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**State Water Resources Control Board**

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

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To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044	From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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**PROJECT TITLE:** WATER RIGHT APPLICATIONS 30722 AND 31434--DONNELLY CREEK VINEYARDS, LLC

**APPLICANT:** Donnelly Creek Vineyards, LLC  
c/o Wagner & Bonsignore, CCE  
2151 River Plaza Drive, Suite 100  
Sacramento, CA 95833

**PROJECT LOCATION:**

The project associated with Applications 30722 and 31434 of Donnelly Creek Vineyards is located approximately one quarter mile north of Boonville in Mendocino County, CA. The project site is within the SE ¼ of projected Section 1, and SW ¼ of Section 2, all within Township 13N, Range 14W of the "Boonville, CA" US Geological Survey 7.5 minute topographic quadrangle.

**PROJECT DESCRIPTION:**

Water right Applications 30722 and 31434 request diversion of a maximum of 150 acre feet per annum from an Unnamed Stream tributary to a second Unnamed Stream, thence Donnelly Creek thence Anderson Creek and Anderson Creek tributary to the Navarro River. Application 30722 would divert up to 100 acre feet of water from December 15 of each year to March 31 of the succeeding year to storage in one offstream reservoir (Reservoir 1) and one onstream reservoir (Reservoir 2). Water stored in the reservoirs would be used for irrigation and frost protection of 56.9 acres of vineyard. Application 31434 requests direct diversion of a maximum of 50 acre feet of water from March 15 through March 31 of each year, at a rate of one cubic foot per second for frost protection of the 56.9 acre place of use. At the time the applications were filed, 50.9 acres of the place of use was cultivated in vineyard, and 6 acres were undeveloped. Construction of both reservoirs is complete. The project involves review of potential impacts from the conversion of 6 acres of land into vineyard, and the diversion and use of 150 acre feet of water.

**DETERMINATION:**

The State Water Resources Control Board (State Water Board) has determined that the above-described project will have a less than significant effect on the environment for the reasons specified in the Initial Study prepared for this project.

**WATER RIGHT TERMS:**

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permits, licenses, or orders issued pursuant to Applications 30722 and 31434 by the State Water Board.

1. Prior to disturbance of the portion of the place of use named in this permit that does not exist as of the date of this permit, Permittee shall submit an erosion control plan for approval by the Deputy Director for Water Rights. Said plan shall include measures to prevent sediment from leaving the construction area and entering waters of the State before, during, and after construction.
2. Within six months of the date of this permit, an erosion control plan shall be submitted to and approved by the Deputy Director for Water Rights. Said plan shall include measures to prevent sediment from leaving the place of use and entering waters of the State. Permittee shall provide the Division of Water Rights with evidence that substantiates that the erosion control measures contained in the plan are functioning properly every five years after installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.
3. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.
4. Prior to disturbance of the portion of the place of use named in this permit that does not exist as of the date of this permit, an emission control plan shall be submitted to and approved by the Deputy Director for Water Rights. Said plan shall include measures to reduce construction-related emissions for the purpose of minimizing air quality impacts during construction.
5. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, Permittee shall file a report pursuant to Water Code section 13260 and shall comply with all waste discharge requirements imposed by the Regional Water Quality Control Board, North Coast Region, or by the State Water Board.
6. No water shall be diverted from POD 1 under this permit unless the flow in Anderson Creek is at or above 37.17 cubic feet per second, as measured at POD 1.

7. No water shall be diverted under this right unless right holder is operating in accordance with a compliance plan, satisfactory to the Deputy Director for Water Rights. Said compliance plan shall specify how right holder will comply with the terms and conditions of this right. Right holder shall comply with all reporting requirements in accordance with the schedule contained in the compliance plan.
8. No water shall be diverted under this permit unless Permittee is operating the water diversion facility for Point of Diversion 1 with a fish screen satisfactory to the Deputy Director for Water Rights. The fish screen shall be designed and maintained in accordance with the screening criteria of the National Marine Fisheries Service. Permittee shall provide evidence that demonstrates that the fish screen is in good condition with the annual report and whenever requested by the Division of Water Rights.
9. Prior to development of vineyard areas not existing as of the date of this permit, and if said construction activities are to occur between February 1 and September 30, Permittee shall hire a biologist, whose qualifications are acceptable to the Deputy Director for Water Rights, to conduct a pre-construction survey for the purpose of identifying nesting bird species. The pre-construction survey shall include all potential nesting habitat within 500 feet of proposed construction areas. The survey shall be conducted no more than 14 days prior to the beginning of construction activities. If an active raptor or migratory bird nest is found during the pre-construction survey, the Permittee shall notify the Department of Fish and Game and the United States Fish and Wildlife Service. If an active raptor nest is found during the pre-construction survey, a 500-foot no-disturbance buffer shall be established and maintained around the nest until all young have fledged. If an active nest of any other migratory or non-migratory bird is found, a 250-foot buffer shall be established around the nest until all young have fledged.
10. For undeveloped portions of the place of use along and adjacent to Anderson Creek, Permittee shall establish a setback for the protection of the riparian corridor along this creek. The setback shall be measured from the Watercourse Transition Line as defined the 2012 California Forest Practice Rules (Cal. Code Regs., tit. 14, § 895.1.) and shall extend a minimum of 100 feet or to the outer edge of the drip line of the existing riparian trees, whichever is greater. Prior to ground disturbing activities adjacent to setback areas, the Permittee shall stake the setback and notify the Department of Fish and Game. Except for the exclusions stated herein, no ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas. There is excluded from the setback areas established herein all existing vineyards and planted landscape areas, roads and roadways, bridges, equipment and material storage areas, buildings, structures, fences, wells, pipes, drainage facilities, utility lines and poles, pumps, sumps, water diversion and storage facilities, and access to all of the foregoing existing features for purposes of operation, maintenance, and replacement, as such facilities and access exists now or may from time to time be modified. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the setback area are allowed. Permittee shall restrict cattle or other domestic stock access

to the riparian area. These requirements shall remain in effect as long as water is being diverted under this permit.

11. Permittee shall establish a minimum 25 foot setback around the palustrine emergent wetland shown on Figure 8 of the Initial Study/Mitigated Negative Declaration for Applications 30722 and 31434 adopted by the State Water Board on December 12, 2012. Prior to ground disturbing activities adjacent to the palustrine emergent wetland, the Permittee shall stake the setback and notify the Department of Fish and Game. Except for activities necessary for the ongoing operation and management of any existing vineyard within the setback and activities associated with future replanting of any existing vineyard within the setback, no ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas. Permittee shall restrict cattle or other domestic stock access to the palustrine emergent wetland. These requirements shall remain in effect as long as water is being diverted under this permit.
12. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; structure and feature remains such as building foundations, privy pits, wells, and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for 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 Deputy Director for Water Rights.
13. The building identified by Anthropological Studies Center in the report titled "A Cultural Resources Study of the Donnelly Creek Vineyards Property, Boonville, Mendocino County, California" dated January 1999, shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage reservoirs, and distribution facilities, including installation of buried pipelines; and ripping, trenching, grading, or planting related to conversion and maintenance of the place of use). If future project-related activities or developments at the location of the building are unavoidable, then an archaeologist who has been approved by the California Historical Information System to work in the area and who is acceptable to the staff of the Division of Water Rights shall further evaluate the site and determine if it is recommended for listing on the California Register of Historical Resources. If mitigation is determined to be necessary, then the archaeologist shall design an appropriate mitigation plan and submit the plan for approval by the Deputy Director for Water Rights. After the plan has been approved, the mitigation must be completed to the satisfaction of the Deputy Director for Water Rights prior to activities in the area of the site. Permittee shall be responsible for all costs associated with the cultural resource related work.

14. If human remains are encountered, the Permittee shall comply with Section 15064.5 (e) (1) of the State 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 to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.

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APPROVED:

ORIGINAL SIGNED BY:  
JAMES W. KASSEL FOR

Barbara Evoy, Deputy Director  
Division of Water Rights

Dated: DEC 12 2012