



**Linda S. Adams**  
Secretary for  
Environmental Protection

# State Water Resources Control Board

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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**

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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:** Canebrake Vineyards Application 30363 to Appropriate Water.

**APPLICANT/PETITIONER:** Tim and Shawna Todd  
Canebrake Vineyards  
PO Box 779  
Redwood Valley, CA 95470

**PROJECT DESCRIPTION:**

Water Right Application 30363 was filed with the State Water Resources Control Board, Division of Water Rights on May 10, 1994 for the diversion of 10 acre-feet per annum (afa) of water to storage, in an existing offstream reservoir, from Forsythe Creek tributary to the West Fork of the Russian River thence the Russian River. Water will be diverted at a rate not to exceed 0.5 cubic feet per second (cfs), from December 15 to March 31 of the succeeding year. Water diverted from Forsythe Creek to the existing offstream reservoir is used for irrigation and frost protection of 25 acres of existing vineyard. The reservoir has a vertical height from the downstream toe of the slope to the spillway level of 10 feet, a dam length of 200 feet, and an approximate surface area of 1 acre.

A pump installed at the Point of Diversion (POD) on Forsythe Creek would transport water to the reservoir via an existing 500-foot, 4-inch diameter underground pipeline. A second pump installed at the reservoir would transport water for irrigation of the proposed POU via an existing 50-foot, 12-inch diameter pipeline.

**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 Forsythe Creek tributary to the West Fork of the Russian River thence the Russian River in Mendocino County.

Point of Diversion: POD is located within the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 6, T16N, R12W, MDB&M.

Amount and Season: Water will be diverted at a rate not to exceed 0.5 cubic feet per second (cfs), from December 15 to March 31 for the diversion of 10 acre-feet per annum (afa) of water to storage.

Total Annual Use: Not to exceed 10 af per annum.

Purpose of Use: Irrigation and frost protection of 25 acres of existing vineyard.

Place of Use: 18 acres within SW $\frac{1}{4}$  of SW $\frac{1}{4}$  and 7 acres within SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 6, T16N, R12W, MDB&M.

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 Board. The following permit terms will be included in any permits or licenses issued pursuant to Application 30363:

- The maximum rate of diversion to offstream storage shall not exceed 0.5 cubic feet per second.
- The capacity of the reservoir covered under this permit shall not exceed 10 acre-feet.
- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 10 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year
- Prior to diversion or use of water under this permit, Permittee shall install an in-line flow meter, satisfactory to the Chief of the Division of Water Rights that measures the instantaneous rate and the cumulative amount of water withdrawn from Forsythe Creek. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.
- 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 64 cubic feet per second (cfs). 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 64 cfs.

- Prior to the start of construction, or diversion or use of water under this permit, the Permittee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:
  - a. A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
  - b. A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity, including any necessary calibration.
  - c. A time schedule for the installation and rating of these facilities.
  - d. A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
  - e. An operation and maintenance plan that will be used to maintain all facilities in good condition.
  - f. A description of the events that will trigger recalibration of the monitoring devices, and the process that will be used to recalibrate.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

Permittee shall maintain all measurements and other monitoring required by this condition. Permittee shall provide measuring and monitoring records to the Chief of the Division of Water Rights within 15 days upon request by the State Water Resources Control Board, the Chief of the Division of Water Rights, or other authorized designees of the State Water Resources Control Board.

Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

- 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.
- Based on the information contained in the Division of Water Rights files, approximately 10 acre-feet per year of riparian water has been used on the place of use. Diversion of water is not authorized under this permit if in the future the Permittee diverts more than 10 acre-feet per year of water under riparian right. With the Chief of Division of Water Rights approval, Permittee may use additional water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Chief Division of 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 Chief of the Division 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.

- Permittee shall report any non-compliance with the terms of the permit to the Chief of the Division of Water Rights within three days of identification of the violation.
- No water shall be diverted under this permit except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish and Game and the National Marine Fisheries Service to protect Steelhead Trout, Coho Salmon, and Chinook Salmon listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code sections 2050 to 2098) and the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544)]. Construction, operation, and maintenance costs of the required facility are the responsibility of the Permittee/Licensee.
- For the protection of riparian habitat, Permittee shall establish a setback as shown on Setback Map No. SB-01, dated February 12, 2008 on file with the Division of Water Rights. The setback shall be at least 50 feet wide along Forsythe Creek as measured from the centerline of the creek. No ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas, with the exception of occasional equipment access reasonably necessary for continued operation of the vineyard. Equipment access through the setback shall be limited to previously disturbed areas of the setback when possible and is only allowed when other means of access are not available. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the setback area is allowed. Permittee shall restrict cattle or other domestic stock access to the riparian area. These requirements shall remain in effect as long as water is being diverted under this permit.
- 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 & Game Code, §§ 205-2097) 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.
- For the protection of wetland habitat, Permittee shall establish a setback as shown on Setback Map No. SB-02 dated February 12, 2008 on file with the Division of Water Rights. The setback shall extend at least 10 feet from the periphery of the three wetlands depicted on Setback Map No SB-02. No ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas, with the exception of occasional equipment access reasonably necessary reservoir maintenance. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native wetland vegetation within the setback area is allowed. Permittee shall restrict cattle or other domestic stock access to the setback area. An existing road runs along the

eastern periphery the wetland located adjacent to the reservoir. This existing road is located within the 10-foot buffer and may remain in place. These requirements shall remain in effect as long as water is being diverted under this permit.

- No work shall commence and no water shall be diverted, stored, or used under this permit until a signed copy of a Streambed Alteration Agreement between the California Department of Fish and Game and the Permittee is filed with the State Water Resources Control Board, Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a Streambed Alteration Agreement is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the Department of Fish and Game.
- The historic-period debris scatter, identified as the Canebrake Historic Site in the report titled "Cultural Resources Study Canebrake Vineyards Water Rights Project Application 30363" dated July 2007 and prepared by Analytical Environmental Services, shall be avoided by ground-disturbing activities that are beyond the historic layer of disturbance; an exception being ongoing routine maintenance of the vineyard in the location of the site. Routine maintenance shall be limited to the existing disk zone (~25cm below surface), and shall not include deep ground disturbance such as ripping. The site shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage, and distribution facilities, including installation of buried pipelines). Should any other buried previously unidentified archaeological 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 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/Licensee 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.
- If human remains are encountered, then the Permittee/Licensee shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act 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.

