



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

APPLICATION A033073

PERMIT 21427

Right Holder: The Marshall Ranch LLC
 5270 Old Briceland Rd
 Garberville, CA 95542

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 **September 19, 2019**. 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 June 6, 2022.

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 **two unnamed streams in Humboldt County**

tributary to **Redwood Creek thence the South Fork Eel River thence the Eel River**

for the purpose of **Fish and Wildlife Preservation and Enhancement** and the incidental purposes of **Domestic, Stockwatering, and Fire Protection**.

2. The **POINT OF DIVERSION (POD)** of such water located at:

(POD 1) By California Coordinate System of 1983, Zone 1, North 1,926,839 feet, and East 6,029,850 feet, being within Northwest quarter of

Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

(POD 2) By California Coordinate System of 1983, Zone 1, North 1,926,830 feet, and East 6,030,636 feet, being within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

The **PLACE OF STORAGE** of such water located at:

(West Pond) By California Coordinate System of 1983, Zone 1, North 1,926,859 feet, and East 6,029,562 feet, being within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

(East Pond) By California Coordinate System of 1983, Zone 1, North 1,926,953 feet, and East 6,030,112 feet, being within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

(Tank Farm) By California Coordinate System of 1983, Zone 1, North 1,926,865 feet and East 6,030,341 feet, being within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

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

Fish and Wildlife Preservation and Enhancement use in a portion of Redwood Creek. The upstream limit is the confluence of the western unnamed stream (where POD 1 is located) with Redwood Creek located at North 1,927,203 and East 6,029,550 feet by California Coordinate System, Zone 1, North American Datum 1983, being within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian. The downstream limit is the confluence of Redwood Creek with the South Fork Eel River located at North 1,932,949 and East 6,048,002 feet by California Coordinate System, Zone 1, North American Datum 1983, being within Northwest quarter of Northeast quarter of Section 15, Township 4 South, Range 3 East, Humboldt Base and Meridian.

Incidental Domestic use at residence and shop located within Northeast quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

Incidental Stockwatering, Incidental Fish and Wildlife Preservation and Enhancement, and Incidental Fire Protection uses at two reservoirs located within Northwest quarter of Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

The place of use is shown on maps dated September 14, 2021, and September 22, 2021 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 **20 acre-feet per year** by storage to be collected from December 1 of each year to April 30 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. The maximum rate of diversion to offstream storage under this right is subject to the following conditions:

- a. The maximum combined rate of diversion from both PODs shall not exceed 1 percent of the flow in Redwood Creek as determined at a gage located at North 1,927,203 feet and East 6,029,550 feet by California Coordinate System of 1983, Zone 1; and,
- b. The maximum combined rate of diversion from both PODs shall not exceed 220 gallons per minute.

(Term Code: 0000005J)

7. 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: 0000009)

8. 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)

9. After the initial filling of the storage reservoirs, the 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)

10. 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: 0060046)

11. Diversion of water under this right at each of the PODs is subject to the following conditions:
- a. No water shall be diverted at POD 1 or POD 2 unless the flow in Redwood Creek is at or above 5 cubic feet per second as determined at a gage located at North 1,927,203 feet and East 6,029,550 feet by California Coordinate System of 1983, Zone 1;
 - b. No water shall be diverted at POD 1 unless the flow at POD 1 is at or above 5 gallons per minute; and,
 - c. No water shall be diverted from POD 2 unless the flow at POD 2 is at or above 1 gallon per minute.

(Term Code: 0000060)

12. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, right holder shall file a report pursuant to Water Code section 13260 and shall comply with all waste discharge requirements imposed by the Regional Water Quality Control Board, North Coast Region, or by the State Water Board.

(Term Code: 0000100)

13. 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.

(Term Code: 0000208)

14. No water shall be diverted under this right unless right holder is operating the water diversion facilities for PODs 1 and 2 with fish screens satisfactory to the Deputy Director for Water Rights. The fish screens shall be designed and maintained in accordance with the screening criteria of the National Marine Fisheries Service. Right holder shall provide evidence that demonstrates that the fish screens are in good condition with the annual report and whenever requested by the Division of Water Rights.

(Term Code: 0000213)

15. In accordance with the project design as described in Humboldt County's Mitigated Negative Declaration for the protection of fish and amphibian species during construction activities, right holder shall implement an aquatic species relocation plan that includes the following capture and relocation activities prior to dewatering a construction site:
 - a. Fish relocation and dewatering activities shall only occur between June 15 and November 1 of each year.
 - b. Fish relocation shall be performed by a qualified fisheries biologist, with all necessary State and Federal permits. Captured fish shall be moved to the nearest appropriate site outside of the work area. A record shall be maintained of all fish rescued and moved. The record shall include the date of capture and relocation, the method of capture, the location of the relocation site in relation to the project site, and the number and species of fish captured and relocated. The record shall be provided to CDFW within two weeks of the completion of the work season or project, whichever comes first.
 - c. Prior to capturing fish, the most appropriate release location(s) shall be determined. These would have water temperatures similar to the capture location and ample habitat area for dispersal.
 - d. A block net will be installed at the upstream end of the work area to keep fish from entering from above.
 - e. If a single thread channel with surface flow is present, fish would initially be hazed downstream using beach seines and dip nets. A block net would then be installed at the downstream end of the work area to keep fish from reentering. At least three sweeps will be conducted to deplete the area of fish as best as possible without handling.

- f. Once sweeping is completed, the cofferdam and flow bypass would be installed. Pumping of the work area could then commence.
- g. Any remaining fish would become concentrated in deep locations and would be removed using dipnets, seining, or hand capture as water depth continues to decrease.
- h. Electrofishing would only occur as a last resort. If deemed necessary, electrofishing shall be conducted by properly trained personnel following NOAA Guidelines for Electrofishing Waters Containing Salmonids Listed under the Endangered Species Act, June 2000.
- i. Handling of salmonids shall be minimized. However, when handling is necessary, always wet hands or nets prior to touching fish.
- j. Temporarily hold fish in cool, shaded, aerated water in a container with a lid. Provide aeration with a battery-powered external bubbler. Protect fish from jostling and noise and do not remove fish from this container until time of release.
- k. Air and water temperatures shall be measured periodically. A thermometer shall be placed in holding containers and, if necessary, periodically conduct partial water changes to maintain a stable water temperature. If water temperature reaches or exceeds 18°C, fish shall be released, and rescue operations ceased.
- l. Overcrowding in containers shall be avoided by having at least two containers and segregating young-of-year (YOY) fish from larger age-classes to avoid predation. Larger amphibians, such as Pacific giant salamanders, shall be placed in the container with larger fish. If fish are abundant, the capturing of fish and amphibians shall cease periodically and shall be released at the predetermined locations.
- m. Anesthetization or measuring fish shall be avoided.
- n. If feasible, initial fish relocation efforts shall be performed several days prior to the start of construction. This provides the fisheries biologist an opportunity to return to the work area and perform additional electrofishing passes immediately prior to construction. In many instances, additional fish will be captured that eluded the previous day's efforts.
- o. If mortality during relocation exceeds three percent, capturing efforts shall be stopped and the appropriate agencies shall be contacted immediately.
- p. In regions of California with high summer temperatures, relocation activities shall be performed in the morning when the temperatures are cooler.

- q. The Permittee shall minimize the amount of wetted stream channel that is dewatered at each individual project site to the fullest extent possible.
- r. Additional measures to minimize injury and mortality of salmonids during fish relocation and dewatering activities shall be implemented as described in Part IX, pages 52 and 53 of the California Salmonid Stream Habitat Restoration Manual.
- s. If these measures cannot be implemented, or the project actions proposed at a specific work site cannot be modified to prevent or avoid potential impacts to anadromous salmonids or their habitat, then activity at that work site shall be discontinued.

(Term Code: 0400500)

16. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to avoid, minimize, or mitigate indirect sediment-related impacts on special-status species and their habitat, as well as impacts to the ability of fish to migrate between habitat units, right holder shall comply with the following requirements:
- a. The use of cofferdams will contain any turbid water produced during the project within the work area, thereby avoiding impacts on downstream salmonids. Any turbid water within the confined work areas would be pumped to a receiving site outside the channel or to tanks. Any turbid water within the work area would be allowed to settle prior to removal of the cofferdams, thereby minimizing downstream effects on salmonids.
 - b. Discharge of sediment will be controlled and minimized with the implementation of best management practices (BMPs) on all disturbed soils that have the potential to discharge into area watercourses. Applicable BMPs include, but are not limited to, installation of silt fences, straw wattles, and placement of seed-free rice straw. BMPs will be installed at all access points to the work sites, which will minimize the potential for sediment delivery and deleterious effects on salmonids.
 - c. All gully stabilization work will be conducted when the individual sites are dry (i.e., no surface water).
 - d. A June 15 to November 1 instream work window will be established to allow time for young-of-the-year salmonids to be very mobile and capable of avoiding injury. The work window will also allow downstream migration of smolts to be completed prior to any project-related channel disturbance taking place. In addition, the work window coincides with the summer low-flow season during which flow in the creek will be at its summer base flow. Finally,

the November 1 date will ensure all work is done prior to the rainy season and arrival of any upstream migrating adult salmonids.

- e. Prior to the initiation of any instream work in areas with surface water, a qualified biologist will survey the site to determine fish presence. The biologist will implement an aquatic species removal and relocation plan to move any fish or amphibians that may be in work sites to suitable habitat downstream. Block nets will be installed to prevent fish from reentering the work area. Any fish remaining in the work area will be captured by hand, dip net, or as a last resort, using a backpack electrofisher. Cofferdams will be constructed in the channel at sites where streamflow is present. Water will then be diverted around the work area.

(Term Code: 0400500)

17. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to protect foothill yellow-legged frogs, right holder shall comply with the following requirements:
 - a. A foothill yellow-legged frog egg mass survey will be conducted in May prior to the construction season to determine if breeding occurs within the project reaches.
 - b. A visual observation survey of the project areas will be conducted within two weeks prior to the start of construction to determine if adult and juvenile foothill yellow-legged frogs are present in the project area.
 - c. If foothill yellow-legged frogs are present, then a qualified biologist approved by the California Department of Fish and Wildlife will be present immediately prior to the start of construction to remove any frogs and relocate them in suitable habitat.
 - d. Project manager or qualified designee will conduct daily morning inspections of the area slated for work to determine if amphibians entered the areas overnight. Any individuals will be captured and relocated prior to the start of the day's work.

(Term Code: 0400500)

18. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to protect red-bellied newts, right holder shall comply with the following requirements:
 - a. Sufficient terrestrial woody debris will be left in place to maintain the habitat supporting viable population of red-bellied newt during operations within the riparian areas.

- b. Prior to the initiation of any instream work in areas with surface water, a qualified biologist will survey the site to determine larval newt presence. If red-bellied newts are present, then a qualified biologist approved by the California Department of Fish and Wildlife will be present immediately prior to the start of operations to remove any individuals and relocate them in suitable habitat.

(Term Code: 0400500)

19. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to protect western pond turtles, right holder shall comply with the following requirement:

- a. Prior to the initiation of any instream work in areas with surface water, a qualified biologist will survey the site to determine turtle presence. The biologist will capture and relocate any turtle that may be in work sites to suitable habitat downstream. Block nets will be installed to prevent turtles from reentering the work area.

(Term Code: 0400500)

20. In accordance with project design components as described in Humboldt County's Mitigated Negative Declaration and in order to avoid bullfrogs from infesting the project sites, right holder shall comply with the following requirements:

- a. Landowner and resident education is one of the most important strategies, as people have been known to intentionally introduce bullfrogs to local bodies of water as a source of food.
- b. Monitoring of project sites will also be very important as early detection, before populations can get established, is a key component of control. Monitoring will be conducted as per Exhibit A in Appendix I of the Basis of Design Report: Bullfrog Monitoring and Management Plan.
- c. If needed, the off-channel ponds may be drained. The California Department of Fish and Wildlife recommends draining of ponds if invasive bullfrogs are present to interrupt their life cycle. According to research by Doubledee et al, 2007, "Bullfrogs, Disturbance Regimes, and the Persistence of California Red-Legged Frogs", draining of ponds can be effective for bullfrog management if draining occurs at least every 2 years.
- d. If annual monitoring shows that bullfrogs are present, active measures will be taken in consultation with the California Department of Fish and Wildlife and will follow the methods described in Exhibit A in Appendix I of the Basis of Design Report: Bullfrog Monitoring and Management Plan.

(Term Code: 0400500)

21. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities in order to minimize impacts on riparian habitat, right holder shall comply with the following requirements:
- a. Planting of seedlings shall begin after December 1, or when sufficient rainfall has occurred to ensure the best chance of survival of the seedlings, but in no case after April 1.
 - b. Any disturbed banks shall be fully restored upon completion of construction. Revegetation shall be done using native species. Planting techniques can include seed casting, hydroseeding, or live planting methods using the techniques in Part XI of the California Salmonid Stream Habitat Restoration Manual.
 - c. Disturbed and compacted areas shall be re-vegetated with native plant species. The species shall be comprised of a diverse community structure that mimics the native riparian corridor. Planting ratio shall be 2:1 (two plants to every one removed). Unless otherwise specified, the standard for success is 80 percent survival of plantings or 80 percent ground cover for broadcast planting of seed after a period of 3 years.
 - d. To ensure that the spread or introduction of invasive exotic plants shall be avoided to the maximum extent possible, equipment shall be cleaned of all dirt, mud, and plant material prior to entering a work site. When possible, invasive exotic plants at the work site shall be removed. Areas disturbed by project activities will be restored and planted with native plants.
 - e. Mulching and seeding shall be done on all exposed soil which may deliver sediment to a stream. Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches, except hydro-mulch, shall be applied in a layer not less than two (2) inches deep. Where feasible, all mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils and fills, including the downstream face of the road prism adjacent to the outlet of culverts, shall be reseeded with a mix of native grasses common to the area, free from seeds of noxious or invasive weed species, and applied at a rate which will ensure establishment.
 - f. If erosion control mats are used in re-vegetation, they shall be made of material that decomposes. Erosion control mats made of nylon plastic, or other non-decomposing material shall not be used.

- g. If riparian vegetation is to be removed with chainsaws, the right holder shall use saws that operate with vegetable-based bar oil.

(Term Code: 0400500)

22. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to avoid impacts due to soil erosion, right holder shall comply with the following requirements:
 - a. Work sites shall be winterized at the end of each day to minimize the eroding of unfinished excavations when significant rains are forecasted. Winterization procedures shall be supervised by a professional trained in erosion control techniques and involve taking necessary measures to minimize erosion on unfinished work surfaces. Winterization includes the following: smoothing unfinished surfaces to allow water to freely drain across them without concentration or ponding; compacting unfinished surfaces where concentrated runoff may flow with an excavator bucket or similar tool, to minimize surface erosion and the formation of rills; and installation of culverts, silt fences, and other erosion control devices where necessary to convey concentrated water across unfinished surfaces, and trap exposed sediment before it leaves the work site.
 - b. Effective erosion control measures shall be in-place at all times during construction. Construction shall not begin until all temporary erosion controls (i.e., straw bales or silt fences that are effectively keyed-in) are in place down slope or down stream of project activities within the riparian area. Erosion control measures shall be maintained throughout the construction period. If continued erosion is likely to occur after construction is completed, then appropriate erosion prevention measures shall be implemented and maintained until erosion has subsided.
 - c. An adequate supply of erosion control materials (gravel, straw bales, shovels, etc.) shall be maintained onsite to facilitate a quick response to unanticipated storm events or emergencies.
 - d. Upon project completion, all exposed soil present in and around the project site shall be stabilized within 7 days. Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches, except hydro-mulch, shall be applied in a layer not less than two (2) inches deep. Where feasible, all mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils and fills, including the downstream face of the road prism adjacent to the outlet of culverts, shall be reseeded with a mix of native grasses common to the area, free from seeds of noxious

or invasive weed species, and applied at a rate which will ensure establishment.

(Term Code: 0400500)

23. In accordance with mitigation measures taken from Humboldt County's Mitigated Negative Declaration for project construction activities to avoid impacts from routine use, disposal, or accidental release of hazardous materials, right holder shall comply with the following requirements:
- a. Heavy equipment that will be used in these activities will be maintained according to a maintenance and repair schedule and will be inspected for leakage of coolant and petroleum products and repaired, if necessary, before work is started.
 - b. When operating vehicles in wetted portions of the stream channel, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, the responsible party shall, at a minimum, do the following:
 - i. All equipment shall be cleaned to remove external oil, grease, dirt, or mud. Wash sites shall be located in upland locations so that dirty wash water does not flow into the stream channel or adjacent wetlands;
 - ii. Check and maintain on a daily basis any vehicles to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat;
 - iii. Take precautions to minimize the number of passes through the stream and to avoid increasing the turbidity of the water to a level that is deleterious to aquatic life; and
 - iv. Allow the work area to rest to allow the water to clear after each individual pass of the vehicle that causes a plume of turbidity above background levels, resuming work only after the stream has reached the original background turbidity levels.
 - c. All equipment operators shall be trained in the procedures to be taken should an accident occur. Prior to the onset of work, the right holder shall prepare a Spill Prevention/Response plan to help avoid spills and allow a prompt and effective response should an accidental spill occur. All workers shall be informed of the importance of preventing spills. Operators shall have spill clean-up supplies on site and be knowledgeable in their proper deployment.
 - d. All activities performed in or near a stream will have absorbent materials designed for spill containment and cleanup at the activity site for use in case of an accidental spill. In an event of a spill, work shall cease immediately. Clean-up of all spills shall begin immediately. The responsible party shall notify the State Office of Emergency Services at 1-800-852-7550 and the

California Department of Fish and Wildlife immediately after any spill occurs and shall consult with the California Department of Fish and Wildlife regarding clean-up procedure.

- e. All fueling and maintenance of vehicles and other equipment and staging areas shall occur outside of Streamside Management Areas and place fuel absorbent mats under pump while fueling. The United States Army Corps of Engineers and the California Department of Fish and Wildlife will ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the right holder shall prepare a plan to allow a prompt and effective response to any accidental spills. All workers will be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.
- f. Location of staging/storage areas for equipment, materials, fuels, lubricants, and solvents, will be located outside of the streams high water channel and associated riparian area. The number of access routes, number and size of staging areas, and the total area of the work site activity shall be limited to the minimum necessary to complete the restoration action. To avoid contamination of habitat during restoration activities, trash will be contained, removed, and disposed of throughout the project.
- g. Petroleum products, fresh cement, and other deleterious materials shall not enter the stream channel.
- h. Stationary equipment such as motors, pumps, generators, compressors, and welders, located within the dry portion of the stream channel or adjacent to the stream, will be positioned over drip-pans.

(Term Code: 0400500)

24. In accordance with a mitigation measure taken from Humboldt County's Mitigated Negative Declaration for project operations to assure that project activities are in compliance with water quality standards and to avoid impacts on water quality, right holder shall comply with the following requirement:

- a. Project operations will be adaptively managed based on flow, temperature and aquatic habitat monitoring results. These monitoring results will be presented to regulatory agency staff on an annual basis and/or as required by final permit conditions. In coordination with regulatory agency staff, the project team will adapt project operations as necessary to optimize aquatic habitat benefits resulting from the project while reducing impacts to a less than significant level. This may include changes to diversion timing/rates, changes to flow release timing/rates, and/or other changes to project operations.

(Term Code: 0400500)

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. 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)

- P. 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)

- Q. 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: June 16, 2022