

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21272

Application **30946** of **Clear Ridge Mutual Water Association, Inc.**
c/o Carolyn Shearer
P.O. Box 63
Big Sur, CA 93920

filed on **September 17, 1999**, has been approved by the State Water Resources Control 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:		Tributary to:
Big Sur River (Underflow)		Pacific Ocean

within the County of **Monterey**.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 1,994,149.95 feet and East 5,733,437.08 feet	NE ¼ of NE¼	23	19S	1E	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Domestic	SE$\frac{1}{4}$	23	19S	1E	MD	
Fire Protection	Portion of NW$\frac{1}{4}$ of SW$\frac{1}{4}$	24	19S	1E	MD	
	W$\frac{1}{2}$ of SW$\frac{1}{4}$	25	19S	1E	MD	
	SW$\frac{1}{4}$ of NW$\frac{1}{4}$	25	19S	1E	MD	
	Portion of SE$\frac{1}{4}$ of SW$\frac{1}{4}$	25	19S	1E	MD	
	E$\frac{1}{2}$	26	19S	1E	MD	
	E$\frac{1}{2}$ of W$\frac{1}{2}$	26	19S	1E	MD	
	NE$\frac{1}{4}$ of NE$\frac{1}{4}$	35	19S	1E	MD	
	Portion of SE$\frac{1}{4}$ of NE $\frac{1}{4}$	35	19S	1E	MD	
	Portion of N$\frac{1}{2}$ of NW$\frac{1}{4}$	36	19S	1E	MD	
					Total	835 Acres

The place of use is shown on a service area map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a maximum instantaneous rate of **0.058 cubic feet per second** to be diverted from **January 1 to December 31** of each year. The maximum amount diverted under this permit shall not exceed **42 acre-feet per annum**.
(000005AM)

6. The rate of diversion shall be restricted during low Big Sur River flows to less than 1% of the gauged flow measured by the United States Geological Survey stream gauge 11143000 located in Pfeiffer-Big Sur State Park, in accordance with the Application A030946 flow bypass compliance plan dated June 10, 2008 on file with the Division of Water Rights. When the gauged flow is equal to or below 3 cubic feet per second (cfs), the entire flow of the Big Sur River will be bypassed and no water shall be diverted under this permit. Permittee shall also limit diversions as follows:
 - o When the gauged flow is greater than 3 cfs and less than or equal to 4 cfs, the diversion shall not exceed a maximum 24 hour average rate of 0.03 cfs.
 - o When the gauged flow is greater than 4 cfs and less than or equal to 5 cfs, the diversion shall not exceed a maximum 24 average hour rate of 0.04 cfs.
 - o When the gauged flow is greater than 5 cfs and less than or equal to 6 cfs, the diversion shall not exceed a maximum 24 hour average rate of 0.05 cfs.
 - o When the gauged flow is 6 cfs and greater, the well diversion rate will be the pump's maximum capacity of 0.058 cfs.

(0140060M)

7. Permittee shall document Big Sur River flows to meet bypass requirements by monitoring United States Geological Survey Stream Gage 11143000 located in Pfeiffer-Big Sur State Park. If this gage is rendered inoperable, permittee shall be responsible for repair and maintenance of said gage unless/until another agency or party accepts responsibility. Permittee shall implement all provisions of the Application A030946 flow bypass compliance plan dated June 10, 2008 on file with the Division of Water Rights.

(0060062AM)
8. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2020.

(0000009)
9. Permittee shall install and maintain devices satisfactory to the Division of Water Rights to measure the instantaneous rate of diversion and cumulative quantity of water diverted under this permit. A record of such measurements shall be maintained by the permittee, and made available to interested parties upon reasonable request. This flow and diversion data shall be maintained for the life of the project and submitted to the Division of Water Rights with the Progress Report by Permittee and to the Department of Fish and Game upon reasonable request.

(000000RM)
10. Permittee shall obtain all necessary federal (including United States Army Corps of Engineers Section 404), 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.

(0000203M)
11. In order to reduce noise impacts, the pumps and pump house shall be insulated with noise reduction materials within 120 days of permit issuance.

(0400999)
12. To protect instream resources, any and all diversion shall occur from the existing subterranean well. There shall be no direct diversion from surface water flow of the Big Sur River under the exercise of any basis of right. Any device or contrivance which prevents, impedes, or tends to prevent or impede the passage of aquatic resources upstream or downstream shall be prohibited as a means to divert or store water.

(0360500)
13. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director for Water Rights.

(0000215)

14. If human remains are encountered, the Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.

(0380500)
15. The State Water Resources Control Board reserves jurisdiction over this permit to modify, delete, or add minimum flow requirements or related criteria for the protection of fish and wildlife and the maintenance of recreation in the Big Sur River should (1) additional fishery studies be conducted in the Big Sur River, or (2) unforeseen adverse impacts occur to the fishery or recreation in the Big Sur River. Action by the State Water Resources Control Board will be taken only after notice to interested parties and opportunity for hearing.

(0390600)
16. The State Water Resources Control Board reserves jurisdiction over this permit to modify, delete, add, or otherwise coordinate minimum flow requirements or related criteria for the protection of fish and wildlife in the Big Sur River as necessary to accommodate downstream senior water rights. Action by the State Water Resources Control Board will be taken only after notice to interested parties and opportunity for hearing.

(390600M)
17. Based on the information contained in the Division of Water Rights files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if in the future the Permittee diverts water under riparian right. With the Deputy Director for Water Rights' approval, Permittee may use water under the basis of riparian right on valid lands within the authorized place of use, provided that Permittee submits reliable evidence to the Deputy Director for Water Rights quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Deputy Director for Water Rights is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0560300bM)

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 Resources Control Board until a license is issued.

(0000010)
- C. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said State Water Resources Control Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011M)

- D. Pursuant to 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 Resources Control 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 Resources Control 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 Resources Control 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 Resources Control Board also may be exercised by imposing further limitations on the diversion and use of water by Permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Resources Control 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 Resources Control Board if, after notice to Permittee and an opportunity for hearing, the State Water Resources Control 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 Resources Control 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, 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 Resources Control 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 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 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 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


Barbara Evoy, Deputy Director
Division of Water Rights

Dated: **DEC 06 2010**