

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21150

Application 30627 of

**R. Stanley Dollar 1996 Trust
3322 Chiles Valley Road
St. Helena, CA 94574**

filed on **July 8, 1997**, 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
POD#1: Chiles Creek	Conn Creek thence
POD#2: Unnamed Stream	Napa River
POD#3: Wood Canyon	Chiles Creek
	Chiles Creek

within the County of Napa.

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
POD#1: North 317,950 feet and East 1,903,750 feet	SW¼ of SW¼	17	8N	4W	MD
POD#2: North 318,950 feet and East 1,905,000 feet	NW¼ of SW¼	17	8N	4W	MD
POD#3: North 320,600 feet and East 1,903,800 feet	SW¼ of NW¼	17	8N	4W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	NE¼ of SE¼	18	8N	4W	MD	34
Frost Protection	SE¼ of SE¼	18	8N	4W	MD	2
	NW¼ of SW¼	17	8N	4W	MD	18
	SW¼ of SW¼	17	8N	4W	MD	35
	NW¼ of NW¼	20	8N	4W	MD	26
	NE¼ of NW¼	20	8N	4W	MD	33
	SE¼ of NW¼	20	8N	4W	MD	15
	NW¼ of NE¼	20	8N	4W	MD	15
	SW¼ of NE¼	20	8N	4W	MD	2
						180

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 49 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year. (000005C)
6. 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)
7. The maximum rate of diversion to offstream storage shall not exceed 1.0 cubic-foot per second from Point of Diversion Number 1, 0.38 cubic-feet per second from Point of Diversion Number 2, and 1.0 cubic-foot per second from Point of Diversion Number 3. The combined maximum rate from all three Points of Diversion shall not exceed 2.0 cubic-feet per second. (000005J)
8. The capacity of the reservoir covered under this permit shall not exceed 49 acre-feet. (000005N)
9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2012. (000009)

10. The SWRCB reserves jurisdiction to impose conditions to conform this permit to SWRCB policy on use of water for frost protection. Action by the SWRCB will be taken only after notice to interested parties and opportunity for hearing.

(000020)

11. Permittee shall install and maintain a recording device on permittee's diversions capable of measuring the total amount diverted during the diversion season. Records of such diversions shall be maintained until the end of the diversion season, and shall be made available without cost to the City of Napa upon request. Permittee shall install and maintain a recording device on each and every outlet from permittee's reservoirs capable of measuring the total amount used during any diversion season. Records of such use from each and every reservoir outlet shall be maintained until the end of the diversion season, and shall be made available without cost to the City of Napa upon request.

(000046)

12. Permittee shall install and properly maintain staff gages in the reservoirs, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the City of Napa and the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water that cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow a designated representative of the City of Napa and all successors in interest, reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs.

(0100047)

13. During years in which Lake Hennessey is not full on April 30, upon request from the City of Napa, permittee shall immediately release water from permittee's reservoir equivalent to the total amount of water diverted by the permittee since the beginning of that diversion season, or since Lake Hennessey last spilled, whichever last has occurred. This amount shall include water stored in permittee's reservoir below the previous October 1 gage reading, if necessary, to compensate for consumptive use since that date. Water shall be released into Chiles Creek at the maximum practicable rate in order to maximize the amount reaching Lake Hennessey. Prior to diverting any water under this permit, permittee shall demonstrate to the satisfaction of the Chief of the Division of Water Rights the ability to make such releases. Permittee shall not be obligated to release water stored in the reservoir below the previous October 1 staff gage reading, unless permittee has withdrawn water from the reservoir for consumptive purposes since October 1.

(000051)

14. For the protection of fish and wildlife, permittee shall during the period:

- (a) from: December 15 thru March 31 bypass a minimum of 3.16 cfs at POD 1,
- (b) from: December 15 thru March 31 bypass a minimum of 0.31 cfs at POD 2,
- (c) from: December 15 thru March 31 bypass a minimum of 0.15 cfs at POD 3.

The total streamflow shall be bypassed whenever it is less than the designated amount. The permittee shall submit a compliance plan, satisfactory to the Chief of the Division of Water Rights, which describes how the bypass flows required by the conditions of this permit will be measured and maintained.

(0140060)

15. 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. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

The archeological sites identified as CA-Nap-219 and CA-Nap-220 in the 1984 Cultural Resource Survey Report for Application 27962 will be excluded from the areas to be planted to vineyard as proposed in Application 30627. No subsurface disturbances, including all forms of ripping, plowing, grading, trenching, and installation of irrigation systems, will be allowed on the surfaces of either of these two sites. Additionally, a stock fence will be installed around the perimeter of site CA-Nap-220 to prevent encroachment by construction and maintenance vehicles and equipment during vineyard installation and operation. Future developments at these sites may be permitted following the completion of an archeological mitigation program approved by the Chief of the Division of Water Rights.

(0140300)

16. Permittee shall install and maintain a flow meter with totalizer on each and every outlet from permittee's reservoir capable of measuring the total amount released during any diversion season. Records of such release from each and every reservoir outlet shall be maintained until the end of the diversion season, and shall be make available without cost to the City of Napa upon request.

(0100300)

17. Permittee shall install and maintain a recording device on permittee's diversion capable of measuring the total amount diverted and stored during any diversion season. Records of such diversion and storage shall be maintained until the end of the diversion season, and shall be make available without cost to the City of Napa upon request.

(0100301)

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 with a letter signed by the State Department of Fish and Game confirming that no such agreement is needed.
- (0000063)

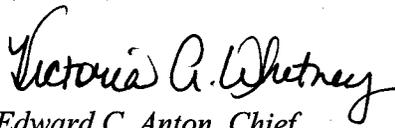
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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


for Edward C. Anton, Chief
Division of Water Rights

Dated: MAR 13 2003