



State Water Resources Control Board



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterboards.ca.gov/waterrights

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

**FINAL
MITIGATED NEGATIVE DECLARATION**
Pursuant to Section 21080(c)
Public Resources Code

To: Office of Planning & Research From: State Water Resources Control Board
State Clearinghouse Division of Water Rights
P.O. Box 3044 P.O. Box 2000
Sacramento, CA 95812-3044 Sacramento, CA 95812-2000

PROJECT TITLE: Beckstoffer Vineyards Applications 29852, 30252, and 30253 and
Petition for Change of Application 25630 (License 12902)

APPLICANT/PETITIONER: Beckstoffer Vineyards
c/o Napa Valley Vineyard Engineering
176 Main Street, Suite B
St. Helena, CA 94574

PROJECT LOCATION:

Beckstoffer Vineyards (Applicant) is located approximately 7 miles southwest of the City of Napa in Napa County, California, and is bounded on the north by Las Amigas Road and on the west by Huichica Creek. The project site consists of 296 acres of developed vineyard on gently rolling terrain, located at the southern end of the Huichica Creek watershed within the "Cuttings Wharf, California" U.S. Geological Survey (USGS) 7.5 minute topographic quadrangle in projected Section 6 and Section 7 of Township 4N, Range 4W, Mt. Diablo Base and Meridian (MDB&M).

PROJECT DESCRIPTION:

Water Right Applications 29852, 30252, and 30253 were filed to request appropriation and storage of an additional 79 acre-feet of water per year in three licensed reservoirs for irrigation of the existing vineyard. The additional 79 acre-feet of water would be diverted from three existing Points of Diversion located on an Unnamed Stream tributary to Mud Slough, an Unnamed Stream tributary to Napa Slough, and Huichica Creek. The three storage reservoirs on the property (Cabral Reservoir No. 1, Cabral Reservoir No. 2, and Las Amigas Reservoir) exist under water right Licenses 11333 and 12902 (Applications 24493 and 25630). Cabral Reservoir No. 1 and Las Amigas Reservoir are onstream reservoirs. An Unnamed Stream has been routed around Cabral Reservoir No. 2 to create an offstream, pit-type reservoir. The reservoirs are located on the two separate unnamed streams, neither of which discharges into Huichica Creek. Las Amigas Reservoir is located on a watercourse that discharges into Mud Slough and Cabral Reservoir No. 1 is located on a watercourse that discharges into Napa Slough. Cabral Reservoir No. 2 was located downstream of Cabral Reservoir No. 1 on the Unnamed Stream discharging to Napa Slough prior to the stream being re-routed. The pending applications propose water diversion for use in vineyard irrigation throughout the 296 acres of developed vineyard and expansion of Cabral Reservoir No. 2 and Las Amigas Reservoir for additional water storage.

California Environmental Protection Agency

The Applicant also filed two petitions for change on License 12902 (Application 25630). The first petition for change was filed on February 26, 1993 and requests expansion of the Place of Use from 171 acres to 296 acres to account for a neighboring vineyard which was acquired by the Applicant. The second petition for change was filed on June 30, 1997 and requests addition of a Point of Rediversion at Cabral Reservoir No. 1 to accommodate Cabral Reservoir No. 2 as an offstream reservoir. The Point of Diversion associated with the original onstream dam of Cabral Reservoir No. 2 is to be abandoned as a result of routing the stream around the reservoir.

The project also involves removal and replacement of the existing pump structure located on the bank of Huichica Creek. The replacement would occur within a small footprint adjacent to the upland maintenance area, approximately 15 feet away from the bank.

DETERMINATION:

The State Water Resources Control Board has determined that the above-described project will have a less than significant effect on the environment for the reasons specified in the Initial Study prepared for this project.

PERMIT CONDITIONS:

Water Right Application 29852:

Source: Water is to be appropriated from one location on Huichica Creek tributary to Hudeman Slough, thence 2nd Napa Slough, thence Sonoma Creek, thence San Pablo Bay.

Points of Diversion/Rediversion/Storage: Point of Diversion to Offstream Storage is located North 1,842,491 and East 6,460,306, California Coordinate System 1983, Zone 2. Being within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Point of Rediversion (Cabral Reservoir No. 1) is located North 1,842,391 and East 6,461,806, California Coordinate System, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Place of Offstream Storage (Cabral Reservoir No. 2) is located North 1,841,991 and East 6,461,756, California Coordinate System 1983, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4 N, Range 4W, MDB&M.

Amount and Season: Water appropriated shall not exceed 14 acre-feet per annum to be collected to storage in Cabral Reservoir No. 2 between November 1 of each year to April 30 of the succeeding year. Maximum rate of diversion from Huichica Creek to offstream storage is 2 cubic-feet per second. The combined maximum rate of diversion from Huichica Creek under Applications 25630, 29852, and 30253 shall not exceed 3 cubic-feet per second.

Total Annual Use: Not to exceed 14 acre-feet per annum.

Purpose of Use: Irrigation

Place of Use: Includes all of the following, located in Napa County:

17 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
37 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
37 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
31 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
40 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
14 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 7, T4N, R4W, MDB&M
18 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 7, T4N, R4W, MDB&M
296 acres

Water Right Application 30252:

Source: Water is to be appropriated from two points of diversion located on two separate Unnamed Streams. One point of diversion is located at Las Amigas Reservoir on an Unnamed Stream tributary to Mud Slough, thence the Napa River, thence San Pablo Bay. Las Amigas Reservoir is also named as a Point of Rediversion. The other Point of Diversion is located at Cabral Reservoir No. 1 on an Unnamed Stream tributary to 2nd Napa Slough, thence Sonoma Creek, thence San Pablo Bay. Cabral Reservoir No. 1 serves as a Point of Diversion to Offstream Storage.

Points of Diversion/Rediversion/Storage: Point of Diversion/Rediversion and Place of Storage (Las Amigas Reservoir) is located North 1,844,041 and East 6,465,407 California Coordinate System 1983, Zone 2. Being within the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Point of Diversion to offstream storage (Cabral Reservoir No. 1) is located North 1,842,391 and East 6,461,806 California Coordinate System 1983, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Place of Offstream Storage (Cabral Reservoir No. 2) is located North 1,841,991 and East 6,461,756, California Coordinate System 1983, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4 N, Range 4W, MDB&M.

Amount and Season: Water appropriated shall not exceed 65 acre-feet per annum to be collected to storage in Cabral Reservoir No. 2 and Las Amigas Reservoir between October 15 of each year to April 30 of the succeeding year.

Total Annual Use: Not to exceed 65 acre-feet per annum in combination with Applications 30253 and 24493.

Purpose of Use: Irrigation

Place of Use: Includes all of the following, located in Napa County:

17 acres within NW¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
37 acres within NE¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
37 acres within SE¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within NW¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
31 acres within NE¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
40 acres within SE¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
14 acres within NW¼ of NW¼ of Section 7, T4N, R4W, MDB&M
18 acres within NE¼ of NW¼ of Section 7, T4N, R4W, MDB&M
296 acres

Water Right Application 30253:

Source: Water is to be appropriated from one location on Huichica Creek tributary to Hudeman Slough, thence 2nd Napa Slough, thence Sonoma Creek, thence San Pablo Bay.

Points of Diversion/Rediversion/Storage: Point of Diversion to Offstream Storage is located North 1,842,491 and East 6,460,306, California Coordinate System 1983, Zone 2. Being within the NW¼ of the SW¼ of projected Section 6, Township 4N, Range 4W, MDB&M. Point of Rediversion (Cabral Reservoir No. 1) is located North 1,842,391 and East 6,461,806, California Coordinate System, Zone 2. Being within the NE¼ of the SW¼ of projected Section 6, Township 4N, Range 4W, MDB&M. Point of Rediversion and Place of Storage (Las Amigas Reservoir) is located North 1,844,041 and East 6,465,407, California Coordinate System Zone 2. Being within the SE¼ of the NE¼ of projected Section 6, Township 4N, Range 4W, MDB&M. Place of Offstream Storage (Cabral Reservoir No. 2) is located North 1,841,991 and East 6,461,756, California Coordinate System 1983, Zone 2. Being within the NE¼ of the SW¼ of projected Section 6, Township 4 N, Range 4W, MDB&M.

Amount and Season: Water appropriated shall not exceed 65 acre-feet per annum to be collected to storage in Cabral Reservoir No. 2 and Las Amigas Reservoir between October 15 of each year to April 30 of the succeeding year. Maximum rate of diversion from Huichica Creek to offstream storage is 3 cubic-feet per second. Combined maximum rate of diversion from Huichica Creek under Applications 25630, 29852, and 30252 shall not exceed 3 cubic-feet per second.

Total Annual Use: Not to exceed 65 acre-feet per annum in combination with Applications 30252 and 24493.

Purpose of Use: Irrigation

Place of Use: Includes all of the following, located in Napa County:

17 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
37 acres within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
37 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
31 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
40 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 6, T4N, R4W, MDB&M
14 acres within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 7, T4N, R4W, MDB&M
18 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 7, T4N, R4W, MDB&M
296 acres

Petition for Change of Water Right License 12902 (Application 25630):

Source: Water is to be appropriated from one location on Huichica Creek tributary to Hudeman Slough, thence Napa Slough, thence Sonoma Creek, thence San Pablo Bay and one location on an Unnamed Stream tributary to Napa Slough, thence Sonoma Creek, thence San Pablo Bay.

Point of Diversion: Point of Diversion to Offstream Storage is located North 1,842,491 and East 6,460,306, California Coordinate System 1983, Zone 2. Being within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Point of Diversion, Point of Rediversion, Place of Storage (Cabral Reservoir No. 1) is located North 1,842,391 and East 6,461,806, California Coordinate System, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M. Place of Offstream Storage (Cabral Reservoir No. 2) is located North 1,841,991 and East 6,461,756, California Coordinate System 1983, Zone 2. Being within the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of projected Section 6, Township 4N, Range 4W, MDB&M.

Amount and Season: Water appropriated shall not exceed 45 acre-feet per annum to be collected to storage in Cabral Reservoir No. 1 and Cabral Reservoir No. 2 between November 1 of each year to April 30 of the succeeding year. Maximum rate of diversion from Huichica Creek to offstream storage is 1.66 cubic-feet per second. Combined maximum rate of diversion from Huichica Creek under Applications 25630, 29852, and 30253 shall not exceed 3 cubic-feet per second.

Total Annual Use: Not to exceed 45 acre-feet per annum.

Purpose of Use: Irrigation

Place of Use: Includes all of the following, located in Napa County:

17 acres within NW¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
37 acres within NE¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
37 acres within SE¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW¼ of NE¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within NW¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
31 acres within NE¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
40 acres within SE¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
34 acres within SW¼ of SW¼ of projected Section 6, T4N, R4W, MDB&M
14 acres within NW¼ of NW¼ of Section 7, T4N, R4W, MDB&M
18 acres within NE¼ of NW¼ of Section 7, T4N, R4W, MDB&M
296 acres

PERMIT/LICENSE TERMS:

Mitigation measures have been incorporated into the project to avoid potential significant environmental impacts. Specific terms reflecting the mitigation measures, written substantially as follows, will be included in any permits, licenses, or orders issued by the State Water Resources Control Board.

1. Prior to the start of construction, Permittee shall submit a detailed Emission Control and Mitigation Plan to the Deputy Director for Water Rights. Permittee shall also submit a copy of the plan to the San Francisco Bay Area Air Quality Management District. The Emission Control and Mitigation Plan shall be consistent with the San Francisco Bay Area Air Quality Management District's Air Quality Guidelines and include a monitoring and reporting component to ensure that mitigation measures identified in the Emission Control and Mitigation Plan are implemented. Permittee shall provide evidence to verify implementation of measures identified in the Emission Control and Mitigation Plan within 30 days of completion of construction work to the Deputy Director for Water Rights. Permittee shall also provide a copy of the evidence to the San Francisco Bay Area Air Quality Management District upon request. Evidence may consist of, but is not limited to, photographs and construction records. *(This term is not for use in any licenses, or orders issued pursuant to Application 25630.)*
2. Permittee/Licensee shall prevent any debris, soil, silt cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.
3. To prevent degradation of the quality of water during and after construction of the project, Permittee/Licensee shall file a report of waste discharge pursuant to Water Code section 13260 prior to commencement of construction and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board.

4. Before storing water in the reservoirs, Permittee/Licensee shall install a staff gage in each reservoir satisfactory to the Deputy Director for Water Rights, for the purpose of determining water levels in each reservoir. The staff gages must be maintained in operating condition as long as water is being diverted or used under this permit/license. Permittee/Licensee shall record the staff gage readings on the last day of each month and on October 15 annually. Permittee/Licensee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee/Licensee shall maintain a record of all staff gage readings and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights.

The State Water Resources Control Board may require release of water that cannot be verified as having been collected under a valid basis of right.

5. Prior to diversion or use of water under this permit, Permittee/Licensee shall install an in-line flow meter, satisfactory to the Deputy Director for Water Rights, that measures the instantaneous rate and the cumulative amount of water diverted from Huichica Creek. This in-line flow meter must be maintained in operating condition as long as water is being diverted or used under this permit. Permittee/Licensee shall maintain a record of the end-of the month meter readings and the days and amounts of actual diversion, and shall submit these records with annual progress reports, and whenever requested by the Division of Water Rights. *(This term is not for use in any permits, licenses, or orders issued pursuant to Application 30252.)*
6. Prior to the start of the diversion or use of water under this permit, the Permittee/Licensee shall submit a Compliance Plan for approval by the Deputy Director for Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit/license. The Compliance Plan shall include the following:
 - a. A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow;
 - b. A description of the gages and monitoring devices that will be installed or have been installed to measure streamflow and/or reservoir storage capacity, including any necessary calibration;
 - c. A time schedule for the installation and rating of these facilities;
 - d. A description of the frequency of data collection and the methods for recording bypass flows and storage levels;
 - e. An operation and maintenance plan that will be used to maintain all facilities in good condition; and
 - f. A description of the events that will trigger recalibration of the monitoring devices and the process that will be used to recalibrate.

The Permittee/Licensee shall be responsible for all costs associated with developing the Compliance Plan and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

Permittee/Licensee shall maintain all measurements and other monitoring required by this condition. Permittee/Licensee shall provide measuring and monitoring records to the Deputy Director for Water Rights within 15 days upon request by the State Water Resources Control Board, the Deputy Director for Water Rights, or other authorized designees of the State Water Resources Control Board.

Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized. *(This term is not for use in permits, licenses, or orders issued pursuant to Application 30252.)*

7. Permittee/Licensee shall not use more water under the basis of riparian right on the place of use authorized by this permit/license than Permittee/Licensee would have used absent the appropriation authorized by this permit/license. Based on the information in the Division of Water Rights files, riparian water has not been used on the Place of Use. Therefore, consistent with this term, Permittee/Licensee may not divert any additional riparian water for use on the Place of Use authorized by this permit/license under basis of riparian right. With the Deputy Director for Water Rights approval, this information may be updated, and Permittee/Licensee may use water under basis of riparian right on the authorized Place of Use, provided that Permittee/Licensee submits reliable evidence to the Deputy Director for Water Rights quantifying the amount of water that Permittee/Licensee likely would have used under the basis of riparian right absent the appropriation authorized by this permit/license. The Deputy Director for Water Rights is hereby authorized to approve or reject any proposal by Permittee/Licensee to use water under the basis of riparian right on the Place of Use authorized by this permit/license. Permittee/Licensee shall report any non-compliance with the terms of the permit to the Deputy Director for Water Rights within three days of identification of the violation.
8. For the protection of habitat for the California red-legged frog along the reservoirs and to allow for the growth of riparian vegetation, Permittee/Licensee shall:
 - a. Establish and maintain, undisturbed, a 50-foot-wide strip [exact width subject to negotiation with United States Fish and Wildlife Service and Department of Fish and Game] of natural upland vegetation around each water storage reservoir. During replanting, no vines shall be replanted within a 50-foot-wide strip to establish the natural vegetation buffer;
 - b. Obtain approval of the United States Fish and Wildlife Service, Sacramento Endangered Species Office, and California Department of Fish and Game prior to any reservoir dredging operation. Permittee/Licensee shall submit to the Deputy Director for Water Rights evidence of agency approval prior to any future reservoir dredging operations;
 - c. Refrain from disturbing the fringe of emergent (wetland) vegetation in the reservoir during dredging operations;

- d. Make no introduction of non-native fish species into the reservoir; and
- e. Consult with the United States Fish and Wildlife Service and California Department of Fish and Game should any bullfrogs or non-native fish be discovered at or near the reservoir to develop and implement an acceptable bullfrog eradication program. The eradication program may require periodic draining of the reservoirs.

These requirements shall remain in effect as long as water is being diverted under any permit or license issued pursuant to Applications 25630, 29852, 30252, or 30253.

- 9. This permit/license does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee/Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- 10. For the protection of riparian habitat along Huichica Creek, Permittee/Licensee shall establish a setback of at least 30 feet along the creek for any new vineyard planting or vineyard replant. The stream setback shall be measured from the top of the bank on both sides of the stream. In areas where existing riparian vegetation extends beyond 30 feet from the top of bank, the setback shall be extended to the riparian vegetation dripline as shown in Figure 3 of the Initial Study document. Figure 3 establishes a minimum setback requirement which may be extended or otherwise altered per any Department of Fish and Game approved restoration plan associated with Applications 25630, 29852, 30252, and/or 30253. No activity shall occur within the setback area, including, but not limited to, grading, herbicide spraying, paved roads, fencing, storage areas, and irrigation, with the exception of occasional equipment access necessary for continued operation of the vineyard. Permitted equipment access shall be limited to only necessary activities with efforts to minimize disturbance of vegetation and soils. Additionally, annual mowing of grasses to reduce fire hazard will be allowed in a 20-foot wide area adjacent to vineyards, provided that rooted vegetative cover is maintained year-round in mowed areas. The setback area shall be protected from disturbance to promote and encourage the recruitment of native riparian shrub and tree species. Planting of native riparian species is also encouraged to provide additional protection to the stream system.

For areas where existing agriculture encroaches on the buffer, the Permittee/Licensee shall develop and implement an erosion control plan designed to stabilize stream banks and the adjacent corridor to minimize erosion potential and sediment inputs into the stream channels. Prior to diversion and use of water, Permittee/Licensee shall submit an erosion control plan, approved by the County of Napa, to the Deputy Director for Water Rights.

11. No work shall commence and no water shall be diverted, stored, or used under this permit until a copy of a Lake and Streambed Alteration Agreement between the California Department of Fish and Game and Permittee/Licensee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of Permittee. If a Lake and Streambed Alteration Agreement is not necessary for this permitted project, Permittee/Licensee shall provide the Division of Water Rights a copy of a waiver signed by the California Department of Fish and Game.
12. In order to offset impacts from expansion of the existing reservoirs on the unnamed tributaries, Permittee/Licensee shall provide a restoration plan to California Department of Fish and Game for review and concurrence prior to diversion or use of water. The restoration plan shall include, at a minimum, 1,000 linear-feet of bank restoration, including but not limited to, activities such as invasive species removal, riparian planting and bank stabilization using bioengineering techniques. The plan shall include potential locations within the Napa Slough, Mud Slough, or Huichica Creek watersheds. Areas of restoration shall be managed and protected in perpetuity.
13. The Permittee/Licensee shall obtain all necessary federal (including United States Army Corps of Engineers Section 404), state, and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Deputy Director for Water Rights.
14. No water shall be diverted from Huichica Creek under this permit/license except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the California Department of Fish and Game and the National Marine Fisheries Service to protect Steelhead Trout, Coho Salmon, and Chinook Salmon listed as endangered or threatened under the California Endangered Species Act (Fish and Game Code section 2050 to 2098) and the federal Endangered Species Act (16 U.S.C.A. section 1531 to 1544). Construction, operation, and maintenance costs of the required facility are the responsibility of the Permittee/Licensee. *(This term is not for use in permits, licenses, or orders issued pursuant to Application 30252.)*
15. All project construction activities shall be conducted between 7:00 a.m. and 7:00 p.m. *(This term is not for use in any licenses, or orders issued pursuant to Application 25630.)*
16. To minimize overall construction noise, construction equipment shall be properly maintained and equipped with appropriate noise control features, such as mufflers, in accordance with manufacturers' specifications. *(This term is not for use in any licenses, or orders issued pursuant to Application 25630.)*
17. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars, and pestles); and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; structure and feature remains such as building foundations, privy pits, wells, and dumps; and old trails. The Deputy Director for Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee/Licensee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Deputy Director for Water Rights for approval.

Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Deputy Director for Water Rights.

18. If human remains are encountered, then the Permittee/Licensee shall comply with Section 15064.5(e)(1) of the California Environmental Quality Act Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance in the vicinity of the find shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Deputy Director for Water Rights.

Specific for Application 29852:

19. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 14 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year as follows: 14 acre-feet per annum in Cabral Reservoir No. 2.
20. The maximum rate of diversion to offstream storage from Huichica Creek Point of Diversion 5 shall not exceed 2.0 cubic-feet per second. The combined maximum diversion rate from Huichica Creek Point of Diversion 5 to offstream storage under Applications 25630, 29852, and 30253 shall not exceed 3.0 cubic-feet per second.
21. For the protection of fish and wildlife, Permittee shall from November 1 of each year to April 30 of the succeeding year, bypass a minimum of 15.5 cubic-feet per second as measured at the Napa County Resource Conservation District's stream gage located downstream adjacent to the California Department of Fish and Game refuge. The total streamflow shall be bypassed whenever it is less than 15.5 cubic-feet per second. From May 1 to October 31 of each year, the total streamflow shall be bypassed.

If Napa County Resource Conservation District discontinues operation and maintenance of its stream gage on Huichica Creek, within 30 days of that discontinuation Permittee shall provide to the Deputy Director for Water Rights a compliance plan identifying an alternative/replacement stream gage.

Specific for Application 30252:

22. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 65 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year for storage in Cabral Reservoir No. 2 and Las Amigas Reservoir.
23. The total quantity of water collected to storage under Applications 30252, 30253, and 24493 shall not exceed 65 acre-feet per year.

Specific for Application 30253:

24. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 65 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year for storage in Cabral Reservoir No. 2 and Las Amigas Reservoir.
25. The total quantity of water collected to storage under Applications 30252, 30253, and 24493 shall not exceed 65 acre-feet per year.
26. The maximum rate of diversion to offstream storage from Huichica Creek Point of Diversion 5 shall not exceed 3.0 cubic-feet per second. The combined maximum diversion rate from Huichica Creek Point of Diversion 5 to offstream storage under Applications 25630, 29852, and 30253 shall not exceed 3.0 cubic-feet per second.
27. For the protection of fish and wildlife, Permittee shall from October 15 of each year to April 30 of the succeeding year, bypass a minimum of 15.5 cubic-feet per second as measured at the Napa County Resource Conservation District's stream gage located downstream adjacent to the California Department of Fish and Game refuge. The total streamflow shall be bypassed whenever it is less than 15.5 cubic-feet per second. From May 1 to October 14 of each year, the total streamflow shall be bypassed.

If Napa County Resource Conservation District discontinues operation and maintenance of its stream gage on Huichica Creek, within 30 days of that discontinuation Permittee shall provide to the Deputy Director for Water Rights a compliance plan identifying an alternative/replacement stream gage.

Specific for Application 25630:

28. For the protection of fish and wildlife, Licensee shall from November 1 of each year to April 30 of the succeeding year, bypass a minimum of 15.5 cubic-feet per second as measured at the Napa County Resource Conservation District's stream gage located downstream adjacent to the California Department of Fish and Game refuge. The total streamflow shall be bypassed whenever it is less than 15.5 cubic-feet per second. From May 1 to October 31 of each year, the total streamflow shall be bypassed.

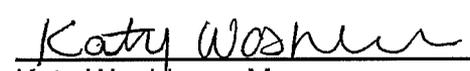
If Napa County Resource Conservation District discontinues operation and maintenance of its stream gage on Huichica Creek, within 30 days of that discontinuation Licensee shall provide to the Deputy Director for Water Rights a compliance plan identifying an alternative/replacement stream gage.

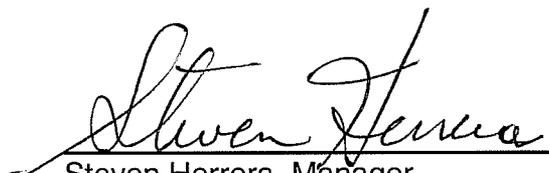
29. The maximum rate of diversion to offstream storage from Huichica Creek Point of Diversion 5 shall not exceed 1.66 cubic-feet per second. The combined maximum diversion rate from Huichica Creek Point of Diversion 5 to offstream storage under Applications 25630, 29852, and 30253 shall not exceed 3.0 cubic-feet per second.

The Initial Study in support of the Mitigated Negative Declaration are available on the Division of Water Rights website at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/ceqa/index.shtml. A hard copy of these documents or additional information concerning this action may be obtained by writing to Katy Washburn, Division of Water Rights, P.O. Box 2000, Sacramento, CA 95812-2000, by email at kwashburn@waterboards.ca.gov or by phone at (916) 341-5386.

Contact Person: Katy Washburn	Telephone: (916) 341-5386 email: kwashburn@waterboards.ca.gov
-------------------------------	--

APPROVAL OF THE ABOVE IS RECOMMENDED BY:

 5/27/2010
Katy Washburn, Manager Date
Napa River Watershed Unit

 5/27/2010
Steven Herrera, Manager Date
Water Rights Permitting Section

APPROVED:

 6/2/10
Victoria A. Whitney Date
Deputy Director for Water Rights