

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

**WR ORDER 2002-0004-DWR**

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IN THE MATTER OF PERMIT 20971 (APPLICATION 30396)

**ROBERT AND BETTY HUDSON**

**APPROVAL OF TEMPORARY URGENCY CHANGE  
IN THE PLACE OF USE**

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SOURCE: Unnamed Stream tributary to Carneros Creek, and Carneros Creek  
COUNTY: Napa

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ORDER APPROVING TEMPORARY URGENCY CHANGE  
IN THE PLACE OF USE

**1.0 INTRODUCTION**

On May 22, 2002, Robert and Betty Hudson filed a petition requesting renewal of Temporary Urgency Change (TUC) Order WR 2001-20-DWR pursuant to Water Code section 1441.

**2.0 SUBSTANCE OF PETITION**

The petitioner has requested renewal of TUC Order WR 2001-20-DWR that approved use of previously stored water on an additional place of use (35 acres) under water right Permit 20971 (Application 30396).

The petitioner holds Permit 20971 (issued on July 10, 1998) which authorizes the storage of up to 170 acre-feet per year (afa) from three onstream reservoirs on an Unnamed Stream tributary to Carneros Creek and North Pit Reservoir, an offstream storage reservoir receiving water from a point of diversion on Carneros Creek. The property and sources of water are located in Napa County. The authorized place of use under Permit 20971 is 170 acres of vineyard located in sections 11, 13, and 14, T5N, R5W, MDB&M, as shown on map on file with the SWRCB. The permittee has indicated that the 69-acre-foot-capacity North Pit Reservoir and 70 acres of the 170-acre authorized place of use have been developed.

In July 2001, a groundwater well used to supply a portion of the neighboring Rombauer Vineyard experienced a dramatic drop in its yield, as compared to previous years. The permittee indicated that due to the dramatic decrease in yield, Rombauer Vineyard was in jeopardy of losing about 35 acres of existing vineyard and thus, has an urgent need for water. SWRCB TUC Order WR 2001-20 DWR, issued August 15, 2001, approved a change to use 7.5 acre-feet of water under water right Permit 20971 on the identified 35 acre place of use. TUC WR 2001-20-DWR expired on February 11, 2002. On February 22, 2002, the permittee filed a petition seeking a permanent change in the place of use. The change would add 155 acres of land (including the 35 acres assisted under SWRCB Order WR 2001-20 DWR) to the place of use designated under Permit 20971. Public notice of the proposed permanent change was issued on May 24, 2002.

On May 22, 2002, the Permittee requested renewal of TUC WR 2001-20-DWR, to allow water to again be provided to the existing 35 acres of vineyard located within sections 13 and 18, T5N, R5W, MDB&M during the upcoming irrigation season.

### **3.0 OBJECTIONS TO THE PETITION**

Water Code section 1438(a) allows the SWRCB to issue a temporary urgency order or renewal, in advance of the public noticing requirements. In all cases, whether or not the temporary order has already been issued, the SWRCB is required to provide public notice of the change as soon as practicable after receipt of the petition. Any person may file an objection to the temporary change and the SWRCB shall give prompt consideration and may hold a hearing thereon, after notice to all interested parties.

### **4.0 ENVIRONMENTAL CONSIDERATION**

The temporary urgency change involves the use of stored water to irrigate an addition of 35 acres of existing vineyard. The petitioner has stated that in anticipation of this action, the petitioner has reduced the amount of water used within the existing, permitted place of use. Thus, the proposed temporary urgency change should not result in an increase in consumptive use under Permit 20971 or a resultant increase in the amount of water diverted from Carneros Creek, and therefore should not unreasonably affect fish, wildlife, or other instream beneficial uses within Carneros Creek.

Additionally, the proposed place of use is an existing vineyard, which would have been irrigated absent the failure of a groundwater well. The water will be supplied to the proposed place of use via a temporary 4-inch-diameter pipeline laid on the ground. Therefore, the delivery and application of water to the proposed place of use should not unreasonably affect fish, wildlife, or other instream beneficial uses within Carneros Creek.

Based on the information provided above, the Division of Water Rights concludes that this action is exempt from the California Environmental Quality Act under Title 14, California Code of Regulations, Section 15304.

### **5.0 SWRCB'S DELEGATION OF AUTHORITY**

Resolution 2002-0106, section 2.6.18 delegates to the Chief of the Division of Water Rights the authority to approve temporary urgency changes pursuant to Water Code Section 1435 provided the necessary findings can be made.

### **6.0 CONCLUSIONS**

The SWRCB has adequate information in its files and SWRCB Order WR 2001-20-DWR to make the evaluation required by Water Code section 1435.

I conclude that, based on the available evidence:

1. The Permittee has an urgent need to make the proposed temporary change;
2. The proposed temporary change will not operate to the injury of any other lawful user of water;
3. The proposed temporary change will not have an unreasonable effect upon fish, wildlife, or other instream beneficial uses; and, The petitioned change is in the public interest.

**ORDER**

**NOW, THEREFORE, IT IS ORDERED THAT:**

The petition filed by Robert and Betty Hudson for renewal of Temporary Urgency Change Order WR 2001-20-DWR, under Permit 20971 (Application 30396) is approved, subject to the existing conditions of Permit 20971 and the conditions defined in TUC Order WR 2001-20-DWR. This Order renews the effective period of Order WR 2001-20-DWR for 180 days from the date of this Order.

STATE WATER RESOURCES CONTROL BOARD



*Edward C. Anton, Chief  
Division of Water Rights*

Dated:

JUN 7 2002