

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

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In the Matter of Application 29852

**Beckstoffer Vineyards**

**ORDER APPROVING MITIGATION MONITORING AND  
REPORTING PLAN AND ISSUANCE OF PERMIT**

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SOURCE: Huichica Creek tributary to Hudeman Slough, thence Second Napa Slough, thence Sonoma Creek, thence San Pablo Bay

COUNTY: Napa

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**WHEREAS:**

1. Application 29852 of Beckstoffer Vineyards (Applicant) was filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) on October 25, 1990.
2. Application 29852, as filed, seeks authorization to divert 14 acre-feet (af) per annum of water to storage in one proposed offstream reservoir. Water will be collected from November 1 of each year to April 30 of the succeeding year. The Applicant currently impounds 60 af of water diverted under existing Licenses 11333 and 12902 (Applications 24493 and 25630 respectively). Application 29852 in combination with Applications 30252 and 30253 seek to authorize an additional 79 af of water, for a total of 139 af.
3. The Division issued a public notice of Application 29852 on May 17, 1991. On July 11, 1991, the California Department of Fish and Game (DFG) filed a protest on the basis of potential environmental impacts. The Division dismissed this protest on June 28, 1996 based on results from a formal endangered species consultation.
4. The Applicant submitted a petition for change on June 30, 1997. The petition for change requested to: (1) drop the proposed 14 af offstream reservoir; (2) add Cabral Reservoir 1 as a point of rediversion; (3) add Cabral Reservoir 2 as a place of offstream storage; and (4) expand the place of use from 171 acres to 256 acres.
5. The Division issued a public notice of the petition for change of Application 29852 on February 23, 1998. The California Sportfishing Protection Alliance (CSPA) and the DFG filed protests on the basis of potential impacts to the environment. The CSPA protest was dismissed on December 31, 1998 subject to terms for a mandatory minimum streamflow requirement and measuring device requirements. DFG submitted protest dismissal terms in a letter dated June 17, 2009 requiring a bypass flow of 15.5 cubic-feet per second (cfs) as measured at the Napa County Resource Conservation Gage at the DFG Huichica Creek Unit, a restoration plan for a minimum of 1,000 linear feet of stream bank in Napa Slough, Mud Slough, or Huichica Creek, and a Lake and Streambed Alteration Agreement. The DFG protest was dismissed on September 17, 2009 subject to the identified protest dismissal terms.

6. Division staff prepared a water availability analysis for Applications 29852, 30252, and 30253, dated November 20, 2000 and a water availability analysis for the Huichica Creek watershed dated November 22, 2000. These analyses conclude that there is sufficient water available for appropriation under Application 29852.
7. The water will be diverted and used without injury to any lawful user of water. The water availability analyses completed for this project demonstrate that water is available to serve this application without injury to prior rights. No protests to approval of the application on the basis of injury to prior rights were filed with the Division.
8. 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 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. Hanson Environmental, Inc. and EDAW performed site-specific evaluations and recommended project modifications in consultation with the Division, DFG, and NMFS. Permit conditions shall be included in the permit to conform the project to the Draft Guidelines.
9. The proposed water use is beneficial. The applicant requested to divert 14 af per annum to storage for irrigation of 296 acres of existing vineyard.
10. Pursuant to Resolution No. 2007-0057, the State Water Board has delegated authority to the Deputy Director for Water Rights to administer the duties required under the California Environmental Quality Act (CEQA) (Resolution No. 2007-0057, section 4.10). The Deputy Director for Water Rights has redelegated this authority to the Manager of the Permitting Section.
11. Pursuant to the provisions of CEQA, the State Water Board adopted a Mitigated Negative Declaration (MND) pursuant to the California Code of Regulations, Title 14, section 15074. The MND determined that the above-proposed project 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 (IS). The potential adverse impacts of the project were found to be less than significant and mitigated for with the inclusion of specific permit terms.
12. A Mitigation Monitoring and Reporting Plan (MMRP) has been prepared in conformance with CEQA (Public Resources Code § 21081.6). The MMRP has been developed based on the information and mitigation measures contained in the IS/MND. The MMRP lists mitigation measures recommended in the IS/MND for the proposed project and specifies implementation and monitoring responsibilities. Pursuant to Public Resources Code section 21081.6(b), each of the mitigation measures identified in the MMRP will be included as enforceable permit terms in any permit authorizing construction, diversion, or use of water pursuant to Water Right Application 29852.
13. The State Water Board will file a Notice of Determination for this project with the Governor's Office of Planning and Research within five days from the issuance of this order, in accordance with the California Code of Regulations, Title 14, section 15096.

**NOW, THEREFORE, IT IS ORDERED THAT** the Mitigation Monitoring and Reporting Plan is adopted and a permit is issued for Application 29852, subject to the conditions contained in the attached permit.

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in black ink, appearing to read "Victoria A. Whitney". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

*Victoria A. Whitney*  
*Deputy Director for Water Rights*

Dated: **JUN 30 2010**

Attachment: Permit 21257