

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

DIVISION OF WATER RIGHTS

In the Matter of Application 30926

Nancy K. Donovan and Stephen J. Peters

ORDER CANCELING APPLICATION

SOURCE: Unnamed Stream tributary to Maple Creek

COUNTY: Mendocino

WHEREAS:

1. Nancy K. Donovan and Stephen J. Peters (Applicants) filed a water right application with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on May 13, 1999, requesting the right to divert 30 acre-feet per annum (afa) from Unnamed Stream tributary to Maple Creek for irrigation, frost protection, fire protection, and stockwatering purposes of use.
2. The Division received the application on May 13, 1999 and accepted it on July 29, 1999.
3. The application was noticed on January 28, 2000. A total of seven protests were received and accepted. None of the protests has been dismissed. Protests were filed by Friends of the Navarro Watershed, Sierra Club Mendocino-Lake Group, Navarro Watershed Protection Association, National Marine Fisheries Services, Douglass Hendricks, Daniel Meyer, and California Department of Fish and Game.
4. On March 8, 2005, the Division requested that Applicants submit by September 8, 2005 a signed Memorandum of Understanding (MOU) by which Applicants would hire qualified consultants to conduct a water availability analysis and prepare environmental impact assessment documents for the project in accordance with the California Environmental Quality Act (CEQA). Applicants were warned that failure to enter into a MOU could result in application cancellation.
5. By letter dated September 2, 2005, Applicants informed the Division that the project was CEQA exempt. On October 18, 2005, the Division notified Applicants that the project was not exempt from CEQA and requested the MOU be submitted by December 19, 2005 or the application could be cancelled.
6. On April 26, 2006, the Division received a completed MOU. The Division executed the MOU on May 23, 2006.
7. On September 25, 2008, Applicant's Representative notified the Division that he was withdrawing from the MOU contract because he was unable to reach a contract agreement with Applicants.
8. On October 22, 2008, the Division acknowledged the termination of the MOU and requested Applicants contact the Division and submit a new MOU by December 6, 2008. 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. The Division did not receive the required information.

9. On May 29, 2009, the Division requested a new MOU and notification of Applicants' intent to pursue the application, pursuant to Water Code section 1275, by June 28, 2009. The letter contained a warning that failure to submit the information requested within the time period provided would result in the cancellation of the application without further notice under Water Code section 1276. To date, the Division has not received the required information.
10. Applicants, after due notice, have failed to submit information requested pursuant to section 1275 of the Water Code or to show good cause why additional time should be allowed. (Wat. Code, § 1276.)
11. The State Water Board has delegated the authority to cancel applications to the Deputy Director for Water Rights, pursuant to Resolution No. 2007-0057. The Deputy Director has redelegated this 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 APPLICATION 30926 IS HEREBY CANCELED.

It is Applicants' responsibility to remove or modify any diversion works or impoundments to ensure that water is no longer diverted. Applicants 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. Applicants 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.

Applicants are 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.

Applicants 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
Deputy Director for Water Rights

Dated: **AUG 05 2010**