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## State Water Resources Control Board

### NOTICE OF PETITION FOR CHANGE TO EL SUR RANCH WATER RIGHT APPLICATION 30166

COUNTY: Monterey

STREAM SYSTEM: Big Sur River (underflow)

Notice is hereby given that El Sur Ranch/James J. Hill, III (collectively El Sur Ranch) has filed a petition for changes to water right Application 30166 and a Fifth Amended Application 30166 with the State Water Resources Control Board (State Water Board or Board). Interested parties may file protests to the petition by following the procedure described in this notice.

#### **Background**

On July 27, 1992, El Sur Ranch filed water right Application 30166 for a permit to appropriate 1800 acre-feet per annum (afa) of water from the Big Sur River, at a rate of diversion of up to 5.84 cubic feet per second (cfs), year-round, to irrigate 292 acres of pasture located along the Pacific Coast in Monterey County. El Sur Ranch pumps water to irrigate pastureland from two wells located in Andrew Molera State Park, adjacent to the Big Sur River. One of the wells has been in operation since 1949 and the other has been in operation since 1984. In 1992, the Division issued a report in which Division staff concluded that extractions of water from the wells are diversions from the Big Sur River. The report concluded that these diversions required a water-right permit under Division 2 of the Water Code with the exception of diversions from the wells used to irrigate approximately 90 acres of ranch land that the report concluded was riparian to the Big Sur River.

California Sportfishing Protection Alliance, California Department of Fish and Game (CDFW), and California Department of Parks and Recreation protested Application 30166 based on the impact of the diversions on flows in the Big Sur River and habitat for South Central California steelhead and other protected species. The Applicant amended Application 30166 in November and December 2005, October 2006, and June 2011 to seek a water-right permit to authorize diversion of water at a rate not to exceed 5.84 cfs and annual maximum amount of 1,320 acre-feet, a maximum 20-year rolling average of 1,087 acre-feet per year, a seasonal limit of 676 acre-feet from July 1 through October 31, and a monthly limit for July, August, September, and October of 203 acre-feet per month.

The State Water Board held a public hearing on Application 30166 in June and July 2011. On September 23, 2016, CDFW transmitted proposed streamflow requirements

for the Big Sur River to the State Water Board, with a supporting flow recommendation report, pursuant to Public Resources Code section 10001 and 10002.

On March 3, 2023, El Sur Ranch filed a petition for change and a Fifth Amended Application 30166. El Sur Ranch requests to amend Application 30166 to add diversion to storage of 810 acre-feet of water between October 1 and September 30 of each year in an off-stream reservoir with a capacity of 404 acre-feet, and to revise the place of use for irrigation to compensate for the loss of pasture from construction of the new reservoir. The amended project includes construction of the new off-stream storage reservoir and connection of the existing irrigation system to the new reservoir and the expanded portions of the place of use. On July 28, 2023, El Sur Ranch filed an amended petition for change and Fifth Amended Application to add fire suppression as a beneficial use.

The State Water Board's Administrative Hearings Office (AHO) is processing this petition to change and amended Application 30166.

### **Summary of Application (30166) and Proposed Changes:**

Changes to Application 30166 proposed in the petition for change are shown in red.

#### **Source**

Big Sur River (underflow).

#### **Point of Diversion (POD) & Places of Storage (as shown on the attached map):**

##### **Existing PODs**

- 1) Big Sur River (underflow), located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 16, T19S, R1E, MDB&M; and
- 2) Big Sur River (underflow), located within the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 16, T19S, R1E, MDB&M.

##### **Proposed Place of Storage**

- 1) Off-stream Reservoir 1, located within NE  $\frac{1}{4}$  of NE $\frac{1}{4}$ , SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 17, T19S, R1E, MDB&M. NW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 17, T19S, R1E MDB&M.

#### **Diversion and Storage Amounts:**

The change petition requests authorization of a maximum collection to storage of 810 acre-feet per annum (afa). The total combined amount taken from the source, including direct diversion and diversion to storage, during any one year will be limited to 1,320 acre-feet and is not to exceed 1,087 afa on a 20-year rolling average.

### **Diversion Rates:**

The proposed maximum diversion rate is 5.84 cubic feet per-second (cfs) by direct diversion **and diversion to storage**. The proposed maximum diversion rate by direct diversion **and diversion to storage** for a 30-day running average is 5.34 cfs.

### **Diversion Season:**

October 1 to September 30 for direct diversion **and diversion to off-stream storage**.

### **Purposes of Use:**

Irrigation  
Fire Suppression

### **Place of Use (as shown on the attached map):**

The proposed place of use for irrigation includes a gross area of 292 acres and a net irrigated area of 246 acres. **The petition proposes irrigation of new pasture area located to the northwest of the existing pastures to compensate for the loss of irrigated area from construction of the proposed off-stream reservoir.**

APNs	Use Within (40-acre subdivision)	Section	Township	Range	Base & Meridian
159-011-008	SE ¼ of SW ¼	8	19S	01E	MBDM
159-011-008	NW ¼ of SE ¼	8	19S	01E	MBDM
159-011-008	NE ¼ of SE ¼	8	19S	01E	MBDM
159-011-008	SE ¼ of SE ¼	8	19S	01E	MBDM
159-011-008	SW ¼ of SE ¼	8	19S	01E	MBDM
159-011-008	SW ¼ of NE ¼	8	19S	01E	MBDM
159-011-008	SW ¼ of SW ¼	9	19S	01E	MBDM
159-011-008	NW ¼ of SW ¼	9	19S	01E	MBDM
159-011-008	NE ¼ of NE ¼	17	19S	01E	MBDM
159-011-008	NW ¼ of NW ¼	16	19S	01E	MBDM
<del>159-011-008</del>	<del>SW ¼ of NW ¼</del>	<del>16</del>	<del>19S</del>	<del>01E</del>	<del>MBDM</del>
159-011-008	NW ¼ of NE ¼	17	19S	01E	MBDM
159-011-008	SE ¼ of NE ¼	17	19S	01E	MBDM
<del>159-011-008</del>	<del>NE ¼ of SW ¼</del>	<del>8</del>	<del>19S</del>	<del>01E</del>	<del>MBDM</del>
<del>159-011-008</del>	<del>SE ¼ of NW ¼</del>	<del>8</del>	<del>19S</del>	<del>01E</del>	<del>MBDM</del>
<del>159-011-008</del>	<del>NW ¼ of SE ¼</del>	<del>8</del>	<del>19S</del>	<del>01E</del>	<del>MBDM</del>
<del>159-011-008</del>	<del>SE ¼ of SW ¼</del>	<del>8</del>	<del>19S</del>	<del>01E</del>	<del>MBDM</del>

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### **AHO Proceeding and Administrative Record**

More information about the proceeding before the AHO in this matter is available on the

AHO's internet webpage at

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/el\\_sur\\_ranch.html](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/el_sur_ranch.html)

The AHO has posted its administrative record for this proceeding on the AHO-FTP site in the folder titled "El Sur Ranch," which is in the folder titled "Water-Right Permitting." The AHO's May 5, 2020 Notice of Availability of FTP Site, which the AHO has posted at [https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2020\\_05\\_05\\_notice ftp.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2020_05_05_notice ftp.pdf), describes the AHO-FTP site and how to access it.

The 2023-03-03 Petition to Change Application 30166 (Fifth Amendment) can also be accessed at the link below.

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/2023/2023-03-03-petition-to-amend-application.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2023/2023-03-03-petition-to-amend-application.pdf)

## **Protests**

Any interested person may file a written protest against approval of this petition for change. The AHO will accept only those protests that address impacts from the amendments to Application 30166 requested by El Sur Ranch in the petition for change and will not accept protests that address impacts from elements of the project that remain unchanged.

A form for filing a protest is available here:

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/petition\\_protest\\_form.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/petition_protest_form.pdf)

Instructions for preparing the protest form are available here:

[https://www.waterboards.ca.gov/water\\_issues/programs/administrative\\_hearings\\_office/docs/protest\\_submittal\\_info.pdf](https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/protest_submittal_info.pdf)

Protests must be received by the Administrative Hearings Office by **5:00 p.m. on October 1, 2023**. A person or entity may file a protest by any of the following methods:

**(Preferred Method)** By e-mail to:

[AdminHrgOffice@Waterboards.ca.gov](mailto:AdminHrgOffice@Waterboards.ca.gov)

with "El Sur Ranch Petition" in the e-mail subject line. The e-mail must be transmitted before the deadline.

By mail to:

State Water Resources Control Board  
Administrative Hearings Office  
P. O. Box 100  
Sacramento, CA 95812-0100

The envelope mailing the protest must be postmarked before the deadline.

By hand-delivery to:

Administrative Hearings Office  
c/o Water Rights Records Unit  
Joe Serna Jr. CalEPA Building  
1001 I Street, 2<sup>nd</sup> Floor, Room 114  
Sacramento, CA 95814

The hand-delivery must occur before the deadline.

The protestant must send a copy of the written protest to El Sur Ranch. Correspondence to El Sur Ranch including copies of any protest should be addressed to Jolie-Anne S. Ansley, Duane Morris LLP, One Market Plaza, Suite 2200, San Francisco, CA 945105-1127 or by email at [jsansley@duanemorris.com](mailto:jsansley@duanemorris.com).

Skyler Anderson is the staff person presently assigned to this matter. He can be reached by e-mail at [skyler.anderson@waterboards.ca.gov](mailto:skyler.anderson@waterboards.ca.gov) or by U.S. Mail at State Water Resources Control Board, Administrative Hearings Office, Attn: Skyler Anderson, P.O. Box 100, Sacramento, CA, 95812-2000.

DATE OF NOTICE: **August 3, 2023**

Enclosures: Project Location Map  
PODs and POU Map for Application 30166

# Enclosure 1: Project Location Map



