



# State Water Resources Control Board



Linda S. Adams  
Secretary for  
Environmental Protection

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

**PROJECT TITLE:** Application to Appropriate Water

**APPLICATION NO.:** 30695

**APPLICANT:** Chris Hanna  
c/o Stoel Rives, LLP  
7701 L Street, Suite 800  
Sacramento, CA 95814

**PROJECT DESCRIPTION:**

Pursuant to Water Right Application 30695, Hanna-Bismark Winery (Applicant) seeks the right to appropriate up to 15 acre feet per annum (afa) of water to storage in a proposed onstream reservoir. The Place of Use (POU) consists of 84 acres of existing vineyard. Water collected to storage would be used for irrigation and frost protection of this vineyard via drip irrigation. The water sought would either be in addition to, or in place of, an existing groundwater well. The water is proposed to be diverted from a Point of Diversion (POD) located on an unnamed stream tributary to Agua Caliente Creek, thence Sonoma Creek, thence San Pablo Bay. Water would be diverted from December 15 of each year through March 31 of the following year. The project site is located in Sonoma County, approximately 4.2 miles northeast of the City of Sonoma.

The proposed reservoir would be formed on the unnamed stream via an earthen dam, approximately 24.9 feet high and 240 feet long. Dam construction would create an onstream reservoir to collect the water from a single inlet location. The proposed reservoir will have a surface area of 1.0 acre and the project construction would disturb a total of 1.98 acres. Reservoir construction would be completed during the dry season

Before diversion of surface water, a passive bypass system shall be installed to bypass stream flow, not authorized for appropriation, around the reservoir.

**DETERMINATION:**

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

*California Environmental Protection Agency*

**PERMIT CONDITIONS:**

Water is to be appropriated from one location on an Unnamed Stream tributary to Agua Caliente Creek thence Sonoma Creek thence San Pablo Bay in Sonoma County.

Point of Diversion: POD is located within NE¼ of NE¼ of section 19 within T6N, R5W, MDB&M.

Amount and Season: Diversion of 15 afa from December 15 of each year through March 31 of the succeeding year, after bypassing the February median flow of 27 gallons per minute at the POD.

Total Annual Use: Not to exceed 15 af per annum

Purpose of Use: Irrigation and Frost Protection of 84 acres of existing vineyards.

Place of Use: Includes all of the following, located in Sonoma County:

2 Acres within SW ¼ of SE ¼ of projected Section 18, T6N, R5W, MDB&M  
1 Acre within SE ¼ of SE ¼ of projected Section 18, T6N, R5W, MDB&M  
20 Acres within NW ¼ of NE ¼ of projected Section 19, T6N, R5W, MDB&M  
20 Acres within NE ¼ of NE ¼ of projected Section 19, T6N, R5W, MDB&M  
10 Acres within SW ¼ of NE ¼ of projected Section 19, T6N, R5W, MDB&M  
10 Acres within SE ¼ of NE ¼ of projected Section 19, T6N, R5W, MDB&M  
3 Acres within NE ¼ of SE ¼ of projected Section 19, T6N, R5W, MDB&M  
10 Acres within SW ¼ of NW ¼ of projected Section 20, T6N, R5W, MDB&M  
8 Acres within NW ¼ of SW ¼ of projected Section 20, T6N, R5W, MDB&M  
84 Acres

**PERMIT TERMS:**

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures will be included in any permit term or license issued by the State Water Resources Control Board. The principal terms are summarized below:

- 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, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531-1554). 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.
- No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game (DFG) and the Permittee is filed with the Division of

Water Rights (Division). Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a stream or lake agreement is not necessary for this permitted project, the Permittee shall provide the Division a copy of a waiver signed by the State DFG.

- The Applicant shall obtain a Building Permit from Sonoma County Permit and Resource Management Department and will be subject to all requirements within the Uniform Building Code for Seismic Zone 4.
- Prior to commencing construction of the reservoir, Permittee shall obtain all appropriate grading permits and other permits required by the County of Sonoma. The plans and specifications for the reservoir construction shall be prepared by a licensed civil engineer and submitted to the Chief, Division of Water Rights. The actual construction work shall be limited to the dry season and shall be carried out under the direct supervision of a licensed civil engineer. The project will be constructed in accordance with the Conditions and Specifications for the Irrigation Pond (Summit Engineering, April 2001), and the Suggested Geotechnical Specifications (Bauer and Associates, 2001).
- Construction of the storage dam shall not begin until the Sonoma County Engineer, the United States Natural Resource Conservation Service, or a civil engineer registered by the State of California has approved the plans and specifications for the dam. Construction of the dam shall be under the direction of said approving party.
- An erosion control plan and revegetation plan for the area where construction equipment will be used and an implementation schedule, prepared by a licensed civil engineer, shall be submitted to and approved by the Chief, Division of Water Rights, prior to starting construction. The plan shall conform to the requirements of Sonoma County and the Streambed Alteration Agreement issued by the California Department of Fish and Game (DFG). Before storing water in the reservoir, Permittee shall furnish evidence, which substantiates that the erosion control/revegetation plan has been implemented. Evidence includes photographs showing the project area vegetation and slopes.
- Erosion control measures shall be implemented in accordance with the requirements of the Sonoma County Permit and Resource Management Department.
- No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
- To prevent degradation of the quality of water during and after construction of the project, Permittee shall file a report of waste discharge pursuant to Water Code section 13260 prior to commencement of construction and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board.

- The Permittee shall obtain all necessary federal, state, and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights.
- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 15 acre feet per annum, to be collected to storage from December 15 of each year to March 31 of the succeeding year. This permit does not authorize collection of water to storage outside the specified season of diversion to offset evaporation and seepage losses or for any other purpose. The maximum storage capacity of the reservoir shall not exceed 15 acre feet.
- Permittee shall not use more water under the basis of riparian right on the place of use authorized by this permit than Permittee would have used absent the appropriation authorized by this permit. Based on the information in the Division's files, riparian water has not been used on the place of use. Therefore, consistent with the term, Permittee may not divert any additional riparian water for use on the place of use authorized by this permit under basis of riparian right. With the Chief of the Division's approval, this information may be updated, and Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Chief of the Division 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.
- For the protection of fish and wildlife, Permittee shall limit all diversions to the period of December 15 to March 31 and shall bypass a minimum of 0.06 cubic feet per second (27 gallons per minute) immediately below the Point of Diversion on the unnamed stream above Agua Caliente Creek. The total stream flow shall be bypassed whenever it is less than the designated amount. The bypass flow will be measured and maintained in accordance with the accepted Compliance Plan dated May 1, 2006, and included in the file for Application 30695. To ensure compliance with this condition in association with a yearly progress report submitted to the State Water Resources Control Board compliance staff, Permittee shall file a report containing the following information:
  - a. Dates during the previous period of December 15 to March 31 when water was diverted under this permit;
  - b. Flows measured in the unnamed tributary to Agua Caliente Creek during this same period.
- No water shall be diverted under this permit until Permittee installs a device, in accordance with the accepted Compliance Plan on file for Application 30695, to measure the bypass flow required by the conditions of this permit. Permittee shall maintain a record of all gage readings in accordance with the compliance plan. Permittee shall furnish evidence that substantiates that the streamflow-measuring

device has been installed. If the measuring device is rendered inoperative for any reason, all diversions shall cease until such time as the device is restored to service. Said measuring device shall be properly calibrated, operated, and maintained by Permittee (or successors-in-interest) as long as any water is being diverted under any permit or license issued pursuant to Application 30695.

- In accordance with the May 1, 2006, Compliance Plan on file for Application 30695, Permittee shall install and maintain an outlet pipe of adequate capacity in all dams associated with Permittee's Application. The outlet pipe shall be located as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, Permittee shall submit plans and specifications of the outlet pipe, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, Permittee shall furnish evidence that substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural engineer.
- The monitoring data shall be maintained by Permittee for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the Permittee promptly to the Chief of the Division of Water Rights.
- Diversion and use of water prior to installation of facilities as specified in the Compliance Plan is not authorized. Before storing water in the reservoir, Permittee shall furnish evidence that the May 1, 2006, Compliance Plan on file for Application 30695 has been implemented. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.
- Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological 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 spilt 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.
- 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 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 shall not resume, in the vicinity of the find, until the process detailed under Section 15064.5 (e) has been completed.

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