

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 31567

PERMIT 21323

Permittee: Austin Creek Mutual Water Company
c/o Linda Petrulias
P.O. Box 86
Cazadero, CA 95421

The Deputy Director for Water Rights finds that the State Water Resources Control Board (State Water Board) and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved any protests made in compliance with Water Code section 1330 et seq. and included appropriate permit conditions; (c) demonstrated that the water will be diverted and used without injury to any lawful user of water; (d) demonstrated that the intended use is beneficial; and (e) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met or that the project is exempt from CEQA. The permit is being issued in accordance with the redelegation of authority (Resolution No. 2012-0029).

Additionally, the State Water Board has complied with its independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)

Therefore, **Application 31567** filed on **March 17, 2005**, has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

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

1. Source of water

Source:
Austin Creek Underflow

Tributary to:
Russian River

within the County of Sonoma.

2. Location of point(s) of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 1,940,237 feet and East 6,258,689 feet	NE ¼ of NE ¼	3*	7N	11W	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Domestic	Within the Austin Creek Mutual Water Company service area boundary within Sections 2* and 3*, T7N, R11W, MDB&M; and within Sections 34 and 35, T8N, R11W, MDB&M as shown on map.					

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **9,235 gallons per day at a rate of 0.17 cubic feet per second** to be diverted from **January 1 to December 31** of each year. The maximum amount diverted under this permit shall not exceed **10** acre-feet per year.

(000005A)
6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2027.

(0000009)
7. If the claimed existing prior right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the total quantity of water diverted and/or collected to storage, the rate of diversion, and the amount beneficially used under this right shall be reduced by the net of the face value specified in this permit less the respective amounts recognized under the quantified existing prior right during the season specified in this permit. No water shall be diverted to the place of use during the season authorized by this permit, whenever the amounts diverted can be covered by the quantified existing prior right.

The holder of this right shall forfeit the right if he/she transfers all or any part of the claimed existing right for the place of use covered by this right to another place of use without the prior approval of the State Water Board.

The holder of this right shall divert water under the claimed existing right only in accordance with the law.

(000021A)
8. Permittee shall consult with the Division of Water Rights and Department of Fish and Game and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for concurrence within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the State Water Board. A progress report on the development of a water conservation program may be required by the State Water Board at any time within this period.

All measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(000029B)
9. The State Water Board intends to develop and implement a basin-wide program for real-time electronic reporting of diversions, withdrawals, releases, and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this permit.

(0090031)
10. No water shall be diverted under this right unless the Permittee is operating in accordance with a mitigation plan satisfactory to the Deputy Director for Water Rights. The mitigation plan shall be developed in consultation with the Department of Fish and Game and address riparian habitat replacement to maintain access to the point of diversion. Permittee shall submit a report on mitigation plan activities in accordance with the time schedule contained in the mitigation plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the mitigation plan upon a determination that the plan is ineffective or unsuccessful, or provide relief from this term upon a determination that the mitigation plan is no longer required.

(0400053A)
11. No water shall be diverted under this permit unless permittee is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall

specify how permittee will comply with the terms and conditions of this permit. Permittee shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan.

(0000070)

12. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Russian River Watershed are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Board, made after notice to interested parties and opportunity for hearing.

(0000090A)

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

(9990999)

14. The State Water Board reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, in the event of unforeseen adverse impacts to fish or wildlife. Board action will be taken only after notice to interested parties and opportunity for hearing.

(000000M)

15. No water shall be directly diverted under this permit unless the permittee is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device satisfactory to the Deputy Director for Water Rights. The device shall be capable of continuous recording of the daily amount of water diverted and shall be properly maintained.

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

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

(000000R)

THIS PERMIT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by the State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

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

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under

this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

- H. No water shall be diverted under this permit, and no construction related to such diversion shall commence, until Permittee obtains all necessary permits or other approvals required by other agencies. If an amended permit is issued, no new facilities shall be utilized, nor shall the amount of water diverted increase beyond the maximum amount diverted during the previously authorized development schedule, until Permittee complies with the requirements of this term.

Within 90 days of the issuance of this permit or any subsequent amendment, Permittee 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, Permittee 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 Game (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.); or, (5) local grading permits.

Permittee shall, within 30 days of issuance of all permits, approvals or waivers, transmit copies to the Division of Water Rights.

(0000203)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

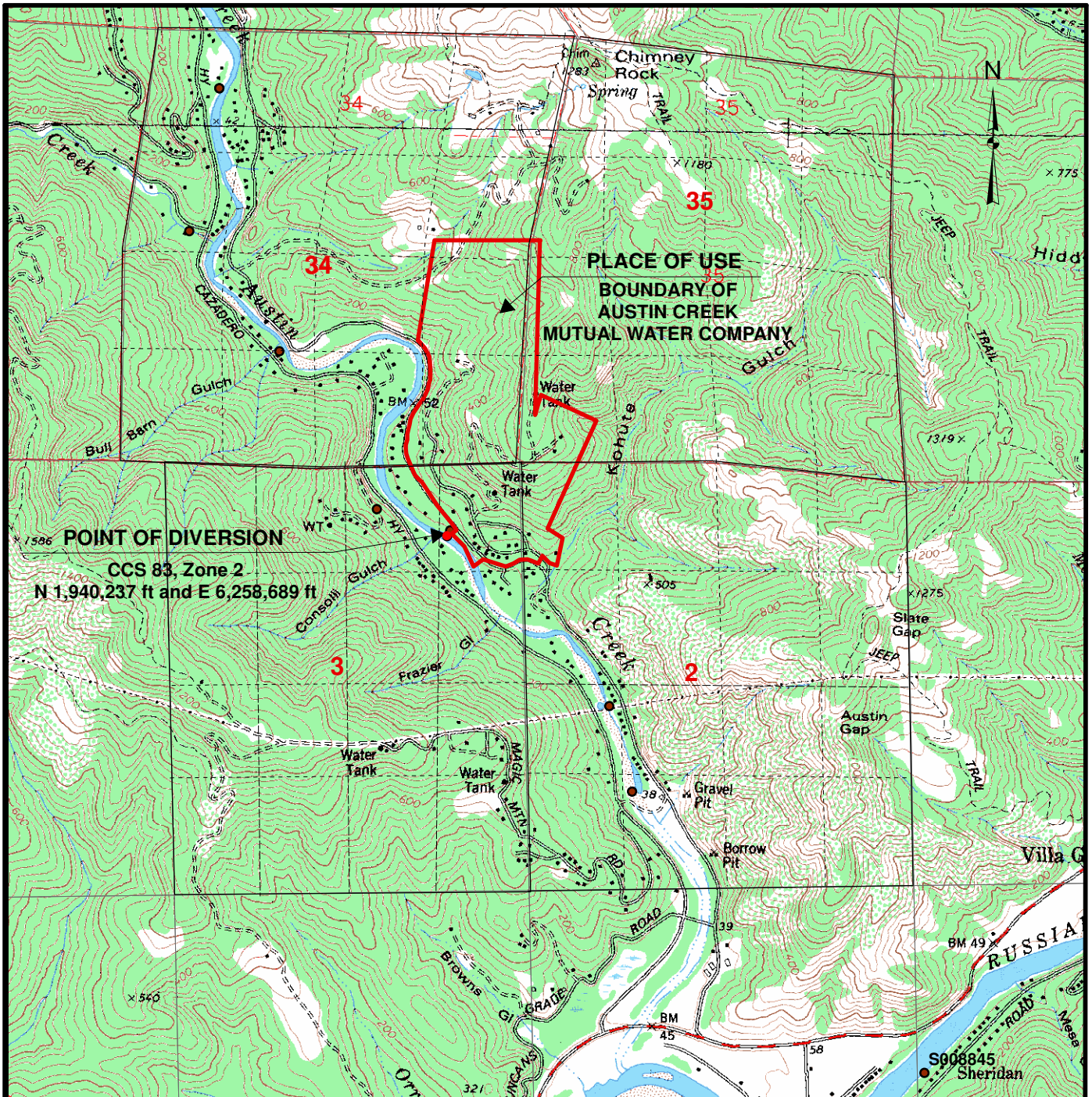
Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JAN 14 2013



OWNER	AUSTIN CREEK MUTUAL WATER COMPANY		STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS		
SOURCE	AUSTIN CREEK UNDERFLOW				
POINT OF DIVERSION WITHIN NE 1/4 OF NE 1/4 OF PROJECTED SECTION 3, T7N, R11W, MDB&M			APPLICATION NO.	31567	
COUNTY OF SONOMA			PERMIT NO.	21323	
U.S.G.S. QUAD: DUNCAN MILLS	DATE: 1993	SCALE: 1:24,000	DATE:	DRAWN:	CHECKED:
			12/22/2011	N. MORGAN	E. WALLACE

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.