

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

DIVISION OF WATER RIGHTS

In the Matter of Water Right Application A033073

The Marshall Ranch LLC

ORDER APPROVING MINOR CHANGE TO APPLICATION

SOURCE: Redwood Creek thence the South Fork Eel River

COUNTY: Humboldt

WHEREAS:

1. On September 19, 2019, the Marshall Ranch LLC (Applicant) filed water right application A033073 with the State Water Resources Control Board (State Water Board or Board), Division of Water Rights (Division) to appropriate water from the South Fork Eel River stream system in Humboldt County.
2. The application was publicly noticed on September 10, 2020. Protests were received from the California Department of Fish and Wildlife, National Marine Fisheries Service, Cecelia Lanman, and James and Joan Courtois.
3. On October 5, 2021, the applicant filed a minor change request to modify Application A033073 as follows:
 - a. Remove the point of diversion on Redwood Creek located at North 1,927,503 feet and East 6,029,829 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.
 - b. Add two points of diversion on unnamed streams tributary to Redwood Creek located at:
 - i. North 1,926,839 feet and East 6,029,849 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.

- ii. North 1,926,829 feet and East 6,030,636 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.
 - c. Reduce the storage amount from 30.85 acre-feet per year to 20 acre-feet per year and reduce the rate of diversion to offstream storage from 0.49 cubic foot per second to 0.45 cubic foot per second.
 - d. Remove the 50 acre-foot reservoir and add two smaller reservoirs with capacities of 17.5 acre-feet and 11.7 acre-feet as well as five 100,000 gallon storage tanks.
 - e. Change the place of use to within approximately 5.5 river miles of Redwood Creek, extending from the confluence of the western unnamed stream (where POD 1 is located) with Redwood Creek located at North 1,927,203 and East 6,029,550 feet by California Coordinate System, Zone 1, North American Datum 1983 to the confluence of Redwood Creek with the South Fork Eel River located at North 1,932,949 and East 6,048,002 feet by California Coordinate System, Zone 1, North American Datum 1983; within two proposed off-stream reservoirs and storage tanks with a combined capacity of 30.7 acre-feet; and an existing residence located within Humboldt County parcel 220-061-011.
 - f. Change the purpose of use by removing recreational.
4. On October 12, 2021 the State Water Board provided notice and an opportunity to provide comments regarding the minor change to the applicant, the protestants, and other interested parties. One comment was received from Felice Pace, writing on behalf of the North Group Redwood Chapter of the Sierra Club. The comment indicated that the project proposed in the application would reduce streamflow, result in take of species listed in the federal and California Endangered Species Acts, and would damage the public trust and public trust resources in Redwood Creek and the Eel River stream system. The comment raises concerns related to application A033073, rather than the requested minor change. The comment does not raise any significant matters of concern for the State Water Board to consider for the minor change requested, and therefore no modifications to the minor change will be made as a result of the comment.
5. The Applicant has requested to remove the proposed minor change to the maximum rate of diversion as a result of protest resolution negotiations. The maximum rate of diversion of 0.49 cfs (220 gallons per minute), as originally noticed for the application, will not change.
6. The State Water Board may make a minor change to an application without requiring the filing of a petition for change if the Board finds all of the following:

- a. The change does not enlarge or increase the authorized rate, amount, or season of diversion.
- b. The change does not increase the total area subject to inundation by water diverted to storage or the area where facilities will be constructed.
- c. The change is not substantial or constitutes a reduction, agreed to by the applicant, in the authorized diversion, affected area, or other feature of the application.
- d. The change does not have the potential to adversely affect the water supply of other legal users of water or instream beneficial uses.

(Wat. Code, § 1700.4.)

7. The proposed changes will not enlarge or increase the authorized rate, amount, or season of diversion. The amount of water diverted will be reduced from 30.85 acre-feet per year to 20 acre-feet per year. The rate of diversion and season of diversion will not change.
8. The proposed changes will not increase the total area subject to inundation by water diverted to storage or the area where facilities will be constructed. The diversion facility and pump in Redwood Creek, the solar array to provide electricity to the pump, and the large reservoir will be removed from the application. They will be replaced by two smaller gravity-fed diversion facilities in two unnamed streams, two small reservoirs, and five storage tanks.
9. The proposed changes are not substantial and constitute a reduction, agreed to by the applicant, in the authorized diversion, affected area, or other feature of the application. The amount of water for diversion has been reduced and the maximum rate of diversion is unchanged. The removal of the diversion structure on Redwood Creek from the application will reduce the effect of the project on fish and fish habitat.
10. The proposed changes do not have the potential to adversely affect the water supply of other legal users of water or instream beneficial uses. There are no diverters of record located on the two unnamed streams. The two unnamed streams do not provide habitat to support fish.
11. Pursuant to Resolution 2012-0061, the State Water Board has delegated the authority to conduct and supervise the activities of the State Water Board to the Executive Director. By memorandum dated April 28, 2022, the Executive Director has redelegated the authority to act on minor changes to the Deputy Director for Water Rights. The Deputy Director for Water Rights has further redelegated this authority pursuant to a memorandum dated June 6, 2022.

NOW, THEREFORE, IT IS ORDERED:

1. The minor change to the application is approved.
2. The maximum amount of water requested for diversion is changed to 20 acre-feet per year. The maximum rate remains unchanged at not to exceed 0.49 cubic foot per second.
3. The points of diversion are changed as follows:
 - a. Remove the point of diversion on Redwood Creek located at North 1,927,503 feet and East 6,029,829 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian;
 - b. Add a point of diversion on an Unnamed Stream tributary to Redwood Creek located at located at North 1,926,839 feet and East 6,029,849 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian; and
 - c. Add a point of diversion on an Unnamed Stream tributary to Redwood Creek located at located at North 1,926,829 feet and East 6,030,636 feet by California Coordinate System, Zone 1, North American Datum 1983, and is located within the Northwest quarter of the Northwest quarter of Section 19, Township 4 South, Range 3 East, Humboldt Base and Meridian.
4. The places of storage are changed as follows:
 - a. Remove the 50 acre-foot offstream storage reservoir.
 - b. Add two offstream storage reservoirs with capacities of 17.5 acre-feet and 11.7 acre-feet and five 100,000 gallon storage tanks.
5. The purposes of use are changed by removing recreational.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
MATTHEW MCCARTHY

*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: June 7, 2022