
State Water Resources Control Board

FINAL MITIGATION MONITORING PLAN Water Right Application 31095 Barry Hoffner

This Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in conformance with the California Environmental Quality Act (Public Resources Code § 21081.6). The MMRP has been developed based on the information and mitigation measures contained in the Initial Study/Mitigated Negative Declaration (IS/MND) for Water Right Application 31095. The MMRP lists mitigation measures recommended in the IS/MND for the proposed projects and specifies implementation and monitoring responsibilities. Pursuant to Public Resources Code section 21081.6(b), each of the mitigation measures identified in the MMRP will be included as enforceable permit terms in any permit authorizing construction, diversion, or use of water pursuant to Water Right Application 31095.

Generally, the State Water Resources Control Board, Division of Water Rights (Division) Permitting Section staff will monitor mitigation measures requiring pre-construction actions or submittals. Construction and post construction mitigation measures will be monitored by the Division of Water Rights staff as specified in the attached matrix. Compliance with mitigation measures will be assessed through the Division's routine compliance monitoring activities. Long-term compliance will be assessed when the Permit is subject to Licensing, at which time the Permittee will be required to demonstrate compliance with permit terms. Non-compliance with mitigation measures may be addressed through the Division's ongoing enforcement program on an as needed basis.

All documents and other information that constitute the public record for this project shall be maintained by the Division and shall be available for public review at the following address:

State Water Resources Control Board
Division of Water Rights, 2nd Floor
1001 I Street
Sacramento, CA 95814

PROJECT DESCRIPTION:

Water Right Application 31095 requests the seasonal diversion of up to 24 acre-feet per year to storage from an Unnamed Stream associated with point of diversion 1 (onstream reservoir) and a second Unnamed Stream (locally referred to as Sulphur Creek) associated with point of diversion 2 (diversion to offstream storage), both of which are tributary to Big Sulphur Creek

thence the Russian River. Water would be diverted from December 15 to March 31 of each year.

The place of use consists of 17 gross acres of vineyard, and the onstream reservoir at point of diversion 1. Proposed water uses include irrigation of the vineyard, recreation, heat control, and fire protection. Vineyard irrigation is accomplished using drip systems and sprinklers.

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Mitigation Measure	Implementation	Timing	Monitoring /Enforcement
Hydrology and Water Quality			
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.	Permittee	Pre-construction, construction	Division of Water Rights
Construction activities within 100 feet of any drainage shall only occur between May 15 and October 31 to minimize the potential for rainfall events to mobilize and transport sediment to aquatic resources.	Permittee	Construction	Division of Water Rights
No water shall be diverted at point of diversion 2 under this right unless the flow in the Unnamed Stream (Sulphur Creek) is at or above 0.5 cubic feet per second, as determined at point of diversion 2.	Permittee	Ongoing	Division of Water Rights
<p>No water shall be diverted under this right unless the permittee is monitoring and recording the water surface elevations in the reservoir. This monitoring shall be conducted using a device and methods satisfactory to the Deputy Director for Water Rights. The device shall be capable of monitoring water surface elevations from the maximum water line to the minimum water line known to exist for the reservoir and shall be properly maintained.</p> <p>The permittee shall provide the Division of Water Rights with evidence that the device has been installed and the mark or reading corresponding to the maximum water line of the reservoir with the first annual report submitted after device installation. Permittee shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every five years after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights.</p> <p>The permittee shall measure and record water surface elevations on or about the last day each month and on December 15. The records shall be submitted with the annual report or whenever requested by the Division of Water Rights. The State Water Resources Control Board may require release of water held in storage that cannot be verified by monthly records. Failure to maintain or submit the required records may result in the requirement to release the entire content of the reservoir's storage.</p>	Permittee	Ongoing	Division of Water Rights
The capacity of the reservoir covered under this water right shall not exceed 24 acre-feet.	Permittee	Ongoing	Division of Water Rights

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The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 24 acre-feet per year by storage to be collected from December 15 of each year to March 31 of the succeeding year.	Permittee	Ongoing	Division of Water Rights
Based on the information in the Division of Water Right's files, water has not been used under a claimed existing right on the place of use. If permittee exercises a claimed existing right on the place of use authorized by this right without prior approval from the State Water Board, permittee shall forfeit this water right.	Permittee	Ongoing	Division of Water Rights
Any noncompliance with the terms of the permit shall be reported by the permittee to the Deputy Director for Water Rights within three days of identification of the violation.	Permittee	Ongoing	Division of Water Rights
Biological Resources			
<p>For the protection of the foothill yellow-legged frog (<i>Rana boylei</i>), permittee shall:</p> <ul style="list-style-type: none"> Forty-eight hours prior to construction activities in the Unnamed Stream (aka Sulphur Creek) and the adjacent riparian habitat, a preconstruction survey for foothill yellow-legged frogs will be conducted by a qualified biologist. The biologist will be familiar with the foothill yellow-legged frog life cycle and will conduct appropriate surveys for the applicable life stage (eggs, larvae, adults). This survey will occur during daytime hours and will involve walking upstream along the channel edge at a starting point 25 feet downstream of point of diversion 2. The total length of survey will be 50 feet. The surveyor will visually scan upstream areas of the channel and banks with binoculars looking for basking adults and then proceed upstream looking down into the channel for larvae and eggs (depending on the time of year). All observed amphibians will be identified and recorded to species and, where possible, photographs taken. The biological monitor will possess a current Letter of Permission from the California Department of Fish and Wildlife that authorizes the biologist for the capture and release of amphibians in case a foothill yellow-legged frog is observed in the work area. Survey results will be documented in a letter report and submitted to the Deputy Director for Water Rights. During work in Sulphur Creek and associated riparian habitat, a qualified biological monitor will be on site to ensure that no foothill yellow-legged frogs 	Permittee, CDFW	Pre-construction, construction, Ongoing	Division of Water Rights

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<p>are harmed during the construction of the bypass structure. The biological monitor will possess a Letter of Permission from the California Department of Fish and Wildlife that authorizes the biologist for the capture and release of amphibians in case a foothill yellow-legged frog is observed in the work area.</p>			
<p>To allow for the continued growth of wetland vegetation and for the protection of potential habitat of the western pond turtle (<i>Emys marmorata</i>), permittee shall:</p> <ul style="list-style-type: none"> • Maintain existing setback around the reservoir authorized under this permit to encompass the interior of the upper embankment and the fringe of wetland vegetation surrounding the reservoir. No new ground disturbing activities shall occur within the setback area. Equipment access within the setback area shall be limited to activities necessary for the ongoing operation of the reservoir(s) 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 vegetation within the setback area is allowed; • Obtain approval of the United States Fish and Wildlife Service, Sacramento Endangered Species Office, and the California Department of Fish and Wildlife prior to any future reservoir dredging operations. Permittee shall submit to the Deputy Director for Water Rights evidence of agencies' approval prior to any future reservoir dredging operations; • Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during dredging operations; • Make no introduction of non-native fish species into the reservoir; and • Consult with the United States Fish and Wildlife Service and California Department of Fish and Wildlife should any bullfrogs or non-native fish be discovered at or near the reservoir to develop and implement an acceptable bullfrog eradication program. 	<p>Permittee, USFWS, CDFW</p>	<p>Ongoing</p>	<p>Division of Water Rights</p>
<p>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 California Regional Water</p>	<p>Permittee, SFRWQCB</p>	<p>Pre-construction, Ongoing</p>	<p>Division of Water Rights</p>

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<p>Quality Control Board, North Coast Region, or by the State Water Resources Control Board.</p>			
<p>Cultural Resources</p>			
<p>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.</p>	<p>Permittee</p>	<p>Construction, ongoing</p>	<p>Division of Water Rights</p>
<p>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 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 Deputy Director for Water Rights.</p>	<p>Permittee</p>	<p>Construction, ongoing</p>	<p>Division of Water Rights</p>

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<p>If human remains are encountered, the permittee shall comply with Section 15064.5 (e) (1) of the State California Environmental Quality Act 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.</p>	<p>Permittee</p>	<p>Construction, ongoing</p>	<p>Division of Water Rights</p>