



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

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

APPLICATION 30337

PERMIT 21138

Right holder: South Coast Water District  
P.O. Box 30205  
Laguna Niguel, CA 92607-0205

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **March 24, 1995**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. This right supersedes any previously issued right on **Application 30337**.

**Right holder is hereby granted a right to divert and use water as follows:**

1. Source of water: **(1)(2)(3) San Juan Creek (subterranean stream)**

tributary to: **Pacific Ocean**

within the County of **Orange**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) North 2,118,689 feet and East 6,125,907 feet (2) North 2,119,428 feet and East 6,125,595 feet (3) North 2,116,850 feet and East 6,125,293 feet	NE ¼ of SE ¼	14	8S	8W	SB

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Municipal</b>	<b>Within the South Coast Water District service area boundary within T7W and 8W, R8S, SBB&amp;M as shown on map.</b>					

The place of use is shown on map filed on March 16, 2012 with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **4 cubic feet per second** to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this right shall not exceed **1,300 acre-feet per year**.  
(0000005A)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by **December 31, 2022**.  
(0000009)
7. If the claimed existing prior right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the total quantity of water diverted and/or collected to storage, the rate of diversion, and the amount beneficially used under this right shall be reduced by the net of the face value specified in this water right less the respective amounts recognized under the quantified existing prior right during the season specified in this water right. No water shall be diverted to the place of use during the season authorized by this right, whenever the amounts diverted can be covered by the quantified existing prior right.  
  
The holder of this right shall forfeit the right if he/she transfers all or any part of the claimed existing right for the place of use covered by this right to another place of use without the prior approval of the State Water Board.  
  
The holder of this right shall divert water under the claimed existing right only in accordance with the law.  
(0000021A)
8. Allocation of the available water resources under this right and the rights issued pursuant to Applications 30123 and 30696 are governed by private agreements among the respective parties dated November 21, 1995 and March 1, 1998, and by their joint letter dated March 13, 1998.  
  
If the agreements are modified in a manner which requires revisions to the allocation of water, the right holder shall provide to the Deputy Director for Water Rights a revised allocation schedule and the right holder shall operate to the revised schedule. If the agreements are terminated, the Deputy Director for Water Rights shall determine the water allocation schedule needed to protect prior rights and public trust resources, and the right holder shall operate to this schedule.  
(0000024)
9. If it is determined that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, right holder shall, at their expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in California Code of Regulations, title 23, section 715 et seq. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.  
(0000030)
10. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.  
(0000208)
11. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements

(grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Right holder to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director for Water Rights.

(0000215)

12. No water shall be diverted under this right unless the right holder, satisfactory to the Deputy Director for Water Rights, is operating in accordance with a monitoring plan to ensure that:

- (a) data is collected regarding water levels in the San Juan Basin;
- (b) cumulative extractions do not exceed recharge rates from return flows and precipitation; and,
- (c) the project will not interfere with other senior legal users of water or rights governed by private agreements.

(0360300)

13. Cumulative extractions by the right holder, senior right holders, and rights governed by private agreements with the right holder shall not exceed recharge from return flows and precipitation. This condition is satisfied when groundwater storage is not less than one-half of the storage capacity in the alluvial groundwater basin.

(0360900)

14. No water shall be directly diverted under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of monitoring the rate and quantity of water diverted, as well as the static water levels in the wells, and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the devices has/have been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Right holder shall maintain a record of all diversions under this right that includes the date, time, rate of diversion, and the amount of water diverted. In addition, right holder shall maintain a record of static water levels at the points of diversion. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(000000R)

15. No water shall be diverted under this right if the Deputy Director for Water Rights determines that diversions under this right are causing injury to the reasonable and beneficial uses of water recognized for the San Juan Creek watershed in the Water Quality Control Plan for the San Diego Basin.

(000T001)

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**THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.) (0000016)
- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) (0000017)
- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board. (0000018)
- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board. (0000019)
- E. The amount of water for consideration when issuing a license shall be limited to only the amount of water diverted and applied to beneficial use in compliance with the terms and conditions of this right, as determined by the State Water Board. (Wat. Code, § 1610.) (0000006)
- F. Right holder shall maintain records of the amount of water diverted and used under this right to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605. (0000015)
- G. Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and use under this right and documentation of compliance with the terms and conditions of this right. (0000010)
- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:

1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(0000022)

- K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(0000025)

- L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(0000212)

- M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

- N. Urban water suppliers must comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An “urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

Agricultural water users and suppliers must comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An “agricultural water supplier” means a supplier, either publicly or privately owned, supplying more than 50,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(0000029D)

- O. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water 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 State Water Board may be exercised by imposing specific requirements over and above those contained in this right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 State Water 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 State Water Board also may be exercised by imposing further limitations on the diversion and use of water by right holder in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water 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)

- P. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder and an opportunity for hearing, the State Water 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 State Water 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)

- Q. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(000014)

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*This right is issued and right holder 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 .*

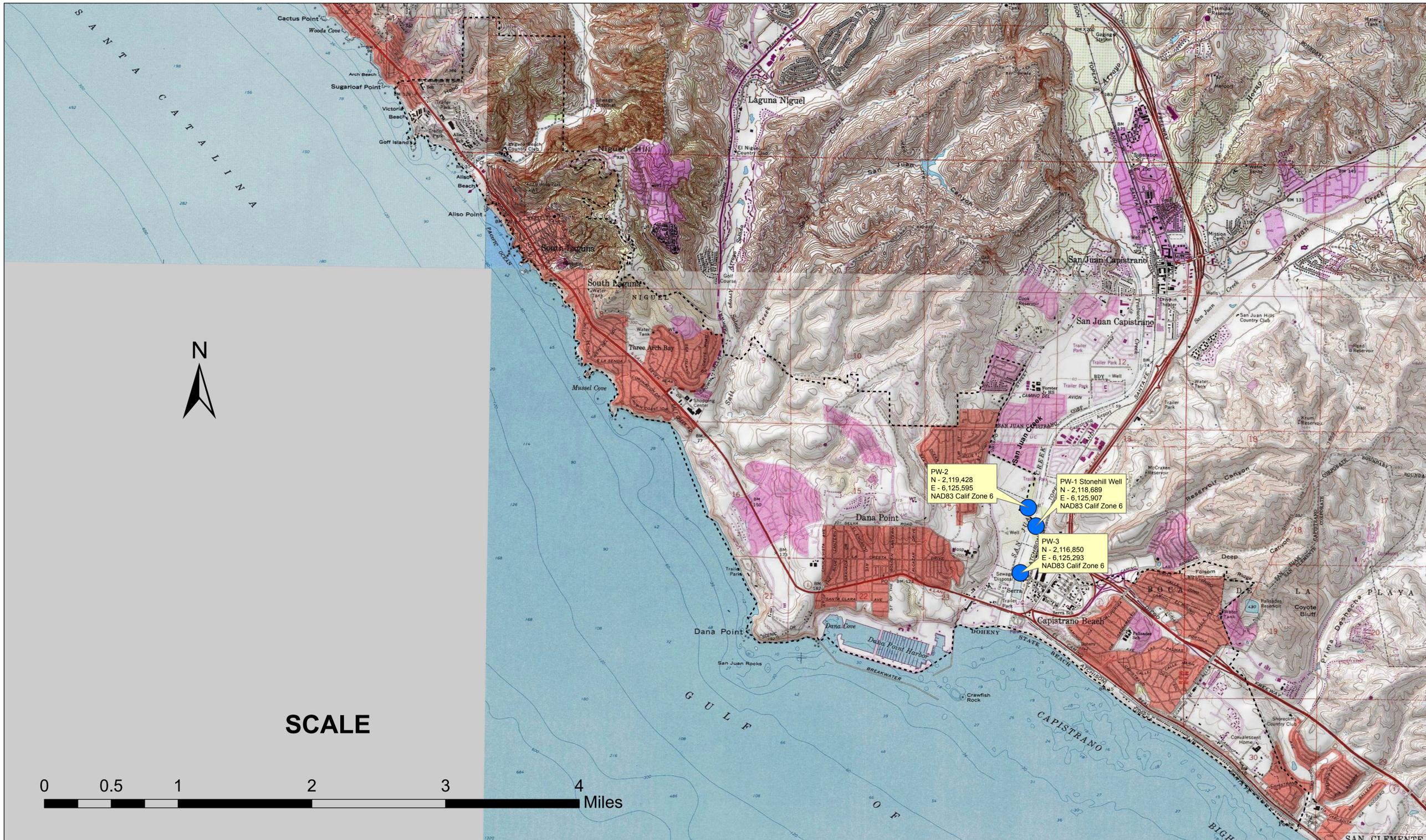
*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the 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).*

#### STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
AMANDA MONTGOMERY for

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: NOV 26 2013



- Legend**
- South Coast Water District Point of Diversion
  - South Coast Water District Boundary

**South Coast Water District**  
**Water Rights Application 30337**  
**Permit 21138**  
**Place of Use**  
**Revised March 16, 2012**

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 21138 (Application 30337)

**SOUTH COAST WATER DISTRICT**

**ORDER APPROVING PETITION FOR EXTENSION OF TIME,  
CHANGE IN POINTS OF DIVERSION AND MODIFICATION OF PERMIT  
TERMS**

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SOURCE: San Juan Creek (subterranean stream) tributary to Pacific Ocean

COUNTY: Orange

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**WHEREAS:**

1. On December 19, 2002, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 21138 to the South Coast Water District (right holder) pursuant to Application 30337.
2. Permit 21138 required that construction work and complete application of the water to the authorized use be completed by December 31, 2012.
3. On April 2, 2012, right holder filed: 1) a petition for extension of time to complete construction and beneficial use; and, 2) a petition for change to add two wells as points of diversion.
4. By letter dated November 8, 2012, right holder amended the petition for change to include a request to modify Term 16 (water quantity monitoring) and Term 17 (water quality monitoring) of this right.
5. No previous time extensions have been granted by the State Water Board for Permit 21138.
6. The State Water Board may grant an extension of time within which to commence or complete construction work or apply water to beneficial use upon a showing of good cause. (Wat. Code, § 1398.) Permittee must show that: (1) due diligence has been exercised; (2) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and, (3) satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay.
7. Right holder has shown that due diligence has been exercised. Right holder has constructed all diversion facilities authorized under Permit 21138, and has completed up to 1,140 acre-feet per annum (afa) of the 1,300 afa of maximum use authorized under the water right. Right holder is in compliance with all of the terms of the water right. On June 7, 2011, right holder submitted water availability information to the Division in support of its request to increase diversions up to the

maximum of 1,300 afa, in accordance with the provisions of Term 5 of Permit 21138. By letter dated August 12, 2011, the Division approved the request. The Division's approval, along with approval of the additional points of diversion requested in the petition for change, will allow right holder to complete beneficial use within the time period requested in the petition for extension of time.

8. Right holder has shown that failure to comply with previous time requirements has been occasioned by obstacles that could not be reasonably avoided. Right holder initially believed that one well would be adequate for the purpose of diverting the full amount of the water right. However, after developing the project, right holder has determined that although the existing single well is producing up to 88% of the amount authorized under this right, two additional wells will be necessary to attain maximum beneficial use. Right holder has submitted a petition for change to add the two wells.
9. Right holder has shown that satisfactory progress will be made if the time extension is granted. Right holder's diversion facilities and monitoring well are complete and operational, having diverted up to 1,140 afa of the authorized 1,300 afa under this water right. Right holder has substantially satisfied the monitoring, data collection and reporting requirements under this right. Right holder has a plan to construct the additional points of diversion, as well as to continue to provide monitoring and reporting of extractions of water, upon approval of the time extension.
10. Right holder has shown good cause for the time extension.
11. The State Water Board has determined that the petition for change to add the additional points of diversion does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water. The State Water Board has also determined that good cause for such change has been shown.
12. Right holder participates in the San Juan Basin Authority's (Authority) Integrated Monthly Monitoring Program. The Authority, on behalf of the right holder, provides the Division with monitoring and reporting information on right holder's diversions, in satisfaction of right holder's obligations under Terms 16 and 17 of this right.
13. Term 16 of this right requires right holder to operate in accordance with a compliance monitoring plan to ensure that: (1) diversions under this right do not interfere with prior rights; (2) cumulative diversions do not exceed basin recharge rates; and, (3) right holder complies with all terms and conditions of this right. The right holder is satisfying this requirement by participating in the San Juan Basin Authority's program described in item 11 above, thus sufficient cause has been shown for the modification of Term 16 in this right.
14. Term 17 of this right requires right holder to monitor the levels of total dissolved solids (TDS) and chloride in the vicinity of the diversion wells for the purpose of ensuring that diversion under this right does not cause groundwater quality to exceed objectives of the Water Quality Control Plan for the San Diego Basin (Basin Plan). Data submitted to the Division in support of right holder's amended petition indicate that levels of TDS and chloride have remained relatively unchanged at unremarkable levels since right holder initiated extractions under this right, and that further diversions to maximum use would likely have the same limited effect. Term 12 of this right, which will remain in this right substantially as written, already provides that the right holder shall not operate the project in a manner so as to cause injury to the reasonable and beneficial uses of water recognized for San Juan Creek watershed in the Basin Plan. The right holder has satisfied the requirement to monitor groundwater quality to ensure that initial construction and operation of the project authorized under this right will not cause groundwater to exceed Basin Plan objectives, thus sufficient cause has been shown for the removal of Term 17 from this right.

15. Pursuant to Resolution 2012-0029, the State Water Board has delegated the authority to administer the State Water Board's water rights program. The Deputy Director for Water Rights has redelegated this authority pursuant to the redelegation order dated July 6, 2012.
16. On December 20, 2011, right holder adopted a mitigated negative declaration (SCH No. 2011101036) for the project in order to comply with the California Environmental Quality Act. The Division has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Division will file a Notice of Determination within five days from the issuance of this order.
17. The State Water Board has complied with its independent obligation to consider the effect of the proposed change on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

**NOW, THEREFORE, IT IS ORDERED THAT THE STATE WATER BOARD HEREBY APPROVES THE PETITION FOR CHANGE AND EXTENSION OF TIME. THE ATTACHED AMENDED PERMIT, WHICH INCORPORATES THE CHANGES AND TIME EXTENSION, IS ISSUED.**

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
JAMES W. KASSEL for

*Barbara Evoy, Deputy Director*  
*Division of Water Rights*

Dated: NOV 26 2013

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

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21138**

Application **30337** of **South Coast Water District**  
**P.O. Box 30205**  
**Laguna Niguel, CA 92607-0205**

filed on **March 24, 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:  
**San Juan Creek (subterranean  
stream)**

Tributary to:  
**Pacific Ocean**

within the County of **Orange**.

2. Location of point of diversion

By California Coordinate System of 1927, in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected) *	Township	Range	Base and Meridian
<b>North 478,240 feet and East 1,564,500 feet</b>	<b>NE¼ of SE¼</b>	<b>14</b>	<b>8S</b>	<b>8W</b>	<b>SB</b>

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
<b>Municipal</b>	<b>Within the boundaries of South Coast Water District</b>		<b>7W, 8W</b>	<b>8S</b>	<b>SB</b>	

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4.0 cubic feet per second to be diverted from January 1 to December 31 of each year. Until further order of the Chief, Division of Water Rights, the maximum amount diverted under this permit shall not exceed 976 acre-feet per annum (afa). This amount can be increased by a maximum of 324 afa, for a total diversion of 1,300 afa, upon showing by the permittee of the availability of unappropriated water and approval of the Chief, Division of Water Rights.

(0000005A)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2012.

(0000009)

7. 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. 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 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.

(0000021B)

8. Allocation of the available water resources under this permit and Permit 21074 (Application 30123) of San Juan Basin Authority and any permit issued pursuant to Application 30696 of Capistrano Valley Water District, et al. are governed by private agreements among the respective parties dated November 21, 1995 and March 1, 1998, and by their joint letter dated March 13, 1998.

If the agreements are modified in a manner which requires revisions to the allocation of water, the permittee shall provide to the Chief of the Division of Water Rights a revised allocation schedule and the permittee shall operate to the revised schedule. If the agreements are terminated, the Chief of the Division of Water Rights shall determine the water allocation schedule needed to protect prior rights and public trust resources, and the permittee shall operate to this schedule.

(0000024)

9. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue.

(0000025)

10. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.  
(000029A)

11. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(000030)

12. The permittee shall not operate the project in a manner so as to cause injury to the reasonable and beneficial uses of water recognized for San Juan Creek watershed in the Water Quality Control Plan for the San Diego Basin.

(000T001)

13. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Diego Region, or by the State Water Resources Control Board.

(0000100)

14. Cumulative extractions by the permittee, senior right holders, and rights governed by private agreements with the permittee (see condition 8) shall not exceed recharge from return flows and precipitation. This condition is satisfied when groundwater storage is not less than one-half of the storage capacity in the alluvial groundwater basin.

(0360900)

15. Permittee shall promptly install and maintain metering devices on the diversion facility it uses, in a manner consistent with current waterworks industry standards. Permittee shall meter flows at the diversion facility monthly. Permittee shall measure static water levels at the diversion facility once every two months. This information shall be submitted to the Division of Water Rights annually, with the Progress Report by Permittee forms.

(0080900)

(0490900)

16. Prior to diversion of water under this permit, permittee shall prepare and submit to the Chief, Division of Water Rights for approval and modification, if necessary, an annual compliance monitoring plan. Any amendments to the plan shall also be submitted to the Division Chief for approval and modification, if necessary, prior to implementation.

The monitoring plan shall identify (a) the measures the permittee will take to collect data regarding water levels in the San Juan Basin (b) document how the permittee will comply with the requirement that cumulative extractions do not exceed recharge from return flows and precipitation, and (c) provide adequate information to document that the permittee will not operate the project in a manner that causes adverse impacts to senior water rights and water rights governed by private agreement (identified in condition 8), and their successors in interest.

The permittee shall identify the steps that will be taken to limit diversions to ensure that (a) diversions do not interfere with prior rights, (b) cumulative diversions do not exceed basin recharge rates, and (c) diversions comply with all permit terms and conditions. Upon approval of the plan by the Chief, Division of Water Rights, the permittee shall implement the plan.

An annual compliance report shall be submitted with the Progress Report by Permittee.  
(0490700)

17. Prior to initiating any diversion of water under this permit, the permittee shall install monitoring well(s) located in the vicinity of the point of diversion for the purpose of monitoring both total dissolved solids (TDS) and chloride levels. The permittee shall obtain measurements of the TDS and chloride levels at the monitoring well(s) and shall develop a monitoring program that identifies the sampling frequency, monitoring protocol, and statistical analysis needed to document TDS and chloride levels relative to the water quality objectives in the Water Quality Control Plan for the San Diego Basin (Basin Plan). The water quality monitoring program shall be submitted to the Chief, Division of Water Rights for approval and modification, if necessary, within six months of issuance of this permit. No water may be diverted until the monitoring program is approved.

Extractions shall not cause groundwater to exceed the Basin Plan objectives. In the event the Basin Plan objectives are already exceeded, the extraction shall not cause further degradation. Because the levels of TDS and chloride may vary with time, the constituent levels in the monitoring wells shall be statistically compared with historic levels or monitoring wells unaffected by the extractions to determine if degradation has occurred.

A record of the TDS and chloride level measurements taken in accordance with the water quality monitoring program requirements shall be submitted annually with the Progress Report by Permittee, together with documentation that the permittee discontinued use of the diversion well whenever the well did not meet the requirements of this permit condition. The permittee shall provide the dates of non-use whenever the diversion well is not in use due to this permit condition.  
(0110900)  
(0360900)  
(0490700)

18. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

19. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

20. Within 120 days of permit issuance, the permittee shall submit documentation to the Chief, Division of Water Rights whether any construction activities pursuant to this permit may affect the Designated California Natural Area, site number ORA 24 (natural area).

Prior to initiating any construction activities that may affect the natural area, the permittee shall obtain written approval authorizing work in the natural area from the California Department of Fish and Game (DFG). The permittee shall submit a copy of any DFG authorization to the Chief, Division of Water Rights within 60 days of receiving the DFG approval.

(0400500)

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

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.  
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.  
(0000010)
- C. 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)
- D. 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)

- E. 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)
- F. 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)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.
- (0000015)
- 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 or 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).

STATE WATER RESOURCES CONTROL BOARD

*Nauid R. Beiringu*  
for Harry M. Schueller  
Chief Deputy Director

Dated: **DEC 19 2002**