

**DIVISION OF WATER RIGHTS**

---

In the Matter of Applications 29705, 29706, 29708

**Jackson Wine Estates Vineyards**

**ORDER CANCELING APPLICATION**

---

**SOURCE:** Sausal Creek and Unnamed Streams tributary to the Russian River

**COUNTY:** Sonoma

---

**WHEREAS:**

1. The Huntington Beach Company filed water right Applications 29705, 29706, and 29708 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on March 27, 1990, requesting the right to divert 3,795 acre-feet from Sausal Creek and Unnamed Streams tributary to the Russian River. The Division transferred ownership to Jackson Wine Estates Vineyards (Applicant) on May 24, 1996.
2. Applications 29705, 29706, and 29708 were noticed on February 1, 1991. Protests were received from the California Sport Fishing Alliance, California Department of Fish and Game, Sierra Club, Trout Unlimited, Mendocino Environmental Center, Sausal Creek Property Owners, Alexander Valley Association, and Hafner Vineyards. All protests were accepted on April 19, 1991. A draft Environmental Impact Report (DEIR) was prepared for the entire proposed project which also included Water Right Applications 29703, 29704, 29707, and 29811. A public hearing was conducted on May 23 and 24, 1995 regarding Water Right Applications 29703, 29704, 29705, 29706, 29707, 29708, and 29811. During the hearing the State Water Board determined that the DEIR for these applications should be supplemented to address several issues. The hearing was closed and the applicant was informed of its options for proceeding with the above referenced applications by letter dated April 30, 2002. Water Right Applications 29703, 29704, 29707, and 29811 were subsequently canceled on April 4, 2006 at the applicant's request. Applications 29705, 29706, and 29708 are still pending.
3. By letter dated July 1, 2009, the Division requested the applicant provide notice of whether or not they intended to continue processing of Applications 29705, 29706, and 29708 within 30 days and requested the applicant submit within 90 days 1) identification of the consultants or persons that will prepare the water availability analysis and cumulative flow related impacts analysis and a description of their expertise; 2) identification of the consultants or persons that will prepare a draft of the CEQA documents and/or an evaluation of impacts on public trust resources and a description of their expertise; and 3) three original Memorandum's of Understanding fully completed and signed. The letter contained a warning that failure to submit the information requested within the time period provided could result in the cancellation of the application under Water Code section 1276. By letter dated July 24, 2009, the applicant notified the Division that they intended to continue processing their water right applications. However, the additional information requested was not submitted.
4. On September 29, 2009, the Division received notice from the Applicant requesting cancellation of Applications 29705, 29706, and 29708.
5. The State Water Board has delegated the authority to cancel applications to the Deputy Director of the Division pursuant to Resolution No. 2007-0057. The Deputy Director has redelegated this

Applications 29705, 29706, 29708  
Page 2 of 2

authority to the Assistant Deputy Director in the absence of the Deputy Director, pursuant to redelegation order dated October 4, 2007.

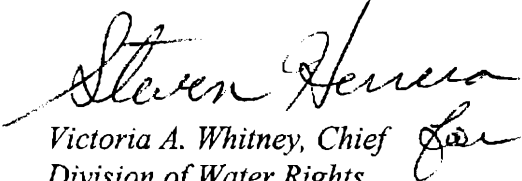
**THEREFORE, IT IS ORDERED THAT APPLICATIONS 29705, 29706, AND 29708 ARE HEREBY CANCELED.**

It is Applicant's responsibility to remove or modify any diversion works or impoundments to ensure that water is no longer diverted. Applicant should consult with the Department of Fish and Game and the Regional Water Quality Control Board in order to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. Applicant must also consult the Department of Water Resources, Division of Safety of Dams if a jurisdictional size dam will be removed or breached (dam height 25 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

Applicant is hereby put on notice that any diversion of water from the points of diversion proposed under this application may be subject to administrative civil liability of up to \$500 per day without further notice, pursuant to Water Code section 1052. The State Water Board also may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Applicant shall document any diversions made under claim of riparian or pre-1914 water rights by filing a Statement of Water Diversion and Use with the State Water Board in accordance with Water Code sections 5100 through 5108.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated: **OCT 12 2009**