

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 31808

PERMIT 21306

of:

Steven and Cecilia Tweed
14511 Cypress Point Terrace
Valley Center, CA 92082

The Deputy Director for Water Rights finds that the State Water Resources Control Board (State Water Board) and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved any protests made 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 permit is being issued in accordance with the redelegation of authority (Resolution No. 2007-0057.)

Additionally, 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].)

Therefore, **Application 31808** filed on **November 16, 2009** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Unnamed Spring

Tributary to:

McKinney Creek thence the Klamath River

within the County of **Siskiyou**.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 2,532,619 feet and East 6,318,056 feet	SE ¼ of NW ¼	4	45N	9W	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	SE ¼ of NW ¼	4	N/S	E/W	MD	10
Recreation, Fire Protection	At Reservoir					

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 1.5 acre-feet per annum to be collected from January 1 to December 31 of each year. (000005C)
6. The capacity of the reservoir covered by this permit (Application 31808) shall not exceed 1.5 acre-feet. (000005N)
7. 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)
8. Permittee shall install and properly maintain a staff gage in the reservoir satisfactory to the State Water Board, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings on or about the last day of each month. Such readings shall be supplied to the State Water Board with the next progress report submitted to the Board by Permittee. The State Water Board may require the release of water that cannot be verified as having been collected to storage prior to October 1 of each year. (0070047)
9. 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 North Coast Regional Water Quality Control Board, or by the State Water Board. (0000100)
10. Permittee shall obtain all necessary state and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Deputy Director for Water Rights. (0000203)
11. An erosion control/revegetation plan and implementation schedule, prepared by a licensed civil engineer or registered geologist, shall be submitted to and approved by the Deputy Director for Water Rights, prior to starting construction. Before storing water in the reservoir, Permittee shall furnish evidence which substantiates that the erosion control/revegetation plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes. (0000207)
12. 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)

13. Prior to the diversion or use of water under this permit, Permittee shall obtain the appropriate permit from the U.S. Army Corps of Engineers (USACE) and file a copy with Division of Water Rights. If a permit from the USACE is not necessary for this permitted project, Permittee shall provide the Division of Water Rights with a letter from the USACE affirming that a permit is not needed. (0450500)
14. Prior to the diversion or use of water under this permit, and only if a U.S. Army Corps of Engineers permit is required, Permittee shall obtain Clean Water Act section 401 Water Quality Certification from the State Water Board or the North Coast Regional Water Quality Control Board. (0290500)
15. 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)
16. If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Public Resources Code section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights. (0380500)

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: