

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

DIVISION OF WATER RIGHTS

AMENDED PERMIT FOR DIVERSION AND USE OF WATER

APPLICATION 25062

PERMIT 19724

Permittee: North Marin Water District
P.O. Box 146
Novato, CA 94947

The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA. The amended permit is being issued in accordance with the redelegations 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, an amended permit on **Application 25062** filed on **May 6, 1976** has been approved by the State Water Board SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this amended permit.

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

1. Source of water

Source:

Lagunitas Creek

Tributary to:

Tomales Bay

within the County of **Marin**.

2. Location of points of diversion

By California Coordinate System of 1983 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Coast Guard Well 1 North 2,219,905 feet and East 5,900,081 feet	SW ¼ of SE ¼	25*	3N	9W	MD
Coast Guard Well 2 North 2,219,909 feet and East 5,900,069 feet	SW ¼ of SE ¼	25*	3N	9W	MD
Coast Guard Well 3 North 2,219,912 feet and East 5,900,050 feet	SW ¼ of SE ¼	25*	3N	9W	MD
Downey Well North 2,222,409 feet and East 5,901,065 feet	SW ¼ of SE ¼	25*	3N	9W	MD

Gallagher Well North 2,223,665 feet and East 5,904,382 feet	SE ¼ of NW ¼	30*	3N	8W	MD
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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
Municipal	Within the Annexation No. 3 Service Area Boundary within Township 2N and 3N, Range 8W and 9W, MDB&M as shown on map dated February 7, 2007.					
Fish and Wildlife Preservation and Enhancement	At stream segment between the Point of Diversion located by California Coordinate System of 1983, Zone 3, North 2,219,905 feet and East 5,900,081 feet, being within SW ¼ of SE ¼ of projected Section 25, T3N, R9W, MDB&M (upstream limit), and the confluence of Lagunitas Creek and Tomales Bay (downstream limit).					

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **0.699 cubic foot per second** to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed **212.7 acre-feet per year**. (000005A)
6. In a dry year, the maximum simultaneous rate of diversion under this permit and the rights pursuant to Applications 13965B and 25079 shall not exceed **1.18 cubic feet per second**. Pursuant to State Water Board Order WR 95-17 dated October 26, 1995, a dry year shall be defined as any year in which the total precipitation that occurs from the previous period of October 1 through April 1 does not exceed 28 inches as measured at the Marin Municipal Water District's Kent Lake Precipitation Gage. (000005S)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 1, 2000. (000009)
8. 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 permit 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.

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

Permittee shall divert water under the claimed existing right only in accordance with the law. (000021A)
9. This permit shall not be construed as conferring upon the permittee right of access to the points of diversion. (000022)

10. Permittee shall consult with the Division of Water Rights and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the State Water Board for approval 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 the water conservation program may be required by the State Water Board at any time within this period. Permittee shall submit a report on its ongoing water conservation and reclamation activities to the State Water Board annually.

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

(0000029B)

11. If it is determined that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, Permittee shall, at their expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in California Code of Regulations, title 23, section 715 et seq. Said revision(s) or map(s) shall be furnished upon request of the Deputy Director for Water Rights.

(0000030)

12. Permittee shall not divert water under this permit from July 1 to October 31 of a dry year. Before July 1 of each year, Permittee shall provide to the Division of Water Rights written notification of the current year's water year type, including supporting data, and any actions Permittee will take to ensure compliance with this term.

(0540300)

13. This permit does not authorize diversion of any water specifically released from storage by Marin Municipal Water District for fish and wildlife protection in Lagunitas Creek in compliance with the terms of any permit, permit or order of the State Water Board. Permittee shall not divert or impair the flow of such water.

(0160400)

14. No water shall be directly diverted under this permit unless Permittee is monitoring and reporting said diversion of water. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring the rate and quantity 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, 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:
JAMES W. KASSEL FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: FEB 20 2013

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19724

Application 25062 of North Marin County Water District
999 Rush Creek Place, Novato, California 94947

filed on May 6, 1976, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

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

1. Source: Lagunitas Creek Tributary to: Tomales Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridan
North 500 feet and West 1,575 feet from SE corner of projected Section 25	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	25	3N	9W	MD

County of Marin

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridan	Acres
Municipal	The towns of Olema, Point Reyes Station and Inverness Park, Point Reyes National Seashore Park and within the District Boundary of Annexation No. 3 to the North Marin County Water District, within T2&3N, R8&9W, MDB&M					

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

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.699 cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 212.7 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Complete application of the water to the authorized use shall be made by December 1, 2000. (0000009)
8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
9. 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. (0000011)
10. 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. (0000012)
11. 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. (0000013)
12. The total rate and quantity of water diverted and used under this permit, the permit issued pursuant to Application 25079, and permittee's claimed existing right for the place of use specified in this permit shall not exceed 1.66 cubic feet per second and 505.2 acre-feet per year. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the rate and quantity of diversion and use allowed under this permit shall be either (1) the net of the specified total value less the amount of water available under Application 25079 and the existing right or (2) the face value of this permit, whichever is less.

Permittee shall forfeit all rights under the permit if permittee transfers all or any part of its claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board. (0000021)

13. No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, San Francisco Bay Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

- (1) the Regional Board issued a waiver pursuant to Section 13269, or
- (2) the Regional Board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to the groundwater of water resulting from the irrigation of crops. (0290101)

14. This permit is specifically subject to the prior rights of Waldo Giacomini held under licensed Application 13965, and to any prior right that may be held by Harold Genazzi. (0160800)

15. This permit does not authorize diversion of any water specifically released from storage by Marin Municipal Water District for fish and wildlife protection in Lagunitas Creek in compliance with the terms of any permit, license or order of the State Water Resources Control Board. Permittee shall not divert or impair the flow of such water. (0160400)

During all times when the Giacomini Dam, or other facility at that location, is in place across Lagunitas Creek, permittee shall, at intervals not less frequent than once a week, monitor and record the flow over the Giacomini fish ladder or substitute facility. If the flow thus monitored is less than one cubic foot per second, permittee shall immediately notify, in writing, the Division of Water Rights and designated representatives of the California Department of Fish and Game, Marin Municipal Water District, and Waldo Giacomini or his successor in interest. The records of flow monitoring required by this term shall be submitted to the Division of Water Rights every three months, and shall be available for inspection upon reasonable notice by interested parties. (0160400)

16. The State Water Resources Control Board reserves jurisdiction in the public interest to impose appropriate conditions in the event of unforeseen adverse impacts on migration of anadromous fish. Board action will be taken only after notice to interested parties and opportunity for hearing. (000M001)

17. Permittee shall report progress on its ongoing water conservation and reclamation activities to the State Water Resources Control Board annually. The Board reserves jurisdiction to require permittee to develop and implement a comprehensive water conservation program or specific water conservation actions at any time prior to issuance of a license under this permit, upon notice from the Board and opportunity for hearing. (0110600)

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: DECEMBER 12 1985

STATE WATER RESOURCES CONTROL BOARD

Lloyd Johnson
Chief, Division of Water Rights