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

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20905A

Application 30497A of Big Sur Land Trust
c/oZad Leavy, 2785 Via Nona Marie, #309, Carmel, CA 93923

filed on **December 4, 1995**, has been approved by the State Water Resources Control Board (SWRCB) 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:	Tributary to:
Carmel River (Subterranean Stream)	**Pacific Ocean**

within the County of **Monterey**

2. Location of point of diversion

By California Coordinate System in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Point of Diversion No. 1; North 450,550 feet and East 1,148,450 feet	**SE ¼ of SW ¼**	**18**	**16S**	**1E**	**MD**
Point of Diversion No. 2; North 450,028 feet and East 1,146,250 feet	**SE ¼ of SE ¼**	**13**	**16S**	**1W**	**MD**

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Irrigation	**SW ½**	**18**	**16S**	**1E**	**MD**	**27.1**
	NW ¼ of NW ¼	**19**	**16S**	**1E**	**MD**	**11**
	NE ¼ of NE ¼	**24**	**16S**	**1W**	**MD**	**11**
					Total	**49.1**

The place of use is shown on map on file with the SWRCB.

4. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.47 cubic feet per second** to be diverted from **January 1 to December 31** of each year. The maximum amount diverted under this permit shall not exceed **28.14** acre-feet per year. (0000005A)

5. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2006. (0000009)

6. Permittee shall remain subject to all lawful Ordinances of the Monterey Peninsula Water Management District (District). (0000999)

7. Upon 48 hours advance notice by California Department of Fish and Game (DFG), permittee shall minimize or cease, if required, agricultural pumping for a single period not to exceed 48 hours in any 30 day period to assist DFG, to mitigate adverse flow conditions to benefit the public trust fish and wildlife resources of the Carmel River. (0350900)

8. The permittee shall be subject to the rationing requirements of the District, in frequency and percentage no greater than required of consumers in the California-American Water Company (Cal-Am) water distribution system in times of water supply shortage caused by drought. (0410800)

9. If DFG determines that irrigation of the riparian corridor is necessary and irrigation is not performed by the District, Cal-Am or the County of Monterey the permittee shall be responsible for this irrigation and maintenance. DFG shall inform the permittee of the section of the riparian corridor located on the permittee's property which requires irrigation. (0400500)

10. During the season specified in this permit, the total quantity and rate of water diverted 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 and use specified in this permit. To the extent that the permittee claims riparian, overlying, pre-1914 appropriative or other rights to use the water covered by this permit, the permittee shall not be entitled to water in excess of the amount authorized in this permit. Any priority obtained for a permit by virtue of Condition 10 of Decision 1632 shall be void if the permittee and/or others divert more water under the permit and other claimed rights than is authorized on the face of the permit; however, the priority shall not be voided for the diversion of de minimis amounts which can reasonably be attributed to operational uncertainties.

Insofar as the permittee complies with the condition, the permit is senior to the permit issued to the District pursuant to Application 27614.

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 (SWRCB). (0000021)

11. The protestants to approval of Application 30497 shall be included in the mailing list for the notice of any Change Petitions which are filed for Permit 20905A. The permittee shall request that the SWRCB not take final action upon any Change Petition sooner than six-months after the date of notice of the Change Petition. (0000999)

12. Permit 20905A is senior to Permit 20808 (Application 27614) of the District, provided that the water diverted under Permit 20905A is used only on lands located within the Carmel River watershed and the other provisions of Condition 10 of Decision 1632 are complied with. Any priority obtained for a permit by virtue of Condition 10 of Decision 1632 shall be void for the amount of water under this permit which is used on lands outside the Carmel River watershed. (0420999)

13. The records of water use under Permits 20905A and 20905B shall be separately kept and separately reported with Progress Reports by Permittee for each permit. (0090700)

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

A. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)

B. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

C. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (0000010)

D. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

E. 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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 SWRCB 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)

F. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB 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 SWRCB 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)

G. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the

California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 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)

H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State 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 stream of lake 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 State 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 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: JUL 2 4 2001

STATE WATER RESOURCES CONTROL BOARD

Harry M. Schueller
Division Chief