



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

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
--	---

PROJECT TITLE: Rustic Retirement LLC, Application 31183 to Appropriate Water.

APPLICANT: Jared Carter
Rustic Retirement LLC
1961 Vichy Springs Road
Ukiah, CA 95482

PROJECT LOCATION:

The project is located approximately two miles east of the town of Ukiah in Mendocino County, California. The project area is located in Lot 90 of the Yokayo Rancho within Sections 15 and 22 of T15N, R12W, MDB&M on the Ukiah 7.5' USGS Quadrangle.

PROJECT DESCRIPTION:

Water Right Application 31183 was filed with the State Water Resources Control Board, Division of Water Rights on May 10, 2001 for the diversion of 49.5 ac-ft per annum (afa) of water to an onstream reservoir. Water will be diverted to storage from an Unnamed Stream tributary to Sulphur Creek thence the Russian River, Mendocino County from December 15 of each year to March 31 of the succeeding year. Water will be stored behind a 30 feet by 200 feet dam in a 2.5 surface acre, 26 acre-feet onstream reservoir for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use.

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 Unnamed Stream tributary to Sulphur Creek thence the Russian River, Mendocino County

Point of Diversion: Point of Diversion by Collection to Storage in reservoir, located North 544,000 and East 1,668,500, California Coordinate System, Zone 2. Being within the SE¼ of the SW¼ of projected Section 15, Township 15N, Range 12W, MDB&M.

Amount and Season: Water will be diverted to storage in a 26 acre-foot reservoir from December 15 of each year to March 31 of the following year.

Total Annual Use: Not to exceed 49.5 acre-feet per annum (storage).

Purpose of Use: Storage of water for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use.

Place of Use:

Use is Within	Section	Township	Range	B. & M.	Acres	Cultivated
SW¼ of SE¼	15	15N	12W	M.D.	9.0	No
SE¼ of SW¼	15	15N	12W	M.D.	4.0	No
NW¼ of NE¼	22	15N	12W	M.D.	3.5	No
NE¼ of NW¼	33	5N	6W	M.D.	3.5	No
				TOTAL	20 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 31183:

- Prior to diversion or use of water under this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights that demonstrates that the project has been constructed in accordance with the recommendations provided in the December 15, 2000 Geotechnical Engineering Investigation Report prepared for this project. Evidence shall include certification by a registered Engineer or registered Geologist that the project was constructed in accordance with the recommendations in the December 15, 2000 Geotechnical Engineering Investigation Report or that equally protective measures were implemented.
- Project construction shall occur only in accordance with the Erosion Control Conditions set forth in Exhibit A of the Award of Arbitration (per Fish and Game Code Section 1603) issued on November 17, 2004.
- A 25 feet wide setback shall be established on each side of any Class II or Class III watercourse (as defined by Cal. Code Regs., tit. 14, §§ 895.1, 916.5) that flows through the place of use authorized by this permit. The buffer shall be measured from the centerline of the watercourse. No ground disturbing activities, with the

exception of road crossings, shall occur within a buffer zone. Any road crossings within the setback shall be aligned perpendicular to the direction of flow in the watercourse at the location of the crossing.

- 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.
- 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 not conduct construction activities within 50 feet of a watercourse from November 1 of each year to July 14 of the succeeding year.
- Based on the information contained in the Division of Water Rights files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if in the future Permittee diverts water under riparian right. With the approval of the Chief of the Division of Water Rights, 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 of Water Rights 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 of Water Rights 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.
- The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed a total of 49.5 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year.
- Before storing water under this permit, 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. Permittee must maintain the staff gage 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. 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 to the Division of Water Rights with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division .
- Prior to withdrawal of water from the reservoir authorized by this permit, Permittee shall install in-line flow meters satisfactory to the Chief of the Division of Water Rights that measure the instantaneous rate and the cumulative amount of water withdrawn from the reservoir at Point of Diversion.

The in-line flow meter must be maintained in operating condition as long as water is being consumptively 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 to the Division with all required Reports of Permittee, Reports of Licensee, or whenever requested by the staff of the Division of Water Rights.

- 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. §§ 153 -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.
- For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from December 15 of each year through March 31 of each succeeding year bypass a minimum of 0.20 cubic foot per second (cfs) at the Point of Diversion (POD).

Under all bases of right Permittee shall bypass the total streamflow at POD from April 1 through December 14 of each year. The total streamflow at POD shall be bypassed whenever it is less than 0.20 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 have been or will be installed to measure streamflow 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.

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 Chief of the Division of Water Rights, 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 approved Compliance Plan is not authorized.

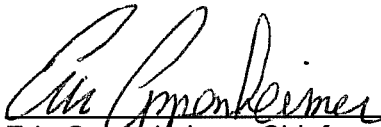
- Prior to the start of construction or diversion or use of water under this permit, the Permittee shall submit evidence to the Chief of the Division of Water Rights demonstrating that Permittee has complied with the pre-construction conditions set forth in the Award of Arbitration (per Fish and Game Code 1603) issued on November 17, 2004. Evidence shall include confirmation from the California Department Fish and Game (DFG) that a riparian habitat restoration plan has been prepared and submitted to DFG.
- The riparian habitat restoration plan shall be implemented within two years of Department of Fish and Game's approval of the plan and prior to licensing of this permit.
- Permittee shall exclude bullfrogs and other non-native species from the reservoir authorized by this permit.
- At the direction of Department of Fish and Game, Permittee shall compensate for the loss of sediment input to the downstream watershed by placing gravel downstream of the dam for stream replenishment. Permittee shall report the annual quantity of gravel replenished to the stream and provide photographic evidence documenting gravel replenishment. Reports shall be submitted with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights.
- Prior to the start of construction or diversion or use of water under this permit, Permittee shall obtain any required permit from the U.S. Army Corps of Engineers (USACE) and file a copy with the Division of Water Rights. If a permit from the USACE is not necessary for this permitted project, the Permittee shall provide to the Division of Water Rights a letter from the USACE affirming that a permit is not needed.


If the project requires a permit from USACE, Permittee shall obtain Clean Water Act section 401 Water Quality Certification from the State Water Resources Control Board prior to the start of construction or diversion or use of water under this permit.

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.

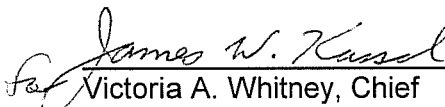
Contact Person: Eric Oppenheimer	Telephone: (916) 341-5384 email: EOppenheimer@waterboards.ca.gov
----------------------------------	--

APPROVAL OF THE ABOVE IS RECOMMENDED BY:

 11/17/08
Eric Oppenheimer, Chief Date
Russian River Watershed Unit

 11/17/08
Steven Herrera, Chief Date
Water Rights Permitting Section

APPROVED:

 11/18/08
Victoria A. Whitney, Chief Date
Division of Water Rights