



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

APPLICATION A033065

PERMIT 21425

Right Holder: Klingman Revocable Trust
PO Box 3000
San Gregorio, CA 94074

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 **August 1, 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 **San Gregorio Creek** in **San Mateo County**

tributary to **the Pacific Ocean**

for the purposes of **Irrigation, Stockwatering, and incidental Fire Protection.**

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

(POD 1) By California Coordinate System of 1983, Zone 3, North 1,946,007 feet and East 6,022,068 feet, being within Southwest quarter of Northwest quarter of projected Section 13, Township 7 South, Range 5 West, Mount Diablo Base and Meridian.

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

(Pond) By California Coordinate System of 1983, Zone 3, North 1,946,026 feet and East 6,023,714 feet, being within Southeast quarter of Northwest quarter of projected Section 13, Township 7 South, Range 5 West, Mount Diablo Base and Meridian.

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

Stockwatering and incidental Fire Protection uses at reservoir located within Southeast quarter of Northwest quarter of projected Section 13, Township 7 South, Range 5 West, Mount Diablo Base and Meridian.

Irrigation use on 25.6 acres as follows:

0.1 acre within Northwest quarter of Northwest quarter of projected Section 13;
23 acres within Southwest quarter of Northwest quarter of projected Section 13;
1.9 acres within Southeast quarter of Northwest quarter of projected Section 13;
0.6 acre within Northwest quarter of Southwest quarter of projected Section 13;
2.5 acres within Northeast quarter of Northeast quarter of projected Section 15;
2 acres within Southeast quarter of Northwest quarter of projected Section 15;
18 acres within Southwest quarter of Northeast quarter of projected Section 15;
all within Township 7 South, Range 5 West, Mount Diablo Base and Meridian.

The place of use is shown on map dated August 21, 2019 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 15 of each year to March 31 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 shall be limited as follows:
 - a. When measured flow at United States Geological Survey Gage Number 11162570 (San Gregorio Creek at San Gregorio) is greater than 10 cubic feet per second, the rate of diversion shall not exceed 220 gallons per minute.
 - b. When measured flow at United States Geological Survey Gage Number 11162570 (San Gregorio Creek at San Gregorio) is greater than 3 cubic feet per second and less than or equal to 10 cubic feet per second, the rate of diversion shall not exceed 70 gallons per minute.

(Term Code: 0000005J)

7. The total quantity of water diverted for irrigation and stockwatering consumptive use under this right and the adjudicated right reported pursuant to water right statements S028242, S028243, and S028244 shall not exceed 221.4 acre-feet per year.

(Term Code: 0000005Q)

8. 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)

9. This water right is specifically subject to senior water rights determined by the San Gregorio Creek System Adjudication, Superior Court, San Mateo County, Decree Number 355792 (as supplanted by the San Mateo County Court) insofar as said adjudicated water rights are maintained.

(Term Code: 0000023)

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. No water shall be diverted or used under this right for commercial and applicable personal medical use cannabis cultivation unless the water right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation*, which is available online at:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy.pdf

(Term Code: 0000120)
 12. For the protection of fisheries, wildlife, and other instream and public trust uses in the San Gregorio Creek Stream System, right holder shall bypass the entire creek flow for 5 consecutive days after a Pacific storm causes streamflow to rise above 50 cubic feet per second at United States Geological Survey Gage Number 11162570 (San Gregorio Creek at San Gregorio).

(Term Code: 0000202)
 13. No water shall be diverted under this water right unless the flow in San Gregorio Creek is at or above 3 cubic feet per second, as measured at United States Geological Survey Gage Number 11162570 (San Gregorio Creek at San Gregorio). In the event that said monitoring device is no longer available for streamflow measurements, right holder shall within 15 days submit a plan, satisfactory to the Deputy Director for Water Rights, to install an equivalent monitoring device as near as practicable to the location of the current monitoring device.

(Term Code: 0000204)
 14. No water shall be diverted under this right unless right holder is operating the water diversion facility for the point of diversion with a fish screen satisfactory to the Deputy Director for Water Rights. The fish screen shall be designed and maintained in accordance with the screening criteria of California Department of Fish and Wildlife. Right holder shall provide evidence that demonstrates that the fish screen is in good condition with the annual report and whenever requested by the Division of Water Rights.

(Term Code: 0000213)
 15. Diversion of water under this permit shall be subject to regulation by the watermaster appointed to enforce the terms of the San Gregorio Creek System Decree (Number 355792).

(Term Code: 000000N)
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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 24, 2022