

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

DIVISION OF WATER RIGHTS

In the Matter of Application 31133
Cakebread Vineyards LLC

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Anderson Creek

COUNTY: Mendocino

WHEREAS:

1. Application 31133 was filed with the State Water Resources Control Board (State Water Board) on January 30, 2001 by Cakebread Vineyards LLC (Applicant).
2. Applicant requested to divert 49 acre-feet per annum (afa) to offstream storage via an offset well at a rate of 2.9 cubic feet per second to an existing 49 acre-foot offstream pit-type reservoir. Water will be used for irrigation, frost protection and heat control of 47 acres of vineyard as well as recreational and fire protection uses. The proposed water use is beneficial.
3. The Division issued a public notice of Application 31133 on March 7, 2003. All protests to approval of the application have been resolved by inclusion of permit conditions regarding prior rights and by dismissal pursuant to Water Code section 1335, subdivision (d).
4. The State Water Board has determined that there is unappropriated water available to serve Application 31133. Wagner and Bonsignore Consulting Civil Engineers and Napa Valley Vineyard Engineering jointly prepared a water availability analysis that was submitted on July 11, 2008, documenting the availability of water. The analysis was reviewed by Division of Water Rights (Division) staff and approved on September 16, 2008. Based on the water availability analysis, water is available to serve this application without injury to prior rights.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. In 2002, National Marine Fisheries Service (NMFS) and California Department of Fish and Game (DFG) developed Draft Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams (Draft Guidelines), dated June 17, 2002. The Draft Guidelines were recommended for use by permitting agencies (including the State Water Board), planning agencies, and water resources development interests when evaluating proposals to divert and use water from northern California coastal streams. The Draft Guidelines apply to projects located in the geographic area of Sonoma, Napa, Mendocino, and Marin Counties, and portions of Humboldt County. The Draft Guidelines recommend that terms and conditions be included in new water right permits for small diversions to protect fishery resources in the absence of site-specific biologic and hydrologic assessments. Approval of Application 31133 is consistent with the recommendations in the Draft Guidelines.

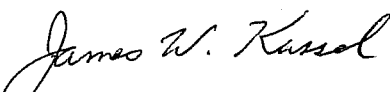
6. The State Water Board, Division of Water Rights, as Lead Agency, prepared an Initial Study for this project pursuant to the California Environmental Quality Act. (Cal. Code Regs., tit. 14, § 15063.) The Initial Study identified potentially significant impacts to biological resources, cultural resources, and hydrology and water quality. The Division proposed the following mitigation measures to mitigate for the potential environmental impacts that could occur from issuance of this permit, and Permittee agreed to incorporate these measures into the permit:
- a. measures to prevent deterioration of water quality;
 - b. streamflow flow bypass for the protection aquatic life;
 - c. limitations on existing rights under this permit in combination with riparian rights; and
 - d. cultural resource contingency actions in the event that sensitive resources are unearthed during project construction or operation.

Conditions are included in the permit requiring implementation of these mitigation measures.

7. On March 3, 2009, the Division, acting as lead agency, circulated the Initial Study, a Notice of Intent to Adopt a Mitigated Negative Declaration (MND), and the proposed Mitigated Negative Declaration (SCH No. 2009032011) pursuant to the California Code of Regulations, Title 14, sections 15072 and 15074.
8. The MND reflects the State Water Board's independent judgment and analysis. No substantive comments identifying new or unmitigated environmental impacts were received during the public review process for the proposed MND. After considering the document, the State Water Board has determined that the above-proposed project, with mitigation measures, will have a less than significant effect on the environment and will not result in significant cumulative impacts based on the reasons specified in the Initial Study. The potential adverse impacts of the project were found to be less than significant and mitigated for with the inclusion of specific permit terms. The documents or other material that constitute the record are located in the files held by the Division. The Division will file a Notice of Determination within five days of the issuance of this Order in accordance with the California Code of Regulations, title 14, section 15075.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 31133, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD

for 
Victoria A. Whitney, Chief
Division of Water Rights

Dated: **JUN 11 2009**