



State Water Resources Control Board

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

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

PROJECT TITLE: Applications 31059 and 31060 of Linholme Properties, Ltd. to Appropriate Water by Permit

APPLICANT: Linholme Properties, Ltd.
c/o Nick Bonsignore
Wagner & Bonsignore
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833

PROJECT LOCATION:

The project site is located approximately ten miles northwest of the City of Ukiah in Mendocino County, California. The property can be found within Sections 28, 29, 32 and 33, Township 17N, Range 13W, of the "Laughlin Range, CA" U.S. Geological Survey 7.5-minute topographic quadrangle. The project site is located in the southeast portion of the property, approximately four miles east of Highway 101 on Reeves Canyon Road.

PROJECT DESCRIPTION:

Water Right Applications 31059 and 31060 were filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on September 1, 1999. As amended, Application 31059 proposes the direct diversion of up to 5.6 acre-feet (af) of water, at a rate up to 2.04 cubic feet per second (cfs), from March 15 through March 31. Water would be diverted at an existing reservoir located on three intermittent Unnamed Streams tributary to Mill Creek thence Forsythe Creek thence the Russian River. Water would be used for frost protection of 22 acres of existing vineyard.

As amended, Application 31060 proposes to divert up to 20.5 af of water to storage in the same existing onstream reservoir named in Application 31059, from December 15 through March 31. Water would be used for the purposes of irrigation, frost protection, and heat control of the same 22 acres named in Application 31059.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

**DETERMINATION:**

The 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 permit issued by the State Water Board pursuant to Applications 31059 and 31060:

- *No water shall be diverted under this right unless the flow in the Unnamed Stream is at or above 0.71 cubic feet per second, as determined at Point of Diversion 1.*
- *No water shall be diverted under this right unless right holder is operating in accordance with a mitigation plan satisfactory to the Deputy Director for Water Rights. The mitigation plan shall address management of non-native species and riparian habitat replacement. Right holder shall submit a report on mitigation plan activities in accordance with the time schedule contained in the mitigation plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the mitigation plan upon a determination that the plan is ineffective or unsuccessful, or provide relief from this term upon a determination that the mitigation plan is no longer required.*
- *No water shall be diverted under this right unless right holder is in compliance with the requirements of this term satisfactory to the Deputy Director for Water Rights. In order to provide habitat for the Western pond turtle (*Emys marmorata*), the right holder shall:*
  - *Establish and maintain a 50-foot wide setback around the reservoir, as shown in Figure 7 of the Linholme Properties Initial Study. Except for the exclusions stated herein, no activities shall occur within the setback area. Excluded from the setback area required by this term are any features, and access to such features, that existed prior to the date of this right and are delineated on the map. Features are defined as including but not limited to: cropland 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, and water diversion and storage facilities. Planting and irrigation of riparian vegetation within the setback area is allowed;*
  - *Obtain approval from the Deputy Director for Water Rights prior to dredging the reservoir. As part of obtaining approval, right holder shall (1) provide evidence of approval of dredging operations from the United States Fish and Wildlife Service, Sacramento Endangered Species Office, and the California Department of Fish and Wildlife; and (2) provide a plan to avoid disturbing the fringe of emergent (wetland) vegetation around the reservoir during dredging operations; and*
  - *Make no introduction of non-native fish species into the reservoir.*
- *Right holder shall establish setbacks for the protection of riparian corridors along the streams in the vicinity of the place of use, as shown in Figure 7 of the Linholme Properties Initial Study/Mitigated Negative Declaration; 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 75 feet or to the outer edge of the drip line of the existing riparian trees, whichever is greater from Class I streams. Right holder shall also establish setbacks for the protection of riparian corridors along the Class II streams in the vicinity of the place of use; 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 50 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 right holder shall stake the setback and notify the California Department of Fish and Wildlife. 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 (0.26 acres) 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. Right holder shall restrict cattle or other domestic stock access to the setback area. These requirements shall remain in effect as long as water is being diverted under this right.*

- *No water shall be diverted under this right unless right holder is operating in accordance with an oak tree mitigation plan. Right holder shall submit a report on oak tree mitigation plan activities in accordance with the time schedule contained in the mitigation plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the oak tree mitigation plan upon a determination that the plan is ineffective, or provide relief from this term upon a determination that the oak tree mitigation plan is no longer required.*
- *The prehistoric archaeological site identified as CA-MEN-620/621 by Tom Origer & Associates in the report titled "A Cultural Resources Survey for the Linholme Property Water Right Applications (#31059 & #31060), Mendocino County, California" dated April 7, 2010, shall not be impacted by any subsurface disturbances (e.g., ripping, trenching, grading, or installation of buried pipelines). Routine maintenance of existing vineyard, including shallow discing and weed mowing will continue to be allowed. When vine replacement is necessary, vine removal shall be done as non-invasively as possible, by pulling the vines vertically with a chain attached to the hydraulic system on a tractor. Vine removal shall occur only while the soil is moist down to six inches, and new vines shall be replanted in the same location as the vines which were removed. The right holder shall mark the location of CA-MEN-620/621 with permanent fence posts. The delineation of the site area shall be determined by a professional archeologist in consultation with the State Water Board. GPS coordinates shall be used to identify the boundary of the sensitive area and be submitted to the Division of Water Rights. Right holder shall be responsible for all costs associated with the cultural resource related work.*
- *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 Deputy Director for Water Rights shall be notified of the discovery and a professional archaeologist shall be retained by the right holder 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.*

- If human remains are encountered, the right holder shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbances within 100 feet of the find shall be halted until the Mendocino 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.*
- If vertebrate fossils are discovered during project activities, all work shall cease within 100 feet of the find until a qualified professional paleontologist as defined by the Society of Vertebrate Paleontology's Conformable Impact Mitigation Guidelines Committee (2011) can assess the nature and importance of the find and recommend appropriate treatment. The Division of Water Rights will also be notified of the discovery and the qualified professional paleontologist's opinion within 48 hours of the initial finding. Treatment may include preparation and recovery of fossil materials, so that they can be housed in an appropriate museum or university collection, and also may include preparation of a report for publication describing the finds. Project activities shall not resume until after the qualified professional paleontologist has given clearance and evidence of such clearance has been submitted to the Division of Water Rights.*

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