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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21091

Application **29849** of **Frederick P. Furth**
c/o Mark Lingenfelder
Chalk Hill Estates Vineyard & Winery
10300 Chalk Hill Road
Healdsburg, CA 95448

filed on **November 1, 1990**, 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
Unnamed Stream

Tributary to
Windsor Creek thence Mark West Creek thence Russian River

within the County of **Sonoma**

2. Location of point of diversion

By California Coordinate System in Zone **2**	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Reservoir #3 (Greeott): North 327,700 feet and East 1,777,000 feet	**SE¼ of SE¼**	**6**	**8N**	**8W**	**MD**

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Heat Control	**SW¼ of SW¼**	**5**	**8N**	**8W**	**MD**	**20**
Frost Protection	**SE¼ of SW¼**	**5**	**8N**	**8W**	**MD**	**2**
Irrigation	**NW¼ of SW¼**	**5**	**8N**	**8W**	**MD**	**25**
	NE¼ of SW¼	**5**	**8N**	**8W**	**MD**	**5**
	SW¼ of NW¼	**5**	**8N**	**8W**	**MD**	**24**
	NE¼ of SE¼	**6**	**8N**	**8W**	**MD**	**14**
					TOTAL:	**90**

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 100 acre-feet per annum to be collected from November 1 of each year to March 31 of the succeeding year.

(0000005C)

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.

(0000005I)

6. Complete application of the water to the authorized use shall be made by December 31, 2010.

(0000009)

7. Permittee, when required by the State Water Resources Control Board, 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, or provide other means satisfactory to the Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Permittee shall submit plans and specifications of the outlet pipe or alternative facility to the Chief of the Division of Water Rights for approval within six months of the date upon which the Board issues notice that an outlet is required. Permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050044)

8. Permittee shall install a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.

(0060062b)

9. 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 permittee.

(0000063)

10. The total quantity of water diverted under this permit, together with that diverted under the license (5708) issued pursuant to Application 14364, shall not exceed 100 AFA.

(0000114b)

11. Permittee shall not use more water under the basis if riparian right on the place of use authorized by this permit than permittee would have used absent the appropriation authorized by this permit. Consistent with this term, permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division's approval, this information may be modified, and permittee may use water under basis of riparian on the authorized place of use, provided that permittee submits reliable evidence to the Chief of the Division quantifying the amount of water that permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Chief of the Division is hereby authorized to approve or reject any proposal by permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0360900)/(0490900)

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 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.

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: MAR 3 0 2001

STATE WATER RESOURCES CONTROL BOARD

Harry M. Schueller, Chief
Division of Water Rights