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Division of Water Rights
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Arnold Schwarzenegger
Governor

**PROPOSED
 MITIGATED NEGATIVE DECLARATION**
Pursuant to Section 21080(c)
Public Resources Code

To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044	From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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PROJECT TITLE: Sleepy Hollow Properties Petitions for Extension of Time
 and Change in Place of Use

APPLICANT/PETITIONER: Sleepy Hollow Properties **PERMIT:** 20636 (A029698)
 c/o Jim Ledbetter
 7689 Lakeville Highway
 Petaluma, CA 94954

PROJECT DESCRIPTION:

On January 3, 1990, Sleepy Hollow Properties filed water right Application 29698 with the State Water Board, Division of Water Rights (Division). The application was permitted on September 9, 1992. A Petition for Extension of Time and a Petition for Change in Place of Use (POU) were filed on June 6, 2001. The project site is located in Sonoma County, approximately two miles north of Highway 37 on Lakeville Highway, northwest of Sears Point. The project is the approval of the Petitions for Change in place of use and for extension of time.

Permit 20636 (A029698) allows for the diversion of 104 acre-feet (af) of water per year to an onstream reservoir. Water is diverted from an Unnamed Stream tributary to the Petaluma River thence the San Pablo Bay from November 1 of each year to March 31 of the succeeding year and is used for the purposes of stockwatering and irrigation. The POU consists of 60 acres of pasture. The Petitioner requests to increase the POU by 115 acres, for a total of 175 acres and an extension of time to make full beneficial use of the water authorized under Permit 20636 (A029698). Between 2001 and 2002 the 175 acres of existing and proposed POU, which had been used as pasture and dry farmed oat hay crops, were converted to vineyards. The petition was filed to accurately reflect how the project is being operated.

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.

SUMMARY OF PERMIT 20636 (A029698):

Source: Water to be appropriated from an Unnamed Stream tributary to the Petaluma River thence the San Pablo Bay in Sonoma County.

Point of Diversion: The Point of Diversion is located within NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M.

Amount and Season: 104 acre-feet per annum (afa) to be collected to storage from November 1 of each year to March 31 of the succeeding year.

Total Annual Use: Not to exceed 104 afa

Purpose of Use: Stockwatering and Irrigation

Place of Use: 60 acres of pasture located as follows:

- 10 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 35, T4N, R6W, MDB&M
- 20 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 35, T4N, R6W, MDB&M
- 7 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 23 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M

SUMMARY OF PETITION FOR CHANGE OF PERMIT 20636 (A029698):

Place of Use: 175 acres of vineyard as follows:

- 4 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 5 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 19 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 2 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 4 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 13 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 4 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 26, T4N, R6W, MDB&M
- 21 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 27, T4N, R6W, MDB&M
- 18 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 27, T4N, R6W, MDB&M
- 8 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 34, T4N, R6W, MDB&M
- 33 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 34, T4N, R6W, MDB&M
- 4 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 34, T4N, R6W, MDB&M
- 6 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 34, T4N, R6W, MDB&M
- 25 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 35, T4N, R6W, MDB&M
- 9 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 35, T4N, R6W, MDB&M

PERMIT TERMS: 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 amended permit or license issued by the State Water Board.

1. Permittee shall submit evidence of compliance with all applicable regulations from the Sonoma County Agricultural Commissioner's Office for the use of soil stabilizers, pesticides, herbicides, and other regulated chemicals on the place of use at the time the project authorized by this permit is inspected for license.
2. Permittee shall install and properly maintain a staff gage in the Sleepy Hollow Reservoir, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.
3. Permittee shall record the staff gage readings on or about October 1 and March 31 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the State Water Resources Control Board by Permittee.
4. The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.
5. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
6. For the protection of potential habitat for California red-legged frog (*Rana aurora draytonii*) and to allow for the continued growth of riparian vegetation, the Permittee shall:
 1. Maintain, undisturbed, a minimum of a 50-foot-wide strip of natural upland vegetation around the water storage reservoir;
 2. Obtain approval of the United States Fish and Wildlife Service (USFWS), Sacramento Endangered Species Office, and the California Department of Fish and Game (DFG) prior to any future reservoir dredging operations. Permittee shall submit to the Chief of the Division of Water Rights evidence of agencies approval prior to any future reservoir dredging operations;
 3. Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during any future dredging operations.

These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.

7. If ground disturbing activities, such as trenching, ripping or vine removal occur in the place of use, a qualified biologist shall conduct protocol level surveys for western burrowing owls (*Athene cunicularia*). If western burrowing owls are detected, mitigation

shall follow the guidelines set forth in the California Department of Fish and Game's Staff Report on Burrowing Owl Mitigation (October 1995).

8. If ground disturbing activities such as trenching, ripping or vine removal occur in the place of use and if a qualified biologist detects pallid bat (*Antrozous pallidus*) species onsite roosting in rocky outcrops, cliffs, crevices, manmade structures and/or foraging within the project site boundaries, bat roosting areas shall be completely avoided and the U.S. Fish and Wildlife Service Sacramento Endangered Species Office shall be contacted for further consultation and conservation requirements.
9. The Permittee shall maintain riparian setbacks of a minimum of 25 feet from the top of the bank of both sides of the unnamed USGS blue-line stream located south of Lakeville Highway and setbacks of a minimum of 50 feet from the top of the bank on both sides of the unnamed streams located north of Lakeville Highway. No activity shall occur within the setback area, including, but not limited to, grading, roads, fencing, storage areas, and irrigation, with the exception of access roads, unless the activity is approved in writing by the Chief of the Division of Water Rights. These requirements shall remain in effect as long as water is being diverted by Permittee (or successors-in-interest) under any license issued pursuant to Permit 20636.
10. The area that contains the historic-period domestic refuse identified in the Tom Origer & Associates report dated October 2003 may continue to be cultivated with general vineyard maintenance activities. However, no ripping or grading shall be allowed in this area. If this area is ever replanted, the vines must be cut off with the root system remaining in the ground. Replanting of vines shall be between the old rootstock. If this is not possible then techniques for removal of vines in this area shall be restricted to using mechanical non-invasive techniques (i.e., pulling the vines with a chain attached to a backhoe rather than excavation of vines). A qualified archeologist shall monitor these activities. If additional resources are discovered, then the archeologist shall halt work in the area of the find and notify the Chief of the Division of Water Rights. 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 Chief of the Division of 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 Chief of the Division of Water Rights.
11. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of 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 Chief of the Division of 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 Chief of the Division of Water Rights.

12. If human remains are encountered, then the Applicant shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbance 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 and evidence of completion has been submitted to the Chief of the Division of Water Rights.

Contact Person: Jennifer Dick-McFadden	Telephone: (916) 322-8568 email: jdick-mcfadden@waterboards.ca.gov
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APPROVAL OF THE ABOVE IS RECOMMENDED BY:

Eric Oppenheimer, Chief Date
Russian River Watershed Unit

Steven Herrera, Chief Date
Water Rights Permitting Section

APPROVED:

Victoria A. Whitney, Chief Date
Division of Water Rights

Attachment (Initial Study)