

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

ORDER WR 2007-0017-DWR

In the Matter of Application 30365
James R. and Eliza H. Rickards

ORDER APPROVING ISSUANCE OF PERMIT

SOURCE: Unnamed Stream
COUNTY: Sonoma

WHEREAS:

1. Application 30365 was filed with the State Water Resources Control Board (State Water Board) on May 18, 1994.
2. All protests to approval of the application have been resolved by inclusion of permit conditions regarding prior rights and by dismissal pursuant to Water Code section 1335, subdivision (d).
3. The State Water Board has determined that there is unappropriated water available to serve Application 30365. Division of Water Rights (Division) staff prepared a water availability analysis on July 7, 2006, documenting the availability of water.
4. The water will be diverted and used without injury to any lawful user of water. The Division issued a public notice of Application 30365 on December 9, 1994. Based on the water availability analysis, water is available to serve this application without injury to prior rights. All protests to approval of the application on the basis of injury to prior rights have been resolved. Permit condition(s) were included in the permit to address potential injury to prior rights.
5. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses. In 2002, National Marine Fisheries Service (NMFS) and California Department of Fish and Game (DFG) developed Draft Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams (Draft Guidelines), dated June 17, 2002. The Draft Guidelines were recommended for use by permitting agencies (including the State Water Board), planning agencies, and water resources development interests when evaluating proposals to divert and use water from northern California coastal streams. The Draft Guidelines apply to projects located in the geographic area of Sonoma, Napa, Mendocino, and Marin Counties, and portions of Humboldt County. The Draft Guidelines recommend that terms and conditions be included in new water right permits for small diversions to protect fishery resources in the absence of site-specific biologic and hydrologic assessments. Division staff performed a site-specific evaluation and found the project conforms to the recommendations in the Draft Guidelines and that no bypass flow or additional fish passage measures are necessary.

6. The intended use is beneficial. The applicant requested to divert 3 cubic feet per second not to exceed 5 acre-feet per annum for frost protection of 49 acres of vineyard. The proposed water use is beneficial.
7. Pursuant to the provisions of the California Environmental Quality Act, the State Water Board adopted a Mitigated Negative Declaration (MND) pursuant to the California Code of Regulations, Title 14, section 15074. The MND determined that the above-proposed project will have a less than significant effect on the environment and will not result in significant cumulative impacts based on the reasons specified in the Initial Study. The potential adverse impacts of the project were found to be less than significant and mitigated for with the inclusion of specific permit terms. A Notice of Determination was filed by the State Water Board on May 16, 2007.

NOW, THEREFORE, IT IS ORDERED THAT A PERMIT IS ISSUED FOR APPLICATION 30365, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD

*ORIGINAL SIGNED BY
JAMES W. KASSEL for*

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

Dated: May 16, 2007