



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board



**Gray Davis**  
Governor

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor • Sacramento, California 95814 • (916) 341-5300  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 341-5400 • Web Site Address: <http://www.swrcb.ca.gov>  
Division of Water Rights: <http://www.waterrights.ca.gov>

## NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

**APPLICATION:** 31255

**DATE FILED:** December 11, 2001

Notice is hereby given that Kay Gerhart has filed an application for a water right permit for diversion of water from three unnamed streams, tributary to Russian River in Mendocino 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 should be included in the permit to protect the environment and other downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of a protest against the application. This notice and future notices of applications to appropriate water by permit, may be viewed and printed from the Division of Water Rights (Division) web-site at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence to the applicant shall be mailed to:

Kay Gerhart  
c/o Wagner & Bonsignore  
Consulting Civil Engineers  
444 North Third Street, Suite 325  
Sacramento, CA 95814

### DESCRIPTION OF THE PROJECT

The applicant seeks a water right for an existing 22-foot high onstream earth dam (POD#1) that forms a 40 acre-foot capacity reservoir with a maximum depth of 18 feet and covers a surface area of 2.5 acres. The project will divert surface water from two unnamed streams (POD#4 & #5) via ditches having a depth of 6 inches and a foot wide. Also the applicant proposed to pump creek water using an eight-horsepower pump and conveyed through eight-inch diameter conveyance pipelines from the two sites (POD#2 & #3) to the reservoir. The carrying capacity of each conveyance system will be a maximum of 2.9 cubic feet per second (cfs).

Water is for drip irrigation, frost protection, and heat control of 30 acres of grapevines. In addition, the applicant will provide water for 20 heads of range cattle and for incidental recreational purposes.

*"The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>."*  
Additional copies of this form and water right information can be obtained at [www.waterrights.ca.gov](http://www.waterrights.ca.gov).

According to Water Code section 1348, a minor project diverts less than or equal to 3 cfs by direct diversion or 200 acre-feet (af) per year by storage. A major project diverts greater than 3 cfs by direct diversion or 200 af per year by storage.

**This is a "minor" project (less than 3 cfs by direct diversion or 200 af per year by storage) as defined by section 1348 of the Water Code.**

**APPLICATION INFORMATION**

The applicant proposes to divert water from:

- POD#1 Unnamed stream tributary to Russian River thence Pacific Ocean.
- POD#2, #3, #4 Unnamed stream tributary to Russian River thence Pacific Ocean.
- POD#5 Unnamed stream tributary to Russian River thence Pacific Ocean.

The Points of Diversion are located as follow:

- POD#1 within the NW¼ of NW¼ of Projected Section 9, T14N, R12W, MDB&M.
- POD#2 within the NE¼ of NW¼ of Projected Section 9, T14N, R12W, MDB&M.
- POD#3 within the NW¼ of NW¼ of Projected Section 9, T14N, R12W, MDB&M.
- POD#4 within the NW¼ of NW¼ of Projected Section 9, T14N, R12W, MDB&M.
- POD#5 within the NW¼ of NW¼ of Projected Section 9, T14N, R12W, MDB&M.

The diversion and place of use are located within the County of Mendocino.

Amount of water applied for: 40 af per year (Storage) and a maximum rate of diversion to offstream storage of 2.9 cfs.

Water will be used for: Irrigation, Frost Protection, Heat Control, Stockwatering, and Incidental Recreation.

The applicant has requested to divert water from: December 15 to March 31.

Place of Use of 30 acres is described as follows:

Use Within	Section (Projected)	Township	Range	B & M	Acres	Cultivated
SW¼ of SW¼	4	14N	12W	MD	3	yes
SE¼ of SW¼	4	14N	12W	MD	3	yes
NW¼ of NW¼	9	14N	12W	MD	6	yes

NE¼ of NW¼	9	14N	12W	MD	18	yes
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**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, which indicates that the project may cause a significant effect on the environment, please send this information to Mr. Mike Falkenstein, SWRCB, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

**PROCEDURE FOR SUBMITTING PROTESTS**

Any person may file a protest against the application. Protests should be submitted on standard protest forms available from the Division’s web-site at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/), but can be submitted in letter form. A pamphlet that provides additional information relating to water rights and the procedure for filing protests can be obtained from the contact person listed below. The protest should be submitted to:

Whalen Toy  
 State Water Resources Control Board  
 Division of Water Rights  
 P.O. Box 2000  
 Sacramento, CA 95812-2000

**In addition, the protestant must send a copy of the protest to the applicant.**

Protests filed in response to this notice must either be postmarked, or received in the office of the SWRCB's Division of Water Rights (1001 “I” Street, 14<sup>th</sup> Floor, Sacramento, CA) **by 4:00 p.m.** on the **40<sup>th</sup> day** after the date of this notice. Due to the constraints of the noticing period, protests may be filed by FAX at (916) 341-5400. However, an original copy of all materials must be received for the SWRCB to consider your protest. 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 and receive an extension of time to submit the protest prior to the final filing date and time. The SWRCB will respond to all protests within 60 days of the final day to file a protest.

## **PROTEST REQUIREMENTS**

Parties may file protests based on any of the following factors:

- Injury to existing 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. If the objection is based on injury to existing water rights, the protest must describe the specific injury to the existing water right that would result from approval of the application. In addition, the party claiming injury to prior water rights must provide specific information that describes the basis of the existing 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 and includes conditions to protect vested water rights.

If the protest is based on environmental grounds, or other factors listed above, the protest must be accompanied by a statement of facts supporting the basis of the protest. The protest shall include a description of any measures that could be taken to resolve the protest, including modification of the application (i.e., amount, season of diversion, etc.) or conditions (i.e., fish bypass flow, measuring device, etc.) that could be included in the water right permit. If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information.

## **RESOLUTION OF PROTESTS**

The protestant(s) and the applicant are encouraged to discuss methods that could be used to resolve the protest. If the protest(s) can not be resolved, the SWRCB may conduct a field investigation for minor projects, or hold a water right hearing for major projects.

## **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of the protest forms or pamphlet, please contact Whalen Toy by phone at (916) 341-5408 or by electronic mail at [WTOY@waterrights.swrcb.ca.gov](mailto:WTOY@waterrights.swrcb.ca.gov). Protest forms may also be obtained from the Division's web-site at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

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