

DETERMINATION:

The State Water Resources Control Board has determined that the above-described project will have a less than significant effect on the environment for the reasons specified in the attached Initial Study.

PERMIT CONDITIONS:

Source: Water is to be appropriated from an Unnamed Stream tributary to Unnamed Stream thence Floodgate Creek thence Navarro River in Mendocino County.

Point of Diversion: Water will be diverted to storage in reservoir, located North 2,174,395 and East 6,132,758, California Coordinate System of 1983, Zone 2. Being within the NE¼ of NE¼ of Section 33, Township 15N, Range 15W, MDB&M.

Amount and Season: Water will be diverted to storage in a 3.81 acre foot reservoir from December 15 of each year to March 31 of the succeeding year.

Purpose of Use: Storage of water for the purposes of irrigation, frost protection, recreation and wildlife preservation and enhancement, and fire protection.

Place of Use:

Use is Within	Section	Township	Range	B. & M.	Acres	Cultivated
NE¼ of NE¼	33	15N	15W	MD	20	Partial

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permits, licenses, or orders issued by the State Water Resources Control Board.

The following permit terms will be included in any permits or licenses issued pursuant to Application 30717:

- The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed 3.81 acre-feet per annum to be collected from December 15 of each year through March 31 of the succeeding year. (0000005C)
- The total capacity of the reservoir authorized by this permit shall not exceed 3.81 acre-feet. (0000005N)
- This permit does not authorize the collection of water to storage outside of the specified season to offset evaporation, and seepage losses or for any other purpose. (0000005I)

- Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2019.

(00000009)

- Prior to the diversion and use of water under this permit, Permittee shall install a diversion and bypass structure in the Unnamed Stream upstream of the reservoir consistent with the "Bypass Flow Control Structure – Preliminary Design" on file with the Division of Water Rights for the purpose of diverting and directing bypass flows around the reservoir to the Unnamed Stream. The structure must be capable of passively bypassing the flows required by the conditions of this permit. To demonstrate compliance with this term, Permittee shall furnish evidence which substantiates that the bypass structure has been installed within sixty (60) days from the date of approval of this permit. If the bypass structure is rendered inoperative for any reason, all diversions shall cease until such time as it is restored to service. Said bypass structure shall be properly calibrated, operated, and maintained by the Permittee (or successors-in-interest) as long as any water is being diverted under any permit or license issued pursuant to Application 30717.

(0140200)

- For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from December 15 through March 31 bypass a minimum of 0.013 cubic feet per second. Under all bases of right, Permittee shall bypass the total streamflow from April 1 through December 14. The total streamflow shall be bypassed whenever it is less than 0.013 cubic feet per second.

(0140060)

- Permittee shall prevent any debris, soil, silt, cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.

(0000208)

- Permittee shall maintain the existing spillway pipe through the dam in proper working order.

(000000S)

- Prior to diversion and use of water under this permit, Permittee shall install a staff gage in the reservoir, satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in the reservoir. This staff gage must be maintained in operating condition as long as water is being diverted or used under this permit.

Permittee shall record the staff gage readings on the last day of each month and on December 15 annually. Permittee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

The State Water Resources Control Board may require the release of water that cannot be verified as having been collected under a valid basis of right.

(0070500)

- For the protection of fish and wildlife and instream uses, Permittee shall bypass the total streamflow, at all points of diversion, whenever the flow in the Navarro River is less than 325 cubic feet per second as measured at the United States Geological Survey Navarro River gage 11468000 located on the Navarro River. In the event that said gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) must install and maintain an equivalent type gage, satisfactory to the Deputy Director for Water Rights, as near as practicable to the present location of the United States Geological Survey Navarro River gage 11468000 or the Permittee must propose an alternative means of replacing the gage data, such as referencing another stream gage in the region that could be correlated with the Navarro River gage, that is satisfactory to the Deputy Director for Water Rights. In the absence of such an equivalent gage or an approved alternative means of replacing the gage data, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under any permit or license issued pursuant to Application 30717.

(0000211)

- Permittee shall maintain records of operation and maintenance of the diversion and bypass structure to document compliance with permit conditions. Observations shall be recorded and photocopied annually for submittal to the Division of Water Rights prior to July 1 of each year. Records will document the following:
 - a) Date and time of installation and removal of flashboards in the diversion and bypass structure;
 - b) Date and time of all routine maintenance activities related to diversion and bypass facilities, including clearance of debris from weir, culverts, pipe and weir inlets and outfalls, and observations of bypass swale for evidence of erosion;
 - c) Weekly observations, with a maximum interval between observations of seven (7) days, of flow conditions at the diversion/bypass control structure during the diversion season, and general character of reservoir storage (not filling, filling, or spilling through outlet pipe);
 - d) Weekly flow observations of the United States Geological Survey Navarro River gage 11468000, beginning on December 14 or prior to diversion of flows to the reservoir and continuing until the end of the diversion season. When flow at the gage is less than 500 cubic feet per second, the gage flow data must be examined again within three (3) days. When flow at the gage is less than 400 cubic feet per second, the gage flow data must be examined again within one (1) day. Documentation of observations of the gage may be achieved by printing out a copy of downloaded gage flow data from the United States Geological Survey National Water Information System website at the time of observation, and collecting these copies in a binder; and

- e) Monthly calibration of the diversion and bypass structure to ensure that it is functioning to bypass the amount of water specified in terms of this permit.

(0090499)

- In accordance with California Department of Fish and Game Code section 6400 and for the protection of fish and wildlife, the reservoir shall not be stocked with non-native fish or aquatic species, unless the Permittee has received written consent from the California Department of Fish and Game. A copy of the written consent shall be provided to the Deputy Director for Water Rights prior to stocking the reservoir with non-native fish or aquatic species.

(0400501)

- For the protection of the California red-legged frog (*Rana aurora draytonii*), a species that is designated as threatened pursuant to the Endangered Species Act, the following conditions shall apply to activities authorized under any permit or license issued pursuant to this application:
 - a) No earlier than October 1 of each year and no later than October 15 of the same year, to break the reproductive cycle of the bullfrog, Permittee shall drain any remaining water not previously beneficially used from the reservoir covered by this permit, and shall drain the decorative pool.
 - b) Permittee shall eliminate any mature bullfrogs found inhabiting the project reservoir or decorative pool.
 - c) Permittee shall document the efforts to control bullfrog populations, identify the date that drainage of the ponds was initiated and completed, and provide photographs verifying their drained condition. This report shall be submitted to the Division of Water Rights with the annual progress report by Permittee, or whenever otherwise requested by the Division of Water Rights.
 - d) Water being drained in compliance with this term, if not beneficially used under the permit, shall be released into the downstream channel below the decorative pool via an outlet pipe or pump maintained by the Permittee.
 - e) Bullfrog control activities specified by this term may be modified or terminated following written consent from the Regional Manager of the California Department of Fish and Game to the Deputy Director for Water Rights.

(0400500)

- Based on the information contained in the Division of Water Rights' files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if in the future the Permittee diverts water under riparian right. With the approval of the Deputy Director for Water Rights, Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Deputy Director for Water Rights quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Deputy Director for Water Rights is hereby authorized to

approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

(0260500)

- Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators can include, but not necessarily be limited to: stone tools and flaking debris; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing artifactual material such as bone and shell fragments, stone tools, or fire-cracked rock. Historic period site indicators can include: fragments of glass, ceramic, and metal objects; milled and split lumber; structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director for Water Rights.

(0000215)

- If human remains are encountered, then Permittee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act (CEQA) Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbances within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.

(0380500)

- Any non-compliance with the terms of the permit shall be reported by the Permittee to the Deputy Director for Water Rights within three days of identification of the violation.

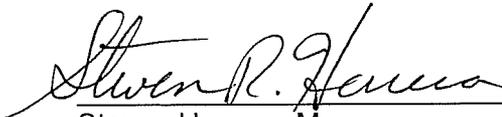
(9990999)

The Initial Study in support of the Mitigated Negative Declaration is available on the Division of Water Rights' website at http://www.waterboards.ca.gov/waterrights/water_issues/programs/ceqa/. A hard copy of this document or additional information concerning the this action may be obtained by writing to Angela Nguyen-Tan, Division of Water Rights, P.O. Box 2000, Sacramento, CA, 95812-2000, or by email at anguyentan@waterboards.ca.gov or by phone at 916-341-5318.

Contact Person: Angela Nguyen-Tan	Telephone: (916) 341-5318 Email: anguyentan@waterboards.ca.gov
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APPROVAL OF THE ABOVE IS RECOMMENDED BY:

 12-21-09
Phillip Crader, Chief Date
Napa River Watershed Unit

 12/21/2009
Steven Herrera, Manager Date
Water Rights Permitting Section

APPROVED:

 12/21/2009
Victoria A. Whitney Date
Deputy Director for Water Rights