

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Application 30978
Estate of Frank Teixeira

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Unnamed Stream tributary to the Petaluma River
COUNTY: Sonoma County

WHEREAS:

1. Frank Teixeira (Applicant) filed Application 30978 with the State Water Resources Control Board (State Water Board) on October 14, 1999.
2. The Division issued a public notice of Application 30978 on September 15, 2000. No protests were received on the basis of injury to prior rights. Protests were received from the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) on the bases of injury to the environment.
3. The State Water Board has determined that there is unappropriated water available to serve Application 30978. Applicant's consultant prepared and submitted a water availability analysis on October 3, 2003, documenting the availability of water. On October 22, 2003, the Division of Water Rights (Division) accepted Applicant's water availability analysis. Additional hydrologic analysis was submitted on August 3, 2004 supporting Division's evaluation of water availability.
4. The water will be diverted and used without injury to any lawful user of water. Based on the water availability analysis, water is available to serve this application without injury to prior rights.
5. Water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. Based on an August 2003 site visit and the water availability analysis, NMFS concluded that the project would not pose a threat to steelhead, and they withdrew their protest on March 15, 2004. The USFWS protest was dismissed pursuant to Water Code Section 1335 for failure to respond to a request for information.

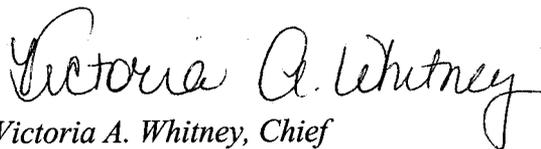
In 2002, NMFS and California Department of Fish and Game (DFG) developed *Draft Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams* (Draft Guidelines), dated June 17, 2002. The Draft Guidelines are recommended for use by permitting agencies (including the State Water Board), planning agencies and water resources development interests when evaluating proposals to divert and use water from northern California coastal streams. The Draft Guidelines apply to projects located in the geographic area of

Sonoma, Napa, Mendocino, and Marin Counties, and portions of Humboldt County. The Draft Guidelines recommend that terms and conditions be included in new water right permits for small diversions to protect fishery resources in the absence of site-specific biologic and hydrologic assessments. Approval of Application 30978 is consistent with the recommendations in the Draft Guidelines.

6. Pursuant to the provisions of the California Environmental Quality Act, the State Water Board, acting as lead agency, adopted a Mitigated Negative Declaration (MND) pursuant to the California Code of Regulations, Title 14, section 15074. The Initial Study and MND were circulated on March 21, 2008. The MND determined that the proposed project will have a less than significant effect on the environment and will not result in significant cumulative impacts based on the reasons specified in the Initial Study. The potential adverse impacts of the project were found to be less than significant with the inclusion mitigation measures specified as permit terms. The Division will file a Notice of Determination in accordance with the California Code of Regulations, title 14, section 15075 after issuance of this order.
7. All protests to approval of the application have been resolved by inclusion of permit conditions or cancellation pursuant to Water Code section 1335, subdivision (d).
8. Applicant requests to store 164 acre-feet of water in an existing reservoir for stockwatering of up to 1,000 head of dairy cows, and irrigation and frost protection of approximately 300 acres. The existing reservoir, Pinheiro Reservoir- Division of Safety of Dams # 3429, under Licenses 7228 and 8283 (Applications 18476 and 21284, respectively) has a capacity of 87 acre-feet. Applicant proposes to increase the capacity of the reservoir to 164 acre-feet by reinforcing the existing flashboards and adding new ones. The proposed water use is beneficial.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 30978, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: **JUN 27 2008**