

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Applications 31059 and 31060

LINHOLME PROPERTIES, LTD.

ORDER CANCELING PROTESTS

SOURCE: Unnamed Stream tributary to Mill Creek thence Forsythe Creek thence the Russian River

COUNTY: Mendocino

WHEREAS:

1. Linholme Properties, Ltd. filed water right Applications 31059 and 31060 (project) with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on September 1, 1999 to divert water from an unnamed stream tributary to Mill Creek thence Forsythe Creek thence the Russian River.
2. Public notice of the subject applications was issued on June 6, 2003. The protests filed by Trout Unlimited, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (protestants) are unresolved. The protest filed by Trout Unlimited is based on concerns that over-appropriation of water from the Russian River and its tributaries is causing a decline in population of Coho salmon and steelhead trout. The protest filed by the California Department of Fish and Wildlife is based on concerns that the project would result in reduced stream flow during critical periods. The protest filed by the National Marine Fisheries Service is based on concerns that the project may cause "take" of federally listed anadromous fish through effects on instream flows.
3. Pursuant to the California Environmental Quality Act, an Initial Study and Mitigated Negative Declaration (IS/MND) (SCH # 2014022030) were prepared for the project. The IS/MND is located in the application files and is incorporated in this Order by reference. The IS/MND identifies mitigation measures to reduce potential environmental impacts to a less than significant level, including a minimum bypass flow requirement intended to mitigate the flow-related effects of the project on anadromous fish and other instream resources. The minimum bypass flow requirement and other mitigation measures identified in the IS/MND will be included in any rights issued.

4. By letters dated February 12, 2014, the Division provided the protestants with public notice of the project IS/MND and associated 30-day review and comment period, and requested the following information within the same 30-day timeframe: (i) identification of the specific allegations raised in their protests that they believe were not adequately resolved by the information contained in the project IS/MND, and (ii) a statement of facts, supporting their allegations, which they believe provides substantial evidence that, despite the information and conclusions contained in the project IS/MND, the proposed appropriation would not be in the public interest, would adversely affect public trust uses, or would have an adverse environmental impact. No responses were received within the 30-day timeframe given.
5. There is no substantial evidence in light of the whole record to support the allegations.
6. The State Water Board has delegated the authority to cancel protests to the Deputy Director of Water Rights pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director, pursuant to redelegation order dated July 6, 2012.

THEREFORE, IT IS ORDERED THAT THE PROTESTS FILED ON APPLICATIONS 31059 AND 31060 ARE CANCELED.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY JOHN O'HAGAN, FOR

*Leslie F. Grober, Deputy Director
Division of Water Rights*

Dated: AUG 15, 2017