

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

DIVISION OF WATER RIGHTS

ORDER WR 2008-0013-DWR

In the Matter of Application 31212
William H. and Janet B. Johns

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Dinner Gulch tributary to Hayfork Creek
COUNTY: Trinity

WHEREAS:

1. Application 31212 was filed with the State Water Resources Control Board (State Water Board) on July 18, 2001.
2. No acceptable protests to approval of the application were filed.
3. The State Water Board has determined that there is unappropriated water available to serve Application 31212, based on a February 23, 2007 staff analysis.
4. The water will be diverted and used without injury to any lawful user of water. Notice of application was provided to persons that had appropriative water rights and Statements of Water Diversion and use on file with the State Water Board within the stream reach potentially impacted by the proposed appropriation. No protests were filed based on potential injury to prior rights and there is unappropriated water available.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. The Applicant provided photographic documentation that there is a waterfall approximately 15 feet high located at the mouth of Dinner Gulch. The Applicant asserts that the waterfall serves as a barrier to fish migration.

The Department of Fish and Game did not comment on the application. The National Marine Fisheries Service (NMFS) submitted a late protest of the application, stating that it was concerned with the diversion if either of the following are true: (a) If there are, or historically have been, coho salmon present in the tributary where the diversion would occur; or (b) the diversion results in a cumulative reduction of the stream flow greater than 10 percent, in any reach, including those under riparian rights. Regarding item (a), the waterfall impedes fish passage. Regarding item (b), Application 31212 is the only water right listing for Dinner Gulch and tributaries to Dinner Gulch. The requested diversion quantity of 4 acre-feet (af) represents a 1.1 percent reduction in stream flow. Consequently, it appears that the NMFS concerns have been addressed.