

Location of place of storage

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
North 1,847,420 feet and East 6,413,600 feet	SW ¼ of NW ¼	34	5N	6W	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	NW ¼ SE ¼	33	5N	6W	MD	2.6
	NE ¼ SE ¼	33	5N	6W	MD	29.2
	SW ¼ SE ¼	33	5N	6W	MD	26.7
	SE ¼ SE ¼	33	5N	6W	MD	38.0
	SW ¼ NW ¼	34	5N	6W	MD	7.5
	SE ¼ NW ¼	34	5N	6W	MD	16.9
	SW ¼ NE ¼	34	5N	6W	MD	0
	NW ¼ SW ¼	34	5N	6W	MD	37.8
	NE ¼ SW ¼	34	5N	6W	MD	35.6
	SW ¼ SW ¼	34	5N	6W	MD	14.8
	SE ¼ SW ¼	34	5N	6W	MD	18.4
	NW ¼ SE ¼	34	5N	6W	MD	0
	SW ¼ SE ¼	34	5N	6W	MD	0
	NE ¼ NW ¼	4	4N	6W	MD	6.6
	NW ¼ NE ¼	4	4N	6W	MD	40.0
	NE ¼ NE ¼	4	4N	6W	MD	26.1
	SW ¼ NE ¼	4	4N	6W	MD	10.3
SE ¼ NE ¼	4	4N	6W	MD	24.6	
NE ¼ SE ¼	4	4N	6W	MD	7.1	
				Total:	342.2	
Recreation	SW ¼ NW ¼	34	5N	6W	MD	
	NW ¼ SW ¼	34	5N	6W	MD	

The place of use is shown on map on file with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **45** acre-feet per year by storage to be collected from **December 15** of each year to **March 31** of the succeeding year. (000005C)
6. No water shall be collected to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)
7. The maximum rate of diversion to offstream storage shall not exceed **4 cubic feet per second**. (000005J)
8. The capacity of the reservoir covered by this water right shall not exceed 45 acre-feet. (000005N)
9. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2027. (000009)
10. Based on the information in the Division of Water Right's files, water has not been used under a claimed existing right on the place of use. If permittee exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, permittee shall forfeit this water right. (000021C)
11. No water shall be diverted under this right unless the flow in the Unnamed Stream is at or above 0.13 Cubic foot per second, as determined at point of compliance as specified on map dated April 14, 2012 on file with the Division of Water Rights. (0140060)
12. No water shall be diverted under this water right unless permittee is bypassing the flow required by this water right by use of a passive bypass device.

Permittee shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by the condition shall include current photographs of the system in place and a statement, signed by the permittee, certifying that the system is still operating as designed. (0050062C)
13. No water shall be diverted under this right unless permittee is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how permittee will comply with the terms and conditions of this right. Permittee shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan. (0000070)
14. No water shall be diverted to offstream storage under this right unless permittee is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained.

Permittee shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Permittee shall maintain a record of all diversions under this right that includes the date, time, rate of diversion at time intervals of one hour or less, and the amount of water diverted. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights.

(0060046)

15. No water shall be diverted under this right unless permittee is monitoring and reporting the water surface elevation in the reservoir. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring water surface elevations from the maximum water line to the minimum water line known to exist for the reservoir and shall be properly maintained.

Permittee shall provide the Division of Water Rights with evidence that the device has been installed and the mark or reading corresponding to the maximum water line of the reservoir with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.

Permittee shall maintain a record of water surface elevations. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights. The State Water Board may require release of water held in storage that cannot be verified by monthly records. Failure to maintain or submit the required records may result in the requirement to release the entire content of the reservoir's storage.

(0100047)

16. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right.

(0090031)

17. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Board.

(0000100)

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

(0000208)

19. Construction activities within 100 feet of any drainage shall only occur between May 15 and October 31 to minimize the potential for rainfall events to mobilize and transport sediment to aquatic resources.

(0400530)

20. No water shall be diverted under this right, and no construction related to such diversion shall commence, unless permittee complies with the requirements of the Clean Water Act. In order to demonstrate such compliance, permittee shall obtain a Clean Water Act section 404 permit from the U.S. Army Corps of Engineers, or evidence that such a permit is not required, and provide such permit or evidence to the Division of Water Rights. If it is determined that a Clean Water Act section 404 permit is required,

permittee shall further demonstrate compliance by obtaining a Clean Water Act section 401 certification from the State Water Board.

(0000103)

21. For the protection of potential habitat for California red-legged frog (*Rana aurora draytoni*) and western pond turtle (*Actinemys marmorata*) at the proposed reservoir, permittee shall:
- a. Establish and maintain, undisturbed, a strip of natural upland vegetation around the proposed reservoir that is at least 40 feet wide, except that a single, graveled path no greater than 10 feet wide may be maintained within this strip to allow access to associated facilities by a vehicle for normal operation and maintenance purposes. Permittee may request authorization from United States Fish and Wildlife Service and California Department of Fish and Game for a reduced width for specific locations where a 40-foot width is unattainable. Permittee shall submit copies of written authorization from the United States Fish and Wildlife Service and California Department of Fish and Game to the Division of Water Rights prior to implementing a reduced width;
 - b. Obtain approval of the United States Fish and Wildlife Service, Sacramento Endangered Species Office, and the California Department of Fish and Game prior to any future reservoir dredging operations. Permittee shall submit to the Deputy Director for Water Rights evidence of agency approval prior to any future reservoir dredging operations;
 - c. Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during dredging operations;
 - d. Make no introduction of non-native fish species into the reservoir; and
 - e. Consult with the United States Fish and Wildlife Service and California Department of Fish and Game should any bullfrogs or non-native fish be discovered at or near the reservoir to develop and implement an acceptable bullfrog eradication program. The eradication program may require periodic draining of the reservoir.

These requirements shall remain in effect as long as water is being diverted by permittee (or successor-in-interest) under any license pursuant to Permit 21321.

(0400205)

22. Prior to the start of construction, or diversion or use of water under this permit a qualified biologist shall conduct a nesting season survey and a wintering season survey for active Western burrowing owl (*Athene cunicularia hypugea*) burrows according to the California Department of Fish and Game guidelines during the season immediately preceding construction. If no burrowing owls are detected, no further mitigation is required and a copy of the negative survey shall be submitted to the Deputy Director for Water Rights. If active burrowing owl burrows are detected, permittee shall consult with the California Department of Fish and Game to implement acceptable avoidance or relocation practices. A copy of the agreed upon practices shall be submitted to the Deputy Director for Water Rights.

(0400600)

23. For the preservation of the seasonal wetlands and pond habitats within the place of use, buffer zones shall be staked and flagged by a biologist whose qualifications are acceptable to the Deputy Director for Water Rights, before construction or grading activities in the vicinity of the wetlands or ponds. This buffer zone will include the immediate watershed/drainage basin surrounding the wetlands and ponds. A 25-foot buffer zone shall be established for the smallest seasonal wetland (Wetland Number 3); a 28.1-acre buffer zone shall be established for the entire watershed draining to Wetland Numbers 1 and 2; and a 40-foot buffer zone shall be established around the proposed offstream reservoir.

For the preservation of potential wildlife movement corridors, permittee shall maintain a minimum of 50 feet of open space between the vineyard plantings and the edges of the property boundaries as identified in the Figure 2 project area map prepared by ICF Jones & Stokes and on file with the Division of Water Rights.

(0400500)

24. Prior to the start of construction or diversion or use of water under this permit, permittee shall, file a notice of vineyard planting or replanting with the Sonoma County agricultural commissioner. The notice shall conform to applicable provisions of the Sonoma County Vineyard Erosion and Sediment Control Ordinance (Ord. No. 5216 §§ 2, 2000). The notice shall include:
- a) Maps, plans, drawings, calculations, photographs, and other information as may be necessary or required by the agricultural commissioner to verify that the vineyard planting qualifies as a Level II or III authorized vineyard planting, or that the vineyard replanting qualifies as a Level II authorized vineyard replanting; and
 - b) An erosion and sediment control plan, certified pursuant to Section 30-74 of the Sonoma County Vineyard Erosion and Sediment Control Ordinance, for the vineyard planting or replanting.

Prior to the start of construction or diversion or use of water under this permit, permittee shall submit evidence to the Deputy Director for Water Rights verifying that the Sonoma County agricultural commissioner has authorized the vineyard planting or replanting to proceed.

Prior to the start of construction or diversion or use of water under this permit, permittee shall obtain any required grading permits from Sonoma County and submit copies to the Deputy Director for Water Rights.

Prior to licensing of this permit, permittee shall submit evidence to the Deputy Director for Water Rights verifying that the project was constructed in compliance with the requirements of the certified erosion and sediment control plan and the Sonoma County Vineyard Erosion and Sediment Control Ordinance.

(0450351)

25. For the protection of riparian habitat, the permittee will establish a setback along the Unnamed Stream tributary to Champlin Creek and the two other ephemeral drainages as shown on the Figure 2 map prepared by ICF Jones & Stokes and on file with the Division of Water Rights of 25 feet or the distance specified in Sonoma County Code, Chapter 30, Article V. Section 26-66-030, whichever is greater. The stream setback will be measured from the top of the bank on both sides of the stream. No activity will occur within the setback area, including, but not limited to, grading, roads, fencing, storage areas, access roads, and irrigation. These requirements will remain in effect as long as water is being diverted under any permit or license issued pursuant to this application.

(0000206)

26. Prior to the start of construction permittee shall submit a detailed Emission Control and Mitigation Plan to the Deputy Director for Water Rights. Permittee shall also submit a copy of the plan to the San Francisco Bay Area Air Quality Management District. The Emission Control and Mitigation Plan shall be consistent with the San Francisco Bay Area Air Quality Management District's Air Quality Guidelines and include a monitoring and reporting component to ensure that mitigation measures identified in the Emission Control and Mitigation Plan are implemented. Permittee shall provide evidence to verify implementation of measures identified in the Emission Control and Mitigation Plan within 30 days of completion of construction work to the Deputy Director for Water Rights. Permittee shall also provide a copy of the evidence to the San Francisco Bay Area Air Quality Management District upon request. Evidence may consist of, but is not limited to, photographs and construction records.

(0450300)

27. 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)
28. If human remains are encountered, then the permittee shall comply with section 15064.5 (e) (1) of the California Environmental Quality Act (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)
29. If vertebrate fossils are discovered during project activities, all work shall cease within 100 feet of the find until a qualified professional paleontologist as defined by the Society of Vertebrate Paleontology's Conformable Impact Mitigation Guidelines Committee (2011) can assess the nature and importance of the find and recommend appropriate treatment. The Division of Water Rights will also be notified of the discovery and the qualified professional paleontologist's opinion within 48 hours of the initial finding. Treatment may include preparation and recovery of fossil materials, so that they can be housed in an appropriate museum or university collection, and also may include preparation of a report for publication describing the finds. Project activities shall not resume until after the qualified professional paleontologist has given clearance and evidence of such clearance has been submitted do the Division of Water Rights. (0380502)
30. Prior to construction activities, permittee shall provide personnel whose qualifications are acceptable to the Deputy Director for Water Rights, to conduct a cultural awareness training session for the individuals causing, directing or responsible for earth disturbing activities. The training shall include artifact recognition and protocol for inadvertent discovery of archaeological materials. The training session shall take place within one to two weeks of the commencement of ground disturbing activities associated with the reservoir construction or any areas of vineyard installation. A local Native American designated by Federated Indians of Graton Rancheria will be given the opportunity to attend the training session to explain the tribe's concerns. Permittee shall provide a 30 day advance notice to the Deputy Director for Water Rights and Federated Indians of Graton Rancheria prior to conducting the training session. A roster will be taken confirming individuals who attend the session. (0380505)
31. Permittee shall retain a Native American monitor to be designated by the Federate Indians of Graton Rancheria to monitor deep ripping of 19 acres delineated on Figure 5 prior to ground preparation of the vineyard in the southwestern portion of the project area. Permittee shall submit evidence satisfactory to the Deputy Director for Water Rights documenting the monitor has been retained at least 30 days before commencement of activities associated with ground preparation for vineyard development. Permittee shall also submit evidence satisfactory to the Deputy Director for Water Rights documenting that

monitoring has occurred prior to planting the 19 acre vineyard area. This evidence shall include copies of the daily monitoring report or an invoice provided to the Applicant/Permittee by a Federated Indians of Graton Rancheria representative.

(0380506)

32. No water shall be diverted under this right, and no construction related to such diversion shall commence, unless permittee obtains all necessary permits or other approvals required by other agencies. Permittee shall transmit copies of all permits or other approvals to the Division of Water Rights.

(0000203)

33. Permittee shall report any non-compliance with the terms of the permit to the Deputy Director for Water Rights within three days of identification of the violation.

(9990999)

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THIS PERMIT IS ALSO 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 Board until a license is issued. (0000010)
- C. Permittee 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 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 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 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 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 permittee 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.

(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 Board if, after notice to the permittee 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.

(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, 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 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 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

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: