



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

**DIVISION OF WATER RIGHTS**

**Amended License for Diversion and Use of Water**

APPLICATION 25630  
Page 1 of 8

PERMIT 17475

LICENSE 12902

**THIS IS TO CERTIFY, That**

Beckstoffer Vineyards  
P.O. Box 405  
Rutherford, CA 94573

has the right to the use of the waters of **(1) Huichica Creek and (2) an Unnamed Stream** in **Napa County** tributary to **(1) Hudeman Slough thence Second Napa Slough thence Sonoma Creek thence San Pablo Bay and (2) Napa Slough, thence Sonoma Creek, thence San Pablo Bay** for the purpose of **Irrigation use**.

**Amended License 12902** supersedes the license originally issued on **May 7, 1992**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board, or its predecessor, and the terms of **Permit 17475**. The priority of this right dates from **January 3, 1978**. Proof of maximum beneficial use of water under this license was made as of **November 8, 1989** (the date of inspection).

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 **a total of forty-five (45) acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year as follows: (1) 35 acre-feet per annum in Cabral Reservoir No. 1; and (2) 10 acre-feet per annum in Cabral Reservoir No. 2. The maximum withdrawal in any one year shall not exceed 45 acre-feet from both reservoirs.**

(000005C)

The maximum rate of diversion to offstream storage from Huichica Creek Point of Diversion 5 shall not exceed 1.66 cubic-feet per second. The combined maximum diversion rate from the Huichica Creek Point of Diversion 5 to offstream storage under Applications 25630, 29852, and 30253 shall not exceed 3 cubic-feet per second.

(000005N)

The capacity of Cabral Reservoir No. 1 and Cabral Reservoir No. 2 covered under this license and the permits issued pursuant to Applications 29852, 30252 and 30253 shall not exceed 35 acre-feet and 84 acre-feet, respectively.

(000005P)

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(000005I)

**THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:**

(5) Huichica Creek Pump - By California Coordinate System of 1983, Zone 2, North 1,842,491 feet and East 6,460,306 feet, being within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M.

**THE POINT OF DIVERSION, REDIVERSION, AND PLACE OF STORAGE OF SUCH WATER IS LOCATED:**

(2) Cabral Reservoir No. 1 – By California Coordinate System of 1983, Zone 2, North 1,842,391 feet and East 6,461,806 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M.

**THE PLACE OF OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:**

Cabral Reservoir No. 2 - By California Coordinate System of 1983, Zone 2, North 1,842,991 feet and East 6,461,756 feet, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M.

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

17 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
37 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
37 acres within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
34 acres within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
34 acres within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
31 acres within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
40 acres within SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
34 acres within SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 6, T4N, R4W, MDB&M  
14 acres within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 7, T4N, R4W, MDB&M  
18 acres within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 7, T4N, R4W, MDB&M

296 acres total, as shown on map dated February 10, 2010, on file with the State Water Resources Control Board.

Prior to diversion and use of water under this license, licensee shall install an in-line flow meter, satisfactory to the Deputy Director for Water Rights, that measures the instantaneous rate and cumulative amount of water diverted from Huichica Creek. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this license. Licensee shall maintain a record of the end of the month meter readings and the days and amounts of actual diversion, and shall submit these records with the Reports of Licensee, and whenever requested by the Deputy Director for Water Rights.

(0100900)

Licensee, when required by the State Water Resources Control Board, shall install and maintain an outlet 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 State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this license can be released. Licensee shall submit plans and specifications of the outlet pipe or alternative facility to the Deputy Director for Water Rights for approval within six months of the date upon which the State Water Resources Control Board issues notice that an outlet is required. Licensee 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.

(0050043b)

Licensee shall install a staff gage in each reservoir satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in each reservoir. The staff gages must be maintained in operating condition as long as water is being diverted or used under this license. Licensee shall record the staff gage readings on the last day of each month and on November 1 annually. Licensee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water year between October 1 and September 30. Licensee shall maintain a record of all staff gage readings and shall submit these with the Reports of Licensee, and whenever requested by the Deputy Director for Water Rights.

The State Water Resources Control Board may require release of water that cannot be verified as having been collected under a valid basis of right.

(0100047)

For the protection of fish and wildlife, Licensee shall from November 1 of each year to April 30 of the succeeding year, bypass a minimum of 15.5 cubic-feet per second as measured at the Napa County Resource Conservation District's stream gage located downstream adjacent to the California Department of Fish and Game refuge. The total streamflow shall be bypassed whenever it is less than 15.5 cubic-feet per second. From May 1 to October 31 of each year, the total streamflow shall be bypassed.

If Napa County Resource Conservation District discontinues operation and maintenance of its stream gage on Huichica Creek, within 30 days of that discontinuation Licensee shall provide to the Deputy Director for Water Rights a compliance plan identifying an alternative/replacement stream gage.

(0140060)

Licensee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights within 60 days of the issuance of amended License 12902 that will demonstrate compliance with the flow bypass terms specified in this license. The Compliance Plan shall include the following:

- a. A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow;
- b. A description of the gages and monitoring devices that will be installed or have been installed to measure streamflow and/or reservoir storage capacity, including any necessary calibration;
- c. A time schedule for the installation and rating of these facilities;
- d. A description of the frequency of data collection and the methods for recording bypass flows and storage levels;
- e. An operation and maintenance plan that will be used to maintain all facilities in good condition; and
- f. A description of the events that will trigger recalibration of the monitoring devices and the process that will be used to recalibrate.

The Licensee shall be responsible for all costs associated with developing the Compliance Plan and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

Licensee shall maintain all measurements and other monitoring required by this condition. Licensee shall provide measuring and monitoring records to the Deputy Director for Water Rights within 15 days upon request by the State Water Resources Control Board, the Deputy Director for Water Rights, or other authorized designees of the State Water Resources Control Board.

Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

(0000070)

No water shall be diverted from Huichica Creek under this license except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish and Game and the National Marine Fisheries Service, to protect Steelhead Trout, Coho Salmon, and Chinook Salmon listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code section 2050 to 2098) and the federal Endangered Species Act (16 U.S.C.A. section 1531 to 1544). Construction, operation, and maintenance costs of the required facility are the responsibility of the Licensee.

(0000214)

To prevent degradation of the quality of water during and after construction of the project, Licensee shall file a Report of Waste Discharge pursuant to Water Code section 13260 prior to commencement of construction and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or the State Water Resources Control Board.

(0000100)

Licensee shall prevent any debris, soil, silt, cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.

(0000208)

Licensee shall not use more water under the basis of riparian right on the Place of Use authorized by this license than Licensee would have used absent the appropriation authorized by this license. Based on the information in the Division of Water Rights files, riparian water has not been used on the Place of Use. Therefore, consistent with this term, Licensee may not divert any additional riparian water for use on the Place of Use authorized by this license under basis of riparian right. With the Deputy Director for Water Rights approval, this information may be updated, and Licensee may use water under basis of riparian right on the authorized Place of Use, provided that Licensee submits reliable evidence to the Deputy Director for Water Rights quantifying the amount of water that Licensee likely would have used under the basis of riparian right absent the appropriation authorized by this license. The Deputy Director for Water Rights is hereby authorized to approve or reject any proposal by Licensee to use water under the basis of riparian right on the Place of Use authorized by this license. Licensee 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.

(0560300b)

For the protection of habitat for the California red-legged frog along the reservoirs and to allow for the growth of riparian vegetation, Licensee shall:

- a. Establish and maintain, undisturbed, a 50-foot-wide strip [exact width subject to negotiation with United States Fish and Wildlife Service and California Department of Fish and Game] of natural upland vegetation around each water storage reservoir. During replanting, no vines shall be replanted within a 50-foot-wide strip to establish the natural vegetation buffer;

- b. Obtain approval of the United States Fish and Wildlife Service, Sacramento Endangered Species Office, and California Department of Fish and Game prior to any reservoir dredging operation. Licensee 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 reservoirs.

These requirements shall remain in effect as long as water is being diverted under this license and any permit or license issued pursuant to Applications 29852, 30252, or 30253.

(0400500)

For the protection of riparian habitat along Huichica Creek, Licensee shall establish a setback of at least 30 feet along the creek for any new vineyard planting or vineyard replant. The stream setback shall be measured from the top of the bank on both sides of the stream. In areas where existing riparian vegetation extends beyond 30 feet from the top of bank, the setback shall be extended to the riparian vegetation dripline as shown in Figure 3 of the Initial Study document. Figure 3 establishes a minimum setback requirement which may be extended or otherwise altered per any California Department of Fish and Game approved restoration plan associated with this license and any permit or license issued pursuant to Applications 29852, 30252, and 30253. No activity shall occur within the setback area, including, but not limited to, grading, herbicide spraying, paved roads, fencing, storage areas, and irrigation, with the exception of occasional equipment access necessary for continued operation of the vineyard. Permitted equipment access shall be limited to only necessary activities with efforts to minimize disturbance of vegetation and soils. Additionally, annual mowing of grasses to reduce fire hazard will be allowed in a 20-foot wide area adjacent to vineyards, provided that rooted vegetative cover is maintained year-round in mowed areas. The setback area shall be protected from disturbance to promote and encourage the recruitment of native riparian shrub and tree species. Planting of native riparian species is also encouraged to provide additional protection to the stream system.

For areas where existing agriculture encroaches on the buffer, the Licensee shall develop and implement an erosion control plan designed to stabilize stream banks and the adjacent corridor to minimize erosion potential and sediment inputs into the stream channels. Prior to diversion and use of water, Licensee shall submit an erosion control plan, approved by the County of Napa, to the Deputy Director for Water Rights.

(0400503)

In order to off-set impacts from expansion of the existing reservoirs on the unnamed tributaries, Licensee shall provide a restoration plan to California Department of Fish and Game for review and concurrence within 60 days of the issuance of amended License 12902. The restoration plan shall include, at a minimum, 1,000 linear-feet of bank restoration, including but not limited to, activities such as invasive species removal, riparian planting and bank stabilization using bioengineering techniques. The plan shall include potential locations within the Napa Slough, Mud Slough, or Huichica Creek watersheds. Areas of restoration shall be managed and protected in perpetuity.

(0400504)

The Licensee shall obtain all necessary federal (including United States Army Corps of Engineers Section 404), 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.

(0000203M)

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; 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 Licensee 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)

If human remains are encountered, then the Licensee 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 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)

---

*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 Resources Control Board.*

*Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by the State Water Resources Control 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 Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the State Water Resources Control Board may be exercised by imposing specific requirements over and above those contained in this 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 Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the State Water Resources Control Board also may be exercised by imposing further limitations on the diversion and use of water by the Licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*The quantity of water diverted under this license is subject to modification by the State Water Resources Control Board if, after notice to the Licensee and an opportunity for hearing, the State Water Resources Control Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Resources Control Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*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 2089) 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 Lake and Streambed 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 Resources Control 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.

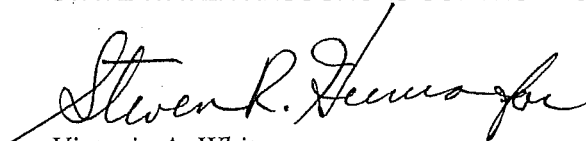
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

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 therefore 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



*Victoria A. Whitney*  
*Deputy Director for Water Rights*

Dated:

JUN 30 2010