STATE WATER RESOURCES CONTROL BOARD
2016 JUL 18 AM 10:30
DIVISION OF WATER RIGHTS
SACRAMENTO

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 25877 PERMIT 18338 LICENSE **12191**

THIS IS TO CERTIFY, *That* August J. Repetto and Doris A. Repetto
Route 1, Box 2CD
Half Moon Bay, California 94019

have *made proof as of* May 14, 1986 *(the date of inspection)* *to the satisfaction of the State Water Resources Control Board of a right to the use of the water of* San Gregorio Creek in San Mateo County

tributary to Pacific Ocean

for the purpose of Irrigation, Fire Protection and Recreational uses

under Permit 18338 *of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from* November 29, 1978 *and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed* five and three-tenths (5.3) acre-feet per annum to be collected from December 1 of each year to May 1 of the succeeding year. The maximum withdrawal in any one year shall not exceed 5.3 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

The maximum rate of diversion to offstream storage shall not exceed 1 cubic foot per second.

THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

By California Coordinates, Zone 3, North 305,800 and East 1,458,500 being within SW¼ of NE¼ of projected Section 14, T7S, R5W, MDB&M.

THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:

Offstream reservoir within SW¼ of NE¼ of projected Section 14, T7S, R5W, MDB&M.

DESCRIPTION OF THE LANDS OR THE PLACE OF USE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

Recreational and fire protection uses at reservoir within SW¼ of NE¼ of projected Section 14, T7S, R5W, MDB&M and irrigation as follows:

15 acres within NE¼ of NW¼ of projected Section 14, T7S, R5W, MDB&M
8 acres within SE¼ of NW¼ of projected Section 14, T7S, R5W, MDB&M
5 acres within NW¼ of NE¼ of projected Section 14, T7S, R5W, MDB&M
10 acres within SW¼ of NE¼ of projected Section 14, T7S, R5W, MDB&M

38 acres total, as shown on map on file with State Water Resources Control Board.

This license is conditioned upon full compliance with Sections 1601, 1603, and/or Section 6100 of the Fish and Game Code. (0000063)

For the protection of fish and wildlife, licensee shall from December 1 to May 1 bypass the entire streamflow for a period of 5 days after a major storm producing a flow of 50 cubic feet per second or greater in San Gregorio Creek at the U.S.G.S. gage. (0140400)

Licensee shall bypass a minimum of 5 cubic feet per second as measured at the U.S.G.S. gage, except during a dry year when the minimum bypass shall be 2 cubic feet per second. A dry year is defined as when the rainfall to date is less then 70% of the average rainfall as measured at the Department of Parks and Recreation office in Half Moon Bay (415) 726-6238. (0160400)

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Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the State Water Resources Control Board if, after notice to the licensee and an opportunity for hearing, the 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 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.

Pursuant to California Water Code Sections 100 and 275 and the public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (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 license 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 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 board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license 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 1628. Every license 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 license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license 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 license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: APRIL 28 1987

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh
Chief, Division of Water Rights

San Gregorio Creek Stream System Adjudication (Decree No. 355792)

Water rights associated with the project site are included in the San Gregorio Creek Stream System Adjudication (Decree No. 355792). Excerpts from the Decree that are specific to the site are provided below. The entire Decree is available online at the following website:
http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/judgments/docs/sangregariocreek_jd.pdf

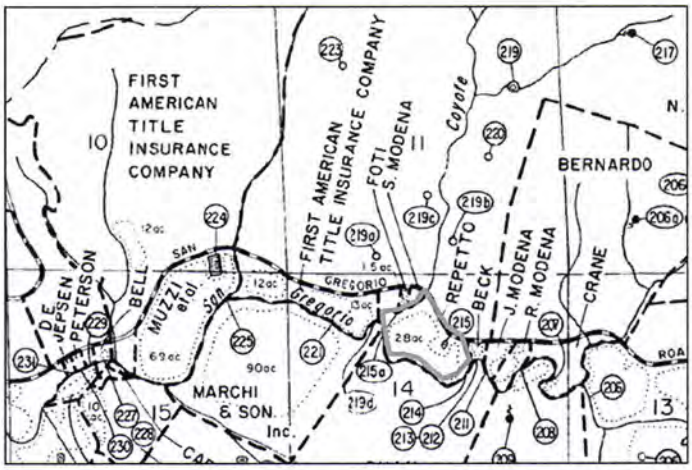

Figure 1: Portion of the San Gregorio Adjudication Decree map showing locations of diversion point (214) and off-stream storage pond site (215).

SCHEDULE 5
(continued)

ALLOTMENTS TO VARIOUS CLAIMANTS FROM
SAN GREGORIO CREEK AND TRIBUTARIES
BELOW ALPINE AND LA HONDA CREEKS

NAME OF CLAIMANT	DIVERSION NO. ON SWRCB MAP	USE	AREA SERVED IN ACRES	ALLOTMENTS IN 1,000 GALLONS PER DAY FIRST PRIORITY	SECOND PRIORITY
Beck, Ronald E. and Geraldine A.	212	D I	 0.65	0.5	 2.4
Beck, Ronald E. and Geraldine A.	213	I	2.35		8.8
Repetto, August J. and Doris A.	214	I	28		104.4

Figure 2: Portion of the San Gregorio Adjudication Decree listing diversion point 214

24240	P 17511	Cuesta La Honda Guild	D,FP,R	30	afa	Jan. 1 - Dec. 31
25877	L 12191	August J. and Doris A. Repetto	FP,I,R	14.9	afa	Dec. 1 - May 1
26125	P 18345	Nicola D. and Liana M. Muzzi & Edward and Dianna M. Campinotti	FP,I,R	49	afa	Dec. 1 - Apr. 30

[1] - Priority of post-1914 appropriative rights is established as of the date of filing of the application. Application numbers reflect date of filing so that the lower the application number, the earlier the date of filing. Post-1914 appropriative rights are junior to all active riparian rights and all appropriative rights initiated prior to December 19, 1914 except that all diversions for active inside residential domestic use authorized by permits and licenses in this schedule shall be in the first priority.

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Figure 3: Portion of the San Gregorio Adjudication Decree listing License 12191 associated with storage site 215

San Mateo County
Resource
Conservation
District

PHONE 650.712.7765
FAX 650.726.0494

625 Miramontes Street, Suite 103, Half Moon Bay, CA 94019
www.sanmateoRCD.org

CERTIFICATE OF DETERMINATION OF EXEMPTION/EXCLUSION FROM ENVIRONMENTAL REVIEW

Amendment of original document: The APN number was incorrect and was originally reported as 062-39-0999. The correct APN number is noted below.

Project Title:	San Gregorio Creek Streamflow Improvement Project
Project Location:	The project site occupies a 3.4 acre area of farmland which includes an earthen bermed irrigation pond near the town of San Gregorio, San Mateo County. The project is located off Hwy 84, 2.3 miles east of Highway 1.
Assessor's Parcel Numbers:	081-29-0180
City and County:	Unincorporated, San Mateo County

Description of Nature and Purpose of Project:
The San Mateo County Resources Conservation District (RCD), in partnership with Trout Unlimited and American Rivers, is proposing to increase the capacity of an existing agricultural pond in San Mateo County, California in order to reduce diversions from San Gregorio Creek for the benefit of native steelhead trout (*Oncorhynchus mykiss*) and coho salmon (*Oncorhynchus kisutch*). Funding for the project designs is provided by the California State Coastal Conservancy, the National Oceanic and Atmospheric Administration's Restoration Center, and construction is funded by an Integrated Regional Water Management Plan grant from the California Department of Water Resources. This project is identified as a priority recovery action in the following documents:

- California Department of Fish and Game, 2004, Recovery Strategy for California Coho Salmon, California Department of Fish and Game, Sacramento, CA
- California Department of Fish and Wildlife, 2013, Updated Statewide 2013 Task List for the Steelhead Restoration and Management Plan for California, California Department of Fish and Wildlife, Sacramento, CA
- NOAA National Marine Fisheries Service, 2012, Recovery Plan for Evolutionarily Significant Unit of Central California Coast Coho Salmon Final Plan, NOAA National Marine Fisheries Service, Santa Rosa, CA
- NOAA National Marine Fisheries Service, 2011, North-Central Coast Recovery Domain 5 Year Review, NOAA National Marine Fisheries Service, Long Beach, CA
- NOAA National Marine Fisheries Service, 2007, Federal Recovery Outline for the Distinct Population Segment of Central California Coast Steelhead, NOAA National Marine Fisheries Service, Santa Rosa, CA
- Stillwater Sciences, 2010, San Gregorio Creek Watershed Management Plan, Natural Heritage Institute, San Francisco, CA
- Stillwater Sciences. 2014. Ecological assessment of flows in San Gregorio Creek. Appendix to: San Gregorio Creek watershed management plan. Final report. Prepared by Stillwater Sciences, Morro Bay, California for American Rivers, Nevada City, California.

The project is the second phase of a voluntary effort to enhance streamflows in San Gregorio Creek. Phase I of the project upgraded irrigation infrastructure on Repetto Farms to increase water use efficiency and reduce the rate of diversion from San Gregorio Creek from approximately 250 gallons per minute (gpm) to 70 gpm.

The farm fields are irrigated from an existing pond on site, which is filled from the creek when it is drawn low. Phase 2 of the project will increase the capacity of the existing pond from 5.3 acre-feet to 18.5 acre-feet. The increased storage capacity would allow Repetto Farms to forego diversion from San Gregorio Creek entirely during the driest part of the year, when stream flows are lowest in an effort to restore stream flows for summer steelhead and coho rearing habitat in San Gregorio Creek.

Name of Person, Board, Commission or Department Proposing to Carry Out Project:
San Mateo County Resource Conservation District
Kellyx Nelson
625 Miramontes Street, Suite 103
Half Moon Bay, CA 94019

EXEMPT STATUS:
X Categorical Exemption, Class 4 and 33 [CEQA State Guidelines, Sections 15304 and 15333]

REMARKS: See next page.

Contact Person: Kellyx Nelson Telephone: (650) 712-7765

6/12/2015

Date of Determination:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

cc:

Kellyx Nelson, Executive Director

REMARKS:
The project is specifically proposed to improve instream flow and provide for higher functioning aquatic and riparian habitat for species that may spawn, nest, forage, or transit the project vicinity, including steelhead trout (*Oncorhynchus mykiss*) and coho salmon (*Oncorhynchus kisutch*), by reducing summer water diversions from San Gregorio Creek. The following provides a brief description of the project, and an explanation for why the project qualifies for exemption from CEQA environmental review under Class 33 (15333) and Class 4 (15304).

Project Description
The proposed project would restore streamflows otherwise diverted by the farmer between August 1st and October 31st in order to help restore natural streamflow levels to help protect the quality and quantity of salmonid habitat. The size of the proposed project site is less than 3.5 acres and all construction activities will occur entirely within existing agricultural lands including the access route, staging area and pond footprint. The project will excavate the existing pond to repair berms and expand storage to the east and south. The excavation to fill ratio is nearly balanced. A projected 1,000 cubic yards (CY) of fill may be dispersed over the agricultural fields if necessary. Natural materials found onsite (clays) will be used to form the pond liner.

Under the proposed project, the footprint of the existing pond would be expanded to the east and south. About 12,500 CY of material would be graded / excavated to increase the capacity of the existing pond from 5.3 acre-feet to 18.5 acre-feet. Annual water management by Repetto Farms would continue in accordance with their existing water license and a new supplemental water right, under the direction of the San Gregorio Creek Watermaster. In most water years, Repetto Farms would fill the pond during the wet season (between December 1 and April 30). Once the irrigation season starts (generally April 1), all water applied to crops would be pumped directly from the pond, with additional water pumped from the creek to keep the pond full. This approach would best utilize storage capacity during the wet season to enable a reduction in water diverted from San Gregorio Creek for irrigation during the dry season. On August 1, diversion from the creek to fill the pond would cease, and irrigation water would be provided solely from the existing pond until the end of the irrigation season on October 31. Water management would also be subject to "no pumping days" during low water years, as required by the Watermaster and in accordance with the court decree governing the San Gregorio Creek adjudication.

Prior to construction of the project, Repetto Farms will enter into a long-term agreement requiring the owner to forego diverting water between August 1st and October 31st in exchange for diverting water during the winter and spring to fill the pond for the life of the project. The forbearance agreement will be recorded and attached to the property deed so it is binding on any and all successors in ownership. Repetto Farms will also enter into a Lake or Streambed Alteration Agreement, pursuant to Section 1600 et seq. of the California Fish and Game Code, covering both water diversion and the maintenance and management of the pond.

Class 33 (CEQA State Guidelines, Section 15333)

Section 15333 of the guidelines describes Small Habitat Restoration Projects that do not exceed 5 acres in size and are constructed for the purpose of maintenance, restoration, enhancement, or protection of habitat for fish, plants or wildlife. As described above, the project site is less than 3.5 acres in size and is proposed to improve instream flow and provide for higher functioning aquatic and riparian habitat for species that may spawn, nest, forage, or transit San Gregorio Creek.

The following four bullets list the criteria for projects to meet Categorical Exemption 15333 as described in the CEQA Statute and Guidelines.

(a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065

The project occurs in a farm field that is regularly disturbed with farm equipment and personnel as part of regular operations. The existing pond footprint will be expanded onto a portion of the regularly farmed land. At the time of construction, the pond will have been dry for one to two weeks. The drawing down

and drying out of irrigation ponds is a recommended action by the California Department of Fish and Wildlife to manage bullfrogs, non-native predators of species of concern. Bullfrogs are a common non-native predator of California Red-Legged Frogs, a threatened species. Furthermore, biological monitors will be present during critical construction phases to ensure that no species of concern are in danger of being harmed.

Project activities will not result in a significant impact on endangered, rare or threatened species or their habitat. As noted above, the project will improve streamflow and provide for higher functioning aquatic and riparian habitat for species that may spawn, nest, forage, or transit the project vicinity, including steelhead trout and coho salmon. Construction-related best management practices and precautionary actions will be utilized to insure that sensitive habitats are not significantly impacted. Construction will occur in the dry season, minimizing the potential for erosion and any construction-related effects on aquatic species. Additionally, erosion control measures, such as fiber rolls, jute mats and mulch will be installed to further reduce the risk of sedimentation resulting from project activities. The project site, including the equipment access road and staging area, will be re-vegetated and the plantings will be maintained to ensure their survival after the construction phase.

The project does not have the potential to degrade the quality of the environment and will not substantially reduce the habitat or threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of any endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.

(b) There are no hazardous materials at or around the project site that may be disturbed or removed

No hazardous materials are known to the site or project vicinity.

(c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects

The proposed project will not result in adverse impacts that are significant when viewed in connection with effects of past, current and probably future projects. Construction-related impacts will be short-term and limited to the project site. As noted above, best management practices will be implemented to ensure construction-related impacts on sensitive resources are avoided or minimize. The project will not adversely affect farmland, public services, geologic stability, soils, or health risk. In the near- and long-term, the project will improve late summer and early fall streamflow and provide for higher functioning aquatic and riparian habitat.

(d) The closest example of a small restoration project that qualifies for Class 33 Exemption as provided in the 2012 CEQA guidelines is:
(3)" stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish".

The project is exempt under the above-cited classification as it restores streamflows in San Gregorio Creek for aquatic habitat during the time that low flows are a principal limiting factor to the recovery of steelhead trout and coho salmon populations in the creek (Stillwater Sciences, 2014 and 2010). By storing more water when streamflow is more abundant (winter and spring), the project will reduce and eliminate diversions when streamflows are dangerously low for aquatic species (late summer and early fall). The project is less than 3.5 acres in size and will be constructed when the pond is dry, thereby minimizing potential for construction-related effects on sensitive resources.

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As described above, there are no unusual circumstances surrounding the proposed project that suggest a reasonable possibility of a significant environmental effect.

Class 4 (CEQA State Guidelines, Section 15304)

The following bullets list the criteria for projects to meet Categorical Exemption 15304 as described in the CEQA Statute and Guidelines.

Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to:
(a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

Although limited areas within the project boundary exceed a slope of 10%, namely the slopes of the berms surrounding the pond site, the majority of grading will occur on lands with a slope of less than 10%. Where slopes are greater than 10%, construction –related BMPs will be implemented to minimize the potential for erosion and slope instability. The project occurs on an agricultural field in which a human-made irrigation pond is located; this pond is not a jurisdictional wetland or waterway subject to regulation by the U.S. Army Corps of Engineers or State of California. This property is located adjacent to a scenic highway (CA route 84), but would not significantly alter the view. According to the California Geologic Society Seismic Hazard Zonation Program, the project area is not located within a Seismic Hazard Zonation Map.

References

California Department of Fish and Game, 2004, Recovery Strategy for California Coho Salmon, California Department of Fish and Game, Sacramento, CA

California Department of Fish and Wildlife, 2013, Updated Statewide 2013 Task List for the Steelhead Restoration and Management Plan for California, California Department of Fish and Wildlife, Sacramento, CA

NOAA National Marine Fisheries Service, 2012, Recovery Plan for Evolutionarily Significant Unit of Central California Coast Coho Salmon Final Plan, NOAA National Marine Fisheries Service, Santa Rosa, CA

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