



Winston H. Hickox
*Secretary for
Environmental
Protection*

State Water Resources Control Board

Division of Water Rights

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Gray Davis
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 31379

DATE FILED: December 17, 2002

Notice is hereby given that Okizu Foundation has filed an application for a water right permit for diversion of water from three unnamed streams tributary to Berry Creek and Berry Creek tributary to North Fork Feather River in Butte County. The State Water Resources Control Board (SWRCB) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Okizu Foundation
c/o Lisa M. Martin
Latham & Watkins
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626

Description of Project

The applicant seeks a right to collect water to storage behind three existing reservoirs: Bell Lake, Lower Pond, and Upper Pond. Bell Lake has a 2-foot-high dam forming 24 acre-foot capacity onstream reservoir with a surface area of 1½ acres. In addition to reservoir inflow, supplemental water is diverted to the reservoir by gravity flow from an unnamed stream tributary to Berry Creek. Lower Pond, constructed in around 1965, has a 2-foot-high dam forming 7 acre-foot capacity offstream reservoir with a surface area of ½ acre. Water is diverted through Zinc Ditch by gravity, at a rate of 100 gallons per minute. Upper Pond, constructed before 1970, has a 4-foot-high dam forming 9 acre-foot capacity offstream reservoir with a surface area of ½ acre. Water is diverted from an unnamed stream through the Old Horton Ditch, at the rate of 25 gallons per minute. Water collected to storage is used for recreation and irrigation of fields and vineyards of 120 acres shown under place of use below.

The project is located along Zink Road, approximately seven miles northeast of Lake Oroville and two miles east of Madrone Lake.

Summary of Application

County: Butte.

Source: (1) Berry Creek tributary to North Fork Feather River thence Feather River
 (2) Three Unnamed Streams tributary to Berry Creek.

Points of

Diversion: (1) within the NW ¼ of NE ¼ of Section 25, T21N, R5E, MDB&M
 (2) within the SW ¼ of SW ¼ of Section 19, T21N, R5E, MDB&M
 (3) within the SW ¼ of SE ¼ of Section 24, T21N, R5E, MDB&M
 (4) within the NE ¼ of NW ¼ of Section 25, T21N, R5E, MDB&M.

Amount: 40 acre-feet per year of storage.

Season: October 1 to May 31.

Purposes: Irrigation and Recreational.

Place of Use:

Use Within	Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
NE¼ of SW¼	25	21N	5E	MD	Total 120	no
SE¼ of NE¼	25	21N	5E	MD		
NE¼ of N¼	25	21N	5E	MD		

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera, SWRCB, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterrights.ca.gov/forms/ or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **40th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms or general information pamphlets, please contact Yoko Mooring by phone at (916) 341-5362 or by electronic mail at ymooring@waterrights.swrcb.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **July 3, 2003**