

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

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21236**

Application 31360 of

**Rodney Carley  
606 Wilson Avenue  
Novato, CA 94947**

filed on **July 19, 2002**, 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:

**Unnamed Stream**

Tributary to:

**Turner Creek thence**

**Mill Creek thence**

**Middle Fork Eel River thence**

**Eel River**

within the County of **Mendocino**.

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
<b>North 2398189 feet and East 6220485 feet</b>	<b>NE¼ of NE¼</b>	<b>29</b>	<b>22N</b>	<b>12W</b>	<b>MD</b>

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Domestic</b>						
<b>Irrigation</b>	<b>NE¼ of NE¼</b>	<b>29</b>	<b>22N</b>	<b>12W</b>	<b>MD</b>	<b>2</b>
<b>Fire Protection</b>						

The place of use is shown on 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 19 acre-feet per annum to be collected from January 1 through April 1 of each year.  
(0000005C)
6. 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.  
(0000005I)
7. The total capacity of the reservoir authorized by this permit shall not exceed 19 acre-feet.  
(0000005N)
8. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2019.  
(0000009)
9. In order to prevent degradation of the quality of water during and after construction of the project, Permittee shall file a report pursuant to Water Code section 13260 prior to commencement of diversion or use of water under this permit and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, or by the State Water Resources Control Board.  
(0000100)
10. Permittee 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)
11. For the protection of fish and wildlife, under all bases of right, Permittee shall during the period January 1 through April 1 bypass a minimum of 0.62 cubic feet per second. Under all bases of right, Permittee shall bypass the total streamflow from April 2 through December 31. The total streamflow shall be bypassed whenever it is less than 0.62 cubic feet per second.  
(0140400)
12. No water shall be diverted or used under this permit until Permittee has installed devices, satisfactory to the Deputy Director for Water Rights, which are capable of measuring the bypass flows required by the conditions of this permit. Said measuring devices shall be properly maintained in operating condition as long as water is being diverted or used under this permit.  
(0060062AP)
13. As long as water is being diverted, stored, or used under this permit, the outlet pipe riser invert in the reservoir shall be maintained at 95 feet in elevation, corresponding to 10 acre-feet of dead storage.  
(0070900)
14. Before storing water in the reservoir, Permittee shall install a staff gage in the reservoir, satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in the reservoir. This staff gage must be maintained in operating condition as long as water is being diverted, stored, or used under this permit.

Permittee shall record the staff gage readings on the first day of each month. Permittee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

(0070500)

15. Permittee shall not divert water until the water surface is equal to or greater than 95 feet in elevation and the amount of water held in storage is equal to or greater than 10 acre-feet. Permittee may use well water to augment storage in the reservoir.

(0360900)

16. Permittee shall monitor and record reservoir stage on a daily basis beginning October 1 each year until the onset of inflow to the reservoir. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights. For the purpose of compliance with this permit the onset of inflow to the reservoir is defined as the first increase in reservoir stage that occurs after October 1 each year.

At the onset of inflow to the reservoir, Permittee shall open the outlet pipe valve to allow 0.62 cubic feet per second to drain from the pond by gravity. The outlet pipe shall remain open (allowing a minimum discharge of 0.62 cubic feet per second or natural inflow) until January 1 and until the reservoir is full. The outlet pipe shall be closed after January 1, when the reservoir is full, and any natural inflow would spill to the downstream channel. For purpose of compliance with this permit the reservoir is full when the water surface elevation is equal to or greater than 100 feet.

(0050400)

17. Permittee shall not withdraw water from the reservoir between October 1 and May 31 of the succeeding year.

(0570700)

18. Prior to diversion or use of water under this permit, Permittee shall install an in-line flow meter on the outlet pipe, satisfactory to the Deputy Director for Water Rights that measures the instantaneous rate and the cumulative amount of water discharged from the reservoir to the downstream channel. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. On a weekly basis, Permittee shall record the instantaneous rate and the cumulative amount of water discharged from the reservoir while the outlet pipe valve is open. Permittee shall maintain a record of all flow meter readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

(0060400)

19. Prior to withdrawing water from the reservoir, Permittee shall install an in-line flow meter, satisfactory to the Deputy Director for Water Rights that measures the instantaneous rate and the cumulative amount of water withdrawn from the Reservoir. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

(0100900)

20. Permittee shall not stock and shall not allow others to stock fish or other non-native species in the reservoir. (0400500)
21. The prehistoric site identified by William Cull as the Carley Grassland Site in the report titled "Archaeological Surface Survey Report For The Carley State Water Control Board Application Number: 31360" shall be avoided during project development and operation. The site shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoir, and distribution facilities, including installation of buried pipelines; and ripping, trenching, grading, or planting related to conversion and maintenance of the place of use-grassland management activities). An archeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights, shall determine the boundaries of the site. The site shall be demarcated and avoided. Any future project-related activities or developments at the location of the above listed site may be allowed only if an archeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights is retained to determine the significance of the site. If mitigation is determined to be necessary, then the archeologist shall design, conduct, and complete an appropriate mitigation plan that must be approved by the Deputy Director for Water Rights prior to any activities related to any new developments. Permittee shall be responsible for all costs associated with the cultural resource related work. (0380500)
22. 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)
23. If human remains are encountered, then the Permittee shall comply with section 15064.5 (e) (1) of the CEQA 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 within 24 hours. The Native American Heritage Commission will identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendent may make recommendations regarding the means of treating or disposing of the remains with appropriate dignity. 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)

24. Any non-compliance with the terms of the permit shall be reported by the Permittee to the Deputy Director for Water Rights within 3 days of identification of the violation. (9990999)

**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. (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 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 the 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 the 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 that results in the taking of a threatened, endangered, or candidate 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 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 lake or streambed 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 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

*for James W. Kassel*  
Victoria A. Whitney  
Deputy Director for Water Rights

Dated: **JUN 29 2009**