

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21279 ON APPLICATION 31497

PERMITTEE: Stonecraft Homes, Inc; Sierra Meadows Homes, LP; Sierra Meadows Golf, Inc; Bard Investment Company, LP; and Sierra Meadows Golf Club, LP  
11661 San Vicente Blvd, Suite 305  
Los Angeles, CA 90049

The Deputy Director for Water Rights finds that the State Water Resources Control Board (State Water Board) and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved any protests made in compliance with Water Code section 1330 et seq. and included appropriate permit conditions; (c) demonstrated that the water will be diverted and used without injury to any lawful user of water; (d) demonstrated that the intended use is beneficial; and (e) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met or that the project is exempt from CEQA. The permit is being issued in accordance with the redelegations of authority (Resolution No. 2007-0057.)

Additionally, the State Water Board has complied with its independent obligation to consider the effect of the proposed project 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].)

Therefore, **Application 31497** filed on **April 2, 2004**, has been approved by the State Water Board 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:

(1) (2) Unnamed Stream  
(3) Unnamed Stream  
(A) Miami Creek  
(B1) (B2) Unnamed Stream

Tributary to:

Miami Creek thence Fresno River  
Miami Creek thence Fresno River  
Fresno River thence San Joaquin River  
Miami Creek thence Fresno River

within the County of **Madera**

2. Location of points of diversion and redirection

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) North 1,954,872 feet and East 6,798,220 feet	SW ¼ of SW ¼	33	6S	21E	MD
2) North 1,955,120 feet and East 6,796,493 feet	SE ¼ of SE ¼	32	6S	21E	MD
3) North 1,957,282 feet and East 6,796,307 feet	SE ¼ of NE ¼	32	6S	21E	MD
A) North 1,957,500 feet and East 6,802,574 feet (not a point of redirection)	SE ¼ of NE ¼	33	6S	21E	MD
<b>Reservoir B</b>					
B1) North 1,955,101 feet and East 6,798,725 feet	SE ¼ of SW ¼	33	6S	21E	MD
B2) North 1,955,851 feet and East 6,798,304 feet	NW ¼ of SW ¼	33	6S	21E	MD

Location of places of storage

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) North 1,954,872 feet and East 6,798,220 feet	SW ¼ of SW ¼	33	6S	21E	MD
2) North 1,955,120 feet and East 6,796,493 feet	SE ¼ of SE ¼	32	6S	21E	MD
3) North 1,957,282 feet and East 6,796,307 feet	SE ¼ of NE ¼	32	6S	21E	MD
<b>Reservoir B</b>					
B1) North 1,955,101 feet and East 6,798,725 feet	SE ¼ of SW ¼	33	6S	21E	MD
B2) North 1,955,851 feet and East 6,798,304 feet	NW ¼ of SW ¼	33	6S	21E	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
<b>Municipal</b>	<b>Within the boundary of Madera County Maintenance District 46</b>	29	6S	21E	MD	
		31-34	6S	21E	MD	
		4	7S	21E	MD	
		5	7S	21E	MD	
<b>Recreation</b>						

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1.33 cubic feet per second by direct diversion and 309 acre-feet per annum by storage from December 1 of each year to April 30 of the succeeding year. The total amount of water to be taken from the source shall not exceed 591 acre-feet per water year of December 1 to April 30. (0000005E)
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. (0000005I)
7. The maximum rate of diversion to offstream storage shall not exceed 1.33 cubic feet per second. (0000005J)
8. The total quantity of water collected to storage under this permit, Permit 21028 (Application 29787) and Permit 21278 (Application 31425) shall not exceed 383 acre-feet per annum. (0000005L)
9. The capacity of Reservoir B covered by this permit (Application 31497) shall not exceed 210 acre-feet. (0000005N)
10. In recognition of the water rights held under Applications 29787 and 31425, the capacity of Reservoir 1 shall not exceed 32 acre-feet, the capacity of Reservoir 2 shall not exceed 36 acre-feet and the capacity of Reservoir 3 shall not exceed 31 acre-feet, which are the stated capacities in this application. (0000005P)
11. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2025. (0000009)
12. During the season specified in this permit, the total quantity and rate of water diverted, stored, 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, storage, and use, respectively, 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, storage, 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 Board.  
  
Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021A)
13. Permittee shall comply with the following provision which are set forth in the Stipulated Judgment dated May 19, 2004, for Case No. 02S2680E in the Superior Court of California, County of Madera, Sierra Division and filed with the State Water Board:
  - a. Permittee agrees to bypass 0.5 cubic-feet per second, or the entire flow if less, past its diversion dam in Miami Creek on a year around basis.

Inclusion in this permit of certain provisions of the referenced stipulated judgment shall not be construed as disapproval of other provisions of the stipulated judgment or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

14. Permittee shall comply with the following provisions which are derived from the permittee's letter dated March 5, 2010, on file with the State Water Board:
- a. Permittee acknowledges the prior rights of Madera Irrigation District, or successors, under License 9229 (Application 17311) and agrees not to interfere with exercise of said prior rights, subject to the provisions of State Water Board Decision 1407. Permittee agrees that any water rights obtained by Applications 31425 and 31497 pursuant to the reservations established under Decision 1407 are junior to any valid rights held by Madera Irrigation District under License 9229 (Application 17311).
  - b. Permittee acknowledges any valid riparian and pre-1914 rights of Madera Irrigation District, or successors, and agrees not to interfere with the exercise of any said riparian and pre-1914 rights.
  - c. Permittee agrees to provide Madera Irrigation District with copies of all Statements of Diversion and Use filed with the State Water Board, which will reflect diversion and uses under all bases of right, including without limitation riparian and pre-1914 rights.

(0000024)

15. Permittee shall comply with the following provisions which are derived from an email from Costa View Farms #2 dated June 23, 2010 on file with the State Water Board:
- a. Permittee acknowledges the prior rights of Costa View Farms #2, or successors, under License 4689 (Application 13541) and permittee agrees not to interfere with exercise of said prior rights, subject to the provisions of State Water Board Decision 1407.
  - b. Permittee acknowledges any valid riparian and pre-1914 rights of Costa View Farms #2, or successors, and permittee agrees not to interfere with the exercise of any said riparian and pre-1914 rights.

(0000024)

16. Permittee shall consult with the Division of Water Rights (Division) and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the State Water Board. A progress report on the development of a water conservation program may be required by the State Water Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

17. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the maps prepared to accompany the application, permittee shall, at his expense have the subject maps updated or replaced with equivalent as-built maps. Said revisions or new maps 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 717 et seq. Said revisions or maps shall be furnished upon request of the Deputy Director for Water Rights.

(0000030)

18. This permit is subject to the continuing authority of the State Water Board to reduce the amount of water named in the permit upon a finding by the State Water Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.  
(0000042)
19. Permittee 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 in order that water entering reservoir B which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe, or alternative facility, to the Deputy Director for Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.  
(0050043A)
20. Permittee shall install and maintain an outlet pipe of adequate capacity in the dams for Reservoirs 1-3 as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes, or alternative facilities, have been installed in the dams. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.  
(0050043BP)
21. Permittee shall install and maintain devices satisfactory to the State Water Board to measure the rate and quantity of water diverted to offstream storage into the reservoirs from Miami Creek and Unnamed Streams.  
(0060046)
22. Permittee shall install and properly maintain staff gages in the reservoirs, satisfactory to the State Water Board, for the purpose of determining water levels in the reservoirs. Permittee shall record the staff gage readings on or about the last day of each month. Such readings shall be supplied to the State Water Board with the next progress report submitted to the Board by permittee. The State Water Board may require the release of water held in storage that cannot be verified as having been diverted under a valid basis of right.  
(0070047)
23. If the storage dam at Reservoir B will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam.  
(0360048A)
24. In accordance with the requirements of Water Code section 1393, permittee shall clear the site of the proposed Reservoir B site of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.  
(0120050A)
25. For the protection of fish and wildlife in Miami Creek, permittee shall during the period December 1 through April 30 bypass a minimum of 0.5 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount. The permittee shall submit a Compliance Plan, satisfactory to the Deputy Director for Water Rights, which describes how the bypass flows required by the conditions of this permit will be measured and maintained.  
(0140060)

26. No water shall be diverted from Miami Creek under this permit until permittee has installed a device, satisfactory to the State Water Board, which is capable of measuring the bypass flow required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062A)
27. Within six months of the issuance of this permit, the permittee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:
- a. A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow;
  - b. A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity;
  - c. A time schedule for the installation of these facilities;
  - d. A description of the frequency of data collection and the methods for recording bypass flows and storage levels; and,
  - e. An operation and maintenance plan that will be used to maintain all facilities in good condition.
- Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan. The monitoring data shall be maintained by the permittee for ten years from the date of collection and made available to the Deputy Director for Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittee promptly to the Deputy Director for Water Rights. Diversion and use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized. (0000070)
28. 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 San Joaquin River Basin 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 State Water Board, made after notice to interested parties and opportunity for hearing. (0000090)
29. No diversion is authorized by this permit under the following conditions: (1) when in order to maintain water quality in the San Joaquin River at Vernalis at a level of 500 parts per million (ppm) Total Dissolved Solids (TDS), the Bureau of Reclamation is releasing stored water from New Melones Reservoir or is curtailing the collection of water to storage, or (2) during any time of low flows when TDS levels at Vernalis exceed 500 ppm. These restrictions shall not apply when, in the judgment of the State Water Board, curtailment of diversion under this permit will not be effective in lowering the TDS at Vernalis, or when in the absence of permittee's diversion, hydraulic continuity would not exist between permittee's point of diversion and Vernalis. The State Water Board shall notify permittee at any time curtailment of diversion is required under this term. (0000093)

30. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction of any new water diversion, conveyance or storage facility named in this permit that does not exist as of the date of this permit, 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, Central Valley Region, or by the State Water Resources Control Board.  
(0000100)
31. No water shall be used under this permit for any purpose requiring processing by a wastewater treatment plant for subsequent disposal to land or water until permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Valley Region, pursuant to Water Code section 13260, and the Regional Water Board or State Water Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Water Board or State Water Board are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Water Board or the State Water Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if, after filing the report pursuant to section 13260:
- a. the Regional Water Board issues a waiver pursuant to section 13269; or,
  - b. the Regional Water Board fails to act within 120 days of the filing of the report.
- No permittee shall be required to file a report of waste discharge pursuant to section 13260 of the Water Code for percolation to ground water of water resulting from the irrigation of crops.  
(0290101)
32. The total quantity of water diverted under this permit, together with that diverted under the permits issued pursuant to Applications 29787 and 31425 shall not exceed 665 acre feet per annum.  
(0000114A)
33. The maximum simultaneous rate of diversion from POD A under this permit, together with that diverted under the permit issued pursuant to Application 29787, shall not exceed 1.33 cubic-feet per second.  
(0000114C)
34. Permittee shall obtain all necessary state and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Deputy Director for Water Rights.  
(0000203)
35. For the protection of riparian habitat, Permittee shall, in conjunction with Final Map approvals, establish Outlots 1, 2 and 3, as those parcels are shown on the Sierra Meadows Estates Tentative Subdivision Map S01-03 dated October 7, 2007 on file with the State Water Board. The ultimate configuration and recordation of Outlots 1, 2 and 3 are subject to change upon the approval of multiple Final Map(s) by the County of Madera. Any such change(s) shall only be made following Permittee's consultation with the U.S. Army Corps of Engineers (USACE) and the USACE's approval of the change. A copy of the County-approved Final Map(s) and USACE's approval of any change in the configuration of Outlots 1, 2 or 3 shall be submitted to the Deputy Director for Water Rights within 30 days of the County's approval of the Final Map(s).  
(0450206)

36. Prior to the start of construction of any new water diversion, conveyance or storage facility named in this permit that does not exist as of the date of this permit, Permittee shall obtain the appropriate permit from the U.S. Army Corps of Engineers (USACE) and file a copy with Division of Water Rights. If a permit from the USACE is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights with a letter from the USACE affirming that a permit is not needed. (0450500)
37. Prior to the start of construction of any new water diversion, conveyance or storage facility named in this permit that does not exist as of the date of this permit, and only if a U.S. Army Corps of Engineers permit is required, Permittee shall obtain Clean Water Act section 401 Water Quality Certification from the State Water Resources Control Board or the Central Valley Regional Water Quality Control Board. (0290500)
38. This permit is specifically subject to the prior rights of Triangle T Ranch Incorporated under appropriation issued pursuant to License 9073 (Application 11003A). (000000T)

**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 Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water 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 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 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 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 the permittee 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)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee 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)

- 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 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. 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 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

*for James W. Kessel*  
Barbara Evoy, Deputy Director  
Division of Water Rights

Dated: **JUN 14 2011**