

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

DIVISION OF WATER RIGHTS

In the Matter of Application 30384

GERALD J. MARINO, JOSEPH NICHELINI, AND CHRISTOPHER HARNEY

ORDER CANCELING PROTESTS

SOURCE: Unnamed Stream and Pope Creek

COUNTY: Napa

WHEREAS:

1. On July 21, 1994, Gerald J. Marino et al. filed water right Application 30384 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) for diversion of water from Unnamed Stream and Pope Creek.
2. The application was originally noticed on November 18, 2005. The Division received protests from the following: United States Bureau of Reclamation (Reclamation), Solano County Water Agency (SCWA), Narsai David, and Department of Fish and Wildlife (CDFW). The protests by Reclamation, SCWA, and Narsai David were based on prior rights and could be dismissed with the inclusion of Condition 12 of the Upper Putah Creek Settlement Agreement and acknowledgement of prior rights. The CDFW protest was based on fish and wildlife concerns.
3. On July 8, 2009, the Division provided public notice of a Petition for Change for Application 30384. The Division subsequently received protests from the Living Rivers Council and CDFW. Both protests were regarding environmental concerns.
4. Pursuant to the California Environmental Quality Act, a Mitigated Negative Declaration (MND) (SCH # 2012082042) has been prepared for this project. The MND is located in the application file and is incorporated in this Order by reference. The MND identifies mitigation measures to reduce any impacts to a less than significant level. The mitigation measures will be included in any right issued.
5. On August 15, 2013, the Division provided a letter (pursuant to Water Code section 1334) to all remaining Protestants indicating that the place of use for the project has been reduced from a net 305 acres within a gross of 455 acres to 214 acres. The Division enclosed a draft permit containing terms and conditions for the right. The Division's letter requested Protestants with unresolved concerns relating to their protest to submit information to the Division that demonstrates that the proposed mitigation measures (included in the draft permit) are inadequate within 30 days of the Division's letter. The letter indicated that if documentation is not timely provided the Division would assume that the protest concerns have been addressed and would dismiss the protest.
6. The Division did not receive timely documentation from any of the Protestants.

7. The State Water Board has delegated the authority to cancel protests to the Deputy Director of Water Rights pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Assistant Deputy Director, pursuant to redelegation order dated July 6, 2012.

NOW, THEREFORE, IT IS ORDERED THAT THE PROTESTS FILED ON APPLICATION 30384 ARE CANCELED.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
JOHN O'HAGAN FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JAN 27 2015