

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21285

of Mineral Resources LLC
P.O. Box 5490
Oroville, CA 95966

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 31433** filed on **July 22, 2003**, has been approved by the State Water Resources Control Board (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: <u>Unnamed Stream</u>	Tributary to: <u>Morris Ravine thence</u> <u>Feather River</u>
----------------------------------	--

within the County of Butte

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 (Projected)*	Township	Range	Base and Meridian
North 2,331,541 feet and East 6,689,078 feet	SW ¹ / ₄ of NE ¹ / ₄	29	20N	4E	MD

Location of place of storage

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Lower Chevreux Road: North 2,331,541 feet and East 6,689,078 feet	SW¹/₄ of NE¹/₄	29	20N	4E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Mining	NW¹/₄ of NE¹/₄	29	20N	4E	MD	

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

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.78 cubic foot per second** by direct diversion to be diverted from **November 1** of each year to **April 30** of the succeeding year and **19** acre-feet per annum by storage in Lower Chevreux Pond to be collected from **November 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 **46** acre-feet per water year of October 1 to September 30.

(000005F)

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)

- Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2021.

(000009)

- This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(000022)

- Permittee shall bypass all natural flow from Upper Chevreux Pond between May 1 and October 31 of each calendar year. These bypassed flows will be routed around Lower Chevreux Pond and released along the pond's spillway.

(0400300)

- Permittee shall install and maintain an outlet pipe of adequate capacity in Lower Chevreux Pond 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 reservoir, permittee shall furnish evidence which substantiates that the outlet pipes, or alternative facilities, have been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043BP)

- To avoid impacts to native species, no fish shall be stocked into any onstream reservoir.

(0400300)

11. Two sites have been identified for riparian habitat enhancement as follows: a) openings along the southern base of the Lower Chevreux Pond (approximately 0.08 acre), and b) along a seep area extending from the northeast side of Lower Chevreux Pond northward for approximately 300 feet (approximately 0.08 acre). Permittee shall plant and/or protect existing willow and cottonwood seedlings for the purpose of expanding existing riparian habitats at the locations identified above within one year of permit issuance. The vegetation collection, vegetation planting and protection procedures listed in the July 27, 2005 Department of Fish and Game (DFG) memorandum regarding dismissal of protest from Sandra Morey of DFG to Vicky Whitney of the Division shall be adhered to. Permittee shall assess the cuttings during the late summer of the first year that they are planted and replace missing or fallen tubes. Permittee shall provide photographic documentation of compliance with this requirement during the first two years after permit issuance with the Progress Report by Permittee. (0400300)
12. Within 6 months of permit issuance, Permittee shall provide and thereafter maintain three basking structures within the footprint of Lower Chevreux Pond for protection of Northwestern Pond turtle. These basking structures will consist of locally collected trees or floating structures at least 3 feet by 3 feet in size. If trees are opted to be used, they will have relatively straight boles and will be placed along the margins of Lower Chevreux Pond. These trees will be at least 25-feet long and 12-inches in diameter at the large end. Each tree will be anchored on one end of the bank at a level of approximately 5 feet below the spillway elevation. The design is intended to allow the tree boles to adjust to changing water levels but to stay in the same general location along the pond bank. With this design, and depending on water level, the log may either float in the water, lodge along the water's edge, or lie along the pond's bank above the water level. If floating structures are to be provided, they will be anchored in a manner similar to that described for logs. These structures will be designed so that their surfaces float less than 2-inches above the water level or have 1 inch high steps leading to the floating surface. Permittee shall provide photographic documentation of compliance with this requirement in the first Progress Report by Permittee, and every five years thereafter. (0400300)
13. 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 Sacramento 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)
14. No water shall be used under this permit 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 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 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 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:

- (1) the Regional Board issues a waiver pursuant to Section 13269, or
- (2) the Regional 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)

15. 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, Central Valley Region, or by the State Water Board. (0000100)

THIS PERMIT IS ALSO 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 that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. 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 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)

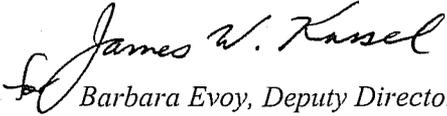
This permit is issued and permittee takes it subject to the following provisions of the Water Code:

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


*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JUN 06 2011