



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th 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

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
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PROJECT TITLE: Cakebread Vineyards, Application 31133 to Appropriate Water.

APPLICANT: Mr. Bruce Cakebread
Cakebread Vineyards
P.O. Box 216
Rutherford, CA 94573

PROJECT LOCATION:

The Cakebread Vineyards property (project site) consists of 62 acres immediately north of Boonville off Highway 128 in Mendocino County, California. The project site is located within Section 2, Township 13N, Range 14W of the "Boonville, California" U.S. Geological Survey (USGS) 7.5 minute topographic quadrangle.

PROJECT DESCRIPTION:

Water Right Application 31133 was filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on January 30, 2001. Water will be diverted to offstream storage from Anderson Creek, a tributary to the Navarro River, via an offset well at a rate of up to 2.9 cubic feet per second (cfs) from December 15 of each year to March 31 of the succeeding year. Water will be stored in an existing offstream pit-type reservoir with a capacity of 49 acre-feet for the purposes of irrigation, frost protection, and heat control of 47 acres of vineyard as well as recreational and fire protection uses.

DETERMINATION:

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

PERMIT CONDITIONS:

Source: Water is to be appropriated from an Anderson Creek tributary to the Navarro River, Mendocino County

Point of Diversion: Point of Diversion to Offstream Storage, located North 2,134,195 and East 6,171,958, 1983 California Coordinate System, Zone 2. Being within the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 13N, Range 14W, MDB&M.

Amount and Season: Water will be diverted to storage in a 49 acre-foot offstream reservoir from December 15 of each year to March 31 of the following year.

Total Annual Use: Not to exceed 49 acre-feet per annum (storage).

Purpose of Use: Storage of water for the purposes of irrigation, frost protection and heat control of 47 acres of vineyard as well as recreation and fire protection at the reservoir.

Place of Use:

Use is Within	Section	Township	Range	B. & M.	Acres	Cultivated
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	2	13N	14W	MD	1	Yes
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	2	13N	14W	MD	12	Yes
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	2	13N	14W	MD	30	Yes
SE $\frac{1}{4}$ of NW $\frac{1}{4}$	2	13N	14W	MD	4	Yes
				TOTAL	47 Acres	

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 by the State Water Resources Control Board.

The following permit terms will be included in any permits or licenses issued pursuant to Application 31133:

- 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 North Coast Regional Water Quality Control Board or by the State Water Resources Control Board.
- 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.

- The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 49 afa to be collected from December 15 of each year to March 31 of the succeeding year.
- The maximum rate of diversion to offstream storage shall not exceed 2.9 cubic feet per second.
- The capacity of the reservoir covered under this permit shall not exceed 49 acre-feet.
- 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.

- 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 diverted from Anderson Creek. 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.
- 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 46.5 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 46.5 cfs.
- Prior to the start of construction, or diversion or use of water under this permit, the Permittee shall submit a 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.

Permittee shall maintain all measurements and other monitoring required by this condition. Permittee shall provide measuring and monitoring records to the Chief of the Division of Water Rights within 15 days upon request by the State Water Resources Control Board, the Division Chief, or other authorized designees of the State Water Resources Control Board.

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.

- No information is contained in the Division's files indicating riparian water has 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.
- Permittee shall report any non-compliance with the terms of the permit to the Chief of the Division of Water Rights within three days of identification of the violation.
- For the protection of riparian habitat, Permittee shall establish a setback as shown on Setback Map No. SB-01, dated May 26, 2009 on file with the Division of Water Rights. The setback shall be at least 75 feet wide and greater where necessary along Anderson Creek and Donelly Creek in order to encompass all existing native vegetation along the riparian corridor of both creeks. The setback shall extend to the outer edge of the drip line of the existing riparian vegetation 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

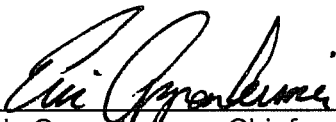
possible and is only allowed when other means of access are not available. Equipment access through the setback area shall incorporate best management practices to minimize disturbance to water, soils, and vegetation. Planting and irrigation of native riparian vegetation within the setback area are allowed. 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.

- This permit does not authorize any act that results in the taking of a threatened, endangered, or candidate species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, §§ 205- 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- Should any buried archaeological 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 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 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.
- If human remains are encountered, then the Applicant 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 and evidence of completion has been submitted to the Chief of the Division of Water Rights.

The Initial Study in support of the proposed Mitigated Negative Declaration is available on the Division of Water Rights website at <http://www.waterrights.ca.gov/ceqadocs.html>. A hard copy of this document or additional information concerning the proposed action may be obtained by writing to Eric Oppenheimer, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000, by email at EOppenheimer@waterboards.ca.gov or by calling Eric Oppenheimer at (916) 341-5384.

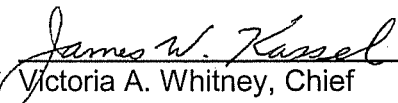
Contact Person: Eric Oppenheimer	Telephone: (916) 341-5384 email: EOppenheimer@waterboards.ca.gov
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APPROVAL OF THE ABOVE IS RECOMMENDED BY:

 6/11/09
Eric Oppenheimer, Chief Date
Russian River Watershed Unit

 6/11/09
Steven Herrera, Chief Date
Water Rights Permitting Section

APPROVED:

for  6/11/09
Victoria A. Whitney, Chief Date
Division of Water Rights