



# State Water Resources Control Board



**Linda S. Adams**  
Acting Secretary for  
Environmental Protection

**Division of Water Rights**  
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**Edmund G. Brown Jr.**  
Governor

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 21234

Application 31094 of

**Fetzer Vineyards – Chalfant Ranch**  
PO Box 611  
Hopland, CA 95449

filed on **August 22, 2000**, has been approved by the State Water Resources Control Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit. The basis of right for Permit 21234 is claimed under a pre-1949 use. Pre-1949 uses were established for water users in the Russian River Watershed under Water Right Decision 1030 (D-1030). In accordance with D-1030 the priority date for Permit 21234 (Application 31094) is January 28, 1949.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Tributary to:

Russian River

Pacific Ocean

within the County of **Mendocino**.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 2,161,793 feet East 6,227,758 feet	NW ¼ of NW ¼	10	14N	12W	MD

*California Environmental Protection Agency*

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Irrigation	SW ¼ of SE ¼	3	14N	12W	MD	0.2
	SE ¼ of SW ¼	3	14N	12W	MD	20.3
	SW ¼ of SW ¼	3	14N	12W	MD	12.7
	NE ¼ of NE ¼	9	14N	12W	MD	0.9
	NE ¼ of NW ¼	10	14N	12W	MD	18.7
	NW ¼ of NW ¼	10	14N	12W	MD	17.9
	NW ¼ of NE ¼	10	14N	12W	MD	1.3
					Total	72

The place of use is shown on a map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.45 cubic feet per second to be diverted from June 1 to October 1 of each year. The maximum amount diverted under this permit shall not exceed **91** acre-feet per year. (000005A)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by **December 31, 2019**. (0000009)
7. 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 Watershed are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the SWRCB, made after notice to interested parties and opportunity for hearing. (0000090A)
8. This permit is specifically subject to the right of Richard Henwood pursuant to Statement of Water Diversion and Use 8613. (0500300A)
9. This permit is specifically subject to the right of Robert Rosetti pursuant to Statements of Water Diversion and Use 15041, 15042, 15043 and 15047. (0500300E)
10. No water shall be diverted under this permit until the Permittee installs and maintains an in-line flow meter, satisfactory to the State Water Resources Control Board that is capable of measuring the instantaneous diversion rate and cumulative amount of water withdrawn from the reservoir. Permittee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and make these monthly records available to, or submit them whenever requested by the Deputy Director for the Division of Water Rights. (0100900)

11. No water shall be diverted under this permit except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish and Game and The National Marine Fisheries Service to protect Steelhead Trout, Coho Salmon, and Chinook Salmon listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code sections 2050 to 2098) and the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). Construction, operation, and maintenance costs of the required facility are the responsibility of the Permittee.  
(0000214)
12. Permittee shall prevent any debris, soil, silt, cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.  
(0000208)
13. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators can include, but not necessarily be limited to: stone tools and flaking debris; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing artifactual material such as bone and shell fragments, stone tools, or fire-cracked rock. Historic period site indicators can include: fragments of glass, ceramic, and metal objects; milled and split lumber; structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for 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 Deputy Director for 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 Deputy Director for the Division of Water Rights.  
(0000215)
14. If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for the Division of Water Rights.  
(0380500)
15. Permittee shall report any non-compliance with the terms of the permit to the Deputy Director for the Division of Water Rights within three days of identification of the violation.  
(9990999)

**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 State Water Resources Control Board until a license is issued.  
(0000010)

- C. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said State Water Resources Control Board, 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 State Water Resources Control 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 Resources Control Board 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 State Water Resources Control 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 Resources Control Board 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 State Water Resources Control 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)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the Permittee and an opportunity for hearing, the State Water Resources Control 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 Resources Control 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)

- F. This permit does not authorize any act that results in the taking of a threatened, endangered, or candidate species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 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 Lake and Streambed 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 Lake and Streambed Alteration 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 therefore 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 Katherine Mrowka*  
Phillip Crader, Manager  
Permitting and Licensing Section  
Division of Water Rights

Dated: JUL 07 2011