



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

DIVISION OF WATER RIGHTS

**RIGHT TO DIVERT AND USE WATER**

APPLICATION T032197

PERMIT 21341

Right Holder:

Santa Margarita Water District  
26111 Antonio Parkway  
Rancho Santa Margarita, CA 92688

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 **September 16, 2013**. 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 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].)

Santa Margarita Water District (District) filed an application to appropriate water by temporary permit on September 16, 2013 pursuant to Water Code section 1425. The application proposes to divert water flowing in Gobernadora Creek for the purpose of irrigation of golf courses, parks and other landscape areas within the Coto de Caza community. The goal of this project is to divert for beneficial use water flowing in Gobernadora Creek that is mostly attributable to return flows from imported water that the District purchases from the Metropolitan Water District of Southern California (MWD) and serves to the Coto de Caza community. Diverted water will either be used immediately for irrigation purposes or be pumped to the District's Portola Reservoir for later use. The District will construct two adjacent offstream basins with inflatable rubber dams, two offset wells, and a return water pump station along with associated piping and electrical appurtenances. The upper dam and basin will provide a natural wetlands treatment process for non-storm flows for subsequent return to the creek or diversion for irrigation use. The lower dam and basin will facilitate the attenuation of storm flows to help protect downstream communities, environmental restoration areas and public infrastructure.

The State Water Board may issue a temporary permit if the State Water Board finds that: (1) the applicant has an urgent need for the proposed diversion and use of water, (2) the water may be diverted and used without injury to any lawful user of water, (3) the water may be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses, and (4) the proposed diversion and use is in the public interest. (Wat. Code, § 1425, subd. (b).)

The State Water Board has delegated to the Deputy Director for Water Rights the authority to act on applications for temporary permits in accordance with Water Code sections 1425 et seq. where no objections are outstanding. (State Water Board Resolution 2012-0029, para. 4.2.14.) The State Water Board may issue a temporary permit in advance of the notice required by the Water Code. (Wat. Code, § 1428.) A public notice of the application for this temporary permit is pending.

**Right Holder Has an Urgent Need for the Water**

The State Water Board finds that the right holder has an urgent need for the water to be diverted and used. Currently the District is entirely reliant upon imported water purchased from MWD, which supplies have become uncertain due to

regulatory and legal decisions involving the State Water Project (SWP) and Central Valley Project. Colorado River supplies are subject to similar constraints. For 2013, the projected delivery capability of the SWP has been reduced to 35% of the contractor's allocations due to low statewide snowpack and precipitation, while the Department of Water Resources has raised the possibility that water year 2014 could be a third consecutive dry year. These and other conditions reduce the availability and reliability of imported water supplies to serve demands within the District. To this end, the project is intended to reduce the District's demands on imported water by capturing and reusing return flows attributable to imported water that the District serves to the Coto de Caza community. In addition, the District has applied for grant funding of portions of the proposed project from the State Water Board's Division of Financial Assistance. Without timely issuance of a water right, the grant funding is at risk, and loss of grant funding may prevent or delay completion of the proposed project. Based on the above factors, the District has an urgent need for the water to be diverted and used.

### **The Water May Be Diverted and Used without Injury to any Lawful User of Water**

The water will be diverted and used without injury to any lawful user of water. The goal of this project is to divert for beneficial use water flowing in Gobernadora Creek that is mostly attributable to return flows from imported water that the District purchases from the Metropolitan Water District of Southern California (MWD) and serves to the Coto de Caza community. All such waters are foreign to Gobernadora Creek and its watershed. The District's proposed diversion is subject to limits on the instantaneous rate of diversion, and the total quantity of water that may be diverted. The State Water Board will require the District to comply with these limitations as conditions of this permit.

### **The Water May Be Diverted and Used without Unreasonable Effects upon Fish, Wildlife, or other Instream Beneficial Uses**

The diversion and use of water under the permit will not unreasonably affect fish, wildlife, or other instream beneficial uses within the watershed. The project is designed to use a natural wetlands treatment process to improve water quality and instream beneficial uses located downstream of the project. The District has prepared two Environmental Impact Reports (EIRs), SCH 2006061140 and SCH 2003021141, in accordance with the California Environmental Quality Act (CEQA). The EIRs found that the project, as mitigated, would not have a significant effect on the environment. A Habitat Conservation Plan (HCP) issued by the United States Fish and Wildlife Service requires continuous monitoring of the downstream ecological restoration area to ensure there are no negative impacts that can be attributed to the project. Gobernadora Creek does not contain a resident fish population and the connection between the mouth of Gobernadora Creek and San Juan Creek consists of a very steep and eroded section that precludes fish passage. A condition has been included in the permit for monitoring of water quality in Gobernadora Creek if required by the San Diego Regional Water Quality Control Board. Pursuant to the Clean Water Act section 401 certification process, the District will be required to monitor and mitigate any potential short-term impacts during the construction period to ensure that the downstream riparian habitat is not adversely affected by project construction. The State Water Board will file a Notice of Determination within five days from the issuance of this order.

### **The Proposed Diversion and Use Is in the Public Interest**

The proposed project will attenuate storm flows and reduce erosion and sedimentation. This will serve the public interest by protecting both downstream environmental restoration areas and public infrastructure from damage from storm flows. The project will improve water quality and remove excess surface and groundwater from the Gobernadero Creek Watershed. The public interest will also be served by reducing the District's dependence on imported potable water, which is currently the primary source of non-domestic water for the area. The District's reduced reliance on imported water supplies will in turn assist in maximizing the reasonable and beneficial use of imported water supplies on a regional and statewide basis in accordance with Article X, Section 2 of the California Constitution and other established water policies of the State.

In light of the findings set forth above, the temporary permit is approved, subject to the following conditions:

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

- Source of water: **(1)(2)(3) Gobernadora Creek**  
 tributary to: **San Juan Creek thence the Pacific Ocean**  
 within the County of **Orange**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Upper Inflatable Dam</b> <b>(1) North 2,149,544 feet and East 6,154,349 feet</b>	<b>SW ¼ of SW¼</b>	<b>14</b>	<b>7S</b>	<b>7W</b>	<b>SB</b>
<b>Upper Well</b> <b>(2) North 2,149,905 feet and East 6,153,863 feet</b>	<b>SW ¼ of SW¼</b>	<b>14</b>	<b>7S</b>	<b>7W</b>	<b>SB</b>
<b>Lower Well</b> <b>(3) North 2,149,373 feet and East 6,153,882 feet</b>	<b>SW ¼ of SW¼</b>	<b>14</b>	<b>7S</b>	<b>7W</b>	<b>SB</b>

Location of places of storage

By California Coordinate System of 1983 in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Portola Reservoir</b> <b>North 2,176,429 feet and East 6,155,992 feet</b>	<b>NE ¼ of SW¼</b>	<b>23</b>	<b>6S</b>	<b>7W</b>	<b>SB</b>

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Irrigation</b>	<b>Within the Coto de Caza subdivision service area boundary within Sections 26 and 35, T6S, R7W and Sections 2, 3, 10, 11, 14 and 15, T7S, R7W, SBB&amp;M as shown on map.</b>					

The place of use is shown on map dated October 28, 2013 on file with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **2.0 cubic feet per second** by direct diversion to be diverted and **400 acre-feet per year** by storage to be collected from January 1 to December 31 each year. The total amount of water to be taken from the source (direct diversion plus collection to storage) for all uses shall not exceed **800 acre-feet per year**.  
(0000005E)
6. This right expires **180 days** from the date of its issuance.  
(0510700)
7. This maximum rate of diversion to offstream storage shall not exceed 2.0 cubic feet per second.  
(0000005J)
8. Right holder shall monitor the downstream ecologic restoration and preserve area and otherwise comply with all provisions of the Southern Subregion Habitat Conservation Plan, dated January 10, 2007, entered into between right holder and the United States Fish and Wildlife Service, Rancho Mission Viejo, and the County of Orange.  
(0000024)
9. Right holder shall install and maintain a measuring device, satisfactory to the State Water Board, which is capable of (1) measuring the instantaneous rate of diversion and (2) total quantities of water diverted.  
(0100500)
10. Right holder shall report to the State Water Board by June 1, 2014 the maximum rate of diversion and total quantity of water diverted under this temporary permit.  
(0100500)
11. Right holder 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)
12. In order to control and minimize potential erosion during any construction activities, Best Management Practices (BMP) shall be prepared by a licensed civil engineer and submitted to and approved by the Deputy Director for Water Rights, within thirty (30) days of the date of this right. BMPs for controlling erosion may include, but are not limited to the following: vegetation removal shall be limited to the minimum amount necessary to accommodate installation of the diversion facility; temporary erosion control measures, such as silt fences, staked straw bales, and temporary revegetation, shall be installed in disturbed areas; and sediment shall be retained on-site by sediment basins, traps, siltation barriers, or other appropriate measures as needed. Implementation of Caltrans' approved BMPs may substitute for this condition, provided that the BMPs are equivalent or better than the BMPs listed herein.  
(0120500)
13. Right holder shall consult with the San Diego Regional Water Quality Control Board (Regional Water Board) as to whether a Monitoring Plan (Plan) is necessary to ensure that water quality standards are met in Gobernadora Creek as stream flow is diverted. A copy of the Plan, once approved by the Regional Board, shall be submitted by email to Division management prior to any diversion under this temporary permit.  
(0290500)

14. The State Water Board may supervise diversion and use of water under this right for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Right holder shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this temporary permit.

(0480600)
  
  15. This right is issued and right holder takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425 et seq. Any right issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Board.

(0510800)
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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.*

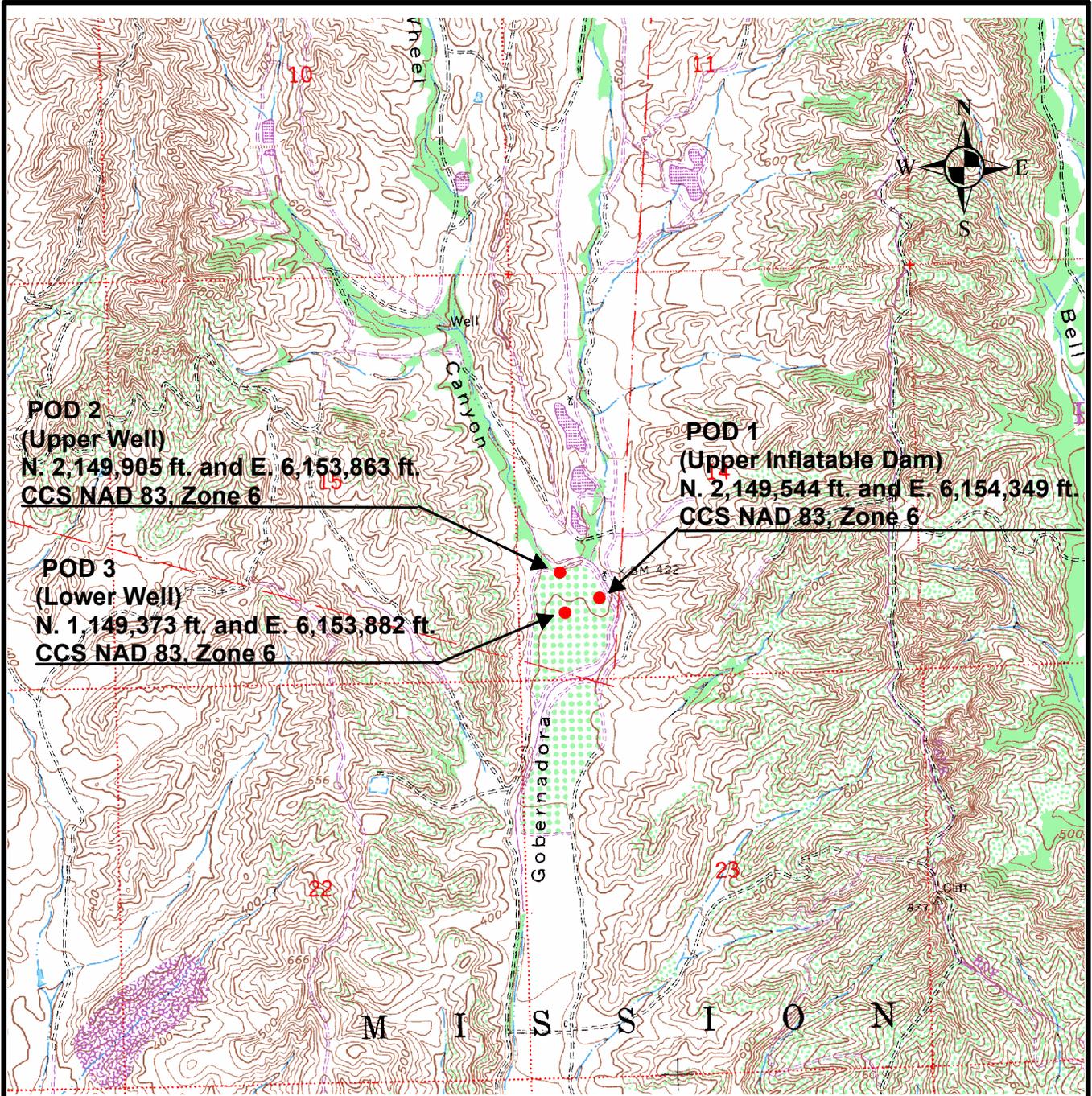
*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the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

ORIGINAL SIGNED BY  
JAMES W KASSEL FOR:

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: NOV 21 2013



OWNER **SANTA MARGARITA WATER DISTRICT**

SOURCE **(1)(2)(3)GOBERNADORA CREEK TRIBUTARY TO SAN JUAN CREEK THENCE PACIFIC OCEAN**

POINT OF DIVERSION

WITHIN **SW 1/4 OF SW 1/4 OF**

SECTION **14, T7s, R7W, SBB&M**

COUNTY OF **ORANGE**

U.S.G.S. QUAD: **CANADA GOBERNADERO** DATE: **PH. RE. 1981** SCALE: **1:24,000**

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APPLICATION NO. **T032197**

PERMIT NO.

**TEMPORARY PERMIT**

DATE: <b>11-19-13</b>	DRAWN: <b>MSM</b>	CHECKED:
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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.