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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21053

Application **29592** of **Johnson Orchards**
c/o William T. Johnson
801 Babrock Lane
Ukiah, CA 95482

filed on **October 23, 1989**, 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
(1) Russian River	**Pacific Ocean**
(2) Russian River Underflow	**Pacific Ocean**

within the County of **Mendocino**

2. Location of point of diversion

By California Coordinate System in Zone **2**	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
POD#1: North 539,205 feet and East 1,665,208	**SW¼ of SE¼**	**21***	**15N**	**12W**	**MD**
POD#2;WELL: North 539,698 feet and East 1,663,973	**SE¼ of SW¼**	**21***	**15N**	**12W**	**MD**

*PROJECTED

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Irrigation	**SE¼ of SE¼**	**20***	**15N**	**12W**	**MD**	**8**
Domestic	**SW¼ of SW¼**	**21***	**15N**	**12W**	**MD**	**21**
	NW¼ of SW¼	**21***	**15N**	**12W**	**MD**	**8**
	NE¼ of SW¼	**21***	**15N**	**12W**	**MD**	**10**
	SE¼ of SW¼	**21***	**15N**	**12W**	**MD**	**10**
	SW¼ of SE¼	**21***	**15N**	**12W**	**MD**	**15**
	NW¼ of NW¼	**28***	**15N**	**12W**	**MD**	**11**
	NE¼ of NE¼	**29***	**15N**	**12W**	**MD**	**7**
					TOTAL	**90**

*PROJECTED

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1.18 cubic feet per second by direct diversion from April 15 to June 30 of each year for irrigation purposes; and 450 gallons per day by direct diversion from January 1 to June 30 and November 1 to December 31 of each year for domestic purposes. The maximum amount diverted under this permit for all uses shall not exceed 180 acre feet per year. (0000005b)

6. Complete application of the water to the authorized use shall be made by December 31, 2009. (0000009)

7. Prior to making a request for license or before license action will be considered by the State Water Resources Control Board, permittee shall consult with the Division of Water Rights and perform an irrigation system evaluation. A report on the evaluation shall be prepared by a person trained or experienced in irrigation system design and management and shall be submitted to the Board for approval.

All cost-effective water conservation measures identified in the irrigation system evaluation report shall be implemented prior to issuance of a license. (0000029C)

8. In accordance with Section 1601, 1603, and/or Section 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 or lake 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 plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permitte. (0000063)

9. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Russian River. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000080)

10. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Russian River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

11. For the protection and preservation of fish and wildlife and the maintenance of water related recreational uses, permittee shall divert water from the source only when the flow in the Russian River exceeds the following minimum flows required under Sonoma County Water Agency's Permit 12947A (A12919A): 185 cubic feet per second during normal years; 75 cubic feet per second during dry years; and 25 cubic feet per second during critical dry years. River flows shall be measured at the nearest U.S.G.S. Gauging Station on the river.

(0360400)

12. Permittee shall screen all intake pipes with 3/32-inch diameter mesh. In lieu of screening, permittee shall use perforated pipe or plate with holes of 3/32-inch diameter or less. Permittee shall regularly clean all screens and/or perforated pipe or otherwise design these appurtenances in order to prevent the approach velocity at the intake from exceeding 0.33 cubic feet per second. (0140500)

13. Permittee shall confine all work at or below the average high water mark of the Russian River, other than installing pumps, to the period of June 15 through October 15.

(0360200)

14. Permittee shall prevent debris, soil, silt, cement, oil or other such foreign substance from entering into or from being placed where it may be washed by rainfall or runoff into the waters

of the state. When construction operations are completed, permittee shall remove any excess material or debris from the work area. (0300500)

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.

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

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

(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.

(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.

(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.

(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 an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

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 6 2000

STATE WATER RESOURCES CONTROL BOARD

Chief, Division of Water Rights

PERMIT (8-99)