



# State Water Resources Control Board



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

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

**Arnold Schwarzenegger**  
Governor

**PROPOSED  
MITIGATED NEGATIVE DECLARATION**  
Pursuant to Section 21092  
**Public Resources Code**

To: Office of Planning & Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, CA 95812-3044

From: State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000

**PROJECT TITLE:** Application to Appropriate Water

**APPLICATION:** 30740

**APPLICANT:** Sutter Home Winery  
c/o Diane Willson  
Napa Valley Vineyard Engineering, Inc.  
176 Main Street, Suite B  
St. Helena, CA 94574

**PROJECT DESCRIPTION:** The project consists of an existing onstream reservoir with a capacity of 26 acre feet. The reservoir is located on an Unnamed Stream tributary to North Slough thence Napa River and the reservoir is formed by an earthen dam approximately 405 feet long and 24 feet high. The water stored in the reservoir will be used to irrigate 161 acres of vineyard (i.e., 153 acres of existing vineyard plus an additional 8 acres which would be converted from pasture land to vineyard). The reservoir was originally used as a stockwatering pond and was registered as such in 1981.

A permit for application 30740 would allow for the diversion to storage of 26 acre feet per year. Water would be used for irrigation and fire protection. In addition to water stored in the reservoir the applicant will continue to purchase municipal raw water from the City of American Canyon to supplement irrigation needs.

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

**PERMIT CONDITIONS:**

Water is to be appropriated from an Unnamed Stream tributary to North Slough thence Napa River thence San Pablo Bay.

Point of Diversion is located within the NW ¼ of NE ¼ of Section 18, T4N, R3W, MDB&M.

Amount and Season: 26 af per year, from December 15 to March 31 of the succeeding year only after bypassing February median flow of 0.11 cfs.

**Purposes of Use:** irrigation and fire protection

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Place of Use: 17 acres within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 35 acres within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 9 acres within SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 17 acres within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 15 acres within SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 38 acres within SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 7, T4N, R3W, MDB&M, 9 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T4N, R3W, MDB&M, 12 acres within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T4N, R3W, MDB&M and 9 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 18, T4N, R3W, MDB&M. Total of 161 acres.

Storage Amount: 26 acre-feet

**PROPOSED PERMIT TERMS:** Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures will be included in any permit term or license issued by the State Water Resources Control Board, substantially as follows:

1. Before storing water in the reservoir, 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 whenever requested by the Division.

The State Water Board may require the release of water that cannot be verified as having been collected under a valid basis of right.

2. Prior to diversion or use of water under this permit, Permittee shall install an in-line flow meter, satisfactory to the Chief of the Division of Water Rights that measures the instantaneous rate and the cumulative amount of water withdrawn from the Reservoir. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these records with annual progress reports, and whenever requested by the Division.
3. The water appropriated shall be limited to the quantity, which can be beneficially used and shall not exceed 26 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year.
4. The total capacity of the reservoir authorized by this permit shall not exceed 26 acre-feet.
5. 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.

6. For the protection of potential habitat for California red-legged frog (*Rana aurora draytonii*) and the Northwestern pond turtle (*Emys marmorata marmorata*) and to allow for the continued growth of riparian vegetation, the Permittee shall:
  - a) Maintain a 50-foot-wide setback around the reservoir as shown on Setback Map No. SB-01 dated March 27, 2007 on file with the Division of Water Rights. No new ground disturbing activities shall occur within the setback area, with the exception of occasional equipment access necessary for continued operation of the reservoir. Equipment access within the setback area shall be limited to only activities necessary for the ongoing operation of the reservoir and shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Natural vegetation shall be preserved and protected within the setback area. Planting of native riparian vegetation within the setback area is allowed.
  - b) Obtain approval of the United States Fish and Wildlife Service (USFWS), Sacramento Endangered Species Office, and the California Department of Fish and Game (DFG) prior to any future reservoir dredging operations. Permittee shall submit to the Chief of the Division of Water Rights evidence of agencies approval prior to any future reservoir dredging operations;
  - c) Refrain from disturbing emergent (wetland) vegetation in the reservoir during dredging operation;
  - d) Not introduce nonnative fish or amphibian species into the reservoir; and
  - e) Consult with DFG and USFWS should any bullfrogs be discovered at or near the reservoir to develop and implement an acceptable bullfrog eradication program. The eradication program may require periodic draining of the reservoir.
  
7. For the protection of riparian habitat, Permittee shall establish a setback as shown on Setback Map No. SB-01 dated March 27, 2007 on file with the Division of Water Rights. The setback shall be at least 30 feet wide along unnamed stream as measured from the top of the bank on both sides of the stream. No ground disturbing activities shall occur within the setback area, including, but not limited to, grading, herbicide spraying, roads, fencing, and use or construction of storage areas, with the exception of occasional equipment access reasonably necessary for continued operation of the vineyard. Equipment access through the setback shall be limited to previously disturbed areas of the setback when possible and is only allowed when other means of access are not available. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Additionally, annual mowing of grasses to reduce fire hazard will be allowed in a 20-foot wide area adjacent to vineyards, provided that rooted vegetative cover is maintained year-round in mowed areas. Planting of native riparian vegetation within the setback area is allowed. Permittee shall restrict cattle or other domestic stock access to the riparian area. These requirements shall remain in effect as long as water is being diverted under this permit.
  
8. Based on the information contained in the Division's files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if in the future the Permittee diverts water under riparian right. With the Chief of the Division's approval,

Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Chief of the Division quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Chief of the Division is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.

9. For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from December 15 through March 31 bypass a minimum of 0.11 cubic feet per second (cfs). Under all bases of right Permittee shall bypass the total streamflow from April 1 through December 14. The total streamflow shall be bypassed whenever it is less than 0.11 cfs.
10. Prior to diversion or use of water under this permit, the Permittee shall submit a revised Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:
  - a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
  - b) A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and/or reservoir storage capacity, including any necessary calibration.
  - c) A time schedule for the installation and rating of these facilities.
  - d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
  - e) An operation and maintenance plan that will be used to maintain all facilities in good condition.
  - f) A description of the events that will trigger recalibration of the monitoring devices, and the process that will be used to recalibrate.

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

The monitoring data shall be maintained by the Permittee and made available to the Chief of the Division of Water Rights, upon request.

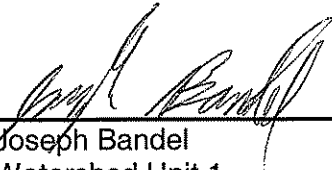
Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

11. Any non-compliance with the terms of the permit shall be reported by the permittee to the Chief of the Division of Water Rights within 3 days of identification of the violation.

12. No water shall be diverted or used under this permit until Permittee has installed devices, satisfactory to the Chief of the Division of Water Rights, which are capable of measuring the bypass flows required by the conditions of this permit. Said measuring devices shall be properly maintained in operating condition as long as water is being diverted or used under this permit.
13. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators can include, but not necessarily be limited to: stone tools and flaking debris; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing artifactual material such as bone and shell fragments, stone tools, or fire-cracked rock. Historic period site indicators can 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 Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
14. If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Public Resources Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines 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. 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.
15. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir, which is not authorized for appropriation under this permit, can be released. Before storing water in the reservoir, Permittee shall furnish to the Division of Water Rights evidence, which substantiates that the outlet pipe, or alternative facility, has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

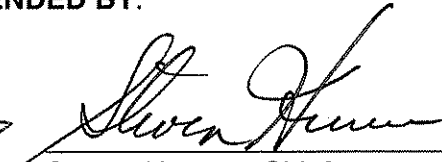
Contact Person: Joseph Bandel	Telephone: (916) 552-9286 email: jbandel@waterboards.ca.gov
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**APPROVAL OF THE ABOVE IS RECOMMENDED BY:**

  
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Joseph Bandel  
Watershed Unit 1

5/23/07  
Date

  
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Steven Herrera, Chief  
Water Right Permitting Section

5/23/07  
Date

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**APPROVED:**

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Victoria A. Whitney  
Division Chief

Date