

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

DIVISION OF WATER RIGHTS

In the Matter of Permit 16622 (Application 24364)
IRISH BEACH WATER DISTRICT

NOTICE OF PROPOSED REVOCATION

SOURCE: Mallo Pass Creek tributary to Pacific Ocean

COUNTY: Mendocino

You are hereby notified, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is proposing to revoke Permit 16622 because the Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under the permit, the Water Code, and the State Water Board's regulations. In addition, the Division proposes to revoke Permit 16622 because the Permittee has failed to use beneficially all or part of the water for the purpose for which it was appropriated in accordance with the Water Code.

The proposed revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 16622 on February 27, 1974. The permit authorizes Irish Beach Water District (Permittee) to divert 0.58 cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 380 acre-feet per year (afa). The permit was modified by Order dated February 7, 1989 to allow diversion of 150 gallons per minute, not to exceed 220 afa. The permit requires that construction work be completed by December 1, 1977, and that the water be applied to the authorized use by December 1, 1984.

A. PERMITTEE HAS FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT.

1. Permittee indicated that project construction had not yet commenced in the attachment to the May 14, 1984 petition for extension of time.
2. Permittee requested, and on October 12, 1984, the Division granted, an extension of time to commence construction or apply the water to full beneficial use. The time extension order required construction to be complete by December 1, 1987, and that water be fully used by December 1, 1988.
3. Permittee failed to complete construction of the project by the December 1, 1987 deadline. The Progress Reports by Permittee (progress reports) for 1985 through 1987 state that construction has not commenced.
4. The Division conducted a site inspection on March 17, 1988, and found that work had not commenced on the diversion project.

5. Permittee requested, and on June 13, 1988, the Division granted, an extension of time to commence construction or apply the water to full beneficial use. The time extension order required construction to be complete by December 31, 1995, and that water be fully used by December 31, 1997.
6. The progress reports for 1989 through 1998 state that construction has not commenced. The 1998 progress report is the last progress report submitted by the Permittee.
7. The Division conducted a licensing inspection on May 25, 1999, and found that the Permittee had not constructed the diversion facility.
8. Permittee requested a ten-year extension of time, by time extension petition dated July 28, 2000. The petition states that no water has been used under this water right permit. The Permittee estimated that construction would begin within "2 to 5 years or more" and water would be fully used in 40 to 50 years.
9. By letter dated October 20, 2004, Division staff requested the Permittee to document the basis for approval of a time extension, pursuant to California Code of Regulations, title 23, section 844. Because the Permittee is the lead agency under California Environmental Quality Act (CEQA) and the Division had not seen any documentation to show that the Permittee had completed any necessary CEQA documentation, Division staff also requested the Permittee to identify a date when it will provide the required CEQA documentation for the time extension petition. Division staff advised the Permittee that failure to respond within 30 days may result in cancellation of the petition, pursuant to section 1701.4 of the California Water Code. Permittee was further advised that Permit 16622 may be revoked due to non-use if the Permittee is unable to document that it will diligently pursue the project described in the permit.
10. The Permittee responded by letter dated December 21, 2004, stating that there are currently 180 homes in Irish Beach and a total of 460 home sites. Given an assumed growth rate of 10 homes per year, and accounting for a commitment to provide hookups for commercial use, Permittee will be responsible for providing water to the equivalent of 477 homes. Permittee has sufficient water from Irish Creek (a different permitted source) and groundwater to serve 336 homes, which means that Permittee has sufficient water for 15 years. The water to be diverted from Mallo Pass Creek pursuant to Permit 16622 is needed to serve the additional 141 homes at buildout.
11. The Permittee's December 21, 2004, letter estimates that water use under Permit 16622 will commence in approximately 15 years. The Permittee could not identify when it would provide the Division with the required CEQA documentation.
12. Permittee's time extension petition was not approved. The Division issued an Order Denying Petition for Extension of Time on July 20, 2006. In Order WR 2006-0015 EXEC, the State Water Board denied the petition for reconsideration of the July 20 order. Therefore, the December 31, 1997 deadline to complete application of water to beneficial use remains effective.
13. Permittee has not submitted annual Progress Reports of Permittee, which summarize water use and project status, as required by conditions in the Permit since the 1998 Progress Report.

B. **BASED ON THE ABOVE FACTS AND INFORMATION, THE DIVISION CONCLUDES THAT CAUSE EXISTS FOR THE REVOCATION OF PERMIT 16622 PURSUANT TO WATER CODE SECTION 1410, SUBDIVISION (A) BECAUSE:**

Permittee has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 16622 and has failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.

As required by Water Code section 1410.1, you are hereby notified that unless the Division receives a written request for a hearing, signed by or on behalf of the Permittee, the State Water Board will revoke Permit 16622, based on the above facts, information and conclusions. The written request for hearing must be postmarked or delivered no later than 15 days from the receipt of this notice. You may request a hearing by delivering or mailing the request to the State Water Board at the following address within the time period provided: Division of Water Rights, P.O. Box 2000, 1001 I Street, Sacramento, CA 95812-2000.

Based on the above facts and conclusions, the State Water Board, Division of Water Rights will revoke Permit 16622 unless the Division receives a written request for hearing within the time period specified above.

STATE WATER RESOURCES CONTROL BOARD

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated:

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