

Working copy

TYPE OR PRINT
IN BLACK INK
(For instructions, see
booklet "How to File an
Application to Appropriate
Water in California")

California Environmental Protection Agency

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000, Sacramento CA 95812-2000
Tel: (916) 341-5300 Fax (916) 341-5400
www.waterrights.ca.gov

APPLICATION NO. 031749

Compiled 10.04.2008

APPLICATION TO APPROPRIATE WATER

SECTION A: NOTICE INFORMATION

1. APPLICANT/AGENT

	APPLICANT	ASSIGNED AGENT (if any)
Name	Warren T. Weber Tr. Amy N. Weber Tr.	Barry H. Epstein
	Star Route Farms North Parcel	Fitzgerald Abbott & Beardsley LLP
Mailing Address	95 Olema-Bolinas Road	1221 Broadway, 21 st Floor
City, State & Zip	Bolinas CA 94924	Oakland CA 94612
Telephone	(415) 868-1658	(510) 451-3300
Fax	(415) 868-9530	(510) 451-1527
Email	warrenweber@earthlink.net	bepstein@fablaw.com

2. OWNERSHIP INFORMATION (Please check type of ownership.)

- Sole Owner Limited Liability Company (LLC) General Partnership*
 Limited Partnership* Business Trust Husband/Wife Co-Ownership
 Corporation Joint Venture Other Living Trust

* Please provide a copy of your partnership agreement.

3. PROJECT DESCRIPTION (Provide a detailed description of your project, including, but not limited to, type of construction activity, area to be graded or excavated, and how the water will be used.)

This 43.3-acre parcel is partially used for commercial vegetable production. Seasonal irrigation water is drawn from Pine Gulch Creek and regulated in a 3-acre-foot reservoir on a separate co-owned parcel using a riparian right. Domestic water is also withdrawn year-round under riparian right. This project proposes construction of 9.4 acre-foot Pond 3B on site, cessation of riparian irrigation diversions from July 1 to December 15, and use of appropriate water to fill the new reservoirs, ultimately reducing impacts on the salmonid population in Pine Gulch Creek. It has the support of California Department of Fish and Game, National Marine Fisheries, Trout Unlimited, Marin County, Point Reyes National Seashore, and others. Construction of the reservoirs will involve earthmoving equipment in an off-channel upland area of about 1.5 acres. About 0.5 acres of brush will be removed.

For a detailed project description, please refer to the enclosed Mitigated Negative Declaration and accompanying Initial Study, Pine Gulch Creek Enhancement Project, adopted by Marin County November 15, 2007. See also Pine Gulch Creek Watershed, Water Availability Analysis and Cumulative Instream Impact Analysis (WAA/CFII) report by B. Ketcham, National Park Service, Nov. 3, 2005.

DIVISION OF WATER RIGHTS
 SACRAMENTO
 09 MAR 19 AM 10:31

DF& Rec'd
\$ 850.00
3/12/09

App Fee Amt: \$ 1000.00
Permit Fee Amt: \$ 850.00

Rec'd
\$ 7842.50
(Combined check)
3/19/09 AMT

FOR A031749, 50, 51, 52

4. PURPOSE OF USE, DIVERSION/STORAGE AMOUNT AND SEASON

a.

PURPOSE OF USE (Irrigation, Domestic, etc.)	Direct Diversion Quantity	Direct Diversion Quantity	Direct Diversion Season	Direct Diversion Season	Storage Amount	Storage Collection Season	Storage Collection Season
	RATE (CFS or gal/day)*	AMOUNT (Acre-feet per year)	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)	Acre -Feet per annum	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)
Irrigation					9.4	Dec 15	Mar 31
	Total afa=			Total afa=	9.4		

* If rate is less than 0.025 cfs, use gallons per day (gpd).

- b. Total combined amount taken by direct diversion and storage during any one year will be 9.4 acre feet.
- c. Reservoir storage is onstream x offstream underground (If underground storage, attach Form APP-UGSTOR.)
- d. County in which diversion is located: Marin County in which water will be used: Marin

5. SOURCES AND POINTS OF DIVERSION/REDIVERSION

a. Sources and Points of Diversion (POD)/Points of Rediversion (PORD):

 x POD #1 / PO RD: Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.

 2 3-13-88 Act - Pine Gulch Creek trib to Bolinas Lagoon

b. State Planar and Public Land Survey Coordinate Description:

POD/PORD #	CALIFORNIA COORDINATES (NAD 27)	ZONE	POINT IS WITHIN 40-acre subdiv	SECTION	TOWNSHIP	RANGE	BASE AND MERIDIAN
2	523520N 1366560E	3	SE ¼ NW ¼	24 (P)	1N	8W	MDM
<u>3b</u>	<u>523990N 1366580E</u>	<u>3</u>	<u>NE ¼ NW ¼</u>	<u>24 (P)</u>	<u>1N</u>	<u>8W</u>	<u>MDM</u>

c. Name of the post office most often used by those living near the proposed point(s) of diversion: Bolinas 94924

6. WATER AVAILABILITY

- a. Have you attached a water availability analysis for this project? x Yes No
If No, provide sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation:
- b. Is your project located on a stream system declared to be fully appropriated by the State Water Resources Control Board during your proposed season of diversion? Yes x No
- c. In an average year does the stream dry up at any point downstream from your project? Yes x No.
If yes, during which months? Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec
- d. What alternate sources are available if a portion of your requested diversion season must be excluded because water is not available for appropriation? (e.g. percolating groundwater, purchased water, etc.) None are available.

7. PLACE OF USE

a.

USE IS WITHIN (40-acre subdivision)	SECTION*	TOWNSHIP	RANGE	BASE & MERIDIAN	IF IRRIGATED	
					Acres	Cultivated? (Y/N)
NE ¼ of NW ¼	24 (P)	1N	8W	MDM	5.6	Y/N
NW ¼ of NW ¼	24 (P)	1N	8W	MDM	7.4	Y/N
SW ¼ of NW ¼	24 (P)	1N	8W	MDM	3.3	N
SE ¼ of NW ¼	24 (P)	1N	8W	MDM	2.1	Y
				Total:	18.4	

* Please indicate if section is projected with a "(P)" following the section number

b. Please provide the Assessor's Parcel Number(s) for the Place of Use: Marin County APN 188-170-45

8. PROJECT SCHEDULE

- a. Project is
 Proposed. Year construction will begin: 2009
 Partially complete. Extent of completion: _____
 Complete. Year completed: _____
- b. Year of first use: 2010 Year water will be used to the full extent intended: 2020

SECTION B: MISCELLANEOUS DIVERSION INFORMATION

1. JUSTIFICATION OF AMOUNT REQUESTED

- a. IRRIGATION: Maximum area to be irrigated in any one year is 18.4 acres.

CROP	ACRES	METHOD OF IRRIGATION (Sprinklers, flooding, etc.)	WATER USE (Acre-feet/Yr)	NORMAL SEASON Beginning Date	NORMAL SEASON Ending Date
Vegetables	21	Sprinkler, drip	9.4	Apr 1	Oct 31

- b. DOMESTIC: Number of residences to be served is ____ Separately owned? Yes No
 Total number of people to be served is ____ Estimated daily use per person is ____ gpd.
 Total area of domestic lawns and gardens is _____ sq ft.
 Incidental domestic uses are _____.
- c. STOCKWATERING: Kind of stock: _____ Maximum number: _____
 Describe type of operation: _____
- d. RECREATIONAL: Type of recreation: Fishing Swimming Boating Other _____
- e. MUNICIPAL: (Estimated projected use)

POPULATION		MAXIMUM MONTH		ANNUAL USE		
PERIOD	5-year periods until use is completed	Average daily use (gal per capita)	Rate of diversion (cfs)	Average daily use (gal. per capita)	Acre-Foot (per capita)	Total Acre-Feet
Present						

Month of maximum use during year is ____ Month of minimum use during year is ____.

- f. HEAT CONTROL: The total area to be heat protected is ____ net acres.
 Type of crop protected is _____
 Rate at which water is applied to use is ____ gpm/acre.
 The heat protection season will begin about ____ (date) and end about ____ (date).
- g. FROST PROTECTION: The total area to be frost protected is ____ net acres.
 Type of crop protected is _____
 Rate at which water is applied to use is ____ gpm/acre.
 The frost protection season will begin about ____ and end about ____.
- h. INDUSTRIAL: Type of industry is _____
 Basis for determination of amount of water needed is: _____
- i. MINING: The name of the claim is ____ Patented Unpatented
 The nature of the mine is ____ Mineral to be mined is _____
 Type of milling process is _____
 After use, the water will be discharged into ____ (name of stream) in
 40 acre subdivision: 1/4 of 1/4 of Section , T , R , B&M.
- j. POWER: The total head to be utilized is ____ feet. Maximum flow through the penstock is ____ cfs.
 Maximum theoretical horsepower capable of being generated by the works is ____
 (cfs * fall/8.8). Electrical capacity is ____ kW (HP*0.746*eff) at ____ % efficiency.
 After use, the water will be discharged into ____ (name of stream) in

Nature of Right (Riparian, appropriative, groundwater)	Year of First Use	Purpose of use made in recent years including amount, if known	Season of Use	Source	Location of Point of Diversion
Riparian Statement 08209	1970's (2 parcels)	Truck Crops 4.5 ac ft 49.0 ac ft	12/15-3/15 3/16-12/14	Pine Gulch Creek	POD1 523600N 1367230E POD2 523520N 1366560E

c. List any related applications, registrations, permits, or licenses located in the proposed place of use or that utilize the same point(s) of diversion. _____

6. OTHER SOURCES OF WATER

Are you presently using, or do you intend to use, purchased water or water supplied by contract in connection with this project? ___ Yes x No. If yes, please explain:

7. MAP REQUIREMENTS

The Division cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section and quarter/quarter section of (1) the proposed points of diversion and (2) the place of use. A copy of a USGS quadrangle/topographic map of your project area is preferred, and can be obtained from sporting goods stores or through the internet at <http://topomaps.usgs.gov>. A certified engineering map is required when (1) appropriating more than 3 cfs by direct diversion, (2) constructing a dam which will be under the jurisdiction of the Division of Safety of Dams, (3) creating a reservoir with a surface area in excess of 10 acres or (4) appropriating more than 1000 acre-feet per annum by underground storage. See the instruction booklet for more information.

SECTION C: ENVIRONMENTAL INFORMATION

Note: Before a water right permit may be issued for your project, the State Water Resources Control Board (SWRCB) must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared for your project, a determination must be made of who is responsible for its preparation. If the SWRCB is determined to be responsible for preparing the CEQA document, the applicant will be required to pay all costs associated with the environmental evaluation and preparation of the required documents. Please answer the following questions to the best of your ability and submit with this application any studies that have been conducted regarding the environmental evaluation of your project.

1. COUNTY PERMITS

a. Contact your County planning or public works department and provide the following information:

Person contacted: Jeremy Tejjirian, Planner Date of contact: 2003 - present
 Department: Marin County Community Development Agency - Planning Telephone: 415.499-3798
 County Zoning Designation: C-ARP-5

Are any county permits required for your project? x YES ___ NO. If YES, check appropriate box below:
 ___ Grading permit ___ Use permit ___ Watercourse
 ___ Change of zoning ___ General plan change ___ Obstruction permit
 x Other: Coastal Permit (CP03-4); Design Review Clearance (DC03-24)

b. Have you obtained any of the required permits described above? x YES ___ NO
 If YES, provide a complete copy of each permit obtained. _____

2. STATE/FEDERAL PERMITS AND REQUIREMENTS

- a. Check any additional state or federal permits required for your project:
 Federal Energy Reg Com U.S. Forest Service U.S. Bureau of Land Management
 U.S. Army Corps of Engrs U.S. Natural Resource Cons Svc Calif. Dept of Fish and Game
 State Lands Commission Calif. Dept. of Water Resources (Div. of Safety of Dams)
 Calif. Coastal Commission State Reclamation Board Other: US Fish/Wildlife
 Calif Reg. Water Quality Control Board – SF Bay Region
- d. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.
US Fish & Wildlife	Safe Harbor Agr.	Rick Kuyper	Ongoing	(916) 414-6562
CDFG	Stream Alt Agr.	Region III	Ongoing	(707) 944-5562
US Army Corps	Sec 404	Mike D'Avignon	March 22, 2006	(415) 503-6773
CRWQCB-SFBR	Sec 401			

- c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank, or riparian habitat of any stream or lake? YES NO
 If YES, explain: _____
- d. Have you contacted the California Department of Fish and Game concerning your project? YES NO
 If YES, name and telephone number of contact: Jeremy Sarrow, Environmental Scientist (707) 944-5573

3. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? YES NO
- b. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: County of Marin
- Mitigated Negative Declaration and accompanying Initial Study Pine Gulch Creek Enhancement Project (Martinelli, Weber, New Land Fund Coastal Permit 03-4 & Design Review Clearance 03-24) Adopted by Marin County November 15, 2007
 - Biological Assessment, Pine Gulch Creek Watershed Enhancement Project Huffman-Broadway Group, Inc. April 2007.
 - Pine Gulch Watershed Water Availability and Instream Flow Analysis B. Ketcham, Hydrologist. Pt. Reyes National Seashore, Point Reyes Station CA 94956. Oct. 2003
 - A Cultural Resources Evaluation of the Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County Archaeological Resource Service. 2001.
 - A Cultural Resources Evaluation of Three Additional Pond Sites, Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County Archaeological Resource Service. 2003.
- c. If NO, check the appropriate box and explain below, if necessary:
 The applicant is a California public agency and will be preparing the environmental document.*
 I expect that the SWRCB will be preparing the environmental document.**
 I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: County of Marin

* Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your petition cannot proceed until these documents are submitted.

** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the applicant and at the applicant's expense under the direction of the SWRCB, Division of Water Rights.

4. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation? YES x NO
 If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):
- b. Will a waste discharge permit be required for your project? YES x NO
 Person contacted: _____ Date of contact: _____
- c. What method of treatment and disposal will be used? _____

5. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? x YES NO
- b. Will you be preparing an archeological report to satisfy another public agency? x YES NO
- c. Do you know of any archeological or historic sites located within the general project area? x YES NO
 If YES, explain: Literature review and field investigation summarized in the 2001 and 2003 reports *A Cultural Resources Evaluation of the Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County* and *A Cultural Resources Evaluation of Three Additional Pond Sites, Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County* were used to identify known or suspected archaeological or historic sites in the general project area, which were then completely avoided in project scoping and development.

6. ENVIRONMENTAL SETTING

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the following three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- Along the stream channel immediately downstream from the proposed point(s) of diversion.
 Along the stream channel immediately upstream from the proposed point(s) of diversion.
 At the place(s) where the water is to be used.

SECTION D: SUBMITTAL FEES

Calculate your application filing fee using the “Water Right Fee Schedule Summary” that was enclosed in the application packet. The “Water Right Fee Schedule Summary” can also be viewed at the Division of Water Rights’ website (www.waterrights.ca.gov).

A check for the application filing fee, payable to the “Division of Water Rights” and an \$850 check for the Streamflow Protection Standards review fee [Pub. Resources Code S 10005(a)], payable to the “California Department of Fish and Game”, must accompany this application. All applicable fees are required at the time of filing. Your application will be returned to you if it is not accompanied by all required fees.

SECTION E: DECLARATION AND SIGNATURE

I declare under penalty of perjury that all information provided true and correct to the best of my knowledge and belief. I authorize my agent, if I have designated one above, to act on my behalf regarding this water right application.

 _____ Signature of Applicant Warren T. Weber Tr.	_____ Title or Relationship	<u> 3/4/09 </u> _____ Date
<u> Amy N Weber </u> _____ Signature of Co-Applciant (if any)	_____ Title or Relationship	<u> 3/5/09 </u> _____ Date