



**Linda S. Adams**  
Secretary for  
Environmental Protection

# State Water Resources Control Board

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## Division of Water Rights

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**Arnold Schwarzenegger**  
Governor

### NOTICE OF PROPOSED MITIGATED NEGATIVE DECLARATION Pursuant to Section 21092 – Public Resources Code

The staff of the State Water Resources Control Board (State Water Board) has prepared a Mitigated Negative Declaration setting forth the findings that the following proposed action will have a less than significant effect on the environment.

**PROJECT TITLE:** Cooley Ranch Applications 31304, 31362, and 31363 (A031304, A031362, and A031363) to Appropriate Water.

**APPLICANT/PETITIONER:** Klein Foods, Inc.  
c/o Paula Whealen  
Wagner & Bonsignore Engineers  
444 North Third Street, Suite 325  
Sacramento, CA 95811-0238

**PROJECT LOCATION:** The Cooley Ranch is located approximately five miles west of the City of Cloverdale in Sonoma County, California. The project site is upstream of Lake Sonoma.

#### **PROJECT DESCRIPTION:**

On May 14, 2002 the Applicant filed Application 31304. On August 21, 2002 the Applicant filed an amendment to Application 31304 and filed two new water right applications (Applications 31362 and 31363) for the Cooley Ranch project. Amendments were subsequently filed for all three applications on May 7, 2003.

As originally proposed, the Applicant sought to develop water storage and diversion facilities and 476 acres of vineyard within the 2,500-acre project Cooley Ranch property in northern Sonoma County. The proposed project involves three separate water right applications. The original project included appropriation of 417 acre-feet (af) of water per annum to storage in one "offstream" and ten "onstream" reservoirs. As originally proposed, water collected to storage pursuant to these applications would be used for the irrigation of 476 acres of vineyard, and for incidental recreation. The water requested would be diverted from November 1 through May 1 from 16 separate Points of Diversion (PODs).

On March 30, 2006, additional amendments to A031304, A031362, and A031363 were filed, in large part, to reduce the potential environmental impacts of the proposed project. These amendments significantly scaled back the scope of the project. The amendments reduced the proposed project from 417 af of storage and 476 acres of vineyard to 226 af of storage and 280 acres of vineyard respectively. This represents a 46 percent reduction in storage volume and a 41 percent reduction in vineyard acreage. A total of six proposed reservoirs were also eliminated from the project as a result of the March 30, 2006 amendments.

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*California Environmental Protection Agency*

AMENDMENTS TO APPLICATIONS 31304, 31362, AND 31363

As Noticed by the State Water Board					As Amended March 30, 2006		
Area	Application Number	Reservoirs (by POD)	Storage (af)	Vineyard (acre)	Reservoirs (by POD)	Storage (af)	Vineyard (acre)
Western Project Area	31304	1, 2, 3	141	153	2	48	65
Northern Project Area	31362	1, 2, A	154	183	2	98	114
Eastern Project Area	31363	1, 2, 3	76	140	1, 3	50	101
	31363	4, 5	46		A (formerly 5)	30	
<b>Total for All Applications</b>			<b>417</b>	<b>476</b>		<b>226</b>	<b>280</b>

PROPOSED PLACE OF USE;  
WESTERN PROJECT AREA, APPLICATION 31304

Use Within	Section	Township	Range	B & M	Number of Acres	Presently Cultivated (Y/N)
SW¼ of NW¼	19	11N	11W	MD	21	No
NW¼ of SW¼	19	11N	11W	MD	14	No
SE¼ of NW¼	24	11N	12W	MD	4	No
SW¼ of NE¼	24	11N	12W	MD	7	No
SE¼ of NE¼	24	11N	12W	MD	9	No
NW¼ of SE¼	24	11N	12W	MD	10	No
<b>TOTAL</b>					<b>65</b>	

PROPOSED PLACE OF USE;  
NORTHERN PROJECT AREA, APPLICATION 31362

Use Within	Section	Township	Range	B & M	Number of Acres	Presently Cultivated (Y/N)
SE¼ of SW¼	7	11N	11W	MD	11	No
SW¼ of SE¼	7	11N	11W	MD	7	No
SE¼ of SE¼	7	11N	11W	MD	21	No
NW¼ of SW¼	17	11N	11W	MD	5	No

SW¼ of SW¼	17	11N	11W	MD	2	No
NE¼ of NW¼	18	11N	11W	MD	6	No
NW¼ of NE¼	18	11N	11W	MD	20	No
NE¼ of NE¼	18	11N	11W	MD	4	No
SW¼ of NE¼	18	11N	11W	MD	19	No
NW¼ of SE¼	18	11N	11W	MD	7	No
NE¼ of SE¼	18	11N	11W	MD	11	No
SE¼ of SE¼	18	11N	11W	MD	1	No
<b>TOTAL</b>					<b>114</b>	

PROPOSED PLACE OF USE;  
 EASTERN PROJECT AREA, APPLICATION 31363

Use Within	Section	Township	Range	B & M	Number of Acres	Presently Cultivated (Y/N)
SE¼ of NE¼	17	11N	11W	MD	1	No
NW¼ of SE¼	17	11N	11W	MD	2	No
NE¼ of SE¼	17	11N	11W	MD	21	No
SW¼ of SE¼	17	11N	11W	MD	3	No
SE¼ of SE¼	17	11N	11W	MD	8	No
NW¼ of NE¼	19	11N	11W	MD	8	No
NE¼ of NE¼	19	11N	11W	MD	25	No
SW¼ of NE¼	19	11N	11W	MD	1	No
SE¼ of NE¼	19	11N	11W	MD	19	No
NE¼ of SE¼	19	11N	11W	MD	1	No
NW¼ of NW¼	20	11N	11W	MD	3	No
SW¼ of NW¼	20	11N	11W	MD	9	No
<b>TOTAL</b>					<b>101</b>	

**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:**

Water is to be appropriated from Unnamed Streams some of which are tributary to Dry Creek thence Lake Sonoma thence the Russian River in Sonoma County. Proposed project operations, PODs and types of facilities under each Application are as follows:

Water Right Application 31304 (covers the Western Project Area)

- Development of one onstream storage reservoir (Reservoir 2) at POD 2.
- Development of two offset wells at PODs 4 and 5 (for diversion to storage in reservoir at POD 2).
- Development and irrigation of 65 acres of vineyard. Water will also be used for incidental recreation.
- A total of 48 af of water would be diverted to storage. The season of diversion from PODs 2 and 4 is November 1 to March 31, and from POD 5 is November 1 to May 1.
- POD 2 (Reservoir 2) would be located on Unnamed Stream tributary to Dry Creek thence Lake Sonoma, being within the SE $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 24, T11N, R12W, MDB&M. The reservoir would collect surface inflow and also receive water from PODs 4 and 5.
- POD 4 would be an offset well located on an Unnamed Stream tributary to Dry Creek thence Lake Sonoma being located within the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 24, T11N, R12W, MDB&M.
- POD 5 would be an offset well located on an Unnamed Stream tributary to Lake Sonoma being within the SE $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 19, T11N, R11W, MDB&M.

Water Right Application 31362 (covers the Northern Project Area)

- Development of one onstream storage reservoir (Reservoir 2) at POD 2.
- Development of two offset wells at PODs 3 and 4 (for diversion to storage in reservoir at POD 2).
- Development and irrigation of 114 acres of vineyard. Water would also be used for incidental recreation.
- A total of 98 af of water would be diverted to storage. The season of diversion from PODs 2 and 4 is November 1 to March 31 and from POD 3 is November 1 to May 1.
- POD 2 (Reservoir 2) would be located on an Unnamed Stream tributary to Lake Sonoma (Dry Creek) being within SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 18, T11N, R11W, MDB&M. The reservoir would collect surface inflow and also receive water from PODs 3 and 4.
- POD 3 would be an offset well located on a tributary to Rail Creek thence Lake Sonoma (Dry Creek) being within the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 18, T11N, R11W, MDB&M.
- POD 4 would be an offset well located on an Unnamed Stream tributary to Lake Sonoma (Dry Creek) being within the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 17, T11N, R11W, MDB&M.

Water Right Application 31363 (covers the Eastern Project Area)

- Development of two onstream reservoirs (Reservoirs 1 and 3) at PODs 1 and 3, and one offstream reservoir (Reservoir A).
- Development of an offset well at POD 6 (for diversion to storage in Reservoirs 1 and 3).
- Development of an offset well at POD 7 (for diversion to storage in Reservoir A).
- Development and irrigation of 101 acres of vineyard. Water would also be used for incidental recreation.
- A total of 80 af of water would be diverted to storage. The season of diversion from POD 7 would be from November 1 to March 31, and the diversion season for PODs 1, 3, and 6 would be from November 1 through May 1.
- POD 1 and 3 (Reservoirs 1 and 3) would be located on Unnamed Streams tributary to Unnamed Streams thence Lake Sonoma (Dry Creek). POD 1 is located within the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 19 and POD 3 is located within the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 20, all within T11N, R11W, MDB&M.
- Reservoir A is an offstream reservoir located within the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 17, T11N, R11W, MDB&M.
- POD 6 would be an offset well located on an Unnamed Stream tributary to Lake Sonoma (Dry Creek) being within the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 19, T11N, R11W, MDB&M.
- POD 7 would be an offset well located on an Unnamed Stream tributary to Lake Sonoma (Dry Creek) being within NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 17, T11N, R11W, MDB&M.

**PERMIT TERMS:**

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 Board.

Some of the permit terms will be included in all permits and some will be included in only one of the three permits.

The following permit terms will be included in any permits or licenses issued pursuant to all of the applications A031304, A031362 and A031363:

- *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 January 3, 2003 Geotechnical Investigation prepared for this project. Evidence shall include certification by a registered Geotechnical Engineer or registered Geologist that the project was constructed in accordance with the recommendations in the January 3, 2003 Geotechnical Investigation or that equally protective measures were implemented.*
- *Prior to the start of construction or diversion or use of water under this permit, Permittee shall file a notice of vineyard planting or replanting with the Sonoma County agricultural*

*commissioner. The notice shall conform to applicable provisions of the Sonoma County Vineyard Erosion and Sediment Control Ordinance (Ord. No. 5216 § 2, 2000). The notice shall include: 1) maps, plans, drawings, calculations, photographs, and other information as may be necessary or required by the agricultural commissioner to verify that the vineyard planting qualifies as a Level II or III authorized vineyard planting, or that the vineyard replanting qualifies as a Level II authorized vineyard replanting; and (2) an erosion and sediment control plan, certified pursuant to Section 30-74 of the Sonoma County Vineyard Erosion and Sediment Control Ordinance, for the vineyard planting or replanting. Prior to the start of construction or diversion or use of water under this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights verifying that the Sonoma County agricultural commissioner has authorized the vineyard planting or replanting to proceed.*

- *Prior to licensing of this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights verifying that the project was constructed in compliance with the requirements of the certified erosion and sediment control plan and the Sonoma County Vineyard Erosion and Sediment Control Ordinance.*
- *Permittee shall submit a detailed Dust Control and Mitigation Plan for review and approval by the Northern Sonoma Air Quality Management District. Dust Control and Mitigation Plan shall identify how project construction and operation will comply with the California Air Resources Board's Asbestos Airborne Toxic Control Measure (ATCM) (California Code Of Regulations Title 17, section 93105). Prior to the start of construction or diversion or use of water under this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights showing that the Northern Sonoma Air Quality Management District has approved the Permittee's Dust Control and Mitigation Plan.*
- *No construction shall be commenced and no water shall be diverted or used under these permits until all necessary federal, state and local approvals have been obtained for the construction of the project facilities, planting of the place of use and the diversion and use of water.*
- *In order to prevent degradation of the quality of water during and after construction of the project, Permittee shall file a report pursuant to Water Code section 13260 prior to commencement of construction and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, 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.*
- *If the storage dams will be of such size to be within the jurisdiction of the Department of Water Resources, Division of Safety of Dams, then construction of the water supply project authorized by this permit and diversion and use of water under this permit shall*

*not be commenced until the Department has approved the plans and specifications of the dam.*

- *In accordance with the requirements of Water Code section 1393, Permittee shall clear the site of proposed reservoirs with capacity of 50 acre-feet or greater of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.*
- *Before storing water in any reservoir identified in 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. The 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 with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights.*
- *The State Water Resources Control Board may require the release of water that cannot be verified as having been collected under a valid basis of right.*
- *Permittee shall allow the Sonoma County Water Agency and all successors in interest, or a designated representative, reasonable access to the reservoirs for the purpose of verifying staff gage readings and determining water levels in the reservoirs.*
- *Whenever the prior storage rights of Sonoma County Water Agency (under Permit 16596, issued pursuant to Application 19351) are not satisfied by April 1 of any year, Permittee shall release water collected to storage under this permit between November 1 of the preceding year and March 31 of the current year. Permittee shall immediately release water at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release more water than is required to draw down the water levels in the reservoirs to the level of the November 1 staff gage reading for the prior calendar year unless Permittee has withdrawn water from the reservoirs for consumptive purposes since November 1 of the previous calendar year. In that event, Permittee shall be required to release sufficient amount of water to draw down the reservoir water levels to the levels existing on November 1 of the prior calendar year, as measured by the staff gage, and also release any additional amount of water collected and withdrawn from the reservoirs for consumptive use purposes since November 1 of the previous calendar year.*
- *The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Russian River.*

*Any action to change the authorized season of diversion will be taken only after notice to the Permittee and opportunity for hearing.*

- *This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Russian River Watershed are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the State Water Resources Control Board, made after notice to interested parties and opportunity for hearing.*
- *This permit is specifically subject to the prior rights of Louis D. Preston under License 4498 (Application 14043).*
- *Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs, which is not authorized for appropriation under this permit, can be released. Before starting construction, Permittee shall submit plans and specifications of the outlet pipes, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, Permittee shall furnish evidence to substantiate that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.*
- *Based on the information contained in the Division of Water Right's files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if the 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.*
- *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.*
  - *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.*
  - *Permittee shall not conduct, or cause to be conducted, construction work within the bed or bank of a live stream channel while flowing water or foothill yellow-legged frogs are present.*
  - *If foothill yellow-legged frogs are encountered during construction, Permittee shall cease construction and ground-disturbing activities in areas within 250 feet of the location where foothill yellow-legged frogs are present and shall contact the California Department of Fish and Game. Prior to restarting construction activities, Permittee shall submit to the Chief of the Division of Water Rights evidence of Department of Fish and Game approval to continue construction.*
  - *Permittee shall not stock and shall not allow others to stock fish in any reservoir. Permittee shall monitor on a yearly basis the reservoirs authorized under this permit, to make sure that no fish, non-native frogs, or other exotic aquatic predators are accidentally introduced into them. Permittee shall eliminate any fish or non-native frogs found by draining the reservoir where they were found and gigning non-native frogs by hand. Permittee shall prepare annually a report describing the methodology used to survey the reservoirs for the presence of exotic species, the dates when the surveys occurred, and what actions were taken if exotic species were found. These exotic species monitoring reports shall be submitted to the Division of Water Rights with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights. Permittee shall post signs in English and Spanish at*

*each reservoir stating that the introduction of fish and non-native frogs into the reservoir is prohibited.*

- *Permittee shall not conduct construction activities within 50 feet of a drainage from October 16 of each year to April 30 of the succeeding year to reduce the likelihood of the presence of northwestern pond turtles in construction areas. If a northwestern pond turtle is encountered during construction, Permittee shall cease construction and ground-disturbing activities in areas within 250 feet of the location where northwestern pond turtles are present and shall contact the California Department of Fish and Game. Prior to restarting construction activities, Permittee shall submit to the Chief of the Division of Water Rights evidence of Department of Fish and Game approval to continue construction.*
- *This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 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.*
- *If tree removal activities are to occur between February 1 and September 30, a biologist, whose qualifications are acceptable to Division of Water Rights staff, shall conduct a pre-construction survey for the purpose of identifying nesting bird species prior to tree removal. The pre-construction survey shall include all potential nesting habitat within 500 feet of proposed tree removal activities. The survey shall be conducted no more than 14 days prior to the beginning of tree removal activities. If an active raptor or migratory bird nest is found during the pre-construction survey, the Permittee shall notify the California Department of Fish and Game. If an active raptor nest is found during the pre-construction survey, a 500-foot no-disturbance buffer shall be established and maintained around the nest until all young have fledged. If an active nest of any other migratory or non-migratory bird is found, a 250-foot buffer shall be established around the nest until all young have fledged.*
- *For the protection of riparian habitat, places of use as shown on Setback Maps SB-01, SB-02, and SB-03, dated July 10, 2007 on file with the Division of Water Rights. The setback shall be at least 100 feet wide along Class I watercourses, 50 feet wide along Class II watercourses, and 25 feet wide along Class III watercourses. Setbacks shall be 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. Planting, maintenance, and irrigation of native riparian vegetation within the setback area are allowed.*

- *For the mitigation of disturbed riparian habitat, Permittee shall establish Stream Mitigation Areas as shown on Stream Mitigation Area Map SM-01, dated July 10, 2007 on file with the Division of Water Rights. Stream Mitigation Areas shall be at least 100 feet wide as measured from the top of the bank on both sides of the stream. Stream Mitigation Areas shall encompass at least 13,050 linear feet of Class I Watercourses. With exception of installation of a pipeline between POD 4 and POD 2 (as identified in Application 31362) and the installation of three standpipes, no ground disturbing activities shall occur within the Stream Mitigation Areas, including, but not limited to, grading, herbicide spraying, roads, and use or construction of storage areas. Planting, maintenance, and irrigation of native riparian vegetation within the Stream Mitigation Areas area are allowed. Prior to diversion or use of water under this permit, the Permittee shall fence the perimeter of the Snow Creek mitigation area and shall fence vegetation planted within the Unnamed Stream mitigation area in order to restrict cattle or domestic stock access.*
- *Permittee shall remove exotic vegetation and trash from the Stream Mitigation Areas on an annual basis for a period of five years from the time fencing is installed around the perimeter of the Snow Creek mitigation area and within the Unnamed Stream mitigation area.*
- *Permittee shall mitigate for tree removal within riparian areas by planting at least three trees for every tree removed (a 3:1 mitigation ratio). Permittee shall plant trees at least 20 feet apart and within Stream Mitigation Areas as shown on Stream Mitigation Area Map No. SM-01 dated July 10, 2007 on file with the Division of Water Rights. Permittee shall plant trees in accordance with the provisions in the December 2006 Conceptual Riparian Zone Mitigation and Monitoring Plan prepared for the California Department of Fish and Game's Streambed Alteration Agreement (Notification Number 1600-2006-320-3) or a comparable mitigation plan, that has subsequently been approved by the Department of Fish and Game. At a minimum the following trees shall be planted and maintained until the plantings achieve an overall 5-year survival rate of 75 percent:*

<i>Species</i>	<i>Number of Trees to be Planted</i>
<i>Valley Oak</i>	<i>147</i>
<i>Coast Live Oak</i>	<i>111</i>
<i>California Laurel</i>	<i>108</i>
<i>Red Willow</i>	<i>3</i>
<i>Oregon White Oak</i>	<i>3</i>
<i>Black Oak</i>	<i>126</i>
<i>Pacific Madrone</i>	<i>51</i>
<i>Total</i>	<i>549</i>

- *Prior to the start of construction or diversion or use of water under this permit, Permittee shall submit a Department of Fish and Game (DFG) approved Riparian Zone Mitigation and Monitoring Plan to the Chief of the Division of Water Rights. Prior to licensing of*

*this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights indicating that mitigation was completed in accordance with a Department of Fish and Game approved plan. Evidence shall include confirmation by the Department of Fish and Game or submittal of monitoring data verifying that required mitigation was implemented in accordance with the specifications in the approved Mitigation and Monitoring Plan.*

- *No work shall commence and no water shall be diverted, stored, or used under this permit until a signed copy of a Streambed Alteration Agreement between the Department of Fish and Game and the Permittee is filed with the State Water Resources Control Board Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the Permittee. If a Streambed Alteration Agreement is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.*
- *For the protection of wetlands, Permittee shall establish setbacks within the places of use as shown on Setback Maps SB-01, SB-02, and SB-03, dated July 10, 2007 on file with the Division of Water Rights. The setback shall extend at least 50 feet from the edge of any wetland. 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. Planting, maintenance, and irrigation of native wetland vegetation within the setback area are allowed.*
- *For the mitigation of disturbed wetlands, 2.1 acres of wetlands shall be created and 7.3 acres of existing wetland shall be preserved. Mitigation shall be conducted in accordance with the provisions in the March 2007 Mitigation and Monitoring Plan prepared for the U.S. Army Corps of Engineers (USACE) in association with the 404 Permit Application process or a comparable mitigation plan, that has subsequently been approved by USACE and the Division of Water Rights. Prior to licensing of this permit, Permittee shall submit evidence to the Chief of the Division of Water Rights indicating that mitigation was completed in accordance with a USACE approved mitigation plan. Evidence shall include confirmation by the USACE or submittal of a monitoring report verifying that required mitigation was completed and that 2.1 acres of created wetlands meet the diagnostic environmental characteristics of a wetland as defined in the 1987 Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1).*
- *Prior to the start of construction, or diversion or use of water under this permit, Permittee shall obtain the appropriate permit from the U.S. Army Corps of Engineers (USACE) and file a copy with Division of Water Rights. If a permit from the USACE is not necessary for this permitted project, the Permittee shall provide the Division of Water with a letter from the USACE affirming that a permit is not needed.*
- *Prior to the start of construction, or diversion or use of water under this permit, Permittee shall obtain Clean Water Act section 401 Water Quality Certification from the*

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

- *Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological 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; 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 archaeologist 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 Permittee 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 within 24 hours. The Native American Heritage Commission will identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendent may make recommendations regarding the means of treating or disposing of the remains with appropriate dignity. 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 following permit terms will be included in any permit or license issued pursuant to A031304:

- *Prior to diversion or use of water under 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 (POD) 2, and from diversion facilities at POD 4 and POD 5.*

*These in-line flow meters 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 all required Reports of Permittee, Reports of Licensee, or whenever requested by the staff of the Division of Water Rights.*

- *For the protection of fish and wildlife, diversion from Points of Diversion (PODs) 2 and 4 shall be limited to November 1 of each year to March 31 of the succeeding year.*
- *For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from November 1 of each year through March 31 of each succeeding year bypass a minimum of 0.18 cubic foot per second (cfs) at Point of Diversion (POD) 2 and 0.23 cfs at POD 4. Under all bases of right Permittee shall bypass the total streamflow at POD 2 and POD 4 from April 1 through October 31 of each year. The total streamflow at POD 2 shall be bypassed whenever it is less than 0.18 cfs. The total streamflow at POD 4 shall be bypassed whenever it is less than 0.23 cfs.*
- *The well casings for Points of Diversion (PODs) 4 and 5 shall be backfilled with native material, and channel contours shall be restored to pre-construction configurations. If shallow bedrock is encountered during trenching for the well casings, the streambed shall be excavated to design grade and the intake pipe shall be bedded in Class 2 Permeable gravel up to top of bedrock. The remaining backfill shall consist of native gravels. Construction of PODs 4 and 5 shall occur only between June 15 and October 15. Wastewater generated from dewatering construction areas shall not be discharged to surface waters.*
- *The maximum rate of diversion at Points of Diversion (PODs) 4 and 5 shall not exceed 1 cubic foot per second (cfs), at each POD.*
- *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 of withdrawal and the cumulative amount of water withdrawn from Points of Diversion (PODs) 4 and 5.*
- *The prehistoric site identified as the Split Rock Shelter, by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development, and operation. The site shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoirs, and distribution facilities, including installation of buried pipelines; and ripping, trenching, grading or planting related to conversion and maintenance of the place of use-vineyards). An archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights, shall determine the boundaries of the site and placement of permanent fencing with concurrence of the Division's staff archeologist. The archeologist shall be present during installation of the fencing to prevent any inadvertent damage to the site. The boundaries of the permanent fencing shall include a buffer zone of fifteen feet at a minimum around the site. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place for as long as water is being diverted. Any future project-related activities or developments at the location of the above listed site may be allowed only if an archaeologist who has been approved by the California Historical*

*Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights is retained to determine the significance of the site. If mitigation is determined to be necessary, then the archeologist shall design, conduct, and complete an appropriate mitigation plan that must be approved by the Chief of the Division of Water Rights prior to any activities related to any new developments. Permittee shall responsible for all costs associated with the cultural resource related work.*

- *The prehistoric petroglyphs identified as Rock 2 and Rock 3, by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development and operation. They shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoirs, and distribution facilities, including installation of buried pipelines and ripping, trenching, grading, or planting related to conversion of the place of use to vineyard). An archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights shall determine the boundaries of the petroglyphs and placement of permanent fencing, and shall be present during installation of the fencing to prevent any inadvertent damage to the petroglyphs. The boundaries of the permanent fencing shall include a buffer zone of ten feet at a minimum around the petroglyphs. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place as long as water is being diverted.*

The following permit terms will be included in any permit or license issued pursuant to A031362:

- *Prior to diversion or use of water under this permit, Permittee shall install in-line flow meters, satisfactory to the Chief of the Division of Water Rights that measures the instantaneous rate and the cumulative amount of water withdrawn from the reservoir at Point of Diversion (POD) 2, and from diversion facilities at POD 3 and POD 4.*

*These in-line flow meters 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 all required Reports of Permittee, Reports of Licensee, or whenever requested by staff of the Division of Water Rights.*

- *For the protection of fish and wildlife, diversion at Points of Diversion (PODs) 2 and 4 shall be limited to November 1 of each year to March 31 of the succeeding year.*
- *For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from November 1 of each year through March 31 of each succeeding year bypass a minimum of 0.22 cubic foot per second (cfs) at Point of Diversion (POD) 2 and 0.61 cfs at POD 4. Under all bases of right Permittee shall bypass the total streamflow at POD 2 and POD 4 from April 1 through October 31 of each year. The total*

*streamflow at POD 2 shall be bypassed whenever it is less than 0.22 cfs. The total streamflow at POD 4 shall be bypassed whenever it is less than 0.61 cfs.*

- *The springs located at North 415,600 feet East 1,680,550 feet and North 415,200 feet and East 1,682,075 feet (North American Datum 1927 Zone 2) shall be captured and conveyed via pipeline to the nearest natural watercourse. Prior to diversion or use of water under this permit, Permittee shall furnish evidence, to the Chief of the Division of Water Rights that substantiates that the spring flow management system has been adequately sized and installed. Evidence shall include photographs showing completed works and certification by a registered Civil or Agricultural Engineer.*
- *The well casings for Points of Diversion (PODs) 3 and 4 shall be backfilled with native material, and channel contours shall be restored to pre-construction configurations. If shallow bedrock is encountered during trenching for the well casings, the streambed shall be excavated to design grade and the intake pipe shall be bedded in Class 2 Permeable gravel up to top of bedrock. The remaining backfill shall consist of native gravels. Construction of POD 3 shall occur only between June 15 and October 15.*
- *Construction of POD 4 shall occur between July 15 and September 15. A temporary cofferdam shall be constructed upstream of the POD 4 construction site if flowing water is present during construction. All water intercepted at the temporary cofferdam shall be conveyed by pipeline back to the stream channel downstream of the construction site. Wastewater generated from dewatering construction areas shall not be discharged to surface waters.*
- *Maximum rate of Diversion at PODs 3 and 4 shall not exceed 1 cubic foot per second (cfs), at each POD.*
- *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 withdrawn from Points of Diversion (PODs) 3 and 4.*
- *The prehistoric sites identified as the Northwest Site, by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development and operation. The site shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoirs, and distribution facilities, including installation of buried pipelines; and ripping, trenching, grading, or planting related to conversion and maintenance of the place of use-vineyards). An archaeologist that has been approved by the California Historical Information System to work in the area and who is acceptable to the staff of the Division of Water Rights, shall determine the boundaries of the site and placement of permanent fencing, and shall be present during installation of the fencing to prevent any inadvertent damage to the site. The boundaries of the permanent fencing shall include a buffer zone of a minimum of fifteen feet around the site. Permanent fencing, with a height of five feet at a minimum, to*



*ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place for as long as water is being diverted. Any future project-related activities or developments at the location of the above listed site may be allowed only if an archaeologist who has been approved by the California Historical Information System to work in the area and who is acceptable to the staff of the Division of Water Rights is retained to determine the significance of the site. If mitigation is determined to be necessary, then the archeologist shall design, conduct, and complete an appropriate mitigation plan that must be approved by the Chief of the Division of Water Rights and be completed prior to any activities related to the new developments. Permittee shall responsible for all costs associated with the cultural resource related work.*

- *The prehistoric petroglyph identified as Rock 1, by Tom Origer & Associates in the report titled A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California shall be avoided during project construction, development and operation. It will not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoirs, and distribution facilities, including installation of buried pipelines and ripping, trenching, grading or planting related to conversion of the place of use to vineyard). An archaeologist who has been approved by the California Historical Information System to work in the area and who is acceptable to the staff of the Division of Water Rights shall determine the boundaries of the petroglyph and placement of permanent fencing, and shall be present during installation of the fencing to prevent any inadvertent damage to the petroglyph. The boundaries of the permanent fencing shall include a buffer zone of a minimum of ten feet around the petroglyph. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place as long as water is being diverted.*
- *The archaeologically sensitive area identified during the survey by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development and operation. The area will not be impacted by any of the features of the proposed project (e.g., water diversion, storage, and distribution facilities, including installation of buried pipelines and ripping, trenching, grading, or planting related to conversion of the place of use to vineyard). An archaeologist who has been approved by the California Historical Information System to work in the area and who is acceptable to the staff of the Division of Water Rights shall determine the boundaries of the archaeologically sensitive area and placement of permanent fencing, and shall be present during installation of the fencing to prevent any inadvertent damage to the area. The boundaries of the permanent fencing shall include a buffer zone of fifteen feet at a minimum around the area. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place as long as any water is being diverted. Any future project-related activities or developments at the location of the listed archaeologically sensitive area may be allowed only if an archaeologist who has been approved by the California Historical Information System to work in the area and*

*who is acceptable to the staff of the Division of Water Rights is retained by the Permittee to determine the significance of the sensitive area. If mitigation is determined to be necessary the archeologist shall design, conduct, and complete an appropriate mitigation plan, which must be approved by the Chief of the Division of Water Rights prior to any activities related to any new developments. Permittee shall be responsible for all costs associated with the cultural resource related work.*

The following permit terms will be included in any permit or license issued pursuant to A031363:

- *Prior to diversion or use of water under 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 cumulative amount of water withdrawn from the reservoirs at Points of Diversion (PODs) 1, 3, and 5, and from diversion facilities at POD 6 and POD 7.*

*These in-line flow meters 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 all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights.*

- *For the protection of fish and wildlife, diversion at Point of Diversion (POD) 7 shall be limited to November 1 of each year to March 31 of the succeeding year.*
- *For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from November 1 of each year through March 31 of each succeeding year bypass a minimum of 0.84 cubic foot per second (cfs) at Point of Diversion (POD) 7. Under all bases of right, Permittee shall bypass the total streamflow at POD 7 from April 1 through October 31 of each year. The total streamflow at POD 7 shall be bypassed whenever it is less than 0.84 cfs.*
- *The spring located at North 414,100 feet and East 1,685,225 feet (North American Datum 1927 Zone 2) shall be captured and conveyed via pipeline to the nearest natural watercourse. Prior to diversion or use of water under this permit, Permittee shall furnish evidence to the Chief of the Division of Water Rights that substantiates that the spring flow management system has been adequately sized and installed. Evidence shall include photographs showing completed works and certification by a registered Civil or Agricultural Engineer.*
- *The well casings for Points of Diversion (PODs) 6 and 7 shall be backfilled with native material, and channel contours shall be restored to pre-construction configurations. If shallow bedrock is encountered during trenching for the well casings, the streambed shall be excavated to design grade and the intake pipe shall be bedded in Class 2 Permeable gravel up to top of bedrock. The remaining backfill shall consist of native gravels. Construction of PODs 6 and 7 shall only occur between June 15 and October*

15. *Wastewater generated from dewatering construction areas shall not be discharged to surface waters.*

- *The maximum rate of diversion at Points of Diversion (PODs) 6 and 7 shall not exceed 1 cubic foot per second (cfs), at each POD.*
- *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 of withdrawal and the cumulative amount of water withdrawn from Points of Diversion (PODs) 6 and 7.*
- *The prehistoric resources identified as the Low Rise and Poplar sites, by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development, and operation. The sites shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage, and distribution facilities, including installation of buried pipelines; and ripping, trenching, grading or planting related to conversion of the place of use- vineyards). An archaeologist that meets the requirements of the California Historical Information System to work in the area and that has been approved and is acceptable to the staff of the Division of Water Rights shall determine the boundaries of the sites and placement of permanent fencing. The archeologist, and shall be present during installation of the fencing to prevent any inadvertent damage to the sites. The boundaries of the permanent fencing shall include a buffer zone of a minimum of fifteen feet around the sites. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place as long as water is being diverted. Any future project-related activities or developments at the location of the two above listed sites may be allowed only if a an archaeologist that has been approved by the California Historical Information System to work in the area and that has been approved and is acceptable to the staff of the Division of Water Rights, qualified archeologist is retained to determine the significance of the sites. If mitigation is determined to be necessary, then the archeologist shall and if deemed necessary design, conduct, and complete an appropriate mitigation plan that must be approved by the Chief of the Division of Water Rights prior to any activities related to the any new developments. Permittee is responsible for all costs associated with this the cultural resource related work.*
- *The prehistoric petroglyph identified as CA-SON-591, by Tom Origer & Associates in the report titled "A Cultural Resource Survey of Portions of the Cooley Ranch, West of Cloverdale Sonoma County, California" shall be avoided during project construction, development, and operation. It shall not be impacted by any of the features of the proposed project (e.g., water diversion, storage-reservoirs, and distribution facilities, including installation of buried pipelines and ripping, trenching, grading, or planting related to conversion of the place of use to vineyard). An archaeologist who has been approved by the California Historical Information System to work in the area, and who is acceptable to the staff of the Division of Water Rights shall determine the boundaries of*

*the petroglyph and placement of permanent fencing. The archaeologist shall be present during installation of the fencing to prevent any inadvertent damage to the petroglyph. The boundaries of the permanent fencing shall include a buffer zone of ten feet at a minimum around the petroglyphs. Permanent fencing, with a height of five feet at a minimum, to ensure that it is clearly visible for heavy equipment operators, shall be installed prior to project-related activities and shall remain in place as long as water is being diverted.*

- *Prior to project development, the 15-inch diameter culvert described in the engineered plan dated February 18, 2006, prepared by Atterbury & Associates and as submitted to the Division of Water Rights shall be installed to route runoff from the road around CA-SON-591. This engineered plan for channeling runoff, to prevent any erosion around CA-SON-591, shall be maintained as long as water is being diverted. Prior to any proposed modifications of this plan the Permittee must obtain approval of the Chief of the Division of Water Rights.*

The Proposed Mitigated Negative Declaration and the Initial Study in support of the proposed Mitigated Negative Declaration are available on the Division of Water Rights website at <http://www.waterrights.ca.gov/ceqadocs.html>. A hard copy of these documents 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](mailto:EOppenheimer@waterboards.ca.gov) or by calling Eric Oppenheimer at (916) 341-5384.

Persons who disagree with the conclusions set forth in the Mitigated Negative Declaration or who disagree with the information contained therein are invited to furnish written comments to Eric Oppenheimer at the above address. The comments should summarize the specific substantive and factual basis for disagreement. The final date for submitting such comments is 30 days from the date of this notice.

Victoria A. Whitney, Chief  
Division of Water Rights

Dated: September 7, 2007