



**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: 31303**

**DATE FILED: JANUARY 14, 2002**

### PETITION FOR CHANGE THE PURPOSE OF USE, PLACE OF USE, AND A REDISTRIBUTION OF STORAGE

**APPLICATION: 29108 (LICENSE 13417)**

**PETITION FILED: May 16, 2002**

Notice is hereby given that Bidwell Creek Vineyard has filed an application for water right permit for diversion of water from Bidwell Creek (aka Kelly Creek) tributary to Franz Creek thence to Maacama Creek thence the Russian River in Sonoma 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. Bidwell Creek Vineyard has also filed a petition to change licensed Application 29108. 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:

Bidwell Creek Vineyard  
c/o Wagner & Bonsignore  
444 North Third Street, Suite 325  
Sacramento, CA 95814

#### DESCRIPTION OF THE PROJECT

##### Application 31303

The applicant proposes to collect eight acre-feet (af) of water and placed it into storage in a proposed 14.4 acre-foot capacity offstream reservoir. The proposed offstream reservoir will have a maximum depth of 10 feet and covers a surface area of about two acres. The maximum rate of diversion to offstream storage will be one cubic foot per second (cfs) carried via a six-inch diameter PVC pipeline. The water use under Application 31303 will be primarily for drip irrigation, heat control, and frost protection of 28 acres of grapevines. Fire protection and incidental recreational use at the reservoir site are also proposed. The project site is located approximately 7.5 miles east of the City of Healdsburg.

According to Water Code section 1348, a minor project diverts less than or equal to 3 cfs by direct diversion or 200 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.**

*"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).

**APPLICATION 31303 INFORMATION**

The applicant proposes to divert water from Bidwell Creek tributary to Franz Creek thence Maacama Creek thence the Russian River thence the Pacific Ocean.

The Points of Diversion is located as follows:  
POD #1 within the SW¼ of NW¼ of projected section 19, T9N, R7W, MDB&M.

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

Amount of water applied for: Storage of eight (8) af with a maximum rate of diversion to offstream storage at one cfs.

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

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

Place of Use of 28 acres is described as follows:

Use Within	Section (Projected)	Township	Range	B & M	Acres	Cultivated
SE¼ of NW¼	19	9N	7W	MD	13.5	partial
NW¼ of NW¼	19	9N	7W	MD	0.5	yes
SW¼ of NW¼	19	9N	7W	MD	14.0	yes

**LICENSED APPLICATION 29108**

The licensee diverts water from Bidwell Creek tributary to Franz Creek thence Maacama Creek thence the Russian River thence the Pacific Ocean.

The Points of Diversion is located as follows:  
POD #1 within the SW¼ of NW¼ of projected section 19, T9N, R7W, MDB&M.

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

Amount of water authorized for: Storage of 11.6 af with a maximum diversion rate to offstream storage at one cfs. The total withdraw shall not exceed 9.2 af per year

Water used for: Irrigation, Frost Protection, and Fire Protection

Season authorized to divert water from: December 15 to April 30.

**Existing Project:**

The licensee collects 11.6 af of water from Bidwell Creek and is placed in a 6.4 af capacity pit type offstream reservoir. The water right includes a 5.2 af replenishment of the initial storage (6.4 af)

withdrawn for beneficial use. Irrigation and frost protection is for 22 acres described as follows:

- 0.5 acres within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected section 19, T9N, R7W, MDB&M.
- 14 acres within the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected section 19, T9N, R7W, MDB&M.
- 7.5 acres within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected section 19, T9N, R7W, MDB&M.

The total proposed combined withdraw shall not exceed 17.2 af per year.

#### **Petition to Change:**

Bidwell Creek Vineyard petitioned to change the license, so it could allow the water use to include heat control and incidental recreation. Changes include increasing the place of use from 22 acres to 28 acres that was described above as information for Application 31303. In addition, the licensee proposes to abandon the site of the existing 6.4 af reservoir, and in its place, seeks to redistribute storage of 11.6 af authorized under the license and have the water held at the proposed offstream facility described under Application 31303.

#### **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 and/or the petition to change. 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/petitioner.**

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/or the petition 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/petitioner 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/).

**DATE OF NOTICE: 9-24-02**