



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

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

APPLICATION 30848

PERMIT 21339

Right Holder: John Giusti and Maureen Giusti  
1145 Verde Road  
Half Moon Bay, CA 94019

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 19, 1999**. 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.

The Deputy Director for Water Rights finds that the State Water Board and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved protests 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 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].)

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

1. Source of water: **(1)(2) Two Unnamed Streams**  
tributary to: **(2) Unnamed Stream thence (1) the Pacific Ocean**  
within the County of **San Mateo**.

2. Location of points of diversion and places of storage

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Lower Reservoir</b> (1) North 1,970,938 feet and East 6,004,468 feet	SE ¼ of SW ¼	21	6S	5W	MD
<b>Upper Reservoir</b> (2) North 1,973,320 feet and East 6,006,480 feet	NW ¼ of NE ¼				

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection there of	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Irrigation</b>	<b>NW ¼ of SW ¼</b>	<b>15</b>	<b>6S</b>	<b>5W</b>	<b>MD</b>	<b>12</b>
	<b>SW ¼ of SW ¼</b>					<b>11</b>
	<b>SE ¼ of SE ¼</b>	<b>16</b>				<b>6</b>
	<b>NW ¼ of NW ¼</b>					<b>26.5</b>
	<b>NE ¼ of NW ¼</b>	<b>21</b>				<b>16</b>
	<b>SW ¼ of NW ¼</b>					<b>28</b>
	<b>SE ¼ of NW ¼</b>					<b>38</b>
	<b>NW ¼ of NE ¼</b>					<b>12</b>
	<b>NE ¼ of NE ¼</b>					<b>5</b>
	<b>SW ¼ of NE ¼</b>					<b>30</b>
	<b>SE ¼ of NE ¼</b>					<b>1</b>
	<b>NW ¼ of SW ¼</b>					<b>20</b>
	<b>NE ¼ of SW ¼</b>					<b>50</b>
	<b>SW ¼ of SW ¼</b>					<b>18</b>
	<b>SE ¼ of SW ¼</b>					<b>30</b>
	<b>NW ¼ of SE ¼</b>					<b>41</b>
	<b>NE ¼ of SE ¼</b>					<b>15</b>
	<b>SW ¼ of SE ¼</b>					<b>40</b>
	<b>SE ¼ of SE ¼</b>	<b>30</b>				
	<b>NE ¼ of NE ¼</b>	<b>28</b>				<b>20</b>
	<b>NW ¼ of NE ¼</b>					<b>30</b>
<b>NE ¼ of NW ¼</b>	<b>30</b>					
					<b>Gross Acres</b>	<b>509.5</b>
					<b>Net Acres</b>	<b>264.5</b>
<b>Stockwatering</b>	<b><u>Lower Reservoir</u> SE ¼ of SW ¼</b>	<b>21</b>	<b>6S</b>	<b>5W</b>	<b>MD</b>	

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

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of **79 acre-feet per year** by storage to be collected from **December 1** of each year to **March 31** of the succeeding year as follows: **30 acre-feet per year** in Upper Reservoir and **49 acre-feet per year** in Lower Reservoir.

(000005D)

6. No water shall be collected to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by **December 31, 2028**. (0000009)
8. Based on the information in the Division's files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right. (0000021C)
9. Right holder shall install and maintain an outlet pipe of adequate capacity in the Lower Reservoir dam 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, right holder shall furnish evidence which substantiates that the outlet pipe, or alternative facility, has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043B)
10. No water shall be diverted under this right unless right holder is monitoring and reporting the water surface elevation in the reservoirs. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of monitoring water surface elevations from the maximum water line to the minimum water line known to exist for the reservoirs and shall be properly maintained.  
  
Right holder shall provide the Division of Water Rights with evidence that the devices have been installed and the reading corresponding to the maximum water line of the reservoirs 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 maximum and minimum water surface elevations. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights. The State Water Board may require release of water held in storage that cannot be verified by monthly records. Failure to maintain or submit the required records may result in the requirement to release the entire content of the reservoir's storage. (0100047)
11. If the storage dams are of such size as to be within the jurisdiction of the Department of Water Resources as to safety, storage under this permit shall not be commenced until the Department has approved the plans and specification for the dams. (0360048B)
12. No water shall be diverted under this right unless right holder is monitoring and reporting the withdrawal of water for beneficial use from the reservoirs. 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 withdrawn for beneficial use from the reservoirs and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the devices 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 withdrawals of water for beneficial use under this right that includes the date, time, rate of withdrawal, and the amount of water withdrawn. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(0100052)

13. No water shall be diverted under this right unless right holder is operating in accordance with a mitigation plan satisfactory to the Deputy Director for Water Rights. The mitigation plan shall address eradication of non-native species. Right holder shall submit a report on mitigation plan activities in accordance with the time schedule contained in the mitigation plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the mitigation plan upon a determination that the plan is ineffective or unsuccessful, or provide relief from this term upon a determination that the mitigation plan is no longer required.

(0400053)

14. For the protection of habitat for the federally threatened California red-legged frog (*Rana draytoni*), federally endangered, state endangered, and fully protected San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), and saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) and to allow for the growth of riparian vegetation, right holder shall:

- a. establish and maintain, undisturbed, a setback of natural upland vegetation at both reservoirs as shown on the map dated May 15, 2013 on file with the State Water Board. Except for the exclusions stated herein, no ground disturbing activities shall occur within the upland vegetation, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas. There is excluded from the upland vegetation established herein all existing planted landscape areas, roads and roadways, bridges, equipment and material storage areas, buildings, structures, fences, wells, pipes, drainage facilities, utility lines and poles, pumps, sumps, water diversion and storage facilities, and access to all of the foregoing existing features for purposes of operation, maintenance and replacement, as such facilities and access exists now or may from time to time be modified. Equipment access through the upland vegetation shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the of upland vegetation are allowed;
- b. obtain approval of the U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, and the California Department of Fish and Wildlife prior to any dredging operations within the reservoirs;
- c. refrain from disturbing the fringe of emergent (wetland) vegetation within the reservoirs during dredging operations; and
- d. restrict cattle and domestic stock access to the reservoir to a maximum of 10 percent of the shoreline or construct outlet pipes to watering troughs.

These requirements shall remain in effect as long as water is being diverted by right holder (or successors-in-interest) under any permit or license issued pursuant to Application 30848.

(0000205)

15. For the protection of riparian habitat, right holder shall establish and maintain, undisturbed, a setback of natural vegetation along the unnamed stream below Point of Diversion 1 as shown on map dated May 15, 2013. Except for the exclusions stated herein, no ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas. There is excluded from the setback areas established herein all existing row crops and planted landscape areas, roads and roadways, bridges, equipment and material storage areas, buildings, structures, fences, wells, pipes, drainage facilities, utility lines and poles, pumps, sumps, water diversion and storage facilities, and access to all of the foregoing existing features for purposes of operation, maintenance and replacement, as such facilities and access exists now or may from time to time be modified. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the setback area are allowed. Right holder shall restrict cattle or other domestic stock access to the riparian area. These requirements shall remain in effect as long as water is being diverted under any permit or license issued pursuant to Application 30848.

(0000206)

16. No water shall be diverted under this right unless right holder is operating in accordance with an erosion control plan satisfactory to the Deputy Director for Water Rights. Said plan shall include measures to prevent sediment from leaving the place of use and entering waters of the State. Right holder shall provide the Division of Water Rights with evidence that substantiates that the erosion control measures contained in the plan are functioning properly every five years after installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

(0000207)

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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. Only the amount of water applied to beneficial use during the authorized diversion season, as determined by the State Water Board, shall be considered when issuing a license. (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.

(000029D)

- 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.

(000012)

- 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.

(000013)

- 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.

(0000014)

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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 .*

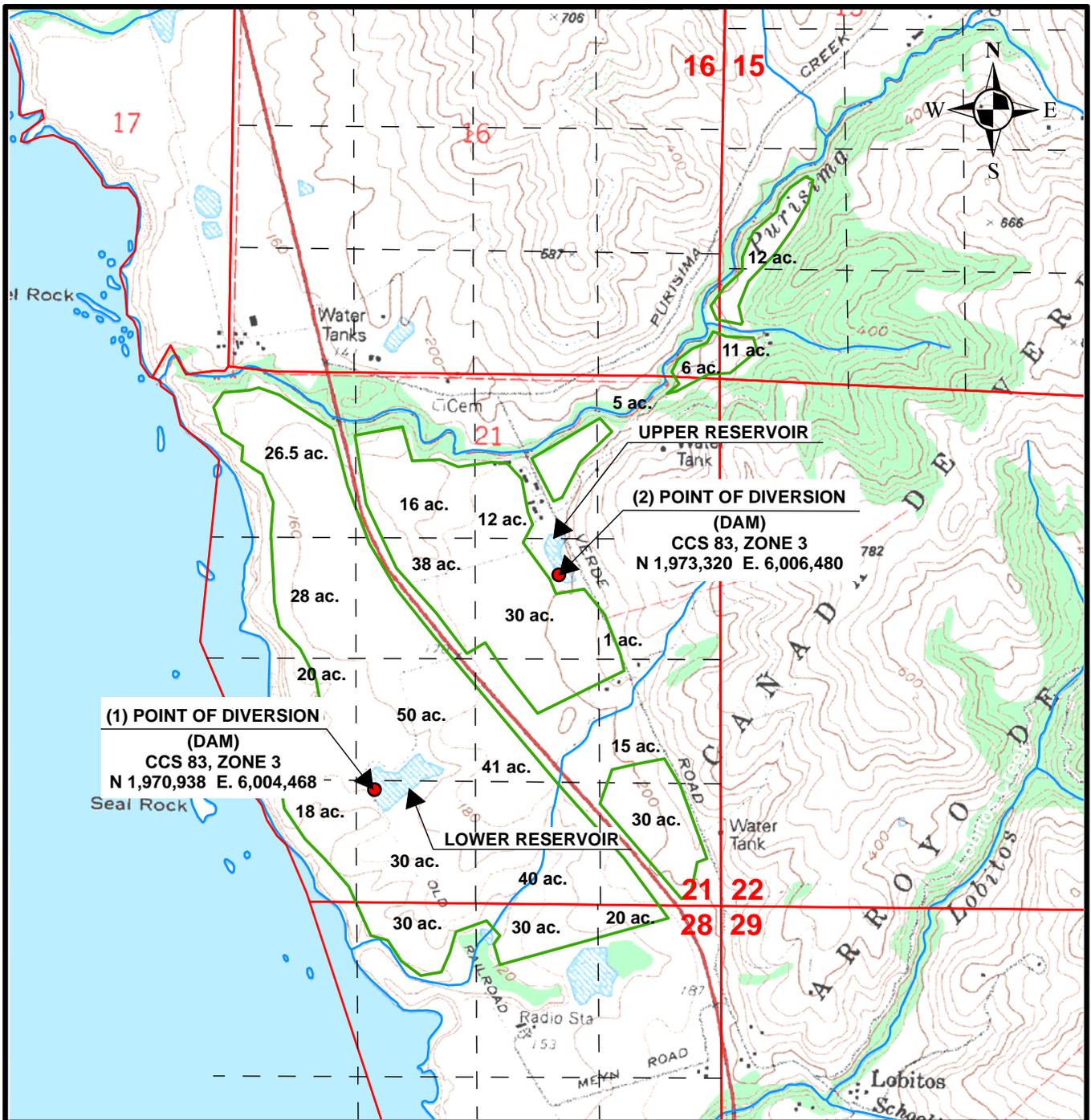
*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the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

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: NOV 01 2013



OWNER JOHN GIUSTI AND MAUREEN GIUSTI

SOURCE: (POD 1 & 2) UNNAMED STREAMS TRIBUTARY TO  
PACIFIC OCEAN

POINT OF DIVERSION : WITHIN SE 1/4 OF SW 1/4 AND  
NW 1/4 OF NE 1/4 OF PROJECTED  
SECTION 21, T6S, R5W, MDB&M  
COUNTY OF SAN MATEO

U.S.G.S. QUAD: HALF MOON BAY DATE: PH. RE. 1991 SCALE: 1:20,000

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

APPLICATION NO. 30848

PERMIT NO. 21339

PERMIT

DATE: 8-29-2013

DRAWN: JH

CHECKED: MM

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Application 30848

**John Giusti and Maureen Giusti**

**ORDER CANCELING PROTESTS**

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SOURCE: Two Unnamed Streams tributary to Pacific Ocean

COUNTY: San Mateo

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**WHEREAS:**

1. Peninsula Open Space Trust (POST) filed water right Application 30848 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on March 19, 1999 to divert water from two Unnamed Streams tributary to Pacific Ocean. POST filed a Petition for Change on October 21, 2004. On May 11, 2006, John Giusti and Maureen Giusti assumed ownership of the water right application.
2. The application was noticed on June 14, 2006. The petition was noticed on November 10, 2004. The protests filed by the California Department of Fish and Wildlife on the application and petition are unresolved. The protests were based on potential direct and indirect impacts to instream flow, instream resources, and aquatic and terrestrial habitat due to the diversion of water.
3. The project has been determined to be exempt from the California Environmental Quality Act. Potential impacts were evaluated in a public trust evaluation and mitigation measures developed to reduce impacts to a less than significant level. The public trust evaluation is located in the application file and is incorporated in this Order by reference. The mitigation measures will be included in any right issued. There is no substantial evidence in light of the whole record to support the allegation. Therefore, the protest is canceled. (Wat. Code, § 1335.)
4. The State Water Board has delegated the authority to cancel protests to the Deputy Director of Water Rights pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director, pursuant to redelegation order dated July 6, 2012.

**NOW, THEREFORE, IT IS ORDERED THAT THE PROTESTS FILED ON APPLICATION 30848 ARE CANCELED.**

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:  
JAMES W. KASSEL FOR

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: NOV 01 2013