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(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. 031751

Updated 09.11.2008

APPLICATION TO APPROPRIATE WATER

SECTION A: NOTICE INFORMATION

1. APPLICANT/AGENT

	APPLICANT	ASSIGNED AGENT (if any)
Name	Dennis Dierks	Barry H. Epstein
	New Land Fund	**Fitzgerald Abbott & Beardsley LLP**
Mailing Address	P.O. Box 382	1221 Broadway, 21st Floor
City, State & Zip	Bolinas CA 94924	Oakland CA 94612
Telephone	(415) 868-0205	(510) 451-3300
Fax		(510) 451-1527
Email	ddierks@sonic.net	bepstein@fablaw.com

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

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

* 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 48.6-acre parcel is partially used for commercial vegetable production. Seasonal irrigation water is drawn from Pine Gulch Creek and used on a riparian basis. Domestic water is also withdrawn year-round under riparian right. This project proposes construction of 5.5 acre-foot Pond 2 on site, cessation of riparian irrigation diversions from July 1 to December 15, and use of appropriative water to fill the new reservoir, 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 1.6 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.

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

a.

PURPOSE OF USE (Irrigation, Domestic, etc.)	Direct Diversion Quantity RATE (CFS or gal/day)*	Direct Diversion Quantity AMOUNT (Acre-feet per year)	Direct Diversion Season Beginning Date (Mo. & Day)	Direct Diversion Season Ending Date (Mo. & Day)	Storage Amount Acre-Feet per annum	Storage Collection Season Beginning Date (Mo. & Day)	Storage Collection Season Ending Date (Mo. & Day)
Irrigation					5.5	Dec 15	Mar 31
	Total afa=			Total afa=	5.5		

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

DFG Rec'd: $0
(See A031749 for DFG Rec'd)

App Fee: $1000.00
Petition Fee: $850.00
Amt Rec'd $7842.50
combined

b. Total combined amount taken by direct diversion and storage during any one year will be 5.5 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 #3 / ___ PORD: Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.
xPORD 2 - 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	TOWN-SHIP	RANGE	BASE AND MERIDIAN
3	525760N 1364900E	3	SE ¼ SE ¼	14 (P)	1N	8W	MDM
2	525710N 1365385E	3	SW¼ SW¼	13(P)	1N	8W	MDM

2309 JDM POD PORD

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)
SW ¼ of SW ¼	13 (P)	1N	8W	MDM	5.8	Y
NW ¼ of NW ¼	24 (P)	1N	8W	MDM	2.9	Y
				Total:	8.7	

* 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 188-150-86

8. PROJECT SCHEDULE

a. Project is
_x_ 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. _x_ IRRIGATION: Maximum area to be irrigated in any one year is __8.7__ acres.

CROP	ACRES	METHOD OF IRRIGATION (Sprinklers, flooding, etc.)	WATER USE (Acre-feet/Yr)	NORMAL SEASON Beginning Date	NORMAL SEASON Ending Date
Vegetables	8.7	Sprinkler, drip	5.5	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	5-year periods until use is completed	MAXIMUM MONTH		ANNUAL USE		
PERIOD	POPULATION	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
40 acre subdivision: __1/4 of __1/4 of Section __, T__, R__, ___ B&M.

k. _x_ FISH AND WILDLIFE PRESERVATION AND/OR ENHANCEMENT: List specific species and habitat type that will be preserved or enhanced in Item 7a of Section C. Pine Gulch Creek riparian habitat, native coho salmon, and other anadromous fish species will be enhanced due to cessation of riparian irrigation diversions during summer months made possible by implementation of this project.

l. ___ OTHER: Describe use: _____
Basis for determination of amount of water needed is: _____.

2. DIVERSION AND DISTRIBUTION METHOD

a. Diversion will be by gravity by means of: _____

b. Diversion will be by pumping from Existing riparian pump station #3 . (sump, offset well, channel, reservoir, etc.).
Pump discharge rate 30 gpm Horsepower 2 hp. Pump efficiency: 85% est

c. Conduit from diversion point to first lateral or to offstream storage reservoir:

CONDUIT (Pipe or Channel)	MATERIAL (Type of pipe or channel lining) (Indicate if pipe is buried or not)	CROSS SECTIONAL DIMENSION (Pipe diameter or ditch depth and top and bottom width)	LENGTH (Feet)	TOTAL LIFT OR FALL Feet + or -	CAPACITY (Estimate)
pipe	Buried PVC	4" diameter	570	15	30 gpm

d. Storage Reservoirs: (For underground storage, complete and attach form APP-UGSTOR)

RESERVOIR NAME OR NUMBER	DAM				RESERVOIR		
	Vertical height from downstream toe of slope to spillway level (feet)	Construction material	Length (feet)	Freeboard dam height above spillway crest (feet)	Surface area when full (acres)	Capacity (acre-feet)	Maximum water depth (feet)
Pond 2	12	earth	500	2	0.8	5.5 by design	10

e. Outlet pipe: Complete for storage reservoirs having a capacity of 10 acre-feet or more.

RESERVOIR NAME OR NUMBER	Diameter of outlet pipe (inches)	Length of outlet pipe (feet)	FALL Vertical distance between entrance and exit of outlet pipe in feet.	HEAD Vertical distance from spillway to outlet pipe in reservoir in feet	Dead Storage below outlet pipe entrance (acre-feet)
Pond 2	4 in.	100	-2	12	0.5

f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to offstream storage will be 30 gpm. Diversion to offstream storage will be made by: Pumping _x_ Gravity _

3. CONSERVATION AND MONITORING

a. What methods will you use to conserve water? Explain. Drip irrigation where feasible; use at agronomic rates, irrigation scheduling and management systems.

b. How will you monitor your diversion to be sure you are within the limits of your water right and you are not wasting water? ___ Weir _x_ Meter ___ Periodic sampling _x_ Other Storage matches water right

4. RIGHT OF ACCESS

a.. Does applicant own the land where water will be diverted, transported, and used? _x_ Yes ___ No.
If No, I ___ Do ___ Do Not have a recorded easement or written authorization allowing me access.

b. List the names and mailing address of all affected landowners and state what steps are being taken to obtain access: _____

5. EXISTING WATER RIGHTS AND RELATED FILINGS

a. Do you claim an existing right for the use of all or part of the water sought by this application? _x_Yes ___No
If Yes, please specify: _x_ Riparian ___ Pre-1914 ___ Registration ___ Permit ___ License
___ Percolating groundwater ___ Adjudicated ___ Other _____

c. For each existing right claimed, state the source, year of first use, purpose, season and location of the point of diversion (to within quarter quarter section). Include number of registration, permit, license, or statement of water diversion and use if applicable.

3-13-09 SDM

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 S014981	1980s	Truck Crops 0.0 ac ft 7.5 ac ft	 12/15-3/15 3/16-12/14	Pine Gulch Creek	525760N 1364900E

Northings and Eastings per corrected submeter GPS data collected in 1927 US State Plane California Zone 3 coordinates, NADCON datum, US Survey Feet.

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 Tejirian, 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
_x_ U.S. Army Corps of Engrs ___ U.S. Natural Resource Cons Svc _x_ 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 _x_ Other: US Fish/Wildlife
_x_ Calif Reg. Water Quality Control Board – SF Bay Region

b. 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 _x_ NO
If YES, explain: _____

d. Have you contacted the California Department of Fish and Game concerning your project? _x_ 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? _x_ 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 Dennis Dierks	Title or Relationship	3·6·09 Date
Signature of Co-Applicant (if any)	Title or Relationship	Date