



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

PROPOSED MITIGATED NEGATIVE DECLARATION

Pursuant to California Public Resources Code Section 21080(c)

To:	Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044	From:	State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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PROJECT TITLE: Application A030717 to Appropriate Water

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

PROJECT DESCRIPTION:

Application 30717 seeks to appropriate 3.81 acre feet (af) of water to storage. The project consists of a 3.81 acre-foot (af) reservoir previously constructed 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. The unnamed swale connects with another downstream unnamed stream a short distance from the reservoir. The second unnamed stream is tributary to Floodgate Creek thence the Navarro River. Water is to be used to irrigate 1.5 acres of vineyard and the remaining 18.5 acres of landscape vegetation around the main house and the guest house of Jenks' property. Additional uses include frost protection, recreation, heat protection and wildlife enhancement.

The project includes modification of the diversion facility and the installation of a conveyance system around the existing reservoir to ensure that a minimum bypass flow equal to the February median flow (0.013 cubic feet per second) during the diversion season, and all water outside the diversion season will be bypassed for protection of aquatic resources and habitat.

DETERMINATION:

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

PERMIT CONDITIONS:

Source: Water is to be appropriated from one location on an Unnamed Stream tributary to an Unnamed Stream thence Floodgate Creek thence Navarro River in Mendocino County.

Point of Diversion: Point of Diversion by Collection to Storage is located North 6,132,758 and East 2,174,395, California Coordinate System, Zone 2. Being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 33, Township 15N, Range 15W, MDB&M.

California Environmental Protection Agency



Amount and Season: Water will be diverted to storage in a 3.81 acre-foot reservoir from December 15 of each year to March 31 of the following year.

Total Annual Use: Not to exceed 3.81 acre-feet per annum.

Purpose of Use: Wildlife Enhancement, Recreation, Fire Protection, Irrigation and Frost Protection for 1.5 acres of vineyard within 20 acres of native landscaping.

Place of Use: 20 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 33, Township 15N, Range 15W, MDB&M.

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permits, licenses, or orders issued by the State Water Resources Control Board.

The following permit terms will be included in any permits or licenses issued pursuant to Application 30717:

- Based on information contained in files maintained by the Division of Water Rights, Permittee has not diverted water under a basis of riparian right. Diversion of water is not authorized under this permit if Permittee diverts water under a basis of riparian right. Upon approval of the Chief of the Division of Water Rights, Permittee may use water under a basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Chief of the Division of Water Rights quantifying the amount of water that Permittee likely would have used under a basis of riparian right absent the appropriation authorized by this permit. The Chief of the Division of Water Rights is hereby authorized to approve or reject any proposal by Permittee to use water under a basis of riparian right on the place of use authorized by this permit.
- Prior to the diversion and use of water under this permit, Permittee shall install a staff gage in the reservoir, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining water levels in the reservoir. This staff gage must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee shall record the staff gage readings on the last day of each month and on December 15 annually. Permittee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and upon request from the Division of Water Rights. The State Water Resources Control Board may require the release of water that cannot be verified as having been collected under a valid basis of right.
- 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 this 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.

- The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed 3.81 acre-feet per annum to be collected from December 15 of each year through March 31 of the succeeding year.
- The total capacity of the reservoir authorized by this permit shall not exceed 3.81 acre-feet.
- This permit does not authorize the collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.
- Permittee shall maintain the existing spillway pipe through the dam in proper working order.
- 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.
- 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.
- 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.
- 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 of Water Rights 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 to diversion and bypass facilities, 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/bypass control 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 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.
- 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.
 - 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.
 - 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.
 - Any non-compliance with the terms of this permit shall be reported by the Permittee to the Chief of the Division of Water Rights within three (3) days of identification of the violation.

FOR MORE INFORMATION:

The Proposed Mitigated Negative Declaration and the Initial Study in support of the proposed Mitigated Negative Declaration are available on the Division of Water Rights website at <http://www.waterrights.ca.gov/ceqadocs.html>. A hard copy of these documents or additional information concerning the proposed action may be obtained by writing to Joseph Bandel at jbandel@waterboards.ca.gov or 916-552-9286, or writing to the Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000.

APPROVAL OF THE ABOVE IS RECOMMENDED BY:

Joseph F. Bandel
Environmental Scientist

Date

Steven Herrera, Chief
Water Rights Permitting

Date

APPROVED:

Victoria A. Whitney, Chief
Division of Water Rights

Date