

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000
SACRAMENTO, CA 95812-2000

INITIAL STUDY

I. Background

PROJECT TITLE: Application to Appropriate Water

APPLICATION: A030717

APPLICANT: David F. Jenks
c/o Matt O'Connor
O'Connor Environmental, Inc.
PO Box 794
Healdsburg, CA 95448-0794

General Plan Designation: RMR20 – Remote Residential

Zoning: UR – Upland Residential (20-acre minimum)

Introduction

On June 19, 1998, David F. Jenks (Applicant) filed an application to appropriate water from an unnamed ephemeral swale tributary to an unnamed stream thence Floodgate Creek thence Navarro River in Mendocino County. The original application requested an appropriation of 8 acre feet per annum (afa) with a diversion season running from October 1 through May 30. The Applicant reduced the requested appropriation to 3.81 afa in October 2005. Six protests were filed against this project under procedures for public notice of Application A030717.

Point of Diversion (POD) is a gravity earthen dam forming a reservoir which impounds water in the unnamed swale. Fill dirt for the dam was excavated from the reservoir site. The purpose of use for this application is drip irrigation for 1.5 acres of vineyard and native plant re-establishment. The property consists of about 21 acres and is located about 6.3 miles north of Philo on State Highway 128 (Figure 1a). The project site and POD is located in the watershed of Floodgate Creek about 2 miles upstream from the confluence of Floodgate Creek and the Navarro River (Figure 1b). Cumulative flow impacts were assessed at four Points of Interest (POI) as shown in Figure 1b as described in the Environmental Impacts section under the heading Hydrology/Water Quality.

Project Description

The 3.81 acre-foot (af) reservoir was built some time during the 1970's, but after 1972, based on an aerial photo of the site taken that year. It is situated on a small unnamed swale that conveys water from Guntley Road and a vineyard area on the east side of Guntley Road, via two culverts under Guntley Road. A buried spillway pipe is located at the 3.81 af level (2 to 3 feet below the elevation of top of the dam) to passively convey runoff exceeding 3.81 af back into the drainage channel below the dam in a redwood grove. The height of the dam is approximately 20 feet above original grade of the swale. Water from the reservoir is gravity-fed to a pump where it is directed to two storage tanks a few hundred feet away from the reservoir, up the hill near the road. Some of the drip irrigation is provided from this pump, but the majority

is provided from the storage tanks. Water is used primarily to irrigate 1.5 acres of vineyard and landscape vegetation around the main house and the guest house. The place of use is the Jenks' property (Figure 2). Additional uses include frost protection, recreation, heat protection and wildlife enhancement. The current owner of the property has reduced vineyard area and has focused on restoration of native vegetation (see Environmental Setting below for further discussion).

In order to provide mitigation for potential impacts caused by the diversion, bypass flow recommendations developed by the California Department of Fish and Game (DFG) and National Marine Fisheries Service (NMFS) will be implemented at the diversion site. Consequently, the project scope includes modification of the diversion facility and the installation of a conveyance system around the existing reservoir. These facilities include a weir designed to control bypass flows and approximately 250 feet of pipe to convey bypass flow from the culvert under Guntley Road to an existing swale on the Applicant's property north of the reservoir. Bypass flow will travel about 500 feet in a grassy swale with slope ranging up to about 9% and will enter an existing unnamed ephemeral tributary to Floodgate Creek. Overflow from the reservoir is presently delivered to this unnamed tributary at a point about 500 ft downstream of the point of delivery of the proposed bypass. (See Figure 2 for the overall site plan; Appendix D contains design criteria and a preliminary design for the bypass and control structure).

Environmental Setting

The Navarro River watershed is located in Mendocino County and encompasses an area of approximately 323 square miles. The elevation of the Navarro River watershed ranges from sea level to approximately 3,000 feet and is located in the Coast Range. The headwaters of the Navarro River originate near the town of Yorkville, flow in a northwestern direction and eventually discharge into the Pacific Ocean near the town of Mendocino. Anderson, Rancheria, and Indian Creeks converge near the town of Philo and form the mainstem Navarro River. Approximately 12 miles downstream, the North Fork Navarro River converges with the mainstem Navarro River and the river continues for approximately seven miles where it then flows into the Pacific Ocean. The project diverts water from an Unnamed Stream tributary to an Unnamed Stream thence Floodgate Creek. Floodgate Creek merges with the Navarro River approximately midway between Philo and its convergence with the North Fork Navarro River.

The parcel is located on Section 33 within Township 15N and Range 16W, MDBM on the Cold Spring 7.5-minute USGS topographic quadrangle. Surrounding land uses consist mainly of vineyards and livestock pastures. The property is located on a generally west-facing slope just east of Highway 128. The roughly oval-shaped, 21-acre parcel is located on the northwest side of Guntley Road. Average annual rainfall is about 40 inches and the average annual temperature is 47 to 58° F. The entire parcel is well vegetated and no erosion is evident. The property ranges in elevation between 316 and 384 feet and includes two unnamed tributaries to Floodgate Creek; one located on the northern portion of the property and the second located on the south side the property. Both tributaries flow from east to west. The reservoir is located in between these two unnamed tributaries to Floodgate Creek and impounds approximately 3.81 acre feet of water. The watershed feeding the reservoir includes a portion of the runoff from Guntley Road and the vineyard located on the east side of Road, delivered to the Jenks property by two culverts under the Road (Figure 2). The primary inlet is the northern culvert and swale. The secondary culvert collects runoff from a short segment of Guntley road and the water flows north on the Jenks property to connect with the primary swale along the interior road before it enters the reservoir.

The reservoir was originally built to irrigate approximately 5.5 acres of vineyard. The current owners recently removed all but 1.5 acres of vineyard and are re-planting this area with native trees and shrubs. Irrigation of the vineyard requires about 0.75 afa of water. Since most of the parcel was converted to an irrigated landscape after the dam was constructed, the entire 21 acres is assumed to be the 'water place of use' and therefore the project area subject to environmental review.

The principal soil type at the project location is Bearwallow-Wolfey loam. The Bearwallow and Wolfey soils occur as areas so intricately intermingled that it was not practical to map them separately. The Bearwallow soil is moderately deep to weathered bedrock and is well drained, having formed in material derived from sandstone. Typically, the topsoil is about 8 inches thick and subsoils extend down approximately 34 inches to soft fractured sandstone. The Wolfey soil is shallow to weathered bedrock and is well drained. It also formed in material derived from sandstone. The topsoil is only about 3 inches thick and subsoils extend down approximately 12 inches to soft sandstone bedrock. Permeability is moderate to moderately slow in this soil complex and water availability is moderate to very low. Surface runoff is medium, and the hazard of water erosion is moderate if the surface is left bare.

The Botanical Survey (Appendix E) and the Wildlife Biological Assessment (Appendix F) prepared for the project provide detailed descriptions of methods and findings. A brief summary of the findings follow. Non-irrigated grassland habitat occurs in the eastern portion of the property. Landscape plants and the remnant vineyard occupying the balance of the property are irrigated and receive water from the reservoir. Many of the landscape plantings are native species that provide habitat for a variety of avian species. A few large redwood trees with diameter at breast height up to about 5 ft are present on the site west of the reservoir near the existing outlet pipe. These mature trees suggest that coastal redwood forest may have occupied the site prior to European settlement. These large diameter redwood trees may provide habitat for special status species. Species observed on the site include various species of song birds, ravens and hummingbird. An American peregrine falcon was observed hunting over the property during the biologist's field visit. Mammal species and/or their signs observed in the grasslands include pocket gopher, vole, jack rabbit, skunk and raccoon. The reservoir is occupied by bullfrogs and Pacific treefrogs were heard in the surrounding upland habitat.

The Fishery Assessment (Appendix B) reviewed the known distribution of anadromous fish (Steelhead and Coho salmon) in Floodgate Creek and evaluated fish habitat in the unnamed tributary of Floodgate Creek between the POD and POI #2 (see Figure 1b and Figure 1 in Appendix B). DFG habitat surveys in the lower 0.5 miles of Floodgate Creek in 1996 found pool habitat and water temperatures suitable for anadromous fish. Surveys for Coho salmon conducted annually by DFG in tributaries of the lower Navarro River since 1999 have not been conducted in Floodgate Creek. Mendocino Redwood Company electrofishing surveys at a monitoring station in lower Floodgate Creek in 1994, 1995, 1996 and 2001 found steelhead trout, but not salmon.

There is no potential habitat accessible to anadromous fish within 0.25 miles of the POD owing to an impassible barrier 0.25 miles downstream of the POD. The POD and reservoir occupies the former site of an unchannelized swale. The lower portion of the unnamed tributary to Floodgate Creek immediately above POI #2 contains about 0.5 miles of habitat in fair to good condition; partial barriers to migration were observed in this portion of the creek, including a road crossing and a 5 ft waterfall judged to be a barrier except during periods of high flow. The middle portion of the unnamed tributary is about 0.5 miles in length and lies between the lower reach and the migration barrier 0.25 miles downstream of the POD. The middle reach of the

unnamed tributary contains poor habitat for anadromous fish owing to a lack of riparian tree cover and an artificially straightened channel. Cattails and other dense vegetation occur in the channel in this middle reach.

CEQA Baseline Conditions

The environmental baseline assumed for the CEQA analysis is the environmental conditions that existed on the property when the application was filed on June 19, 1998. Under the public trust doctrine, the Division must balance the potential value of a proposed or existing water diversion with the impact it may have on the public trust. For the purposes of evaluating this project for both the CEQA and public trust, the impacts of the existing onstream reservoir will be discussed using pre-onstream reservoir baseline conditions.

Based on a 1972 aerial photograph, pre-reservoir site conditions consisted almost entirely of grasslands. These are assumed to be non-native grasslands based on previous use of the property for grazing by cattle or sheep, and by horses, as described by the current property owner. Several large redwood trees occurred near the eastern portion of the site, but are no longer there. Some large redwood trees remain in the area west of and downstream from the reservoir. Two tributaries occurred on-site; one in the northern portion of the site and another in the southern portion of the site. The northern drainage is located along the fence line and the southern drainage along the southern portion of the property.

Responsible and Trustee Agencies

Pursuant to the California Constitution, the DFG is the Public Trust Agency for the state's plant and wildlife resources. DFG is also a responsible agency in accordance with the California Environmental Quality Act. Other responsible and trustee agencies include the National Marine Fisheries Service (part of the National Oceanic and Atmospheric Administration in the Department of Commerce), the United States Fish & Wildlife Service (part of the Department of Interior), and the North Coast Regional Water Quality Control Board (part of the California State Water Resources Control Board). Mendocino County Planning and Building Divisions have indicated no discretionary or ministerial permits will be required.

Summary of Protests

Application A030717 was noticed to the public and six protests were filed in 1999 and 2000. All of these protests raised concerns regarding cumulative watershed effects of water diversions as they pertain to listed species (Coho salmon and Steelhead). In particular, the protestants advocated that the diversion season be limited to the period December 15 to March 31, that diversions provide for bypass flows, that diversions be analyzed both with respect to local and cumulative effects, that new methods be developed to analyze the hydrology of diversion projects, and the need for effective enforcement and monitoring. The individual protests are summarized briefly below.

The California Sportfishing Protection Alliance protest raised the following major concerns:

- Cumulative effects of project flow diversion on Coho salmon and Steelhead from all pending water right applications, permitted rights, and unauthorized diversions. Cumulative effects need to be defined so that the State Water Resources Control Board can determine the impacts of the application.

- Effects on habitat for Coho and Steelhead during summer and fall and during winter diversion period during low water years.
- Lack of minimum daily flow releases from dams and diversions.
- Endangered Species Act compliance with provisions prohibiting jeopardy, harm, and harassment conditions of listed species and habitat.

The Navarro Watershed Protection Association protest raised the following main concerns:

- Application A030717's compliance with provisions of the California Environmental Quality Act (CEQA), including existing and pending permitted water rights and diversions, and unpermitted diversions.
- Specific to Application A030717, the initially proposed diversion season from October 1 to May 30, the purported character of the reservoir as an "on-stream" dam that could block access of migrating fish to spawning habitat and affect the aquatic ecosystem.
- Cumulative effects of diversions and the adequacy of bypass flows for downstream aquatic ecosystems.
- The need for effective enforcement and monitoring pertaining to diversions.

The California Department of Fish and Game (DFG) protest focused on the lack of information and analyses sufficient to adequately address issues pertaining to aquatic and plant resources affected by diversion projects. DFG recommended that studies and surveys be conducted that would provide the following:

- Water yield above the points of diversion should be determined so the sufficiency of water resources for both the requested diversion and downstream aquatic and riparian resources can be evaluated.
- A determination whether bypass flows should be recommended as mitigation and the rate of bypass necessary to protect and preserve fish and wildlife resources below onstream dams.
- A biological survey should be conducted at project sites by biologists with expertise in both aquatic and terrestrial biology, with particular attention of impacts to fisheries and wildlife sources on-site and downstream, that may occur as a result of proposed projects.
- A botanical survey should be conducted at the site by a botanist or biologist with expertise in identifying native plant species, serpentine and wetland habitats, and species listed in the California Natural Diversity Data Base (CNDDDB).
- If warranted, the applicant shall develop a mitigation plan aimed at replacing lost biological resources.

Daniel Myers' protest identified the following specific concerns:

- The need for compliance with requirements of the CEQA.
- The need to limit the diversion season from Dec. 15 to March 31.
- The need to develop means to bypass flows outside of the diversion season.
- Opportunity for public inspection of proposed diversion projects.
- Concerns regarding the means of hydrologic analysis of diversion projects.
- DFG should be satisfied that diversion and storage facilities are not an impediment to fish migration.

The Sierra Club, Mendo-Lake Chapter, noted the following concerns:

- Cumulative impacts of diversion projects on downstream aquatic ecosystems resources both locally and at the larger watershed scale.
- Methodology for determining bypass requirements and diversion conditions.
- Adequacy of cumulative effects analyses for diversion projects.
- Adequacy of monitoring systems for permitted diversion projects.
- Mitigation of diversion project effects is possible only if the State Water Resources Control Board (SWRCB) adopts analytical methodology and protective requirements to be determined by NMFS.

The Friends of the Navarro River protest noted the following concerns:

- Diversions should only occur in the period December 15 to March 31.
- Diversions should only occur when flow in the Navarro River is at least 200 cfs.
- The need for bypass flows.

All six protests are currently pending. The analyses of potential biological and hydrological effects of the project and proposed mitigation terms for this project described below address the major issues raised by the protestants.

II. Environmental Impacts

The environmental factors checked below could be potentially affected by this project. See the checklist on the following pages for more details.

- | | | |
|---|---|--|
| <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Circulation | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Population and Housing | <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Geological Problems /Soils | <input type="checkbox"/> Energy and Mineral Resources | <input type="checkbox"/> Aesthetics |
| <input checked="" type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Hazards | <input type="checkbox"/> Cultural Resources |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Noise | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Mandatory Findings of Significance | |

1. GEOLOGY and SOILS. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated in the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines & Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soils, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternate wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The reservoir is not located in an Alquist-Priolo Earthquake Zone, but is situated in Mendocino Geotechnical Hazard Zone IIIa which is defined by the following characteristics:

- Moderate potential for ground shaking;
- Low potential for surface faulting;
- Moderate potential for landslides;
- Low potential for tsunami and seiche; and,
- Low to Medium potential for liquefaction.

There are many small faults in this Zone, most of which are generally considered to be inactive. The stability of the dam would be considered good given the area seismology and the fact that material was carved out of the swale to create the dam and reservoir rather than imported fill material placed on top of the existing soils and slopes.

Mendocino County presently requires a grading permit for impoundments of this type. Submittal requirements include a soil engineering report and an engineering geology report where geologic or seismic hazards may be present. Since the reservoir was constructed when the County was not enforcing codes on small ponds, a grading permit will not be retroactively required for the reservoir.

Potential Impacts: Although the soil types would be considered to have moderate soil erosion potential where the soil is bare, the site is well vegetated and erosion potential would be considered low with no impact. The outlet for the bypass at the existing ephemeral swale will be armored or otherwise treated to prevent erosion. The magnitude of the bypass flow is not expected to cause erosion in this channel. The existing inlets and outlets to the reservoir, which will remain in use during the diversion season, are well armored by grouted rock works and no evidence of erosion at inlets or outlets to the reservoir was observed during site visits. Based on the above description of the existing environment, potential geological impacts are less than significant.

2. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Existing Environment: Mendocino County is in attainment for all state air quality standards except PM-10 (respirable particulates 10 microns or smaller). The project will not result in any air emissions or odors.

Potential Impacts: Based on the above description of the existing environment, the project will not result in any impacts to air quality.

3. HYDROLOGY & WATER QUALITY. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site, including through alteration of the course of a stream or river, or substantially increase the rate or volume of surface runoff in a manner that would:				
i) result in flooding on- or off-site	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) create or contribute runoff water that would exceed the capacity of existing or planned stormwater discharge	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) provide substantial additional sources of polluted runoff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Place housing or other structures which would impede or re-direct flood flows within a 100-yr. flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| f) Expose people or structures to a significant risk of loss, injury, or death involving flooding: | | | | |
| i) as a result of the failure of a dam or levee? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii) from inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Would the change in the water volume and/or the pattern of seasonal flows in the affected watercourse result in: | | | | |
| i) a significant cumulative reduction in the water supply downstream of the diversion? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ii) a significant reduction in water supply, either on an annual or seasonal basis, to senior water right holders downstream of the diversion? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iii) a significant reduction in the available aquatic habitat or riparian habitat for native species of plants and animals? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| iv) a significant change in seasonal water temperatures due to changes in the patterns of water flow in the stream? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| v) a substantial increase or threat from invasive, non-native plants and wildlife | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Existing Environment: See 'Environmental Setting' above.

Potential Impacts: The project will not result in any discharges other than the reservoir overflow or bypass originating from natural runoff. The project does not involve the use of groundwater nor does the project propose any activities that would result in significant effects to ground water resources. The drainage pattern has been altered by installation of the dam, which can impound 3.8 acre-feet of water early in the winter runoff period and reduce downstream runoff until the reservoir fills, typically around January 1 or earlier, and begins to spill in response to subsequent runoff events. The project would not place structures that would impede or redirect flood flows within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map. The project is not within the 100-year flood zone for the Navarro River. Another small dam and reservoir, located off-stream immediately adjacent to the swale approximately 1200 feet from the dam, is the nearest downstream structure. The project will not expose people or structures to a significant risk of loss, injury or death involving flooding as a result of dam failure or inundation by seiche, tsunami, or mudflow.

The project will not result in significant impacts to water quality or increase erosion. Mitigation measures H-2/B-1, H-3/B-2 and H-4/B-3 as described in the Biological Resources section of this Initial Study, necessitate construction of flow bypass facilities. Bypass flows will be delivered to an existing grassy swale (see Figure 2 and Appendix D). Estimated peak discharge for the

bypass facility is 4.7 cfs (see peak discharge analysis in Appendix D), which is to be routed to the unnamed tributary of Floodgate Creek via a pipe to an existing road ditch thence to an existing swale. Swale geometry and cover conditions (annual bunch grass and other vegetation) are such that expected water velocity for peak flow would not cause erosion according to erosion control criteria for grass swales. Velocity of flow leaving the bypass pipe during peak runoff periods could be high enough to create erosion potential. Provision of adequate energy dissipation between the bypass pipe outlet and the grass swale (noted in bypass facility design criteria, Appendix D) will prevent significant erosion from the bypass flow.

All impacts associated with a change in water volume and/or the patterns of seasonal flows are addressed by the Water Availability Analysis and Fisheries discussion in the Biological Resources section below. The impacts to a change in water volume and/or the pattern of seasonal flows is considered to be less than significant with incorporation of the mitigation measures discussed in the Biological Resources section.

In addition, to ensure that impacts to water quality are less than significant the following term, substantially as follows, shall apply to any permit or license issued pursuant to Application A030717:

- Mitigation Measure H-1: 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.

4. BIOLOGICAL RESOURCES. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the DFG or USFWS?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the DFG or USFWS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally-protected wetlands as defined by Section 404 of the federal Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Data Sources

The fisheries, wildlife and botanical surveys are attached (see Appendices B, E and F). The attached wildlife and botanical surveys include CNDDDB lists. Fisheries surveys were conducted by Gary Reedy in January 2006; he surveyed in the unnamed tributary of Floodgate Creek upstream from POIs #2 and #2.1 extending upstream to POI #1 (the point of diversion). The field survey was supplemented by research on existing fisheries data in the Navarro River and Floodgate Creek. The wildlife assessment was conducted by Trish Tatarian of Wildlife Research Associates. An on-site survey was conducted in November 2004, and information on special status animal species was compiled through the California Natural Diversity Data Base (CNDDDB), the DFG Special Animals List, and State and Federally Listed Endangered and Threatened Animals of California. Aerial photos from 1972 were used to characterize pre-project conditions. A botanical survey and special species (plants) status report for the project property was conducted by Laurie Berry, North Coast Resource Management. The botanist consulted lists of rare native vascular plants maintained by the Federal and State governments including the CNDDDB, as well as lists maintained by the California Native Plant Society (CNPS). This research effort identified nine rare or endangered plants in the vicinity of the project, of which four were believed to have potential habitat on the project site. Field surveys of these plants were conducted in June and August of 2003.

No information on fish in the reservoir was collected; the scope of the CEQA review established in 2004 was to determine impacts to baseline environmental conditions from the construction of the reservoir and the diversion of water.

Fisheries Resources

Existing Environment: The Navarro River watershed supports anadromous fish runs that consist of, but are not limited to, Coho salmon (*Oncorhynchus kisutch*), Chinook (*O. tshawytscha*) and Steelhead trout (*O. mykiss*). Chinook salmon and Steelhead trout are listed by the National Marine Fisheries Service as Threatened under the federal Endangered Species Act (ESA). Coho salmon are listed by the National Marine Fisheries Service as endangered under ESA. Steelhead are known to be present in lower Floodgate Creek. Suitable habitat for Coho salmon is present in lower Floodgate Creek, however, Coho have not been observed there. Steelhead in Floodgate Creek would be expected to return from the ocean as adults after 1 to 4 years to spawn in the winter months, typically beginning in November with spawning likely to occur between December and March. Steelhead spawn and deposit eggs in gravel nests called redds; fertilized eggs mature in the redds for approximately 45-60 days prior to emergence. Adults may return to the ocean after spawning. Juvenile Steelhead remain in their natal streams for 1 to 3 years prior to migrating to the ocean in the spring. Coho salmon life history is similar, however, adults typically return to spawn after 2 years in the ocean and they tend to spawn earlier in the winter than steelhead. Coho juveniles typically spend only 1 year maturing in their natal streams before migrating to the ocean. The most likely period for spawning for Steelhead and Coho salmon is approximately mid-December through March.

Potential Impacts: The potential impacts of diversions on surface water resources are assessed in the Water Availability Analysis and Cumulative Flow Impairment Index report (WAA/CFII report-Appendix A). In brief, the WAA/CFII report quantifies surface water resources locally and at the larger watershed scale. The quantity of water potentially available for appropriation is estimated by prorating flow recorded at nearby stream gauges as a function of drainage area and annual rainfall; a rational runoff method is used to supplement the estimate from prorated gauge flow. The CFII calculates the percentage of flow during the diversion season that is allocated to both permitted (“senior”) and pending (“junior”) applications on file with the Division for diversion and storage at different locations in the watershed beginning at the POD and at various POIs downstream as determined by DFG at the beginning of the WAA/CFII process.

DFG and NMFS developed assessment guidelines and proposed criteria for evaluating potential fisheries impacts in relation to the results of the WAA/CFII report (Draft Guidelines)¹. The Draft Guidelines include the process of identifying POIs for each project. Elements of the Draft Guidelines that are noteworthy as they pertain to this project include:

- Application A030717 is a small diversion (less than 3 cfs and less than 200 afa), and the “default” guidelines proposed in the Draft Guidelines would apply to this project. The default guidelines are based on the hydrology and life history requirements of resident anadromous salmonids in the coastal California watersheds from San Francisco to the Mattole River. The default guidelines have been incorporated to develop the terms and conditions of the proposed permit in conjunction with the results of the fisheries report conducted by Gary Reedy. The default conditions include a flow diversion season from December 15 through March 31, a bypass flow regime to protect downstream salmonids and aquatic resources, protection of the natural hydrograph and avoidance of cumulative impacts, fish passage, identification and quantification of all other basis of rights in streams potentially affected by the proposed diversion, monitoring measures and procedures to assure maintenance and timing of bypass flows and diversion limits.
- The Draft Guidelines recommend that there should be no additional permitting of onstream reservoirs. However the Draft Guidelines provide exception criteria for some onstream reservoirs. Conditions for allowing onstream reservoirs are the following:

Condition 1. Fishes or non-fish aquatic species were not historically present upstream of the point of diversion;

Condition 2. Project would not cause the dewatering of any fishless stream reach supporting non-fish aquatic species; and,

Condition 3. Project does not contribute to a cumulative reduction of more than 10% of the natural instantaneous flow in any reach where fish are at least seasonally present.

According to the fisheries report by Gary Reedy, a complete barrier to migration of anadromous fish is located about 0.25 miles downstream of the point of diversion. Potential fish habitat of

¹ Draft Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams (An update of the May 22, 2000 Guidelines), California Department of Fish and Game and the National Marine Fisheries Service, June 17, 2002. (Errata note, dated 8-16-02)

fair to good quality is located in the vicinity of POI #2 and POI #2.1; however, the presence of steelhead has been documented only between POI #2.1 and POI #3; the presence of Coho salmon has not been documented anywhere in the Floodgate Creek watershed.

The watershed area upstream of the diversion is only a few acres, and is too small to provide sufficient flow for fish or non-fish aquatic species. Therefore fish or non-fish aquatic species were not likely to have been historically present in the stream reach where the point of diversion is located and Condition 1 is satisfied.

A mitigation measure is proposed requiring the maintenance of a bypass flow equal to median February flow during the season of diversion that will provide flows intended to help prevent the dewatering of any fishless stream reach supporting non-fish aquatic species downstream of the point of diversion. With implementation of the bypass flow, Condition 2 will be satisfied.

Regarding Condition 3, which states that there should not be a 10% reduction of natural instantaneous flow where fish are at least seasonally present, the following circumstances should be considered. The cumulative flow impairment indexes (CFII) for the mitigated diversion season (Dec. 15 through March 31) as per Appendix A are summarized in the table below. As noted above, the presence of fish species has been documented only between POI #3 and POI #2.1; potential habitat exists above POI #2. The CFII's with existing (Senior) water rights (Case A in the table) ranges from about 3% to 5% between POIs #3 and #2.1 where fish presence is known and from about 5% to 6% where potential fish habitat has been identified (immediately upstream of POI #2). Proposed mitigation for this project will include bypass flows to protect instantaneous flows where fish are present. The proposed bypass facility operates passively (automatically) and therefore all the bypass flows will be essentially instantaneous. Finally, the project reservoir and POD is located in a swale with an upstream watershed area of approximately 0.0066 square miles (4.22 acres) which is very small. Considering the facts above and the fact that the project satisfied the first two conditions, Division staff and staff from the Department of Fish and Game recommended that the site-specific conditions for this project justified the project as qualifying as a special circumstance for allowing an onstream reservoir to remain onstream. With implementation of the bypass flows and no diversions outside the season of diversion the impacts associated with the onstream reservoir are considered less than significant.

POI	Drainage Area (mi ²)	CFII (%)		CFII (%)	
		Prorated Gauge Flow Method		Rational Method	
		Case A Applicant + Senior Rights	Case B Applicant + Senior + Junior Rights	Case A Applicant + Senior Rights	Case B Applicant + Senior + Junior Rights
1 (POD)	0.0066	64.2	64.2	27.0	27.0
2	0.54	5.9	10.0	6.3	10.7
2.1	1.38	5.3	8.6	5.4	8.6
3	2.75	3.0	5.5	2.7	5.0

The volumetric, per annum cumulative impact assessment method detailed in Attachment A of the Draft Guidelines (Appendix H) identifies thresholds of CFII and the recommended procedures for cumulative impact assessment. If CFII > 10%, “there is a reasonable likelihood of significant cumulative impacts” (p.17), and site specific studies of potential fisheries impacts are recommended. If CFII is between 5 and 10%, additional hydrologic analysis may be warranted to evaluate effects of diversion during the migratory and spawning period of normal and dry years. If CFII is < 5%, “there is little chance of significant cumulative impacts due to diversion”, and no additional studies are expected.

For this project, a site specific fish habitat assessment was conducted to evaluate habitat conditions and potential effects of diversion in the unnamed tributary to Floodgate Creek (Appendix B). This approach was taken because CFII at POI #2 was at the 10% threshold for the CFII scenario that included existing permitted diversions and all proposed diversions, including the applicant (Case B in the CFII summary table above). Case B CFII for existing permitted diversions plus proposed diversions for this project at POI #2 is about 10%. A supplemental POI (#2.1) was analyzed to assess effects in Floodgate Creek below the confluence with Peat Pasture Gulch and the unnamed tributary; Case B CFII for POI #2.1 was less than 9%.

The fish habitat assessment indicated that this tributary of Floodgate Creek had fair to good potential habitat for salmonids in the lower 0.5 miles located about (0.7 miles downstream from the POD), with no habitat or poor habitat further upstream. The upper stream reach within about 0.25 miles of the POD is inaccessible to anadromous fish owing to a migration barrier. Anadromous fish were not observed during the stream survey, but could have been present. Steelhead have been observed in lower Floodgate Creek while Coho salmon have not. The lower reach where habitat is best contains good rearing habitat (relatively deep pools), but limited spawning habitat that appears to be degraded by fine sediment embeddedness. Spawning habitat with sufficient water depth would likely be present only during periods of elevated runoff. Accessibility is limited by road crossings with culverts and shallow channel depth over riffles. Adult anadromous fish could only migrate during periods of peak runoff in this stream. During periods of high runoff, marginal flow decreases owing to diversion for this project would not be likely to limit spawning habitat or migration, and would not affect relatively good rearing habitat.

Given the existence of potentially accessible habitat for salmonids in the lower reach of the unnamed tributary to Floodgate Creek and uncertainty regarding diversion effects on potential impairment of instantaneous flow, bypass flows were proposed for this project. The November 12, 2003 letter from DFG and NMFS discusses the use of “dual bypass flows” for new projects that would eliminate the need for computations of CFII for points on the Navarro River mainstem. Bypass flows for this project were developed using recommendations from the Draft Guidelines and the November 13, 2003 letter on “dual bypass flows”. The Draft Guidelines recommended a bypass flow rate to be applied during the diversion season. The November 12, 2003 letter recommends a second bypass requirement related to winter low-flow conditions (Appendix C) defined by flow conditions at the Navarro River gage. The second bypass requirement is a provision that diversions would only occur when stream flow is at or above 325 cfs at the Navarro River gage near Navarro. Based on the letter developed by DFG and NMFS a stream flow of 325 cfs on the Navarro River mainstem was determined to be conservative for protection of instream fisheries resources.

This CEQA Initial Study, supplemented by the foregoing analyses of hydrology (Appendix A-CFII/WAA report), fisheries (Appendix B) and project effects on fish habitat outlined above,

provides the comprehensive and cumulative environmental review requested by the protestants. In addition, the protestants advocated that the diversion season be limited to the period December 15 to March 31, that diversions provide for bypass flows, and that diversion permits provide for monitoring of diversions in a manner that allows effective enforcement of permit conditions. Mitigation measures proposed for this project and described below address issues raised by protestants pertaining to the season of diversion and monitoring.

To ensure that the Applicant's project will have a less than significant effect on streamflow and fisheries resources, the following mitigation measures will be made conditions of any permit issued pursuant to Application A030717. These mitigation measures are denoted H-#/B-# in recognition of the linkage between hydrological and biological project effects and mitigation.

- Mitigation Measure H-2/B-1: The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3.81 acre-feet per annum to be collected to storage from December 15 of each year through March 31 of the succeeding year.
- Mitigation Measure H-3/B-2: For the protection of fish and wildlife, under all bases of right, Permittee shall bypass a minimum of 0.013 cubic feet per second during the period from December 15 through March 31. Under all bases of right Permittee shall bypass the total stream flow from April 1 through December 14. The total stream flow shall be bypassed whenever it is less than 0.013 cubic feet per second.

Bypassing runoff at this flow rate will help ensure protection of minimum flow volumes in the Navarro River necessary to support the existing anadromous fishery as determined by DFG and NMFS. The passive bypass structure design described in Appendix D requires minimal maintenance and management to ensure that diversion occurs according to permit conditions. Additional monitoring and reporting requirements are described below in Mitigation Measure H-5/B-4.

- Mitigation Measure H-4/B-3: For the protection of fish and wildlife and instream uses, Permittee shall bypass the total streamflow, at all points of diversion, whenever the flow in the Navarro River is less than 325 cubic feet per second as measured at the United States Geological Survey Navarro River gage 11468000 located on the Navarro River. In the event that said gage is no longer available for streamflow measurements, Permittee (or successors-in-interest) must install and maintain an equivalent type gage, satisfactory to the Chief of the Division of Water Rights, as near as practicable to the present location of the United States Geological Survey Navarro River gage 11468000 or the Permittee must propose an alternative means of replacing the gage data, such as referencing another stream gage in the region that could be correlated with the Navarro River gage, that is satisfactory to the Chief of the Division of Water Rights. In the absence of such an equivalent gage or an approved alternative means of replacing the gage data, all diversions must cease. These requirements shall remain in force as long as water is being diverted by Permittee (or successors-in-interest) under any permit or license issued pursuant to Application A030717.

The bypass flows will help ensure protection of minimum flow volumes in the Navarro River necessary to support the existing anadromous fishery as determined by DFG and NMFS (Appendix C). Mitigation measure H-5/B-4 will implement the bypass flow control structure

design (Appendix D). Monitoring of the USGS Navarro River gage can easily be accomplished using the USGS web site for real-time data as described below in Mitigation Measure H-6/B-5.

- Mitigation Measure H-5/B-4: Prior to the diversion and use of water under this permit, Permittee shall install a diversion and bypass structure in the Unnamed Stream upstream of the reservoir consistent with the “Bypass Flow Control Structure – Preliminary Design” on file with the Division of Water Rights for the purpose of diverting and directing bypass flows around the reservoir to the Unnamed Stream. The structure must be capable of passively bypassing the flows required by the conditions of this permit. To demonstrate compliance with this term, Permittee shall furnish evidence which substantiates that the bypass structure has been installed, within sixty (60) days from the date of approval of the water right permit. If the bypass structure is rendered inoperative for any reason, all diversions shall cease until such time as it is restored to service. Said bypass structure shall be properly calibrated, operated, and maintained by the Permittee (or successors-in-interest) as long as any water is being diverted under any permit or license issued pursuant to Application A030717.
- Mitigation Measure H-6/B-5: Permittee shall maintain records of operation and maintenance of the diversion and bypass structure to document compliance with permit conditions. Observations shall be recorded and photocopied annually for submittal to the Division prior to July 1 of each year. Records will document the following:
 1. Date and time of installation and removal of flashboards in the diversion and bypass structure;
 2. Date and time of all routine maintenance activities related the to diversion and bypass structure, including clearance of debris from weir, culverts, pipe and weir inlets and outfalls, and observations of bypass swale for evidence of erosion;
 3. Weekly observations, with a maximum interval between observations of seven (7) days, of flow conditions at the diversion and bypass structure during the diversion season, and general character of reservoir storage (not filling, filling, or spilling through outlet pipe);
 4. Weekly flow observations of the United States Geological Survey Navarro River gage 11468000 beginning on December 14 or prior to diversion of flows to the reservoir and continuing until the end of the diversion season. When flow at the gage is less than 500 cubic feet per second, the gage flow data must be examined again within three (3) days. When flow at the gage is less than 400 cubic feet per second, the gage flow data must be examined again within one (1) day. Documentation of observations of the gage may be achieved by printing out a copy of downloaded gage flow data from the United States Geological Survey National Water Information System website at the time of observation, and collecting these copies in a 3-ring binder; and,
 5. Monthly calibration of the diversion and bypass structure to ensure that it is functioning to bypass the amount of water specified in terms of this permit.

Wildlife and Plant Species

Existing Environment: Botanical surveys (Appendix E) and wildlife surveys (Appendix F) were conducted at the project site to determine the potential for past and present occurrence of special-status plant and animal species. Of the four plant species and twelve wildlife species with potential to occur, none were found on the project site. Both surveys indicated it was not likely that sensitive species were affected by the construction of the dam.

Four plant species identified from the CNPS list and the CNDDDB could potentially occur on the site and were searched for on the site (Appendix E). These were Roderick's fritillary (*Fritillaria roderickii*), leafy-stemmed miterwort (*Mitella caulescens*), swamp harebell (*Campanula californica*) and north coast semaphore grass (*Pleuropogon hooverianus*). None of the four plants were found on the site.

Large diameter redwoods on the project site provide potential habitat for some sensitive species (see Appendix F). These include three sensitive mammals: the pallid bat (*Antrozous pallidus*), the long-eared Myotis (*Myotis evotis*), and the long-legged Myotis (*Myotis volans*). All three of these species have high potential occurrence on the site owing to roosting habitat found in large diameter redwood trees. In addition, vegetation and plantings of native species on the project site in proximity to the pond provide potential habitat for sensitive birds: the sharp-shinned hawk (*Accipiter striatus*) and Allen's hummingbird (*Selasphorus sasin*). *A. striatus* could find suitable nesting habitat in the larger trees on the site, and has moderate potential for occurrence on the site. Nesting habitat for *S. sasin* is wooded areas, meadows or thickets along shaded streams is present on the site and creates high potential for occurrence on the site. Anthropogenic habitat (ledges of structures) used for nests by the black phoebe (*Sayornis nigricans*) create high potential for occurrence of this species at the site. There is no suitable habitat on the project site for the red tree vole (*Arborimus pomo*), which inhabits old growth forests in the north coast fog belt from Oregon to Sonoma County, nor for the American peregrine falcon (*Falco peregrinus anatum*) which nests and roosts on protected ledges of high cliffs.

Special status species evaluated at the project site also included three amphibian and one fish species (Appendix F). No suitable habitat exists at the project site for the tailed frog (*Ascaphus truei*) and the foothill yellow-legged frog (*Rana boylei*); the former inhabits cold perennial streams, primarily in mature and old growth forest stands while the latter inhabits permanent flowing stream courses with cobble substrate. The Navarro roach, *Lavinia symmetricus navarroensis*, described as a habitat generalist found in warm intermittent streams and cold well-aerated streams was judged to have no suitable habitat on the project site.

The reservoir provides potential breeding habitat for California red-legged frog (*Rana aurora draytonii*), and presently supports abundant non-native bullfrogs (*Rana catesbeiana*). The applicant has observed that mosquito fish were resident in the reservoir from the beginning of his tenure on the property, and that migratory waterfowl inhabit the reservoir seasonally. The current owner reports that he has not introduced any fish or plants to the reservoir in his tenure.

According to the US Fish & Wildlife Service², California red-legged frogs require breeding habitat that remains watered for 11 to 20 weeks to allow tadpoles to develop into terrestrial frogs; this metamorphosis typically occurs between July and September. The site also provides non-breeding aquatic habitat (i.e. intermittent creeks, seeps and springs) that are important for

² U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp.

survival during drought periods and for dispersal to other breeding sites. The site also provides upland habitat that provides shade, moisture and cooler temperatures, such as organic debris, small mammal burrows and moist leaf litter occurring within 200 feet of the edge of riparian vegetation. Dispersal habitat (defined by the absence of barriers to migration within 0.7 miles of adjoining breeding habitat) is also present at the site. Hence, the site and its immediate environs provides for all necessary elements of critical habitat for California red-legged frogs.

Potential Impacts: Redwood trees on the site are not affected by the project directly, but irrigation of native plantings on the site probably provides additional soil moisture that can be utilized by redwoods. Hence, there is likely some enhancement of conditions for redwood, therefore there is likely some indirect habitat enhancement for some sensitive species on the project site (particularly the bats-*Myotis* spp. and *A. pallidus*, and to a lesser degree, *A. striatus*),. Similarly, the use of appropriated water to irrigate vegetation on the site tends to enhance nesting habitat available for the hummingbird *S. sasin*.

As discussed in the wildlife survey by Trish Tatarian, the conversion from non-native grassland habitat, that existed in 1972, to a reservoir, small vineyard and native plantings, built in 1998, resulted in no loss of habitat for special status species. The non-native grasslands provide for habitat for common wildlife species that are not protected under the federal Endangered Species Act (FESA) or the California Endangered Species Act (CESA).

The abundance of bullfrogs in this pond, and presumably in other ponds in the immediate vicinity, is not favorable for red-legged frog in that bullfrogs are competitors that limit the recruitment of California red-legged frog tadpoles to the juvenile stage. The control of bullfrogs within the area of the project is infeasible due to the fact that there are more than six large impoundments within one-half mile that likely support bullfrog populations and provides source populations for the project's reservoir. Nevertheless, the site provides suitable habitat for California red-legged frogs. The project's reservoir and plantings of vineyard and native plants are not expected to adversely affect habitat for the California red-legged frogs. In addition, the proposed bypass channel for hydrologic mitigation can be expected to provide additional non-breeding aquatic habitat and enhanced upland habitat for California red-legged frogs. Therefore the result of the project features on California red-legged frog habitat is less than significantly adverse but potentially beneficial.

None of the rare or endangered plants were found on the project site; hence no rare or endangered native plants are expected to be impacted by this project.

In addition, to ensure that potentially significant biological impacts do not occur, mitigation measures acknowledging other existing laws and regulations are referenced:

- Mitigation Measure B-6: This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code sections 2050 through 2097) or the federal Endangered Species Act (16 United States Code sections 1531 through 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 Endangered Species Act for the project authorized under this permit.

- Mitigation Measure B-7: 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 California Department of Fish and Game and the Permittee is filed with the Division of Water Rights. 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 of Water Rights a copy of a waiver signed by the California Department of Fish and Game.
- Mitigation Measure B-8: In accordance with California Department of Fish and Game Code section 6400 and for the protection of fish and wildlife, the reservoir shall not be stocked with non-native fish or aquatic species, unless the Permittee has received written consent from the California Department of Fish and Game. A copy of the written consent shall be provided to the Chief of the Division of Water Rights prior to stocking the reservoir with non-native fish or aquatic species.

Based on the information described above and the proposed mitigation measures, impacts from this project on biological resources should be less than significant.

5. AGRICULTURAL RESOURCES. In determining whether impacts to agricultural resources are significant environmental impacts, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping & Monitoring Program of the California Resources Agency, to non-agricultural uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The California Department of Conservation does not report Important Farmland for Mendocino County. The property is not subject to Williamson Act contract. The project provides irrigation water for the owner’s vineyard so will support the continued use of the property for agricultural purposes.

Potential Impacts: Based on the above description of the existing environment, the project will only have a positive impact on agricultural resources.

6. NOISE. Would the project result in:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing in or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing in or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The project will not result in the generation of noise or vibration, and is not located within an airport land use plan or in the vicinity of a private air strip. The Mendocino County General Plan lists 15 industrial noise sources in the County, the nearest being the Philo Mill, approximately 5 miles from the site.

Potential Impacts: The project will not generate noise and is not located near a noise source, so there will be no impacts.

7. LAND USE AND PLANNING. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

Existing Environment: The project is located in the north end of Anderson Valley where agricultural uses – primarily orchards and vineyards – are interspersed with open lightly forested rural residential land uses. The community of Philo is approximately 5 miles to the southeast on Highway 128. The project area is not subject to a habitat or natural community conservation plan.

Potential Impacts: The current land use is consistent with the General Plan and Zoning Ordinance of Mendocino County – therefore there will be no impacts to land use.

8. MINERAL RESOURCES. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The Mendocino County General Plan Open Space and Conservation Element indicates there are no known mineral deposits in the project area.

Potential Impacts: Based on the above description of the existing environment, there will be no impacts to mineral resources.

9. HAZARDS and HAZARDOUS MATERIALS. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or to the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or a public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Existing Environment: The project will not involve the use or handling of hazardous materials. The California Department of Toxic Substances Control lists five sites in Mendocino County, none of which is located near the project. There are no airports or airstrips in the project area and there are no emergency response or evacuation plans for this part of Mendocino County. The project is located in a large-tract rural residential area where agriculture and managed landscapes would minimize the possibility of impacts from wildfires.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts from hazards or hazardous materials.

10. POPULATION AND HOUSING. Would the project:

- | Issues (and Supporting Information Sources): | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| a) Induce substantial population growth in an area either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Existing Environment: The project is confined to one private parcel and will not create circumstances that could induce population growth or displace existing housing or people.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts to population or housing.

11. TRANSPORTATION / CIRCULATION. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (<i>i.e.</i> , result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially increase hazards due to a design feature (<i>e.g.</i> , sharp curves or dangerous intersections) or incompatible uses (<i>e.g.</i> , farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Exceed, either individually or cumulatively, a level-of-service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies supporting alternative transportation (<i>e.g.</i> , bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The project is confined to one private parcel and will not create circumstances that could cause an increase in traffic or affect emergency access or parking. Since no traffic will be generated by the project, level of service standards will not be affected. There are no traffic design features associated with the project and the project will not affect air traffic patterns.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts to transportation or circulation.

12. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------	--	------------------------------	-----------

a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The project will not require any of the above-listed public services for the construction of the bypass or its continued operation and maintenance.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts to public services.

13. UTILITIES AND SERVICE SYSTEMS. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The project will not require water service, or generate waste water, storm water runoff or solid waste.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts to utilities or service systems.

14. AESTHETICS. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: There are no scenic vistas or resources in the project area and the project will not generate light or glare. Mendocino County has designated Highway 1 and Highway 162 as scenic highway routes, but Highway 128 has not been designated scenic. The dam is not visible from Highway 128 due to tree cover and other vegetation near the base of the dam.

Potential Impacts: Based on the above description of the existing environment, the project will not result in aesthetic impacts.

15. CULTURAL RESOURCES. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A review of the project location, the background literature, and the archeological records and maps was completed by a Division of Water Rights staff archeologist. A field survey was not recommended since the determination was made that the potential for any significant impact appeared to be low; and the project was complete and there are to be no additional construction activities. Although a field survey was not done, there is the possibility that subsurface archeological deposits could be present and accidental discovery could occur. The following permit term, substantially as follows, shall be included in any permit or license issued pursuant to Application A030717:

- Mitigation Measure CR-1: 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 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 archaeologist 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.

There is also the possibility that an unanticipated discovery of human remains could occur. The following permit term, substantially as follows, shall be included in any permit or license issued pursuant to Application A030717:

- Mitigation Measure CR-2: If human remains are encountered, then the Permittee/Licensee shall comply with section 15064.5 (e) (1) of the CEQA Guidelines and the Health and Safety 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 within 24 hours. The Native American Heritage Commission will identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendent may make recommendations regarding the means of treating or disposing of the remains with appropriate dignity. 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.

16. RECREATION. Would the project:

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Existing Environment: The project will not affect any recreational resources or create additional demand for recreation facilities.

Potential Impacts: Based on the above description of the existing environment, the project will not result in impacts to recreation.

17. MANDATORY FINDINGS OF SIGNIFICANCE.

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The key environmental impact associated with the proposed diversion is its contribution to the cumulative diversions of the numerous small reservoirs in the Navarro River watershed which may store a significant portion of the runoff during fall and early winter and pose a risk to federally listed anadromous fisheries in the Navarro River mainstem, especially during periods of low flow. Both the state and federal agencies with jurisdiction over these species have developed procedures and measures to mitigate potential impacts to less than significant levels. For this project, mitigation measures described in the Biological Section of this Initial Study that include a limitation on the diversion to the December 15 to March 31 season each year, and the installation and activation of a bypass system that maintains a minimum bypass flow and precludes diversions when the mainstem Navarro River is at a critically low flow. By implementing the mitigation measures described, the cumulative impacts of the proposed diversion will be less than significant.

III. Determination

On the basis of this initial evaluation

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

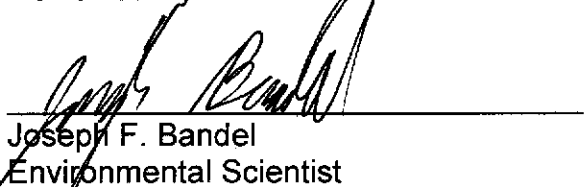
Prepared By:



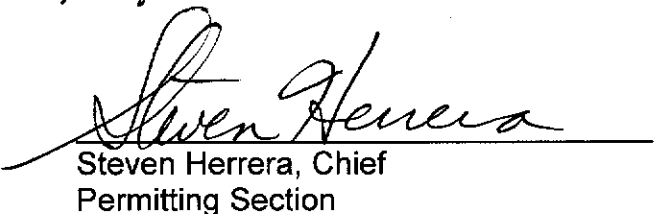
Matt O'Connor
President, OEI

6/3/2008
Date

Reviewed By:


Joseph F. Bandel
Environmental Scientist

6/10/2008
Date


Steven Herrera, Chief
Permitting Section

6/10/2008
Date

References

California Department of Fish and Game and National Marine Fisheries Service. 2002. Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams (Draft). Sacramento and Santa Rosa, CA.

California Department of Toxic Substances Control, EnviroStor Data Base search for Mendocino County, October 23, 2006

California Geological Survey, Special Publication 42, Fault-rupture Hazard Zones in California, from CGS Website: http://www.consrv.ca.gov/CGS/rghm/ap/disclose.htm#More_Info

Mendocino County Planning Department Internet Resources – Zoning Information: Zoning Lookup Utility, <http://www.co.mendocino.ca.us/planning/.ca.us>

Mendocino County Air Quality Management District, Particulate Matter Attainment Plan, January 2005

Mendocino County General Plan Elements

IV. Safety Element, 12-9-91

V. Seismic Safety Element, 12-9-91

VI. Noise Element, 12-9-91

VIII. Open Space and Conservation Element, 9-24-81

IX. Scenic Highways Element, 4-13-77

[all from Mendocino County Planning Department Website]

RealQuest.com, Property Detail Report for 2700 Guntley Road, Philo, CA, October 26, 2004

USDA Natural Resources Conservation Service, Soil Survey of Mendocino County, CA, Western Part from NRCS Website: <http://www.ca.nrcs.usda.gov/mlra02/wmendo.html>
Warrick, Chris, Building Official Mendocino County, email communication with Ernie Ralston, Matrix Environmental Planning, March 22, 2005

U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp

Appendices

APPENDIX A

Water Availability Analysis and Cumulative Flow Impairment Index Report

APPENDIX B

Fishery Assessment of Unnamed Tributary to Floodgate Creek

APPENDIX C

Navarro River Watershed Analysis Letter

APPENDIX D

Design Criteria for Bypass Control Structure

APPENDIX E

Special Species Status Report Botanical Survey

APPENDIX F

Wildlife Biological Assessment

U:\PERDRV\JBandel\30717 Jenks\A030717 Jenks Initial Study Rev6-02-08-Final