

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING – DIVISION OF WATER RIGHTS
MARCH 17, 2009**

ITEM 9

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION, MONITORING AND REPORTING PLAN FOR APPROVAL OF TWO WATER RIGHT APPLICATIONS, PETITIONS FOR CHANGE AND EXTENSION OF TIME FOR FOUR WATER RIGHT PERMITS, AND PETITION TO CHANGE A WATER RIGHT LICENSE FOR MCEVOY RANCH IN THE PETALUMA RIVER WATERSHED IN MARIN COUNTY

DISCUSSION

The State Water Board issued License 6564 on October 3, 1962; Permits 20549, 20550, and 20551 on August 19, 1991; and Permit 20812 on November 9, 1995. These water rights cover operations on the McEvoy Ranch (Permittee). The property was historically part of a cattle ranch operation by previous owners and is currently in the process of being converted to olive orchards. Permittee has filed the above-noted applications and petitions that are necessary to allow the project to be expanded and bring it into conformance with water right requirements.

The State Water Board is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) for the proposed project, which involves the following actions:

- a) Issuance of permits for water right Applications 31076 and 31077;
- b) Approval of petitions for change in place of use, purpose of use, and point of re-diversion for water right License 6564; and
- c) Approval of petitions for extension of time and change in place of use, purpose of use, and points of diversion and re-diversion for water right Permits 20549, 20550, 20551, and 20812.

[State Water Board Resolution No. 2007-0057](#), section 4.10.1, delegated to the Deputy Director for Water Rights the authority to take actions to comply with CEQA for all projects carried out or approved by the State Water Board in connection with the administration of the water right program to the extent authorized under section 15025 of CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) The approval of a Negative Declaration, however, cannot be delegated to an entity different than the ultimate decision-maker. [see CEQA Guidelines § 15025, subd. (b).] In this case the State Water Board, not the Deputy Director for Water Rights, has approval authority over the project and thus must also approve or disapprove the Mitigated Negative Declaration.

On March 21, 2008, the Division of Water Rights issued a notice of intent to adopt a Mitigated Negative Declaration for the project. An Initial Study and proposed Mitigated Negative Declaration were subsequently circulated for public review. Approval of the proposed resolution would certify the final Mitigated Negative Declaration in connection with State Water Board consideration of the orders approving the proposed project.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution?

FISCAL IMPACT

None.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends adoption of the proposed resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 3 of the Strategic Plan Update, 2008-2012: To increase sustainable local water supplies available for meeting existing and future beneficial uses by 1,725,000 acre-feet per year, in excess of 2002 levels, by 2015, and ensure adequate flows for fish and wildlife habitat.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND MITIGATION, MONITORING AND REPORTING PLAN FOR APPROVAL OF WATER RIGHT APPLICATIONS 31076 AND 31077, PETITION TO CHANGE WATER RIGHT LICENSE 6564 (A017596) AND PETITIONS FOR CHANGE AND EXTENSIONS OF TIME FOR PERMITS 20549 (A025209), 20550 (A025412), 20551 (A026507), AND 20812 (A030121)

WHEREAS:

1. The McEvoy Ranch is located in Marin County, approximately five miles southwest of the City of Petaluma. The project consists of water diversion and storage for irrigation of approximately 153 acres of existing and proposed olive orchard.
2. The State Water Resources Control Board (State Water Board) is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.) in connection with its water right proceeding to consider the following actions:
 - a) Issuance of permits for water right Applications 31076 and 31077;
 - b) Approval of petition for change in place of use, purpose of use and point of re-diversion for water right License 6564 (A017596); and,
 - c) Approval of petitions for change in place of use, purpose of use, points of diversion and re-diversion, and extensions of time for water right Permits 20549 (A025209), 20550 (A025412), 20551 (A026507), and 20812 (A030121).
3. On March 21, 2008, the Division circulated a notice of intent to adopt a Mitigated Negative Declaration, SCH No 2008032080, for the project. (Cal. Code Regs., tit. 14, § 15072.)
4. The public review period for the proposed Mitigated Negative Declaration closed on April 21, 2008.
5. Comments were received from the California Department of Water Resources and the County of Marin during the public review process of the proposed Mitigated Negative Declaration. The comments were advisory in nature and did not identify any new or unmitigated potentially significant environmental impacts.
6. The final Mitigated Negative Declaration has been completed in compliance with CEQA.
7. The Mitigated Negative Declaration reflects the State Water Board's independent judgment and analysis.
8. After considering the whole of the record--including the initial study, the proposed Mitigated Negative Declaration, and the comments received--the State Water Board hereby determines that there is no substantial evidence that the project, with mitigation measures, will have a significant effect on the environment.

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9. The documents constituting the record for the Mitigated Negative Declaration are in the Division of Water Right files for Permits 20549 (A025209), 20550 (A025412), 20551 (A026507), and 20812 (A030121), available in the Division of Water Rights Records Unit, 1001 "I" Street, 2nd Floor, Sacramento, CA 95814.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board adopts the final [Mitigated Negative Declaration](#) and [Mitigation, Monitoring and Reporting Plan](#) for the proposed project.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 17, 2009.

Jeanine Townsend
Clerk to the Board