Water Right Template Instructions:

This document contains boilerplate language, placeholder language, and project specific language. Boilerplate language cannot be changed or altered. Placeholder language is to be filled in using identifying information associated to the water right. Project specific language is text that will either be included or removed from the template based on staff’s determination of the text’s applicability to the water right project.

Boilerplate text will not be indicated with any symbols.

Placeholder text will be contained within the symbols \* \*.

Project specific text will be contained within the symbols $ $. Project specific text will also include instructional language on how to determine when project specific text applies to the water right. If the project specific text does not apply, the text will be deleted.

Color text is utilized within this template but does not infer any additional meaning to the context of the template.

Remove all the text from above this point when using the template to draft a water right.



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

APPLICATION \*X012345\*

PERMIT \*12345\*

\*LICENSE 12345\*

Right Holder: \*Primary Owner Name\*

\*Primary Owner Address\*

\*Primary Owner City State Zip\*

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 \***Priority Date\***.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 October 19, 2017.

$For new licenses, amended rights, or administratively changed rights only, include the following text: This right supersedes any previously issued righton **Application \*A012345\***.$

$For licenses only, include the following text: The right holder has made proof, to the satisfaction of the State Water Board, of the quantities of water put to beneficial use during the authorized development schedule.$

$For new permits only, use this paragraph: The Deputy Director for Water Rights finds that the State Water Board and/or the Applicant have met the following requirements for permit issuance: (a) demonstrated the availability of unappropriated water; (b) resolved protests in compliance with Water Code section 1330 et seq. and included appropriate permit conditions; (c) demonstrated that the water will be diverted and used without injury to any lawful user of water; (d) demonstrated that the intended use is beneficial; and (e) demonstrated that the requirements of the California Environmental Quality Act (CEQA) have been met or that the project is exempt from CEQA.$

$For amended rights or new licenses resulting from a change petition, use this paragraph: The Deputy Director for Water Rights finds that: (a) the change will not operate to the injury of any lawful user of water; (b) good cause has been shown for the change; (c) the petition does not constitute the initiation of a new right; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.$

$For amended permits or new licenses resulting from a change petition and a time extension, use the paragraph above for change petitions, and use this paragraph: The Deputy Director for Water Rights also finds that: (a) due diligence has been exercised; (b) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (c) satisfactory progress will be made if an extension is granted.$

$For amended permits or new licenses resulting from a time extension without a change petition, use this paragraph: The Deputy Director for Water Rights finds that: (a) due diligence has been exercised; (b) failure to comply with previous time requirements has been occasioned by obstacles which could not be reasonably avoided; and (c) satisfactory progress will be made if an extension is granted; and (d) the State Water Resources Control Board (State Water Board) has made the required findings pursuant to the California Environmental Quality Act (CEQA) or the project is exempt from CEQA.$

$For all permits, amended rights, or new licenses resulting from a change petition, time extension or both, that are located within the geographic area covered by the Policy for Maintaining Instream Flows in Northern California Coastal Streams, add the following to the appropriate paragraph above immediately after the CEQA finding: (d) or (e) or (f) demonstrated that the requirements of the Policy for Maintaining Instream Flows in Northern California Coastal Streams have been met.$

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

$For amended rights and new licenses resulting from approval of a petition, include this paragraph: The State Water Board has complied with its independent obligation to consider the effect of the proposed change on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419 [189 Cal.Rptr. 346, 658 P.2d 709].)$

$For directions on standard formatting for water rights, review the [water right template notes](http://www.waterboards.ca.gov/waterrights/water_issues/programs/permits/terms/wrtemplatenotes.docx).$

$For item 1 below, review instructions on Stream Source Sequence, Point of Diversion (POD), and coordinating source number with diversion number by reviewing the water right template notes.$

## 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 \***(1) Arroyo Leon and (2)(3) 2 Unnamed Streams** in **County\***

tributary to \***(2)(3) Arroyo Leon thence (1) Pilarcitos Creek thence the Pacific Ocean\***

for the purposes of \* **Municipal, Domestic, Irrigation, Stockwatering, etc\***.

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

\*(POD 1) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.

(POD 2) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.

(POD 3) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.\*

\*The **POINT(S) OF REDIVERSION (PORD)** of such water located at:

\*(PORD 1) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.

(PORD 2) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.\*

\*The **PLACE(S) OF STORAGE** of such water located at:\*

\*(Upper Pond) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX quarter of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.

(Lower Pond) By California Coordinate System of 1983, Zone #, North/South ###,### feet and East/West ###,### feet, being within XX half of XX quarter of Section ##, Township #North/South, Range #East/West, Mount Diablo Base and Meridian.\*

$Remove the sections referred to as Points of Rediversion and Places of Storage if they don’t apply to the water right. If the points of diversion, points of rediversion, or places of storage are the same, you can list them all together, but modify the header as appropriate; Example: THE **POINT OF DIVERSION** AND **PLACE OF STORAGE** OF SUCH WATER IS LOCATED:$

$For projects that have underground storage, use the following language instead: Surface water diverted to underground storage will be stored in the INSERT NAMESub-basin (Sub-basin INSERT SUB-BASIN ID NUMBER) of the INSERT NAME Groundwater Basin as defined in the California Department of Water Resources Bulletin 118, 2016 update. As described in the Bulletin 118, 2016 update, the INSERT NAME Sub-basin has a surface area of approximately #### acres and is bounded by DESCRIBE FEATURES on the north, south, east, and west, being within Townships ## N/S and Range ## E/W, Mount Diablo Base and Meridian. The place of underground storage is shown on map number INSERT MAP NUMBER dated MONTH DAY, YEAR, filed with the State Water Board.$

1. The **PLACE OF USE** of such water is located:

$For uses that occur at reservoirs:$ Stockwatering and Recreational uses at reservoir located within XX quarter or XX quarter of Section ##, Township North/South, Range ## East/West, Mount Diablo Base and Meridian.

$For irrigation use:$ Irrigation use on ## acres as follows:

## acres within Southwest quarter of Southeast quarter of Section ##.

## acres within Northeast quarter of Northeast quarter of Section ##.

## acres within Southeast quarter of Northwest quarter of Section ##.

$For uses that have a service boundary (i.e. Municipal), write out the entire description such as By California Coordinate System of 1983, within the NAME service area boundary within Sections XX and XX, Township(s) XX, Range(s) XX, XX Base and Meridian as shown on map.$

The place of use is shown on map filed on \*DATE\* with the State Water Board.

$Use the word "filed” if an engineered map was submitted. Use "on file with” if the map was not prepared, stamped, and signed by a registered engineer.$

1. $Add [standard terms](http://www.waterboards.ca.gov/waterrights/water_issues/programs/permits/) from this point on, or any special terms as applicable, formatted starting with term number 4.

Terms 1 through 3 are in the above description. Terms are available on the internet.$

1. $Additional instructions: For all rights, use the permit versions. For licenses, add additional text as needed to describe the quantity authorized for withdrawal from storage, etc. We are no longer use the text descriptors for quantities, such as four and one hundredth (4.01).

Add permit terms ensuring the formatting of the numbered list is maintained. You can check to make sure the formatting is correct by clicking one of the numbers in the list. If the number is highlighted in grey, it means that the formatting has been maintained. If the number does not highlight, the formatting has been broken and must be fixed.

A water right (permit or license), whether new or amended, always follows our new format. Terms that may need to be added to the right include: standard terms, terms from any earlier rights or orders issued after the rights were issued (for amended rights or initial license), terms from any CEQA or public trust document, terms from protest dismissal, and any other terms required by the Division.

At the end of the standard terms, include the line below and leave any remaining space on the page blank, then continue with the terms listed on the following pages that are included in all rights.$

1. \*Placeholder for terms\*

## THIS RIGHT IS ALSO SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. 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)

1. 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)

1. 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)

1. $This term is included for Permits Only$ 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)

1. $This term is included for Permits Only$ 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)

1. 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)

1. 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.

$For water rights subject to the North Coast Instream Flow Policy, include this sentence: Right holder shall comply with the reporting requirements of the State Water Board’s Policy for Maintaining Instream Flows in Northern California Coastal Streams as adopted October 22, 2013.$

$The date of the Policy should be updated as needed to reflect the applicable North Coast Instream Flow Policy version.$

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 $For underground storage water rights include this phrase:, documentation of the quantity of water placed in storage and the quantity later recovered under the provisions of this right$, and documentation of compliance with the terms and conditions of this right.

(Term Code: 0000010)

1. $This term is included to Permits and Amended Rights Pursuant to a Petition Only: 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)$

1. 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:
2. 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;
3. 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;
4. 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,
5. 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)

1. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.

(Term Code: 0000022)

1. 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)

1. 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)

1. 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.

$For permits and amended rights pursuant to a petition, include the following text to the paragraph below: Within 90 days of the issuance of this right or any subsequent amendment,$

$Or for new licenses or rights subject to an administrative change, include the following text to the paragraph below: If construction or rehabilitation work is required for the diversion works covered by this right,$

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)

1. 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)

1. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine $add this text for single purpose hydropower projects only: except to the extent (if any) such authority is preempted by federal law$, 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.

$Use this text for single purpose hydropower projects only: Except to the extent (if any) such authority is preempted by federal law,$ 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.

$Use this text for single purpose hydropower projects only: Except to the extent (if any) such authority is preempted by federal law,$ 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)

1. $Use this text for single purpose hydropower projects only: Except to the extent (if any) such authority is preempted by federal law,$ 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)

1. 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.) $Use this text for single purpose hydropower projects only: except to the extent (if any) that the Act is preempted by federal law$ 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:*

$Include the two terms below for permits only$

*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).*

$Include the four terms below for licenses only$

*Section 1627. A license 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 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any license 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 licensee 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 licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

*Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.*

*Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.*

STATE WATER RESOURCES CONTROL BOARD

*Erik Ekdahl, Deputy Director*

*Division of Water Rights*

Dated: