

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 21003 (Application 30199)

Riverview II Homeowners Association

ORDER REVOKING PERMIT

SOURCE: RUSSIAN RIVER UNDERFLOW TRIBUTARY TO PACIFIC OCEAN

COUNTY: SONOMA

WHEREAS:

1. Riverview II Homeowners Association (Permittee) is the water right holder of water right Permit 21003.
2. The time to complete construction of the project and make full beneficial use of water under Permit 21003 will elapse on December 31, 2009. Division of Water Rights (Division) records (Progress Report by Permittee for 1999, 2002-2004, and 2008) state that the diversion proposed under this permit has not been constructed and water use has not commenced.
3. On May 1, 2009, the Division received the Progress Report for Permittee for 2008 in which Mr. Sellma, Landscape Chairman for Permittee, requested that the State Water Resources Control Board (State Water Board) revoke Permit 21003.
4. By requesting voluntary revocation, Permittee waived the right to the hearing and notice requirements set forth in Water Code sections 1410 and 1410.1.

THEREFORE:

It is ordered that Permit 21003 is hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY
JOHN O'HAGAN FOR:

Victoria A. Whitney, Deputy Director
Division of Water Rights

Dated: SEP 30 2009

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

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21003

Application 30199 of Riverview II Homeowners Association
 c/o Carl Elze, 1145 Orchard Street, Healdsburg, CA 95448

filed on December 10, 1992, has been approved by the State Water Resources Control 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	Tributary to
Russian River Underflow	Pacific Ocean

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 343,950 feet and East 1,756,650 feet	SW¼ of SW¼	22	9N	9W	MD

County of Sonoma

3. Purpose of use	4. Place of use	Section *Projected	Township	Range	Base and Meridian	Acres
Irrigation	SW$\frac{1}{4}$ of SW$\frac{1}{4}$	22	9N	9W	MD	4.5
	NW$\frac{1}{4}$ of SW$\frac{1}{4}$	22	9N	9W	MD	1.5
					TOTAL	6.0

The place of use is shown on map on file with the State Water Resources Control Board.

This permit is subject to the following terms and conditions:

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.04 cubic feet per second** to be diverted from **April 1 to October 31** of each year. The maximum amount diverted under this permit shall not exceed **14.1 acre-feet per year**.

(000005A)

6. Complete application of the water to the authorized use shall be made by **December 31, 2009**.

7. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(0000022)

8. For the protection and preservation of fishlife and the maintenance of water related recreational uses, permittee shall divert water from the source only when the flow in the Russian River exceeds the following minimum flows required under Sonoma County Water Agency's Permit 12947A (A12919A): **185 cubic feet per second during normal years; 75 cubic feet per second during dry years; and 25 cubic feet per second during critical dry years**. River flows shall be measured at the nearest U.S.G.S. Gaging Station on the river.

9. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Russian River. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

10. 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 variation in demand and hydrologic conditions in the Russian River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of the State Water Resources Control Board made after notice to interested parties and opportunity for hearing.

11. All permits issued by the State Water Resources Control Board are subject to the following terms and conditions:

(A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(E) 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 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 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 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 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 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.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the 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 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.

(G) 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 an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

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

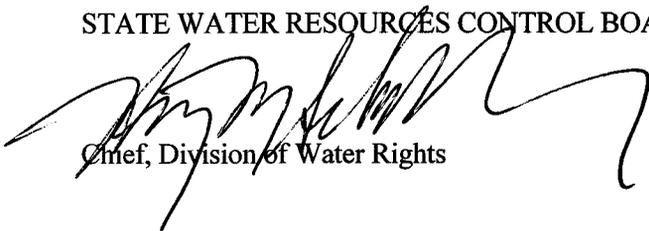
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

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).

Dated: **AUG - 5 1999**

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights