of the Chief of the Division of Water Rights for the following: 1) diversion facilities on the main tributary to Huichica Creek flowing into Mondavi's proposed reservoir, 2) a bypass conduit designed to convey 10 cfs directly from the diversion facility into Heller's existing drop inlet/outlet structure, 3) a written plan of operation for collection of surface runoff originating in the tributary entering Mondavi's proposed reservoir from the west and diversion of those flows into Heller's drop inlet/outlet structure, and 4) an overall written plan of operation.

- 2) Permittee shall operate, and maintain in good condition, bypass and appurtenant facilities in a way that allows the free flow of the first 10 cfs of natural runoff above Mondavi's proposed reservoir into Heller Vineyard's existing reservoir until Heller has collected the entitlement pursuant to License 12577 (i.e. a maximum of 40 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year).
- 3) Permittee shall, for the term of the permit (license), maintain the bypass and appurtenant facilities in good operating condition, and in the future if Permittee abandons Dutra No. 4 Reservoir, the disturbed area shall be restored to pre-reservoir conditions.
- 4) Before storing water in the proposed reservoir, Permittee shall furnish evidence that substantiates that the bypass facilities have been installed as part of the Dutra No. 4 Reservoir. Evidence shall include photographs showing completed works, or certification by a registered Civil or Agricultural engineer. Permittee shall allow representatives of Heller Vineyards reasonable access to inspect the reservoir at mutually agreeable times.

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)

14. Should Beaulieu Vineyard (pursuant to Application 20380), Buena Vista Winery, Inc. (pursuant to Applications 23240 and 24278), Beckstoffer Vineyard V (pursuant to Application 25630), and Andrea L. Bartolucci (in exercise of his riparian right) be unable to pump from Huichica Creek because of insufficient flows, permittee shall,

upon demand by Beaulieu Vineyard, Buena Vista Winery, Inc., Beckstoffer Vineyard V, and Andrea L. Bartolucci, cease diversion until such time as flows are sufficient for both diverters, or the storage rights of Beaulieu Vineyard, Buena Vista Winery, Inc., Beckstoffer Vineyard V, and Andrea L. Bartolucci have been fulfilled.

(0350800)

15. This permit is specifically subject to the prior rights of Beaulieu Vineyard, or its successors in interest, under appropriation issued pursuant to Application 20380, Buena Vista Winery, Inc., or its successors in interest, under appropriations issued pursuant to Applications 23239, 23240, and 24278, Beckstoffer Vineyard V, or its successors in interest, under appropriation issued pursuant to Application 25630, Fred Heller and Mary Heller, or its successor in interest, under appropriation issued pursuant to Application 27796, or any legally held riparian rights of Fred Heller, Mary Heller, and Andrea L. Bartolucci hereafter referred to as "parties".

(000T001)

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. For the purpose of determining the amount of water diverted, permittee shall install and properly maintain a staff gage in each reservoir, and shall install devices capable of measuring the rate and quantity of water pumped from Points of Diversion No. 6 and No. 7, subsurface drainage pumps and wells. All facilities are to be satisfactory to the State Water Resources Control Board.

Permittee shall record the staff gage reading on or about October 15 of each year and as often as necessary to differentiate the quantity of local stream inflow stored from that diverted from Points of Diversion No. 6 and No. 7, and other well and subsurface drain pumping sources. Readings from the measuring devices shall be recorded as often as necessary to determine the maximum instantaneous rate of diversion to offstream storage and the cumulative quantity of such diversions. A summary of measuring device readings and quantities diverted shall be maintained by permittee and made available to 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.

Permittee shall allow the parties and all successors in interest, or a designated representative, reasonable access to each reservoir and diversion facilities for the purpose of verifying staff gage and meter readings and determining water levels in the reservoirs.

(0070047)

(0100047)

18. Permittee shall bypass all flows in the Unnamed Stream tributary to Hudeman Slough, described as Point of Diversion No. 1, until such time as prior storage rights of Buena Vista Winery, Inc. (under License 1612 issued pursuant to Application 23239) are satisfied during each collection season. Permittee shall not be obligated to release water in the reservoirs below the previous October 15 staff gage reading unless permittee has collected water to the reservoirs that cannot be demonstrated to have been diverted from Huichica Creek, other surface sources, and/or pumped from subsurface drain tiles (which will not intercept surface water flows) and wells.

(0000051)

19. For the protection of fish and wildlife in Huichica Creek, diversion under this permit from Points of Diversion No. 4, No. 6, and No. 7 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;
- c) from March 1 through April 30, 2 cubic feet per second.

No diversion from Points of Diversion No. 4, No. 6, and No. 7 shall take place under this permit if the flow in Huichica Creek is, or would be reduced by such diversion, below the designated rates. (0140060)

Permittee shall file a report with the Chief, Division of Water Rights by July 1 of each year containing the following information:

- a) Dates during the previous period of November 15 through April 30 when water was diverted from Points of Diversion No. 4, No. 6, and No. 7; and
- b) Flows measured in Huichica Creek under this permit during the same dates when water was diverted at Point of Diversion No. 4, No. 6, and No. 7. (0140060)
(0090900)

20. No water shall be diverted under this permit from Points of Diversion No. 4, No. 6, and No. 7 until permittee has installed a device in Huichica Creek below Point of Diversion No. 7, 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. (0060062)

21. For protection of California freshwater shrimp and anadromous fish, permittee shall install and maintain screening devices, satisfactory to the California Department of Fish and Game and the U.S. Fish and Wildlife Service to screen intakes at Points of Diversion No. 6 and No. 7.

The diversion structures must 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, and no shrimp may be taken by 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 by the U.S. Fish and Wildlife Service and the California Department of Fish and Game before construction work begins. (0400500)

22. In accordance with Section 1601, 1603, and 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit 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 fish and the California freshwater shrimp 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 permittee. (0000063)

23. For the protection of California freshwater shrimp, permittee has agreed not divert water under any claim of right from Points of Diversion No. 4, No. 6, and No. 7 during the period of May 1 through November 14 of each year. If any diversion occurs during the above time frame, all rights acquired under this permit are subject to revocation by the State Water Resources Control Board. (0600500)

24. Permittee shall cooperate with the Napa County Resource Conservation District in carrying out the Natural Resource Protection and Enhancement Plan for the Huichica Creek Watershed in accordance with the document entitled: "Huichica Creek Watershed: Natural Resource Protection and Enhancement Plan", copy of which is on file with the State Water Resources Control Board, or any appropriate amendments thereto. (0400500)

25. To insure structural stability at the points of diversion and to prevent potential erosion and downstream siltation, storage of water under this permit shall not begin until the County Engineer, the United States Natural Resources Conservation Service, or a civil engineer registered by the State of California has approved the plans and specifications for the dam, or has otherwise certified as to the safety of the dam, and any modification, reconstruction, or enlargement of the dam is under the direction of said party. (036K002)

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 along Huichica Creek, measured from the top of the bank on both sides of the creek, as depicted in the setback map received by the State Water Resources Control Board on October 28, 1996. No land disturbance activity shall occur within the designated setback area including, but not limited to, clearing of native vegetation, grading, roads, fencing, storage areas, livestock grazing or watering, and new vineyard, with the exception of required maintenance of the existing access roads, existing bridge across the creek, existing storage shed near the bridge, and existing garden between Dutra No. 6 reservoir and the creek. (0400500)

27. To minimize the 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. Requirements of the approved document shall be consistently applied over the entire Place of Use as defined within this permit. (0400500)

28. For the protection of fish and wildlife and to control excessive erosion, permittee shall plant a minimum of one tree and two shrubs for every 15 feet of shoreline of Dutra No. 4 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 5 gallon size and one gallon size respectively, and shall be planted within 100 yards of the shoreline. The trees shall be planted within one year after completing construction of the dam at Point of Diversion No. 4, and shall be maintained such that 75 percent of the trees will have survived after 3 years. Trees may be planted in groves to maximize wildlife benefits.

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.

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 3, 1997

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
for Chief, Division of Water Rights