



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
RIGHT TO DIVERT AND USE WATER

APPLICATION A030949

PERMIT 21429

Right Holder: Solano Land Trust
198 Dobbins St Ste A
Vacaville, CA 95688

Ron and Ralph Azevedo
180 S Kelly Rd
American Canyon, CA 94599

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 **May 5, 1999**. 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 November 18, 2020.

The Deputy Director for Water Rights finds that the State Water Board and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved protests in compliance with Water Code section 1330 et seq. and included appropriate permit conditions; (c) demonstrated that the water will be diverted and used without injury to any lawful user of water; (d) demonstrated that the intended use is beneficial; and (e) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met or that the project is exempt from CEQA.

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].)

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

No water shall be diverted or used under this water right unless right holder is in compliance with the terms and conditions herein:

1. The source of water under this right is for waters of an **Unnamed Stream (AKA Lynch Canyon Creek)** in **Solano County**

tributary to an **Unnamed Stream (AKA American Canyon Creek) thence Cordelia Slough thence Suisun Slough thence Suisun Bay**

for the purposes of **Stockwatering, incidental Recreational, and incidental Fish and Wildlife Preservation and Enhancement.**

2. The **POINT OF DIVERSION AND PLACE OF STORAGE** of such water located at:

(Lynch Canyon Reservoir) By California Coordinate System of 1983, Zone 2, North 1,832,841 feet and East 5,506,457 feet, being within Southeast quarter of Northeast quarter of Section 16, Township 4 North, Range 3 West, Mount Diablo Base and Meridian.

3. The **PLACE OF USE** of such water is located:

Stockwatering, incidental Recreational, and incidental Fish and Wildlife Preservation and Enhancement uses at reservoir located within Southeast quarter of Northeast quarter of Section 16, Township 4 North, Range 3 West, Mount Diablo Base and Meridian.

The place of use is shown on map dated March 14, 2018 on file with the State Water Board.

4. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 47 acre-feet per year by storage to be collected from October 1 of each year to June 1 of the succeeding year.

(Term Code: 0000005C)

5. No water shall be collected to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(Term Code: 0000005I)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2037.

(Term Code: 00000009)

7. Based on the information in the Division's files, water has not been used under a claimed existing right on the place of use. If right holder exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, right holder shall forfeit this water right.

(Term Code: 0000021C)

8. After the initial filling of the storage reservoir, right holder's right under this permit extends only to water necessary to keep the reservoirs full by replacing water beneficially used and water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.

(Term Code: 0000041)

9. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing.

(Term Code: 0000042)

10. Right holder, when required by the State Water Resources Control Board, shall install and maintain a pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Right holder shall submit plans and specifications of the outlet pipe or alternative facility to the Deputy Director of the Division of Water Rights for approval within six months of the date upon which the Board issues notice that an outlet is required. Right holder shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(Term Code: 0050044)

11. Right holder shall comply with the measuring and monitoring requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is a conflict or inconsistency between the requirements. Right holder shall comply with the measuring and monitoring requirements of chapter 2.8, title 23, California Code of Regulations.

(Term Code: 0000052)

12. In accordance with mitigation measures in the Mitigated Negative Declaration to minimize indirect sediment-related impacts on special-status species and their habitat during construction activities, right holder shall comply with the following requirement:

- a. No work on upgrades to Lynch Canyon Reservoir shall commence until an erosion and sediment control plan, approved by the Deputy Director for Water

Rights, has been implemented by the right holder. The erosion and sediment control plan shall be prepared by a certified professional in erosion and sediment control and shall describe the measures that will be implemented by the right holder to control accelerated erosion and sedimentation during project construction, and the measures that will be used to revegetate and stabilize disturbed areas once construction is complete. Measures will include, at a minimum, the following:

- i. Limit the extent of the Construction Footprint as much as possible, clearly marking all construction areas (e.g., designated access roads and staging areas), and confining all construction activities to these locations.
- ii. Restrict stockpiling of construction materials, including portable equipment and supplies, to designated staging areas.

Before storing water in the reservoir, right holder shall furnish evidence which substantiates that the erosion and sediment control plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes.

(Term Code: 0000207)

13. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize indirect sediment-related impacts on special-status species and their habitat during construction activities, right holder shall comply with the following requirement:

No debris, soil, silt, cement that has not set, or other such foreign substance will be allowed to enter or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess construction-related materials or debris shall be removed from the work area.

(Term Code: 0000208)

14. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts to water quality during project activities, right holder shall comply with the following requirements:

- a. Maintain the existing livestock exclusion fencing around the reservoir and associated stream channels as shown in Figure 10 of the Lynch Canyon Reservoir Initial Study/Mitigated Negative Declaration, as modified by the Proposed Project, where the modifications would decrease the extent of fringe emergent wetland area within the reservoir that would be directly impacted by cattle relative to existing conditions. No new ground disturbing activities shall occur within the existing or modified livestock exclusion fencing area. Equipment access within the livestock exclusion fencing area shall be limited to activities necessary for the ongoing operation of the reservoir and shall incorporate best management practices to minimize disturbance to water, soils,

and vegetation. Natural vegetation shall be preserved and protected within the livestock exclusion fencing area. Planting of native vegetation within the livestock exclusion fencing area is allowed.

(Term Code: 0400500)

15. In accordance with a mitigation measure in the Humboldt County's Mitigated Negative Declaration to minimize impacts to water quality during construction activities, right holder shall comply with the following requirements:
- a. No fuels, oil, lubricants, or other fluids related to the use of construction equipment will be allowed to enter into or be placed where they may be washed by rainfall runoff into the waters of the State. Additionally, the following shall be adhered to within the Construction Footprint:
 - i. Vehicles and equipment will be kept in good repair, without leaks of hydraulic or lubricating fluids. If such leaks or drips occur, they shall be cleaned up immediately. Drip pans shall be utilized when vehicles are parked. Equipment maintenance and/or repair will be confined to one location.
 - ii. Equipment shall be stored, when not in use, in upland areas well away from designated wetland areas and waterways.
 - iii. Service and refueling procedures will be conducted where there is no potential for fuel spills to seep or wash into wetland areas or waterways and extreme caution will be used when handling and or storing chemicals (e.g., fuel) near wetland areas or waterways.
 - iv. When operations are completed, any excess fuels, oils, lubricants, or other fluids related to the use of construction equipment shall be removed from the work area.

(Term Code: 0400500)

16. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts on special-status species and their habitat during construction activities, right holder shall comply with the following requirements:
- a. Prior to initiating construction activities, a qualified biologist shall provide an environmental awareness training to all construction personnel before construction begins, which may include information about sensitive resources that may be affected by the project, protection measures, and penalties associated with those resources.
 - b. Within 14 days prior to the onset of construction activities, a qualified biologist shall survey for California red-legged frog (*Rana draytonii*) and western pond turtle (*Actinemys marmorata*) within any suitable aquatic or upland nesting

habitat located within 100 feet of construction areas. The biologist will be familiar with the life cycle of each species and will conduct appropriate surveys for the applicable life stage for each species.

If California red-legged frogs (*Rana draytonii*) or western pond turtles (*Actinemys marmorata*) are observed during the pre-construction surveys, the right holder shall cease all construction activity and consult with the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife to determine an appropriate course of action. A qualified biologist shall be present onsite during construction to monitor for presence of California red-legged frogs (*Rana draytonii*) and western pond turtles (*Actinemys marmorata*) and to ensure that impact avoidance and minimization measures prescribed or approved by the California Department of Fish and Wildlife and United States Wildlife Service are implemented throughout the construction period.

Right holder shall submit a report documenting compliance with the provisions of this term to the Deputy Director for Water Rights no more than 30 days after construction is complete.

- c. Construction activities within 100 feet of any surface stream, as identified in Figure 10 of the Lynch Canyon Reservoir Initial Study/Mitigated Negative Declaration (State Clearinghouse Number 2021060018), shall only occur between June 15 and October 15 to minimize the potential for direct impacts to California red-legged frogs (*Rana draytonii*).
- d. Within 14 days prior to the onset of construction activities, a qualified biologist shall conduct a pre-construction survey for the purpose of identifying nesting bird species. The pre-construction survey shall include all potential nesting habitat within 500 feet of proposed construction areas. If an active raptor or migratory bird nest is found during the pre-construction survey, the right holder shall notify the California Department of Fish and Wildlife and the United States of Fish and Wildlife Service. If an active raptor nest is found during the pre-construction survey, a 500 foot no-disturbance buffer shall be established and maintained around the nest until all young have fledged. If an active nest of any other migratory or non-migratory bird is found, a 250 foot no-disturbance buffer shall be established around the nest until all young have fledged. Right holder shall submit a report documenting compliance with the provisions of this term to the Deputy Director for Water Rights no more than 30 days after construction is complete.
- e. If Project-related construction activities are scheduled during the nesting season for Swainson's hawk (March 1 to September 15), then prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000). Survey methods should be closely followed by

starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project-related construction activities. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. If take of Swainson's hawk cannot be avoided, then the Project shall consult with CDFW pursuant to CESA and obtain an Incidental Take Permit (ITP). CDFW Bay Delta Region staff are available to provide guidance on the ITP application process.

- f. Within 14 days prior to the start of construction, a qualified biologist shall conduct a pre-construction survey for active burrowing owl (*Athene cunicularia*) burrows using methods identified in the California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation. The pre-construction survey shall include all potential nesting habitat within 500 feet of proposed construction areas.

If occupied burrowing owl (*Athene cunicularia*) nests are found, Permittee shall establish no-disturbance buffers around each nest within which no disturbance resulting from construction may occur unless a qualified biologist verifies through non-invasive methods that either the owls occupying the nests have not begun egg-laying and incubation, or that juveniles from the occupied burrows are foraging independently and are capable of independent survival. Buffers ranging from 50 to 500 meters in diameter shall be established around occupied nest sites in accordance with the provisions of the California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation.

Right holder shall submit a report documenting compliance with the provisions of this term to the Deputy Director for Water Rights no more than 30 days after construction is complete.

- g. Within 14 days prior to the start of construction, a qualified biologist shall conduct a pre-construction survey for the purpose of identifying any potential denning habitat for the American badger (*Taxidea taxus*). The pre-construction survey shall include all potential denning habitat within or adjacent to the construction footprint. If denning habitat is found during the pre-construction survey, right holder shall consult with the California Department of Fish and Wildlife to identify and implement acceptable impact avoidance and minimization measures. Measures that would be considered include but are not

limited to establishing suitable no-disturbance construction buffers around active den sites (e.g., 50 feet) and active natal/pupping dens site (e.g., 250 feet), passive relocation, and for dens that are inactive to be collapsed by hand to prevent occupation. Right holder shall submit a report documenting compliance with the provisions of this term to the Deputy Director for Water Rights no more than 30 days after construction is complete.

(Term Code: 0400500)

17. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts from non-native species during project activities, right holder shall comply with the following requirements:
 - a. Right holder shall develop and implement, in consultation with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife, an American Bullfrog Eradication Plan for Lynch Canyon Reservoir that is satisfactory to the Deputy Director for Water Rights. The plan shall address control of American bullfrog (*Lithobates catesbeianus*) in Lynch Canyon Reservoir, with eradication of the bullfrog from the reservoir as the ultimate goal. Right holder shall submit a report on American Bullfrog Eradication Plan activities in accordance with the time schedule contained in the American Bullfrog Eradication Plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the American Bullfrog Eradication Plan upon a determination that the plan is ineffective or unsuccessful or provide relief from this term upon a determination that the American Bullfrog Eradication Plan is no longer required.

The American Bullfrog Eradication Plan shall be developed and implemented by qualified individual(s) approved by the Deputy Director for Water Rights, and at a minimum, shall provide the following information:

- i. A description of the method by which non-native species present or potentially present in the reservoir will be identified;
- ii. A description of the approach that will be used to control, with the intention to eradicate, the species from the reservoir if American bullfrog is present, including the method and the frequency of applying the method;
- iii. A description of the criteria that will be used to evaluate the effectiveness and success of the control method;
- iv. A description of the program that will be used to monitor the effectiveness and success of the control method;
- v. A description of how the approach will be supplemented or modified if the monitoring program indicates that the current control plan is not effective or successful;

- vi. A time schedule for periodic inspection of the reservoir and control of American bullfrog from the reservoir, if present; and
 - vii. A time schedule for the periodic submittal of reports on control plan activities that describe the control methods or approaches used, the frequencies that the methods and approaches were applied, the results of effectiveness monitoring efforts, an evaluation of the effectiveness and success of the methods or approaches used, and descriptions of how the methods or approaches used will be supplemented or modified if the monitoring program indicates that ongoing methods or approaches for American bullfrog control are ineffective.
- b. At no point will non-native fish or wildlife species be intentionally introduced into the reservoir.

(Term Code: 0400500)

18. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts to wetlands from construction activities, right holder shall comply with the following requirement:

- a. A qualified wetland scientist shall clearly mark with flagging or construction fencing the boundaries of all wetlands and other waters of the United States located within the construction footprint prior to the commencement of construction activities to exclude construction equipment and construction materials from wetlands.

(Term Code: 0400500)

19. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts from wildfire during construction activities, right holder shall comply with the following requirement:

- a. Construction areas shall be cleared of combustible materials, spark arrestors on construction equipment shall be in good working order, and dry grasses and low-growing shrubs shall be mowed in the equipment staging area.

(Term Code: 0400500)

20. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts to cultural resources during project activities, right holder shall comply with the following requirement:

- a. 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 right holder 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.

(Term Code: 0000215)

21. In accordance with a mitigation measure in the Mitigated Negative Declaration to minimize impacts to cultural resources during project activities, right holder shall comply with the following requirement:
 - a. If human remains are encountered during project construction, then the right holder 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 disturbances 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. If remains of Native Americans are encountered, a tribal monitor shall be present during further ground disturbing activities.

(Term Code: 0380500)

THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. Right holder is on notice that: (1) failure to timely commence or complete construction work or beneficial use of water with due diligence, (2) cessation or partial cessation of beneficial use of water, or (3) failure to observe any of the terms or conditions of this right, may be cause for the State Water Board to consider revocation (including partial revocation) of this right. (Cal. Code Regs., tit. 23, § 850.)

(Term Code: 0000016)

- B. Right holder is on notice that when the State Water Board determines that any person is violating, or threatening to violate, any term or condition of a right, the State Water Board may issue an order to that person to cease and desist from that violation. (Wat. Code, § 1831.) Civil liability may be imposed administratively by the State Water Board pursuant to Wat. Code, § 1055, or may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. (Wat. Code, § 1846.)

(Term Code: 0000017)

- C. Right holder is not authorized to make any modifications to the location of diversion facilities, place of use or purposes of use, or make other changes to the project that do not conform with the terms and conditions of this right, prior to submitting a change petition and obtaining approval of the State Water Board.

(Term Code: 0000018)

- D. Once the time to develop beneficial use of water ends under this permit, right holder is not authorized to increase diversions beyond the maximum annual amount diverted or used during the authorized development schedule prior to submitting a time extension petition and obtaining approval of the State Water Board.

(Term Code: 0000019)

- E. The amount of water for consideration when issuing a license shall be limited to only the amount of water diverted and applied to beneficial use in compliance with the terms and conditions of this right, as determined by the State Water Board. (Wat. Code, § 1610.)

(Term Code: 0000006)

- F. Right holder shall measure the amount of water beneficially used under this right using devices and/or methods satisfactory to the Deputy Director for Water Rights. In order to demonstrate compliance with the beneficial use monitoring

requirements of this right, right holder shall provide evidence that the devices and/or methods are functioning properly, in a manner satisfactory to the Deputy Director of Water Rights, within thirty days of first use of the device and/or method, with the reports required by chapter 2.7, title 23, California Code of Regulations, and whenever requested by the Division of Water Rights.

(Term Code: 0000015)

- G. Right holder shall comply with the reporting requirements as specified in the terms of this right or any reporting requirements by statute, order, policy, regulation, decision, judgment or probationary designation. The more stringent requirement shall control in each instance where there is conflict or inconsistency between the requirements.

Right holder shall comply with the reporting requirements of chapter 2.7, title 23, California Code of Regulations.

Right holder shall promptly submit any reports, data, or other information that may reasonably be required by the State Water Board, including but not limited to documentation of water diversion and beneficial use under this right, and documentation of compliance with the terms and conditions of this right.

(Term Code: 0000010)

- H. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan.

(Term Code: 0000070)

- I. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
1. Entry upon property where water is being diverted, stored or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
 2. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
 3. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,

4. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.

(Term Code: 0000011)

- J. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(Term Code: 0000022)

- K. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.

(Term Code: 0000025)

- L. This right does not authorize diversion of water dedicated by other right holders under a senior right for purposes of preserving or enhancing wetlands, habitat, fish and wildlife resources, or recreation in, or on, the water. (Wat. Code, § 1707.) The Division of Water Rights maintains information about these dedications. It is right holders' responsibility to be aware of any dedications that may preclude diversion under this right.

(Term Code: 0000212)

- M. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army

Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

(Term Code: 0000203)

- N. Urban water suppliers shall comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An “urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. All Urban Retail Water Suppliers shall comply with the provisions of Division 6, Part 2.55 (commencing with Chapter 9, section 10609.20) and Part 2.6 (commencing with Chapter 3, section 10608.34) of the Water Code. An “urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

Agricultural water users and suppliers shall comply with the provision of Division 6, Part 2.55 of the Water Code and the Agricultural Water Management Planning Act (Water Code, § 10800 et seq.). An “agricultural water supplier” means a supplier, either publicly or privately owned, providing water (excluding recycled water) to 10,000 or more irrigated acres, including a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(Term Code: 0000029D)

- O. Urban water suppliers shall comply with the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.). An “urban water supplier” means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. All Urban Retail Water Suppliers shall also comply with the provisions in Water Code § 10609.20, §10609.22, and §10609.24. An “urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

Agricultural water users and suppliers shall comply with the Agricultural Water Management Planning Act (Act) (Water Code, § 10800 et seq.). Agricultural water users applying for a permit from the State Water Board are required to develop and implement water conservation plans in accordance with the Act. An “agricultural water supplier” means a supplier, either publicly or privately owned,

supplying more than 10,000 acre-feet of water annually for agricultural purposes. An agricultural water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers.

(Term Code: 000029D)

- P. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, 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 right with a view to eliminating waste of water and to meeting the reasonable water requirements of right holder without unreasonable draft on the source. Right holder 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 right 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 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 right holder 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.

(Term Code: 0000012)

- Q. The quantity of water diverted under this right is subject to modification by the State Water Board if, after notice to right holder 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.

(Term Code: 0000013)

- R. This right does not authorize any act which results in the taking of a candidate, 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 & G. Code, § 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). If a "take" will result from any act authorized under this right, right holder shall obtain any required authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this right.

(Term Code: 0000014)

This right is issued and right holder is 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 therefor 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:
AMANDA MONTGOMERY FOR:

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: May 24, 2022