



State Water Resources Control Board

MITIGATED NEGATIVE DECLARATION
Pursuant to Section 21080(c)
Public Resources Code

<p>To: Office of Planning & Research State Clearinghouse P.O. Box 3044 Sacramento, CA 95812-3044</p>	<p>From: State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000</p>
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PROJECT TITLE: WATER RIGHT APPLICATION 31501 - COUNTY LINE VINEYARD, LLC

APPLICANT: County Line Vineyard, LLC
c/o Wagner & Bonsignore, CCE
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833

PROJECT LOCATION:

The project associated with Application 31501 of County Line Vineyard, LLC (Applicant) is located west of Spring Mountain Road and north of St. Helena Road in the Mayacamas Mountains between Santa Rosa and St. Helena, California, Sonoma County. The project is located within Sections 20 and 29, Township 8N, Range 6W of the Calistoga, California U.S. Geological Survey 7.5-minute topographic quadrangle.

PROJECT DESCRIPTION:

The Applicant requests diversion of 4 acre-feet per year of water to storage from December 15 of each year to March 15 of the succeeding year. Water would be diverted from an Unnamed Stream tributary to Mark West Creek thence the Russian River and stored behind a proposed onstream dam. Stored water would be used for irrigation of 11 acres of existing vineyard. The project involves review of potential impacts resulting from construction of the onstream reservoir, construction of an instream diversion structure, and diversion of 4 acre-feet per year of water.

DETERMINATION:

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

WATER RIGHT 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 permit issued by the State Water Board pursuant to Application 31501.

1. Mitigation Measure AQ-1:

During construction of the project, right holder shall implement the following required control measures recommended in the Bay Area Air Quality Management District California Environmental Quality Act: Air Quality Guidelines pertinent to the proposed project:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph;
- e. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points; and
- f. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.

Right holder shall compile evidence of this compliance and shall provide evidence to the Deputy Director for Water Rights to verify implementation of all measures within 30 days of completion of construction work. Evidence may consist of, but is not limited to, photographs and construction records.

2. Mitigation Measure BIO-1:

For the protection of the rare Napa false indigo (*Amorpha californica* var. *napensis*) populations identified in the 2012 Terrestrial Biological Resources Assessment, the following conditions, shall apply to any activities authorized under the water right issued pursuant to Application 31501:

- a. Right holder shall ensure that construction equipment and vehicles remain along the main access road and do not travel off road in the vicinity of either plant population;
- b. Right holder shall not allow any further land disturbance within 20 feet of either specified plant population;

- c. During project construction, right holder shall identify and protect both plant populations by surrounding each site with plastic construction fencing or flags to be spaced and maintained at a maximum distance of 3 feet apart. Right holder shall provide evidence of fencing and/or flags to the Deputy Director for Water Rights prior to the commencement of construction; and
- d. Right holder shall allow representatives of the Division of Water Rights reasonable access upon notification of the right holder or the right holder's agent for the purpose of verifying these conditions of the permit.

These requirements shall remain in effect as long as water is being diverted by the right holder (or successors-in-interest) under any permit or license issued pursuant to Application 31501.

3. **Mitigation Measure BIO-2:**

For the protection of fish and wildlife:

- a. No water shall be diverted under this right unless the flow in the Unnamed Stream is at or above 0.11 cubic foot per second, as determined at POD 2; and
- b. No water shall be diverted under this water right unless right holder is bypassing the flow required by this water right by use of a passive bypass device.

Right holder shall provide the Division of Water Rights with evidence that the device has been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the device is functioning properly every year after device installation as an enclosure to the current annual report or whenever requested by the Division of Water Rights. Evidence required by this condition shall include current photographs of the system in place and a statement, signed by the right holder, certifying that the system is still operating as designed.

4. **Mitigation Measure BIO-3:**

No water shall be diverted under this right unless right holder is operating in accordance with a habitat restoration plan satisfactory to the Deputy Director for Water Rights. Right holder shall submit a report on restoration plan activities in accordance with the time schedule contained in the restoration plan, and whenever requested by the Division of Water Rights. The Deputy Director for Water Rights may require modification of the restoration plan upon a determination that the plan is ineffective or unsuccessful, or provide relief from this term upon a determination that the restoration plan is no longer required. Prior to initiation of construction, right holder shall develop a habitat restoration plan in consultation with the California Department of Fish and Wildlife and submit a copy of the final plan to the Deputy Director for Water Rights. The plan shall:

- a. Characterize the type, species composition, spatial extent, and ecological functions and values of the chaparral habitat that will be removed, lost, or damaged by the onstream dam based on estimates provided by a qualified biologist;
- b. Describe the approach that will be used to replace the chaparral habitat removed, lost, or adversely impacted by the onstream dam, including a list of the soil, plants, and other materials that will be necessary for successful chaparral habitat replacement, and a description of planting methods, location, spacing,

erosion protection, and irrigation measures that will be needed, if any. This mitigation shall be within the Mark West Creek watershed, and may be on the right holder's property, if approved by the California Department of Fish and Wildlife;

- c. Describe the mitigation ratio to be used in calculating the acreage of chaparral habitat to be planted;
- d. Describe the criteria that will be used to evaluate the effectiveness and success of the chaparral habitat replacement approach;
- e. Describe the program that will be used for monitoring the effectiveness and success of the chaparral habitat replacement approach;
- f. Describe how the chaparral habitat replacement approach will be supplemented or modified if the monitoring program indicates that the current approach is not effective or successful; and
- g. Include a time schedule for the implementation and monitoring of the chaparral habitat replacement.

5. Mitigation Measure BIO-4:

No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies. If an amended right is issued, no new facilities shall be utilized, nor shall the amount of water diverted or used increase beyond the maximum amount diverted or used during the previously authorized development schedule, unless right holder has obtained and is in compliance with all necessary requirements, including but not limited to the permits and approvals listed in this term.

Within 90 days of the issuance of this right or any subsequent amendment, right holder shall prepare and submit to the Division of Water Rights a list of, or provide information that shows proof of attempts to solicit information regarding the need for, permits or approvals that may be required for the project. At a minimum, right holder shall provide a list or other information pertaining to whether any of the following permits or approvals are required: (1) lake or streambed alteration agreement with the Department of Fish and Wildlife (Fish & G. Code, § 1600 et seq.); (2) Department of Water Resources, Division of Safety of Dams approval (Wat. Code, § 6002); (3) Regional Water Quality Control Board Waste Discharge Requirements (Wat. Code, § 13260 et seq.); (4) U.S. Army Corps of Engineers Clean Water Act section 404 permit (33 U.S.C. § 1344); and (5) local grading permits.

Right holder shall, within 30 days of issuance of any permits, approvals or waivers, transmit copies to the Division of Water Rights.

6. Mitigation Measure CR-1:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; groundstone 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 Deputy Director for Water Rights shall be notified of the discovery of any cultural resources, and a professional archeologist shall be retained by the right holder to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director for Water Rights.

7. Mitigation Measure CR-2:

If human remains are encountered, then right holder shall comply with Section 15064.5 (e) (1) of the California Environmental Quality Act 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 Deputy Director for Water Rights.

8. Mitigation Measure GS-1:

Construction of the reservoir shall not begin until a Geotechnical Engineer or Engineering Geologist registered by the State of California has approved the plans and specifications for the dam. Prior to the start of construction, right holder shall submit the approved plan to the Deputy Director for Water Rights. Construction of the dam shall be under the direction of a qualified Civil Engineer, Geotechnical Engineer or Engineering Geologist, and should be designed with the following parameters:

- a. The dam and reservoir side slopes should be designed and constructed to withstand ground shaking caused by the maximum credible earthquake;
- b. The dam and reservoir slopes should be designed such that they do not fail as a result of the maximum credible earthquake in the project area; and
- c. The geologist/engineer should review drainage conditions along the pipeline route from POD 2 to POD 1 to ensure that drainage water is not introduced into a slope such that it increases the potential for a landslide.

9. Mitigation Measure GS-2:

No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and/or complied with the identified permits required by the following agencies:

- a. Regional Board: General Permit for Discharges of Storm Water Associated with Construction Activity and Land Disturbance Activities (General Permit Order 2009-0009-DWQ); and

- b. Sonoma County Permit and Resource Management Department: Grading Permit.

Within 30 days of issuance, right holder will transmit copies of permits issued for the project to the Division of Water Rights.

10. Mitigation Measure HHM-1:

No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

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