

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

DIVISION OF WATER RIGHTS

IN THE MATTER OF PERMIT 15358 (Application 22377)

The Sea Ranch Water Company

**ORDER CORRECTING POINTS OF DIVERSION,
APPROVING CHANGE IN PLACE OF USE, AND
ISSUING A LICENSE**

SOURCE: South Fork Gualala River (Underflow)

COUNTIES: Sonoma

BY THE DEPUTY DIRECTOR FOR WATER RIGHTS:

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued Permit 15358 authorizing diversion from the South Fork Gualala River to The Sea Ranch Gas and Water Company on April 7, 1967 pursuant to Application 22377. The permit was later assigned to The Sea Ranch Water Company (Permittee).
2. Permit 15358 was issued with a complete use date of December 1, 1970. A Division inspection conducted on January 7, 1971 resulted in a Division staff recommendation for an extension of time. Permittee subsequently petitioned for an extension of time. An Order Approving a New Development Schedule was issued on April 2, 1971, extending the complete construction and use date to December 1, 1975.
3. Permittee filed a petition for a second extension of time to complete use on November 20, 1975. Order WR 77-12, adopted on October 20, 1977 approved the extension to December 1, 1980. A Division inspection conducted on July 15, 1981 resulted in a recommendation for a third extension of time to complete use.
4. Permittee subsequently filed a petition for extension of time. An Order Approving a New Development Schedule and Amending the Permit was issued on July 7, 1982, extending the complete construction and use date to December 1, 1985. The Order also added Standard Permit Term 29B – Water Conservation Program.
5. Permittee filed a petition for a fourth extension of time to complete use on February 26, 1986. An Order Approving a New Development Schedule was issued on July 1, 1986 extending the complete use date to December 1, 1996.
6. Order WR 90-15, adopted on October 18, 1990, recognized that the permitted source is the Underflow of the South Fork Gualala River. The Order modified the streamflow bypass requirements term and reduced diversion under the permit to 1.29 cubic foot per second (cfs) and 613 acre-feet (af) per calendar year.

7. A water rights complaint (no. 49-46-01) by J. Lucey was filed on November 3, 2006 against the Permittee alleging misuse of water at The Sea Ranch Golf Links. An investigation resulted in a recommendation that a new term be added as a condition of diversion under the permit. The complaint was closed when Permittee agreed to comply with the new term. The term remains in effect.
8. A third licensing inspection was conducted by the Division on June 30, 2009. Documented in the inspection report are staff findings that:
 - a. The point of diversion for Permit 15358 is inaccurately described due to a mapping error in the application. The point of diversion is approximately 160 feet from the actual well location(s).
 - b. Permittee constructed and now uses two offset wells to divert subterranean flow of the South Fork Gualala River.
 - c. In the past, wells located close together were described in permits and licenses as a single point of diversion. The Division now identifies each well as a separate point of diversion. In this case, the change of description does not constitute a new point of diversion.
 - d. The description of the location and number of points of diversion may be corrected administratively.
 - e. A petition for a fifth extension of time to complete use filed on December 18, 2008 has been withdrawn by Permittee.

The report also found that the project is substantially complete and recommended that a license be issued with the following limitations:

- f. The rate of diversion is reduced from 1.29 cfs to 0.72 cfs. Adding Term 27, which is standard for direct-diversion municipal licenses, effectively makes this a 30-day average rate of diversion.
 - g. Annual diversion and use is reduced from 613 af per calendar year to 310 af per annum.
 - h. The authorized use is municipal.
 - i. Order WR 90-15 language pertaining to fish bypass requirements should be replaced with standard License Term 204.
9. Permittee serves The Sea Ranch community. Within the authorized place of use, the community is 1,113 acres less than the 5,300 acres originally envisioned when the permit was issued. Permittee serves three additional parcels that total 32 acres which are outside the permitted place of use. On June 8, 2010, Permittee filed a petition to change the place of use. Petitioner proposes to:
 - a. Expand the place of use by 32 acres in projected Section 21, Township 10 North, Range 14 West, MDB&M, and
 - b. Reduce the place of use by 1,113 acres in portions of
 - i. Projected Sections 35 and 36, T11N, R15W,
 - ii. Projected Sections 1, 2 and 12, T10N, R15W, and
 - iii. Projected Sections 6 and 7, T10N, R14W, MDB&M.

The existing place of use was determined by a registered engineer (State certificate no. 29146) to be 4,219 acres as shown on map no. 1006 dated September 9, 2010 filed with the State Water Board.

10. Pursuant to Title 23, California Code of Regulations, section 795, Permittee provided a copy of its petition to the California Department of Fish and Game's office in Napa, California. Also pursuant to section 795, the Division has determined that public notice of the petition is not required because the proposed changes do not have the potential to impair the water supply of other legal users or instream beneficial uses.

11. On September 18, 2007, the State Water Board adopted Resolution 2007-0057, delegating to the Deputy Director for Water Rights the authority to act on petitions for change if the State Water Board does not hold a hearing. The Deputy Director has re-delegated this authority to the Assistant Deputy Director. This Order is adopted pursuant to the delegation authority in sections 4.2.4, 4.2.11 and 4.10 of Resolution 2007-0057.

CONCLUSIONS

The State Water Board has adequate information in its files to make the evaluation required by Water Code section 1702 and I find that:

1. The proposed change does not constitute initiation of a new right and will not injure any legal user of the water.
2. The proposed change will not unreasonably affect fish, wildlife or other instream beneficial uses.
3. Approval of the change is exempt from the California Environmental Quality Act under Title 14, California Code of Regulations, section 15301 (existing facilities). This project involves negligible or no expansion of an existing use. Approval of the changes is also exempt under section §15061(b)(3) (no possibility that the activity may have a significant effect on the environment). No change in volume, rate, timing or location of diversions or return flow will occur under these proposed changes. No new or changed facilities are needed or proposed, and no direct or indirect effect on the environment will occur.
4. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an 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].) There is no evidence that approval of the change petition will have any adverse impacts on public trust resources.

NOW, THEREFORE, IT IS ORDERED that the petition filed for change in place of use under Permit 15358 is approved. It is further ordered that a license be issued pursuant to Permit 15358, subject to the following conditions:

1. The source is South Fork Gualala River Underflow in Sonoma County.
2. The purpose of use is municipal.
3. The amount of water authorized for diversion under the license shall not exceed 0.72 cfs to be diverted from January 1 to December 31 of each year. The maximum amount diverted under the license shall not exceed 310 af per annum.
4. The points of diversion are:
 - (1) Well A: By California Coordinate System of 1983, Zone 2, North 2,022,450 feet and East 6,155,530 feet, being within the SW¼ of SE¼ of Section 16, T10N, R14W, MDB&M.
 - (2) Well B: By California Coordinate System of 1983, Zone 2, North 2,022,450 feet and East 6,155,610 feet, being within the SW¼ of SE¼ of Section 16, T10N, R14W, MDB&M.
5. A description of the lands or the place where such water is put to beneficial use is:

4,219 acres within The Sea Ranch Water Company service area located within:

Projected Sections 27, 34 and 35, T11N, R15W, MDB&M, Projected Sections 1, 2, 3, 11, and 12, T10N, R15W, MDB&M, and Projected Sections 7, 8, 16, 17, 18, 20, 21, 27, 28, 29, 33, and 34, T10N, R14W, MDB&M, as shown on map no. 1006 dated September 9, 2010 filed with the State Water Board.

6. The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.
(0000027)
7. Licensee shall implement all cost-effective measures identified in the Water Conservation Program, supplemented by any actions required by the State Water Board, in accordance with the schedule for implementation.
(0000029B)
8. For the protection of fish and wildlife, and other instream and public trust uses, the Licensee shall bypass the total streamflow, at all points of diversion, whenever the flow in the South Fork Gualala River is equal to or less than: (a) 5 cubic feet per second from June 1 to November 30, (b) 25 cubic feet per second from December 1 to March 31, and c) 10 cubic feet per second from April 1 to May 31, as measured at USGS Gage No. 11467510 – South Fork Gualala River near The Sea Ranch, California.

No diversion shall take place under this license if the streamflow in South Fork Gualala River is, or would be reduced by the diversion, below the designated rate(s).

In the event that said gage is no longer available for streamflow measurements, Licensee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage in accordance with a plan, including timelines, satisfactory to the Deputy Director for Water Rights, as near as practicable to the present location of the United States Geological Survey Stream Gage No. 11467510 - South Fork Gualala River. A plan must be submitted within 15 days of the existing gage becoming non-operable. In the absence of timely installation of such an equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Licensee (or successors-in-interest) under this license.
(0140204)
9. Licensee shall provide notice via telephone and FAX to the Deputy Director for Water Rights prior to the delivery of any water diverted pursuant to this license to The Sea Ranch Golf Links in lieu of treated wastewater produced by the Gualala Community Services District, Sonoma County Service Area # 6, or their successors. This telephone contact and FAX shall clearly identify that this notification is being made pursuant to the requirements of this license, and shall also include a detailed explanation of why fresh water is being used instead of treated wastewater.
(9999999)

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: MAR 24 2011



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

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 22377
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PERMIT 15358

LICENSE **13830**

THIS IS TO CERTIFY, That

The Sea Ranch Water Company
P.O. Box 16
The Sea Ranch, CA 95497

has made proof as of **June 30, 2009** (the date of inspection) to the satisfaction of the State Water Resources Control Board (State Water Board) of a right to the use of the waters of **(1)(2) South Fork Gualala River Underflow** in **Sonoma County**

tributary to **Gualala River** thence **Pacific Ocean**

for the purpose of **Municipal use**

under Permit **15358** of the State Water Board; that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the State Water Board, and the permit terms; that the priority of this right dates from **January 31, 1966**; 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 **seventy-two hundredths (0.72) cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this license shall not exceed 310 acre-feet per year.**

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there is no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed.

(0000027)

THE POINTS OF DIVERSION OF SUCH WATER ARE LOCATED:

- (1) Well A: By California Coordinate System of 1983, Zone 2, North 2,022,450 feet and East 6,155,530 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T10N, R14W, MDB&M.
- (2) Well B: By California Coordinate System of 1983, Zone 2, North 2,022,450 feet and East 6,155,610 feet, being within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 16, T10N, R14W, MDB&M.

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

Four thousand two hundred nineteen (4,219) acres within The Sea Ranch Water Company service area located within projected Sections 27, 34 and 35, T11N, R15W, MDB&M; projected Sections 1, 2, 3, 11, and 12, T10N, R15W, MDB&M; and projected Sections 7, 8, 16, 17, 18, 20, 21, 27, 28, 29, 33, and 34, T10N, R14W, MDB&M, as shown on map drawing no. 1006 dated September 9, 2010, filed with the State Water Board.

Licensee shall implement all cost-effective measures identified in the Water Conservation Program, supplemented by any actions required by the State Water Board, in accordance with the schedule for implementation.

(0000029B)

For the protection of fish and wildlife, and other instream and public trust uses, the licensee shall bypass the total streamflow, at all points of diversion, whenever the flow in the South Fork Gualala River is equal to or less than: (a) 5 cubic feet per second from June 1 to November 30; (b) 25 cubic feet per second from December 1 to March 31 of the following year; and c) 10 cubic feet per second from April 1 to May 31, as measured at USGS Gage No. 11467510 – South Fork Gualala River near The Sea Ranch, CA.

No diversion shall take place under this license if the streamflow in South Fork Gualala River is, or would be reduced by the diversion, below the designated rate(s).

In the event that said gage is no longer available for streamflow measurements, licensee (or successors-in-interest) is responsible for installing and maintaining an equivalent gage in accordance with a plan, including timelines, satisfactory to the Deputy Director for Water Rights, as near as practicable to the present location of the United States Geological Survey Stream Gage No. 11467510 - South Fork Gualala River. A plan must be submitted within 15 days of the existing gage becoming non-operable. In the absence of timely installation of such an equivalent gage, all diversions must cease. These requirements shall remain in force as long as water is being diverted by licensee (or successors-in-interest) under this license.

(0140204)

Licensee shall provide notice via telephone and FAX to the Deputy Director for Water Rights prior to the delivery of any water diverted pursuant to this license to The Sea Ranch Golf Links in lieu of treated wastewater produced by the Gualala Community Services District, Sonoma County Service Area # 6, or their successors. This telephone contact and FAX shall clearly identify that this notification is being made pursuant to the requirements of this license, and shall also include a detailed explanation of why fresh water is being used instead of treated wastewater.

(9999999)

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.

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

Licensee 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 license.

Pursuant to Water Code sections 100 and 275 and the common law 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 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 license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee 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 license and to determine accurately water use as against reasonable water requirement 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 the licensee 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.

The quantity of water diverted under this license is subject to modification by the State Water Board if, after notice to the licensee 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.

This license 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, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the 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 State Water 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 (of the Water Code) 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.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JAMES W. KASSEL FOR:

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: MAR 24 2011