

DIVISION OF WATER RIGHTS

In the Matter of Application 30655

William and Virginia Nemerever

ORDER CANCELING APPLICATION

SOURCE: Unnamed Stream tributary to Conn Creek thence Napa River

COUNTY: Napa

WHEREAS:

1. Jo Ann Johnson (Applicant) filed a water right application with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on October 3, 1997, requesting the right to divert 10 acre-feet from an Unnamed Stream tributary to Conn Creek thence the Napa River. Pursuant to a request from the applicant's agent dated March 20, 1998, the Division's records have been updated to show William and Virginia Nemerever as the current owners of record for Application 30655.
2. The Division accepted Application 30655 on October 21, 1997 and issued a public notice of the application on October 2, 1998. Lillian B. Disney, Heublin Inc. – Herrick I, II, and the Department of Fish and Game filed protests against Application 30655. Lillian B. Disney and Heublin Inc. – Herrick I, II protests were dismissed on October 28, 1998. The Department of Fish and Game protest was dismissed on June 27, 2000.
3. On March 22, 2005, the Applicant filed a petition for change requesting the addition of frost protection as a purpose of use. The Division issued a public re-notice of Application 30655 on October 21, 2005. The Department of Fish and Game and the National Marine Fisheries Service filed protests. These protests remain unresolved.
4. On June 22, 2010, the Division received notice from the Applicant's agent requesting cancellation of Application 30655.
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 authority to the Assistant Deputy Director and Program Managers, pursuant to the redelegation order dated October 4, 2007.

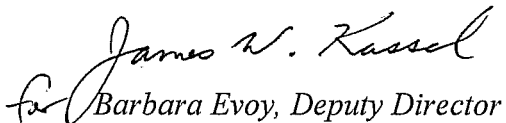
THEREFORE, IT IS ORDERED THAT APPLICATION 30655 IS HEREBY CANCELED.

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 point 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


for *Barbara Evoy, Deputy Director*
Division of Water Rights

Dated: **DEC 17 2010**