



# State Water Resources Control Board



Alan C. Lloyd, Ph.D.  
Agency Secretary

**Division of Water Rights**  
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FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

Arnold Schwarzenegger  
Governor

## NOTICE OF PETITIONS TO CHANGE THE POINTS OF DIVERSION AND SEEK AN EXTENSION OF TIME

**APPLICATION:** 29351

**PERMIT:** 20428

**PETITIONS FILED:** June 24, 2004

Notice is hereby given that Kreuse Creek Premier Vineyard (Petitioner/Permittee) has filed petitions 1) to change the point of diversion under Permit 20428 and 2) seek an extension of time to complete construction and beneficial use under the Permit. Petitioner/Permittee is currently diverting water from one point of diversion (POD) located on Kreuse Creek and another on an Unnamed Stream, both diversions being tributary to Tulucay Creek thence Napa River. The State Water Board will determine whether the Permit should be amended and whether further conditions are needed in the Permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed changes and also describes the procedure and time frame for submittal of protests against the petitions. The Division of Water Rights (Division) will not accept protests that are directed against the underlying water right, rather than the changes proposed by the petitions. This notice may be viewed at the Division's website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the petitioner should be mailed to:

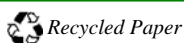
Kreuse Creek Premier Vineyard  
c/o Andrew M. Hitchings  
Somach, Simmons & Dunn  
813 Sixth Street, Third Floor  
Sacramento, CA 95814-2403

### Description of the Project

The subject petitions concern a project located approximately two miles south-southwest of the City of Napa. The project currently consists of two 35 acre-foot reservoirs, one onstream Kreuse Creek (POD #1) and one offstream (POD #4). Water is diverted to offstream storage by pumping both from the reservoir on Kreuse Creek as well as a point of diversion on an unnamed stream tributary to Tulucay Creek (POD #3). The water is conveyed via 8-inch PVC pipes and is used for irrigation, recreation and frost protection. The total amount appropriated may not exceed 70 acre-feet per annum (afa) during the allowed diversion season of October 15 to April 30.

In order to minimize potential impacts to fisheries, the Permittee is petitioning the State Water Board to remove POD #1 and relocate the offstream reservoir, POD #4. Petitioner seeks an extension of time under the Permit to complete construction and beneficial use in accordance with this requested change.

*California Environmental Protection Agency*



**Permit Information**

County: Napa  
Permittee: Kreuse Creek Premium Vineyard  
Source and (POD):\*

Onstream Storage and Diversion to Offstream Storage

POD #1 : Kreuse Creek tributary to Tulucay Creek thence Napa River. South 1,100 feet and West 1,700 feet from the NE corner of Projected Section 13.

Diversion to Offstream Storage

POD #3: Unnamed Stream tributary to Kreuse Creek thence Tulucay Creek thence Napa River. South 100 feet and West 800 feet from the NE corner of Projected Section 13.

Offstream Storage and Point Of Rediversion

POD #4: Offstream storage and point of rediversion from POD #1 and POD #3. South 200 feet and West 1,320 feet from the NE corner of Projected Section 13.

\* Note: No POD #2 is designated in Permit 20428.

Amount.

Season and Use: POD #1: 35 afa (onstream storage). Maximum rate of diversion to offstream storage not to exceed 2 cubic feet per second (cfs).

POD #3: Maximum rate of diversion to offstream storage not to exceed 2 cfs.

POD #4: 35 afa (offstream storage).

Total Storage: 70 acre-feet per annum (afa) from October 15 to April 30 for recreational, irrigation and frost protection uses.

Place of Use:

Use is within	Section	Township	Range	Base and Meridian	Gross Acres
NW ¼ of NE ¼	13	5N	4W	MD	
NE ¼ of NE ¼	13	5N	4W	MD	23
SE ¼ of NE ¼	13	5N	4W	MD	14
SW ¼ of NE ¼	13	5N	4W	MD	12
NW ¼ of NE ¼	13	5N	4W	MD	26
				<b>Total Acres:</b>	75

**Petition Information**Change in Points of Diversion:

Petitioner seeks to remove the onstream storage component of POD #1 and use the point only for diversion to offstream storage at POD #4. Petitioner seeks to relocate POD #4 to the following location: South 300 feet and West 2,300 feet from the NE corner of projected section 13, being within the NW ¼ of the NW ¼ of Section 13, T5N, R4W, MDB&M. Petitioner proposes no changes to POD #3.

Extension of Time:

Petitioner seeks an additional 3 years to complete construction work and beneficial use of the water under the Permit.

**Environmental Information**

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000, Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

**PROTEST SUBMITTAL INFORMATION****Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the petitions and the factual basis for those objections. There must be a clear link between the proposed change and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the petition is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed change would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the proposed change will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed change on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed change and how the change will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the petitioner a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the contact person given at the end of this notice. **A copy of the completed protest form must also be mailed to the petitioner.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **30<sup>th</sup>** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000, Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the contact person given below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14<sup>th</sup> Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the contact person given below to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the petitioner are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" petition for change (the subject diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1704.4 of the Water Code. Therefore, any protest issues not resolved by the petitioner or by provisions of section 1703.6 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Mitchell Moody by phone at (916) 341-5383 or by electronic mail at [mmoody@waterboards.ca.gov](mailto:mmoody@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **March 25, 2005**